

Nos. 25-238, 25-566

IN THE

Supreme Court of the United States

CUTBERTO VIRAMONTES, ET AL., *Petitioners*,

v.

COOK COUNTY, ILLINOIS, ET AL., *Respondents*.

EDDIE GRANT, JR., ET AL., *Petitioners*,

v.

RONNELL HIGGINS, ET AL., *Respondents*.

**On Writs of Certiorari
to the United States Court of Appeals
for the Second and Seventh Circuits**

**BRIEF OF THE CITY OF CHICAGO AND 23
OTHER CITIES AND COUNTIES AS *AMICI
CURIAE* IN SUPPORT OF RESPONDENTS**

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**BRIEF OF THE CITY OF CHICAGO AND 23
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INTEREST OF *AMICI CURIAE*¹

Amici represent American cities and counties working to fight the devastating effects of mass shootings and to keep the most lethal firearms off their streets: Austin, Texas; Baltimore, Maryland; Boston, Massachusetts; Boulder, Colorado; Boulder County, Colorado; Chicago, Illinois; Cincinnati, Ohio; Columbus, Ohio; Evanston, Illinois; Los Angeles,

¹ No counsel for any party authored this brief in whole or in part, and no person other than *amici* made a monetary contribution to its preparation or submission.

California; Madison, Wisconsin; Martin Luther King Jr. County, Washington; Minneapolis, Minnesota; New Haven, Connecticut; Pima County, Arizona; Pittsburgh, Pennsylvania; Portland, Oregon; San Diego, California; San Diego County, California; San Francisco, California; San Francisco County, California; Santa Clara County, California; Seattle, Washington; Tucson, Arizona.

Amici have suffered extensive loss of life, threats to public safety and law enforcement, disruption to their economies, and substantial health care costs from mass shootings and other firearms violence. Assault rifles, such as AR-15s, have proliferated on city streets and have been used to inflict serious injuries and death on a massive scale.

Communities of all sizes are vulnerable to mass shootings. Residents live side-by-side, share public parks and plazas, stroll sidewalks, attend schools and houses of worship together, and gather on “Main Streets” for parades and other community events. Densely populated cities are particularly vulnerable. With populations in the hundreds of thousands or millions, they are home to numerous public gathering places and host festivals, rallies, and other large events that draw millions of tourists each year. Public events like these have become targets of mass shootings.

Many *amici* have adopted ordinances banning assault rifles or are located in states that have enacted bans, and gun owners and advocates are increasingly challenging these bans in state and

federal courts across the country. One such lawsuit currently pending seeks to invalidate Chicago's ordinance. *See Herrera v. Raoul*, 1:23-cv-00532 (N.D. Ill.). In that case, the Seventh Circuit upheld the denial of a preliminary injunction on the ground that the plaintiff was not likely to succeed on the merits of his Second Amendment claim. *See Bevis v. City of Naperville*, 85 F.4th 1175 (7th Cir. 2023).² That case is stayed in the district court pending the outcome here. *Amici* therefore have a strong interest in ensuring that they can maintain effective regulations in response to the dangers that extraordinarily lethal weapons pose to the public peace and safety within their borders.

SUMMARY OF ARGUMENT

The challenged laws must be upheld. From the founding era through the present day, lawmakers have enacted restrictions on weapons that are dangerous and unusual, are disproportionately misused in criminal activity, and disrupt the public peace and order. Bans on assault rifles are justified by the same regulatory principles. Assault rifles are extraordinarily dangerous devices that have been used by perpetrators of mass shootings to inflict unimaginable carnage in public places. Not only have they taken the lives of numerous Americans, but they have instilled terror, disrupted the public peace, and

² In *Viramontes v. Cook County*, No. 24-1437, 2025 WL 1553896 (7th Cir. June 2, 2025), the plaintiffs argued that *Bevis* should be overruled. *Id.* at *3. The court held that the plaintiffs failed to offer any compelling reason to do so. *Id.*

imposed significant costs on communities and local governments. Assault rifles also pose a grave threat to law enforcement officers who are tasked with securing public events and who must face these weapons on city streets.

Any burdens the challenged laws may impose are commensurate with those imposed by the historical laws. They target a specific problem created by a specific class of weapons: misuse of assault rifles in deadly mass shootings and other violent crime. And because assault rifles are extraordinarily lethal, bans on these weapons in public and private spaces are critical to protect against physical and psychological harm and to ensure the public's freedom to participate in shared social and political life. The decisions below should be affirmed.

ARGUMENT

Our nation's historical tradition reveals an unbroken line of restrictions on dangerous and unusual weapons used to disrupt the public peace and safety, from early English common law through the present day. Modern-day bans on assault rifles fit comfortably within this tradition.

Historical Tradition Supports Restrictions on Assault Rifles in Public and Private Spaces.

In *New York State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1 (2022), the Court held that, to satisfy the Second Amendment, “the government must demonstrate that the regulation is consistent with

this Nation’s historical tradition of firearm regulation.” *Id.* at 17. This analysis requires “reasoning by analogy.” *Id.* at 28. “[A] historical regulation is a proper analogue for a distinctly modern firearm regulation” where the two “are relevantly similar,” *id.* at 28-29 (quotation omitted), looking at “how and why the regulations burden a law-abiding citizen’s right to armed self-defense,” *id.* at 29. As this Court has explained, analogical reasoning under the Second Amendment is not “a regulatory straight-jacket,” meaning the government need not identify “a historical *twin*.” *Id.* at 30. Further, in “cases implicating unprecedented societal concerns or dramatic technological changes,” it is necessary to take “a more nuanced approach.” *Id.* at 27.

In *United States v. Rahimi*, 602 U.S. 680 (2024), this Court reinforced *Bruen*’s methodology, clarifying that it was “not meant to suggest a law trapped in amber.” *Id.* at 691. Rather than mandating “regulations identical to ones that could be found in 1791,” *Bruen* merely asks “whether the challenged regulation is consistent with the principles that underpin our regulatory tradition.” *Id.* at 692; *see also id.* at 739 (Barrett, J., concurring) (“To be *consistent* with historical limits, a challenged regulation need not be an updated model of a historical counterpart.”); *id.* at 740 (Barrett, J., concurring) (“Historical regulations reveal a principle, not a mold.”). This analysis is not “mechanical,” *Wolford v. Lopez*, 609 U.S. 185, 197 (2026); “[i]t undeniably necessitates an exercise of judgment,” *id.*, a measure of “common sense,” *Rahimi*, 602 U.S. at 698, and “sensitivity” to the challenges of applying the historical record to

modern affairs, *United States v. Hemani*, 608 U.S. 772, 782 (2026).

When properly applying this Court’s precedents, it is plain to see that restrictions on assault rifles satisfy *Bruen*’s “why” and “how”; they are justified by the same principles that underpin our nation’s regulatory tradition, and any burdens the challenged laws may impose are commensurate with those imposed by the historical laws.

A. Three Principles Underpin Our Nation’s Tradition of Arms Regulation.

As this Court observed in *Rahimi*, 602 U.S. at 694, the Anglo-American tradition of arms regulation traces its roots to the Statute of Northampton, which read, in part:

[N]o man great nor small . . . [shall] be so hardy to come before the King’s Justices, or other of the King’s Ministers doing their office, with force and arms, nor bring no force in affray of the peace, nor to go nor ride armed by night nor by day, in fairs, markets, nor in the presence of the justices or other ministers, nor in no part elsewhere.

Mark A. Frassetto, *To the Terror of the People: Public Disorder Crimes and the Original Public Understanding of the Second Amendment*, 43 S. Ill. U. L.J. 61, 62 (2018) (quoting Statute of Northampton, 2 Edw. 3 c. 3 (1328 (Eng.))).

Enacted in 1328, the Statute of Northampton built upon existing common law restrictions on “going or riding armed.” Patrick J. Charles, *The Faces of the Second Amendment Outside the Home: History Versus Ahistorical Standards of Review*, 60 Clev. St. L. Rev. 1, 11 (2012). The Statute was enforced in England at least into the eighteenth century, *id.* at 23-30; Frassetto, *supra*, at 67, and was carried across the Atlantic by the English colonists and incorporated into colonial and early American jurisprudence, Frassetto, *supra*, at 66; Darrell A.H. Miller et al., *Technology, Tradition, and “The Terror of the People,”* 99 Notre Dame L. Rev. 1373, 1383-84 (2024). For that reason, “the founding-era understanding of the Statute of Northampton is an extremely important consideration for determining the original public understanding of the right to keep and bear arms at the time of the ratification of the Second Amendment.” Frassetto, *supra*, at 63.

Three principles emerge from the historical record of the Statute of Northampton and its adoption into American law. First, “[t]he power to regulate and in some cases prohibit dangerous or unusual weapons has always been central to the police power authority.” R. 81-17 at 26 (*Viramontes*).³ Second, lawmakers have responded to community concerns about weapons with regulations, including bans, once

³ We cite the records from the decisions below as R. ____ (*Viramontes*) and R. ____ (*Grant*). We cite the records in *Barnett v. Raoul*, No. 3:23-cv-00209 (S.D. Ill.), *Herrera*, No. 1:23-cv-00532, and *National Association for Gun Rights v. Lamont*, No. 3:22-cv-01118 (D. Conn.), as R. ____ (*Barnett*), R. ____ (*Herrera*), and R. ____ (*NAGR*), respectively.

those weapons “circulate[d] sufficiently in society to spill over into criminal or other harmful use.” R. 52-12 ¶ 33 (*Herrera*). Third, throughout history, it has been “the government’s prerogative to regulate weapons . . . to preserve public peace and public order.” Joseph Blocher & Reva B. Siegel, *When Guns Threaten the Public Sphere: A New Account of Public Safety Regulation Under Heller*, 116 Nw. U. L. Rev. 139, 143, 164 (2021).

1. Prohibitions on carrying dangerous and unusual weapons.

Lawmakers and legal commentators throughout the seventeenth and eighteenth centuries understood the Statute of Northampton as prohibiting the carrying of dangerous or unusual weapons *in terrorem populi*, or “to the terror of the people.” Miller et al., *supra*, at 1384. Queen Elizabeth I responded to the proliferation of pistols, daggers, and other weapons that were capable of causing the “good quiet people” to be “in feare and danger of their lives,” by calling for strict enforcement of the Statute, and tied “the need to enforce the law directly to ‘the terror of all people professing to travel and live peaceably.’” Frassetto, *supra*, at 67 (quoting By the Quenne Elizabeth I: A Proclamation Against the Common Use of Dagges, Handgunnes, Harquebuzes, Calliurers, and Cotes of Defence 1 (London, Christopher Barker 1579)).

Two of the most influential legal scholars of the eighteenth century, William Blackstone and William Hawkins, popularized this reading. Blackstone, in

describing the Statute of Northampton, wrote that “[t]he offence of riding or going armed, with dangerous or unusual weapons, is a crime against the public peace, by terrifying the good people of the land.” Miller et al., *supra*, at 1384 (quoting 4 William Blackstone, *Commentaries* 148 (1769)). Hawkins used similar terms. He wrote that the “crime of affray,” referenced in the Statute, is “committed ‘where a Man arms himself with dangerous and unusual Weapons, in such a Manner as will naturally cause Terror to the People.’” Frassetto, *supra*, at 69 (quoting 1 William Hawkins, *A Treatise of the Pleas of the Crown* 135 (1721)). See also Saul Cornell, *The Right to Keep and Carry Arms in Anglo-American Law: Preserving Liberty and Keeping the Peace*, 80 *Law & Contemp. Probs.* 11, 19-20 (2017) [hereinafter, “Cornell, *Right to Keep and Carry Arms*”] (“[N]o man, great or small, shall go or ride armed, by night or by day, with dangerous or unusual weapons, terrifying the good people of the land.”) (quotation omitted)).

Blackstone, Hawkins, and other scholars of their day used the phrases “dangerous *or* unusual” and “dangerous *and* unusual” interchangeably. R. 59-7 ¶ 20 (*Grant*) (emphases added). These two phrases are “an example of the grammatical and rhetorical form hendiadys.” *Id.* Hendiadys is a form of speech, popular in the founding era, “that uses two independent words connected by a conjunction . . . to express a single concept.” *Id.* ¶ 20 n.45. Readers would have interpreted “dangerous or unusual” and “dangerous and unusual” to mean the same thing – “a ban on weapons that were ‘unusually dangerous.’” *Id.* ¶ 20. Indeed, the sorts of firearms and daggers that Queen

Elizabeth I prohibited would have been unusually dangerous at that time, as they were especially lethal compared to other weapons and increasingly used in criminal activity. R. 37-6 ¶¶ 27, 30 (*NAGR*).

These are also the sorts of weapons that would have caused terror, even without any corresponding act of violence. Any weapon has the potential to be dangerous, but “the Statute of Northampton was not regulating dangerous conduct.” Charles, *supra*, at 20. It was prohibiting “the act of arming in the public concourse” in a way “that terrified the people.” *Id.* As Blackstone noted, “‘terrifying the good people of the land’ – not just attacking them – was itself ‘a crime.’” Blocher & Siegel, *supra*, at 165 (quoting Blackstone, *supra*, at 149). Hawkins, too, confirmed that “‘there may be an Affray where there is no actual Violence; as where a Man arms him[s]elf with dangerous and unusual Weapons.’” Charles, *supra*, at 23 (quoting Hawkins, *supra*, at 135). Blackstone and Hawkins were not alone; other respected scholars of the seventeenth and eighteenth centuries shared their view of the Statute and its terror element. Frassetto, *supra*, at 76-82.

Thus, the view that carrying unusually dangerous weapons was a threat to the public order that could be criminalized was well entrenched in England precisely at the time the colonists were creating their own bodies of law in the New World. The colonists “drew liberally” from “English texts,” including “popular English legal guides.” Saul Cornell, *The Persistence of Common Law Limits on Armed Travel in the Early Republic: Surety and Affray Laws in*

Historical Context, 78 SMU L. Rev. 343, 352 (2025) [hereinafter, “Cornell, *Common Law Limits*”]. Indeed, the earliest weapons restrictions were based on the Statute of Northampton, *id.*; Frassetto, *supra*, at 71; Miller et al., *supra*, at 1384, and in some cases “copied Northampton’s ‘to the terror’ prohibition,” Blocher & Siegel, *supra*, at 167, or borrowed other language from the Statute “almost verbatim,” Charles, *supra*, at 32; *see also* Cornell, *Right to Keep and Carry Arms*, *supra*, at 32 (early laws “followed closely on [their] English predecessor”).

For example, in 1686, New Jersey “prohibit[ed] ‘rid[ing] or go[ing] armed with sword, pistol or dagger’ because those going armed put ‘several persons . . . in great fear.’” Frassetto, *supra*, at 71 (quoting An Act Against Wearing Swords, etc., ch. 9, 1686 N.J. Laws 289, 289-90); *see also* Miller et al., *supra*, at 1389-90 (“New Jersey prohibited the carrying of ‘any Pocket Pistol, Skeines, Stilladers, Daggers or Dirks, or other unusual or unlawful Weapons,’” in response “to public outcry against the practice of a few who were putting the rest of the colony ‘in great Fear.’” (same)). Massachusetts and New Hampshire soon followed suit, calling for the arrest of anyone who shall “go armed offensively.” Frassetto, *supra*, at 71 (quoting An Act for the Punishing of Criminal Offenders, no. 6, 1694 Mass. Laws 12); Miller et al., *supra*, at 1390 (quoting An Act for the Punishing of Criminal Offenders (1701), *reprinted in* Acts and Laws, Passed by the General Court or Assembly of his Majesties Province of New-Hampshire in New-England 14, 15

(Boston, Eleazar Ruffell 1716)).⁴ And after the Constitution was ratified, Virginia, Massachusetts, Tennessee, Maine, and North Carolina all enacted laws based on the Statute of Northampton. Miller et al., *supra* 1384 (citing An Act Forbidding and Punishing Affrays, ch. 49, 1786 Va. Acts 35; Act of Jan. 29, 1795 ch. 2, 1795 Mass. Acts 436; Act of Nov. 13, 1801, ch. 22, § 6, 1801 Tenn. Acts 259, 260-61; Act of Mar. 15, 1821, ch. 76, § 1, 1821 Me. Laws 285, 285); Charles, *supra*, at 31-32 (citing Francois Xavier Martin, A Collection of Statutes of the Parliament of England in Force in the State of North-Carolina, 60-61 (Newbern 1792)).

Like their English predecessor, these colonial and early American laws targeted the carrying of especially lethal weapons, suitable for criminal activity, as those were the weapons that would have struck fear. Scholars confirmed that “a substantial motivating factor” for modelling laws on the Statute of Northampton was “the fear created by the carrying of firearms in public,” Frassetto, *supra*, at 71, and that, under these laws, “overt acts,” “violence or threats of violence,” or “injury” to persons or property were not necessary, as the carrying of dangerous and unusual weapons “alone was terrifying,” *id.* at 82. Popular legal guides, including justice of the peace manuals, echoed these concepts. For example, they borrowed the English law of affray, which “did not

⁴ Going “armed offensively” meant carrying firearms and edged weapons “in contrast to shields and armor,” which were “defensive weapons.” Cornell, *Common Law Limits*, *supra*, at 351.

require actual violence,” but was committed simply by carrying “dangerous and unusual armaments” in public “in such a way to cause terror of the people.” Miller et al., *supra*, at 1386-87.⁵

2. Restrictions on weapons that are misused in criminal activity.

In the founding era, “[i]nterpersonal violence, including gun violence, simply was not a problem . . . that warranted much attention.” Saul Cornell, *The Right to Carry Firearms Outside of the Home: Separating Historical Myths From Historical Realities*, 39 Fordham Urb. L.J. 1695, 1713 (2012) [hereinafter, “Cornell, *Right to Carry Firearms*”]. Homicide rates in general were “low among colonists” just before the American Revolution, R. 37-6 ¶ 14 (*NAGR*), and the proportion of “homicides committed with firearms was correspondingly low – between 0 and 10 percent,” *id.* ¶ 20; *see also id.* ¶ 17 (“Guns were not the weapons of choice in homicides that grew out of the tensions of daily life.”). Colonists rarely carried loaded firearms, “except to hunt, control vermin, or serve in the militia,” *id.* ¶ 20, and the muzzle-loading muskets and fowling pieces owned by most colonists “had significant limitations as murder weapons,” since they were slow to load, could not fire multiple shots without reloading, were not accurate at long ranges, and were prone to misfiring, *id.* ¶ 16. In short,

⁵ Justice of the peace manuals “proliferated” during the founding and “provide some of the best accounts of popular understanding of Anglo-American principles in this period.” Cornell, *Right to Keep and Carry Arms*, *supra*, at 13.

“there was not a serious homicide problem looming over debates about the Second Amendment.” R. 81-17 at 10 (*Viramontes*).

While homicide rates briefly spiked during the American Revolution, once the war was over, “homicide rates fell to levels in some instances even lower than those which had prevailed in the early and mid-eighteenth century.” R. 37-6 ¶ 20 (*NAGR*). But “[t]he early decades of the nineteenth century witnessed a revolution in the production and marketing of guns.” R. 81-17 at 11 (*Viramontes*). The same “market revolution” that made an “astonishing assortment of manufactured goods readily available . . . also transformed gun culture,” Cornell, *Common Law Limits*, *supra*, at 350, as “cheap, reliable, and more lethal firearms” became “widely available for the first time in American history,” *id.* at 348.

These new firearms, like percussion-cap pistols and revolvers, were concealable and easier to load, could be kept loaded for long periods of time, and were overall deadlier. R. 37-6 ¶¶ 25, 30-33 (*NAGR*). And Americans “began sporting” them “with alarming regularity.” R. 81-17 at 11 (*Viramontes*). Deadlier knives – like dirks, folding knives, and Bowie knives – also proliferated. R. 37-6 ¶¶ 24-25 (*NAGR*). Bowie knives, for one, saw “explosive growth,” fueled by “Bowie-related mythology” and the knife’s “distinctive features,” R. 52-12 ¶ 63 (*Herrera*), and became “an integral part of the American way of life,” *Barnett v. Raoul*, 180 F.4th 1035, 1047 (7th Cir. 2026) (quoting Harold L. Peterson, *American Knives: The First History and Collectors’ Guide* 25 (1958)).

Unsurprisingly, during the late 1840s and 1850s, homicide rates “exploded across the United States.” R. 37-6 ¶ 28 (*NAGR*). Public officials realized these new weapons were responsible for “an alarming proportion of the era’s murders and serious assaults.” *Id.* ¶ 24.

Lawmakers across the country responded with “a plethora of new gun laws,” R. 81-17 at 11 (*Viramontes*), as well as restrictions on Bowie knives and other long-bladed weapons, R. 52-12 ¶¶ 70-71 (*Herrera*); *see generally* R. 247-1 (*Barnett*). Some jurisdictions prohibited concealed carry of these weapons, *id.*, while others enacted more sweeping restrictions, like Massachusetts, which “effectively prohibited the right to travel armed,” unless “an individual had a reasonable fear of imminent violence,” a model that “was emulated by” Delaware, Maine, Wisconsin, Pennsylvania, Oregon, Minnesota, and the District of Columbia, Cornell, *Right to Carry Firearms, supra*, at 1720. And some lawmakers banned certain weapons outright. Georgia, for instance, made it unlawful “to sell, or offer to sell, or to keep, or to have” a number of weapons, including pistols and Bowie knives. R. 247-1 at 31 (*Barnett*) (quoting 1837 Ga. Acts 90, An Act to Guard and Protect the Citizens of this State, Against the Unwarrantable and too Prevalent use of Deadly Weapons § 1); R. 37-6 ¶ 26 (*NAGR*) (same).

From the 1850s through World War I, “the proportion of homicides committed with firearms continued to climb,” due in part to the advent of modern breech-loading firearms. R. 37-6 ¶ 34 (*NAGR*). Legislatures responded with “a staggering range of

new laws to regulate arms.” R. 81-17 at 18 (*Viramontes*). In fact, the number of laws enacted increased by “[400%] from antebellum levels.” *Id.* at 18. By the start of the twentieth century, “virtually every state in the country prohibited or severely restricted concealed gun[s] and other weapons carrying,” and “several states barred possession of such weapons outright.” R. 52-12 ¶ 48 (*Herrera*).

Another spate of new firearm restrictions followed the proliferation of the Thompson submachine gun. Developed during World War I, submachine guns represented a dramatic technological advancement over existing multi-shot firearms, as they “were light enough to be carried and operated by a single individual” and capable of firing from large-capacity magazines “at a rate of 600 to 725 rounds per minute.” R. 37-6 ¶ 45 (*NAGR*). By the mid-to-late 1920s, when “ownership spread in the civilian population,” R. 81-17 at 21 (*Viramontes*), criminals “quickly discovered how accessible and useful these new technologies were,” R. 37-6 ¶ 46 (*NAGR*). They became the weapons of choice for gangs, bank robbers, rebels, and terrorist groups, and were used most notoriously in the 1929 St. Valentine’s Day Massacre slaying in Chicago. *Id.*

“Federal, state, and local officials and law enforcement officers suddenly confronted novel threats to their personal safety,” R. 37-6 ¶ 46 (*NAGR*), as well as “public safety,” *id.* ¶ 47. By the early 1930s, more than half the states prohibited possession of fully automatic and semiautomatic firearms, R. 81-17 at 21 (*Viramontes*), and in 1934 and 1938, Congress passed the National Firearms Acts, “which restricted

ownership of machine guns and submachine guns,” due to their ability to fire rapidly from large-capacity magazines.” R. 37-6 ¶ 47 (*NAGR*); *see also* R. 247-1 at 72-103 (*Barnett*).

3. Weapons regulations that protect the public peace and order.

Restrictions on weapons “to preserve public peace and public order” have “deep roots” in the Anglo-American tradition, and “[t]his longstanding sovereign prerogative shaped weapons laws long before the Founding of our constitutional democracy and the writing of the Second Amendment.” Blocher & Siegel, *supra*, at 164. Indeed, the Statute of Northampton, as well as the founding-era laws it propagated, named public terror, not violence, as the central concern, and was understood to protect the public peace and order, not merely physical safety. As Blackstone observed, carrying dangerous and unusual weapons to terrify the people was itself “a crime against the public peace.” *Id.* at 165 (quoting Blackstone, *supra*, at 149).

The “fairs” and “markets” of concern in the Statute of Northampton “were important sites of community life” in fourteenth-century England. Blocher & Siegel, *supra*, at 165. They were shared spaces, located in populous places, where “a great concourse of the people” would gather. Cornell, *Common Law Limits*, *supra*, at 352 (quoting Statute of Northampton, 2 Edw. 3, c. 3 (1328) (Eng.)). Going armed with the sorts of weapons apt to strike terror in these places disrupted the “public order and

community life” and undermined “the liberty and security of the polity.” Blocher & Siegel, *supra*, at 164. Even after the adoption of the English Declaration of Rights in 1688, “[t]he scope of the right to carry arms,” even “for reasons of self-defense,” was “balanced against the need to preserve” the peace. Cornell, *Right to Keep and Carry Arms*, *supra*, at 13.

As is evident from the colonial and early American laws prohibiting the carrying of weapons that strike terror, the founders adopted the English approach to weapons regulation that prioritized public peace and order. Blocher & Siegel, *supra*, at 164. As the founders enshrined the right to bear arms, the scope of that right “was still shaped by the [English] common law tradition, including the necessity of preserving the peace.” Cornell, *Right to Keep and Carry Arms*, *supra*, at 13. Simply put, any “liberty interest in the right to arms was always balanced against the concept of peace.” *Id.* at 14; *see also* Miller et al., *supra*, at 1395 (“[T]he tradition of American weapon regulation [has been] geared towards the preservation of the peace and the maintenance of political and public life free from fear.”). Even when an individual could demonstrate a specific need to carry a weapon for self-defense, he was required to post a “peace bond” to ensure he would keep the peace. Saul Cornell, *The Long Arc of Arms Regulation in Public: From Sureties to Permitting, 1328-1928*, U.C. Davis L. Rev. 2545, 2570-71 (2022).

The need to preserve the public peace and order remained a central tenet of weapons regulation as new and more terrifying weapons began to proliferate

in American society in the nineteenth century. States began broadly prohibiting weapons in “places of public congregation” and at “social gathering[s].” Miller et al., *supra*, at 1393. The Oklahoma Territory, for example, banned weapons where people assembled

for amusement, or for educational or scientific purposes, or into any circus, show or public exhibition of any kind, or into any ball room, or to any social party or social gathering, or to any election, or to any place where intoxicating liquors are sold, or to any political convention, or to any other public assembly.

Id. at 1394-95 (quoting Okla. Stat. ch. 25, art. 47, § 7 (1890)). Other states, like Missouri and Arizona, passed similarly sweeping bans. *Id.* at 1394 (citing Mo. Rev. Stat. § 1274 (1879); Ariz. Rev. Stat., Penal Code § 387 (1901)). And courts confirmed that public carry restrictions like these were aimed not just at preventing violence but preserving citizens’ freedom to gather peacefully in public places. *See, e.g., Aymette v. State*, 21 Tenn. (2 Hum.) 154, 159 (1840) (upholding legislature’s authority to prohibit individuals armed with “drawn swords, guns, and fixed bayonets” from entering a theater or church and “break[ing] up” these “public assemblages”).

B. Restrictions on Assault Rifles Are Justified by the Same Regulatory Principles.

The same principles that underpin the historical

tradition justify the challenged bans on assault rifles. First, assault rifles are dangerous and unusual weapons. They are extraordinarily lethal to the public and pose exceptional risks to law enforcement. Second, assault rifles are disproportionately misused in criminal activity. They are the weapons of choice in mass shootings and other violent crime that devastates cities. Third, assault rifles are a significant threat to the public peace and order. They cause terror and disrupt our social and political fabric.

1. Assault rifles are extraordinarily lethal and pose exceptional risks to law enforcement.

Extraordinary Lethality. AR-15s and similar assault rifles trace their roots directly to the Armalite AR-15, which was developed for the U.S. Army in the 1950s and used in the Vietnam War. R. 81-4 ¶ 96 (*Viramontes*). The Army invited Armalite to design “a lightweight, high-velocity rifle, that could operate in both semi- and full-automatic modes with firepower capable of penetrating a steel helmet or standard body armor at 500 yards.” *Id.* After “a comprehensive field evaluation,” R. 52-6 ¶ 26 (*Herrera*), the weapon was lauded for its light weight, maneuverability, low recoil, accuracy, high capacity, and ability to fire bullets at an extremely high velocity, *id.* ¶¶ 30-34 (*Herrera*); R. 52-7 ¶ 32 (*Herrera*). Its “lethality” and “reliability record were particularly impressive,” and the wounds it created “were prodigious.” R. 81-4 ¶ 97 (*Viramontes*). Designed for “maximum wound effect,” *id.* ¶ 101, the bullets could “travel nearly three times the speed of sound,” R. 52-6 ¶ 34 (*Herrera*), creating

“catastrophic injuries” to the human body, *id.* ¶ 27.

The “phenomenal lethality” of the Armalite AR-15 led the Army to adopt it and rebrand it as the M16, R. 81-4 ¶ 99 (*Viramontes*), with minimal modifications, R. 185-1 ¶ 40 (*Barnett*), and the AR-15 used by civilians today retains all of the “aspects that made it such a valuable lethal weapon for deadly combat,” R. 81-4 ¶ 100 (*Viramontes*). In fact, the only difference is that the AR-15 lacks the fully automatic mode. *Id.* But that is not a distinction that makes AR-15s any less dangerous; on the contrary, semiautomatic fire can be *more* lethal. According to the Army, the preferred combat mode for an M16 is semiautomatic, *id.*, because it “allows targeting of specific human targets with repeated accurate shots,” R. 52-7 ¶ 34 (*Herrera*), and thus “more accurately, effectively, and sustainably” inflicts “mass casualties,” R. 52-11 ¶ 49 (*Herrera*).

For all these reasons, the AR-15 has been described as the “perfect killing machine.” R. 81-4 ¶ 101 (*Viramontes*). When a bullet from an AR-15 strikes the body, “the payload of kinetic energy rips open a cavity inside the flesh,” R. 52-6 ¶ 34 (*Herrera*), “creating a large temporary cavity whose maximum diameter is up to 11-12.5 times the diameter of the projectile,” R. 81-5 at 18 (*Viramontes*). Once inside the body, “one assault weapon round can destroy organs in a way that looks like an explosion has happened.” R. 52-10 ¶ 35 (*Herrera*). Bones can be “shattered” and soft tissue “destroyed.” R. 81-13 at 3 (*Viramontes*). Even “[i]njuries to blood vessels, nerves, or organs not struck by the bullet, and a distance from the path, can

occur.” R. 81-5 at 17 (*Viramontes*). Shots “to the head, neck or trunk are usually lethal,” and victims who survive typically “require massive blood transfusions,” “a series of operations,” “amputations,” and “prolonged hospitalizations,” and they “suffer much greater disability which frequently persists for the rest of their shortened lives.” R. 81-15 at 3 (*Viramontes*).

Assault rifle injuries are even more devastating for children, who “have smaller torsos, relatively more compressed/adjacent vital organs, and smaller blood reserves,” and thus are less likely to survive. R. 52-14 ¶ 35 (*Herrera*). At Sandy Hook Elementary School, “not a single child” struck by a bullet from an AR-15 survived, and at Robb Elementary School, approximately 80% of the children struck by an AR-15 bullet succumbed to their wounds. R. 185-3 ¶ 48 (*Barnett*). Children who survive “face surgical challenges, recurring operative procedures, and long-term recovery and disability that is often significantly more complex and difficult to manage than for older victims.” *Id.*

By comparison, shooting victims who suffer handgun wounds usually “have minor injuries that do not require any surgery,” and even those “who require operative therapy have a very high survival rate.” R. 81-15 at 4 (*Viramontes*). According to a trauma surgeon: “A handgun [wound] is simply a stabbing with a bullet. It goes in like nail. [But with an AR-15,] it’s as if you shot somebody with a Coke can.” R. 81-4 ¶ 102 (*Viramontes*).

Risks to Law Enforcement. Assault rifles pose “an exceptional challenge” to law enforcement and are “fundamentally reshaping the way the American police respond to lethal threats.” Champe Barton et al., *AR-15s Are Used in America’s Deadliest Shootings. Why Is It So Hard for Police to Defend Against Them?*, The Trace, Jul. 18, 2024, <https://www.thetrace.org/2024/07/police-ar-15-rifle-trump-shooting-uvalde/>. Not only are officers who respond to mass shootings “more likely than not to face an AR-15 or a similar weapon,” Barton, *supra*, but these weapons have also “flooded” the “neighborhoods and communities” patrolled daily by local police, Robert Klemko, *The Policing Paradox*, Wash. Post, Mar. 27, 2023, <https://www.washingtonpost.com/nation/interactive/2023/police-ar-15-gun-control/>. In Chicago, for instance, police observed a five-fold increase in assault weapons recovered between 2018 and 2022. R. 54-8 ¶ 13 (*Herrera*). And the number of assault weapons recovered from crime scenes nationwide “surged” from 18,000 to 28,000 in those same years. Barton, *supra*.

Despite the growing use of assault weapons in criminal activity, most police officers neither “carry assault weapons in the course of performing their job duties,” nor “train with them.” R. 54-8 ¶ 16 (*Herrera*). “This means that most of the time, the officers first responding to an active shooter incident involving an assault weapon will usually have weaker firepower than the assailant.” *Id.* Plus, the long range and ability to fire rapidly allow assailants “to more effectively engage with responding police officers, even from a significant distance,” R. 81-4 ¶ 132 (*Viramontes*), and to ambush officers serving

warrants or responding to calls, R. 81-11 ¶ 20 (*Viramontes*). That was the case in Charlotte, North Carolina, where, in 2024, while serving a warrant at a suspect’s home, eight officers were shot – four fatally – when the suspect reportedly fired “several rounds” from his AR-15-style rifle “within a matter of seconds” from a second-floor window. Erik Verduzco & Jeffrey Collins, *4 Officers Killed in North Carolina Were at Disadvantage as Shots Rained From Above, Police Say*, AP News, Apr. 30, 2024, <https://tinyurl.com/yvn2zvp2>. A similar ambush occurred in Sunrise, Florida, in 2021, when two FBI agents were killed and three others injured when they were fired upon with an assault rifle from inside a home. R. 81-11 ¶ 20 (*Viramontes*). “The attack ended with a SWAT truck ramming the subject’s dwelling and driving through the staircase railings to counter the assault weapon’s firepower.” *Id.*

On top of all that, “the high velocity of bullets fired by assault weapons” enable them “to defeat standard protective equipment.” R. 54-8 ¶ 17 (*Herrera*). In nearly 25% of the incidents in which officers were slain by assault weapons in the line of duty, the “bullet penetrated the officer’s body armor.” R. 185-2 ¶ 54 (*Barnett*). Even “[t]he highest level of protective equipment,” R. 54-8 ¶ 17 (*Herrera*), which includes ballistic helmets and bullet-proof vests outfitted with ceramic or metal trauma plates, *id.* ¶ 18, does not “ensure that officers are protected,” *id.* ¶ 21. The “equipment still leaves some parts of the body vulnerable,” *id.*, and “many assault weapons are able to fire rounds that pierce even ceramic and metal-plated vests and body armor,” R. 185-2 ¶ 51 (*Barnett*).

Heavy-duty protective gear is also expensive, bulky, limits mobility, and requires specialized training, R. 54-8 ¶¶ 19-20 (*Herrera*), which is “a huge logistical and financial undertaking,” *id.* ¶ 22, that requires departments to divert resources from other policing efforts, *id.* ¶¶ 24-25.

Furthermore, arming officers with AR-15s and outfitting them with heavy-duty vests and body armor during “their daily beats” would make them “appear to look more like members of an occupying military” than officers “who wish to protect and serve.” R. 54-8 ¶ 23 (*Herrera*). This would complicate an officer’s ability to gain the public’s trust and to deescalate situations peacefully, *id.*, and would replace community policing with “a weapons-centered” approach more akin to “a police state,” Barton, *supra*, or “urban warfare,” Klemko, *supra*. And the appearance of the gear is not the only problem. As with the Sunrise, Florida, attack, these incidents “increasingly require” tactics like “charging structures with armored vehicles, use of explosives, robots, and drones with explosives.” R. 81-11 ¶ 20 (*Viramontes*). They also require officers to have “an aggressive mindset,” *id.* ¶ 22 – the kind of “mindset to run at gunfire,” *id.* ¶ 12, and “undertake the force of violent action,” *id.* ¶ 20. Putting aside that there are limited resources for these types of responses, R. 185-2 ¶¶ 50, 56 (*Barnett*), these tactics are at odds with the community-based policing that cities have found more effectively improves public safety and reduces crime, Lee Bercaw, *Community-Focused Problem-Solving: Lessons from Tampa’s Revitalization and Results*, Police Chief Online, Jan. 21, 2026, [http://police](http://policechiefonline.com/2026/01/21/community-focused-problem-solving-lessons-from-tampas-revitalization-and-results/)

chiefmagazine.org/community-focused-problem-solving/.

Crisis planning for large-scale events also requires significant law enforcement efforts, including clearing and securing large areas and rooftops, constant monitoring by drones and video cameras, command centers, intelligence gathering, barricading roadways with industrial trucks, contingency plans, extended crisis site perimeters, first responder resources, and SWAT teams with metal-plated body armor gear, tactical shields, and armored vehicles. R. 81-11 ¶ 11 (*Viramontes*). But “[t]he vast majority of organizations lack the resources those measures require” and “are not well-positioned or equipped to plan and defend against the threat of an attack using assault weapons.” R. 61-1 at 62 (*Herrera*).

Finally, “[t]he targeting of law enforcement with assault weapons . . . has contributed to law enforcement agencies’ ineffective retention and recruitment.” R. 81-11 ¶ 23 (*Viramontes*). Assault weapons make up a disproportionate share of the firearms “used to target and kill law enforcement,” and officers are “increasingly aware of the fact that not all body armor provides adequate protection” from these attacks. *Id.* Indeed, according to recent data, 20% of officers “slain in the line of duty” were killed with assault weapons, *id.*, and as we note above, in a quarter of those deaths, the bullets penetrated the officer’s body armor, R. 185-2 ¶ 54 (*Barnett*).

2. Assault rifles are disproportionately used in mass shootings and other violent crime.

“[M]ass shooting violence poses a significant – and growing – threat to American public safety.” R. 81-3 ¶ 25 (*Viramontes*). The first mass shooting resulting in ten or more deaths occurred in 1949, and over the next few decades, they occurred relatively infrequently. R. 37-3 ¶ 18 (*NAGR*). Between 1949 and 2004, there were a total of ten mass shootings resulting in double-digit fatalities, *id.* ¶ 21, or one every 5.6 years. In the 18 years between 2004 and 2022, there were 20 double-digit fatality mass shootings, or one every 0.9 years, meaning “the average rate of occurrence has increased over six-fold” in the past two decades. *Id.* Put another way, the high-fatality and public mass shootings from the most recent full decade (2010-2019) “account for over 35% of all such respective incidents and over 45% of all such respective deaths” since 1980, which makes that decade “the worst decade on record in terms of the frequency and lethality of mass shootings in the United States.” R. 81-3 ¶ 25 (*Viramontes*). And this leap in mass shootings “occurred at the same time that overall violent crime persisted on a downward trend.” R. 81-4 ¶ 78 (*Viramontes*).

The use of assault rifles in mass shootings has also “grown in vast proportion.” R. 81-3 ¶ 26 (*Viramontes*). As of 2019, assault rifles made up approximately 4% of all firearms in circulation, but were used in 75% of high-fatality mass shootings and 57% of all mass public shootings, “far outpacing the

relative prevalence of such firearms in American society.” *Id.* ¶ 27.⁶ And the rise in assault rifles has made mass shootings exceedingly more deadly. Between 2018 and 2023, 72% of mass shooting deaths were from incidents involving assault rifles, *id.* at 16 (Fig. 9), and the average death toll for high-fatality mass shootings and public mass shootings perpetrated by assault rifles was 69% and 77% higher than incidents where no assault rifles were used, *id.* ¶ 29. Indeed, the deadliest mass shootings in the past decade – *e.g.*, Las Vegas (58 deaths), Pulse Nightclub (49 deaths), Sandy Hook Elementary School (28 deaths), Sutherland Springs Church (23 deaths), and Robb Elementary School (21 deaths) – all involved AR-15-style rifles. R. 52-4 ¶ 14 (Table 2) (*Herrera*).

The very features that make assault rifles so extraordinarily lethal are precisely the features that make them attractive to perpetrators of mass shootings. The light weight and high maneuverability of assault rifles, along with their low recoil, allow perpetrators to move around easily and continue firing without having to re-aim. R. 52-10 ¶ 27. They also have an effective range of 400-500 yards, compared to 50 for a typical handgun, allowing mass shooters to attack unseen from windows or rooftops. *Id.* ¶ 26. Adding large-capacity magazines further

⁶ Public mass shootings are incidents that occur in public settings and are “not perpetrated in pursuit of an underlying criminal activity.” R. 81-3 ¶ 20 (*Viramontes*). High-fatality shootings are those resulting in six or more deaths. *Id.* ¶ 21 (Table 2).

“increase[s] this destructive potential by increasing the number of rounds” that can be fired during a given time period. R. 52-14 ¶ 30.

Assault rifles also convey an image that is attractive to mass shooters. A mass shooting is a “performance crime” that “is predicated on a kind of exhibitionism and desire to be publicly identified as the performer of the violence.” R. 81-16 at 14 (*Viramontes*). Studies show that “the idolization of fame drives as many as a quarter of all mass shooters,” and that “shootings motivated by fame-seeking” have been on the rise. *Id.* Assault rifles appeal to fame-seekers, as they “communicate[] fear and intimidation,” *id.* at 13, and fuel the perpetrator’s “aggressive thoughts and aggression,” *id.* at 14. Perpetrators of mass shootings “frequently express the view that assault weapons will finally make others realize they are powerful.” R. 81-4 ¶ 69 (*Viramontes*).

Assault rifles have also profoundly transformed the nature of the harm caused during violent incidents in cities, as these weapons have become “a favorite among criminals,” Barton, *supra*, and are flooding city streets in record numbers, Klemko, *supra*. According to a 2018 study of ten major American cities, in the decade following the expiration of the federal assault weapon ban, there was an upward trend in assault weapon crime between 48.6% and 111.5%. R. 190-1 at 42 (*Barnett*). The fatality rate has “risen markedly” as well. R. 185-9 ¶ 8 (*Barnett*). In Chicago, for instance, the “odds that a shooting will result in a fatality” increased nearly 50% between

2010 and 2023, *id.*, and similar increases have been observed in Los Angeles and Philadelphia, *id.* ¶ 9.

This proliferation of deadly weapons has led to deadly shootings on city streets, in parks, outside libraries and schools, and at community gatherings. R. 54-8 ¶¶ 10, 12, 30 (*Herrera*); *see also* Tannuja D. Rozario & Paige Tetens, *Assault Weapons and High-Capacity Magazines*, Everytown Research & Policy (last updated June 24, 2026), <https://everytownresearch.org/report/assault-weapons-and-high-capacity-magazines/>. In most of these cases, the victims were not even the intended targets, but were innocent bystanders struck while the assailants fired numerous rounds into crowds in a matter of seconds, giving people no time to run and hide.

3. Assault rifles cause terror and disrupt the public peace.

Assault rifles not only pose a threat to public safety, but they also cause terror and disrupt the public peace. Mass shootings are “high-visibility events that are quite shocking to the public and unsettling to the sense of public safety.” R. 81-4 ¶ 61 (*Viramontes*). They are “seemingly random and unpredictable,” causing feelings of “helplessness, making them more traumatic than nearly all other causes of injury and death in the healthy populations that are exposed.” R. 81-16 at 15 (*Viramontes*).

Mass shootings also “cause profound social damage.” R. 81-4 ¶ 61 (*Viramontes*). The “great psychological harm to survivors” is undeniable;

depression, anxiety, cognitive issues, and PTSD are prevalent, as are feelings of frustration, anger, helplessness, and “an eroded sense of safety and trust.” R. 81-16 at 15 (*Viramontes*); *see also* Miller et al., *supra*, at 1376 (“survivors pay a psychological toll for years afterward”). In fact, survivors of mass shootings are at a “greater risk” of developing “mental health problems compared to survivors of natural disasters.” R. 81-16 at 15 (*Viramontes*).

But “mass shootings also impact the broader community where the shooting occurred and even beyond.” R. 81-16 at 15 (*Viramontes*). In communities where a mass shooting occurs, “5% to 10% of people (other than primary victims) develop [PTSD],” and the “incessant media coverage” of mass shootings results in “secondary traumatization” in communities beyond those “that are directly impacted.” *Id.* Recent studies show that “80% of adults” feel “stressed about mass shootings,” *id.* at 16, nearly half “fear becoming a victim” of one, *id.*, nearly one third “say fear prevents them from going to certain places or events,” such as shopping malls, theaters, musical festivals, religious services, cultural events, political rallies, and other large gatherings, Miller et al., *supra*, at 1377; R. 81-16 at 16 (*Viramontes*), and 25% admitted to having “chang[ed] how they live their lives because of fear of a mass shooting,” Miller et al., *supra*, at 1378.

“School shootings, in particular, create a deep sense of fear in communities.” R. 81-16 at 16 (*Viramontes*). Three-quarters of “youth report mass shootings being a primary source of stress,” and 20% “report the potential of a school shooting causes them

daily stress.” *Id.* And these fears are heightened by the active-shooter drills and lockdowns needed to prepare schools for mass shootings. *Active Shooter Drills*, Brady: United Against Gun Violence, <https://www.bradyunited.org/resources/issues/active-shooter-drills> (last visited Oct. 28, 2026).

Mass shootings are especially “terrifying because of the limited ability organizations, communities, and law enforcement have to counter” them. R. 81-11 ¶ 1 (*Viramontes*). Even with crisis planning measures, “organizations cannot eliminate the possibility of a mass shooting.” R. 61-1 ¶ 69 (*Herrera*). Moreover, many assailants target low-profile places, like grocery stores, theaters, and churches, and “[t]here is no practical way to make these sorts of sites safe from a shooter with an assault weapon.” R. 185-2 ¶ 49 (*Barnett*).

Finally, this fear and stress have fallen particularly hard in urban areas with rising assault rifle attacks. Over one nine-month period in two neighboring Chicago communities, there were 33 shootings with assault rifles at public gatherings. Mitch Smith, *A Chicago Neighborhood Faces a New Fear: Assault-Style Rifles*, N.Y. Times, May 11, 2017, <https://www.nytimes.com/2017/05/11/us/guns-chicago-violence-rifles.html>. The spate of violence left “the police overwhelmed and residents ever more wary of venturing outdoors.” *Id.* Remarked the local alderman: “People are walking around traumatized [with a] glazed look, like they’re not sure what to expect, not certain of what’s going to come out from behind the shadows at any given moment.” *Id.*

**C. Any Burdens the Challenged Laws May
Impose Are Commensurate with Those
Imposed by the Historical Laws.**

Any burdens imposed by bans on assault rifles are commensurate with those imposed by the historical laws, meaning they satisfy the “how” of *Bruen*’s methodology. Like the weapons regulations of previous generations, the challenged laws target a specific problem created by a specific class of weapons. Assault rifles are extraordinarily lethal, are disproportionately misused in mass shootings and other violent crime, and disrupt the public peace and order. Bans on these weapons are critical not only to protect the public from physical harm, but also to protect the public’s freedom to enjoy and feel safe in their communities and participate in shared social and political life – liberties that our lawmakers and leaders have cherished since the founding.

While many of the historical laws prohibited only public carry, modern laws need not impose restrictions that are “identical” to founding-era laws. *Rahimi*, 602 U.S. at 692. *Bruen* allows for a more flexible, commonsense approach that takes into account “unprecedented societal concerns” and “dramatic technological changes.” 597 U.S. at 27. Both of these factors are present here. No weapon at the founding could inflict the type of devastation that assault rifles can, R. 52-13 ¶¶ 8, 31, 60, 65 (*Herrera*), and as we explain, mass shootings themselves are a modern phenomenon.

Moreover, the urban areas we know today did not

exist at the founding; cities did not densify until the late 1800s, Joseph Blocher & Eric Ruben, *Originalism-By-Analogy and Second Amendment Adjudication*, 133 Yale L.J. 99, 154 (2023), and “there were no police departments,” *id.* at 156. Many families lived alone on isolated farms or on frontiers with muskets and fowling pieces for hunting and killing pests. R. 81-17 at 9 (*Viramontes*); *see also* *Wolford*, 609 U.S. at 192. Thus, while encountering unusually dangerous weapons in public caused terror and disrupted social life, there would have been little concern about weapons kept indoors.

Assault rifles, however, can devastate the public even from interior spaces. For one, their high-velocity bullets can “easily penetrate[]” walls, R. 52-9 ¶ 99 (*Herrera*), posing “a substantial risk to individuals in adjoining rooms, neighboring apartments or other attached dwelling units,” *id.* ¶ 101, particularly in dense urban areas, R. 61-1 at 64 (*Herrera*). Their long range and extreme firepower also enable assailants to fire multiple rounds at law enforcement officers, at passersby, or into crowds, while concealed in upper-story windows or on rooftops – like the Las Vegas shooter who fired more than 1,000 rounds in minutes from the 32nd floor of a hotel overlooking a music festival, killing 58 and wounding 800. R. 81-15 at 4 (*Viramontes*).

Indeed, many public spaces where Americans gather are particularly vulnerable to mass shootings from windows and rooftops. In major cities, tall buildings tower over parks and beaches that host concerts, festivals, rallies, and other special events

and are crowded daily with locals and tourists. At major events, like Lollapalooza in Chicago, as many as 400,000 attendees pack into Grant Park in the shadow of Michigan Avenue's high rises. The possibility that a perpetrator could be perched undetectably on an upper floor of a high rise presents a significant threat. And this threat is not unique to major cities. Suburbs and small towns host parades, festivals, and concerts along their main streets, where a perpetrator could just as easily be hiding in an upper story window or on the rooftop of a commercial building, as occurred in Highland Park, Illinois, where the perpetrator fired 83 rounds from an AR-15 in under 60 seconds onto parade-goers, killing seven and wounding 48. R. 52-2 ¶ 19 (*Herrera*).

Furthermore, even when assault rifles are stored in private homes, the risk of criminal misuse is high. Many of the assault rifles wielded by perpetrators of mass shootings or used in other criminal activity were stolen from private homes. For example, of 20 school shootings in which data is available, the perpetrators in 17 of those incidents obtained their weapons from the home of a relative, R. 81-4 ¶ 51, including the perpetrator of the Sandy Hook Elementary School shooting, who stole assault rifles lawfully owned by his mother and used them to kill 27 children and teachers, R. 52-4 ¶ 14 (Table 2) (*Herrera*); R. 81-4 ¶ 86 (*Viramontes*). In fact, "it is orders of magnitudes more likely that a criminal will steal a gun of a law-abiding citizen than a law-abiding citizen will fire an assault weapon in lawful self-defense." R. 81-4 ¶ 108 (*Viramontes*).

None of these things concerned the founders because none were a problem. Indeed, as Justice Barrett put it, “[t]he regulatory challenges posed by firearms today are not always the same as those that preoccupied’ earlier generations.” *Wolford*, 609 U.S. at 220 (Barrett, J., concurring) (quoting *Bruen*, 597 U.S. at 27). Colonial lawmakers targeted “the particular misconduct that they happened to confront,” but today, firearms are “misused in other ways that were unknown to our forebears but pose an equivalent risk to persons or property,” *id.* (Barrett, J., concurring) – or in the case of assault rifles, a far *greater* risk.

Bruen also allows for different solutions to account for the fact that “societal perception of the problem” may have changed. *Rahimi*, 602 U.S. at 705 (Sotomayor, J., concurring). The historical laws already sought to quell fear, and now our understanding of fear and the psychological trauma that firearms violence can have on survivors, witnesses, and community members has developed further. We now have a greater understanding and respect for depression, anxiety, PTSD, and other mental health disorders. Wulf Rössler, *The Stigma of Mental Disorders: A Millenia-Long History of Social Exclusion and Prejudices*, EMBO Reports, Jul. 28, 2016, <https://pmc.ncbi.nlm.nih.gov/articles/PMC5007563/>. And because the colonists and early Americans were not connected through social media and inundated with news stories about violent crime, there was no comparable opportunity for collective trauma to ripple through communities miles away from the criminal acts. Today, we understand that assault rifle bans in both public and private places are

critical not just to ensure *physical* safety and quell fear, but to ensure mental and psychological health. Mass shootings cause collective trauma and profound social damage. As long as the weapons that facilitate these horrific incidents remain in circulation, the possibility of a mass shooting will continue to loom over our heads.

In short, founding-era lawmakers made certain policy choices about how best to protect the public from dangerous and unusual weapons, weapons misused in criminal activity, and weapons that threaten the public peace and order, based on the circumstances of life in the eighteenth century, the scope of the firearms problem, and lawmakers' understanding of the threat to the public. Modern lawmakers are entitled to make choices that account for present-day needs, even if they lack a precise historical analogue. As Justice Barrett observed, *Bruen* does not demand that present-day regulations "follow late-18th-century policy choices," nor assume that founding-era lawmakers "maximally exercised their power to regulate." *Rahimi*, 602 U.S. at 739-40 (Barrett, J., concurring). So long as modern lawmakers respond to the threat of firearms with "focused regulations' to address the threat," *Wolford*, 609 U.S. at 220 (Barrett, J., concurring) (quoting *Rahimi*, 602 U.S. at 700), the law passes muster.

The challenged laws are focused regulations that address the physical and psychological devastation of assault rifles. And because assault rifles are not suitable for and are rarely used in self-defense, and because numerous other, more suitable weapons

remain available for that purpose, R. 81-4 §§ 19, 59, 115-18 (*Viramontes*), any burden the challenged laws may impose is minimal. They must be upheld.

CONCLUSION

The judgments below should be affirmed.

Respectfully submitted,

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October 28, 2026

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