

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, IN HIS OFFICIAL CAPACITY AS
COMMISSIONER OF THE CONNECTICUT DEPARTMENT OF
EMERGENCY SERVICES AND PUBLIC
PROTECTION, ET AL.,
Respondents.

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

**BRIEF OF BRADY CENTER TO PREVENT GUN
VIOLENCE AS *AMICUS CURIAE* IN SUPPORT
OF RESPONDENTS**

DOUGLAS N. LETTER	CARTER G. PHILLIPS*
SHIRA LAUREN FELDMAN	KATHLEEN MUELLER
TESS M. FARDON	ANSLEY C. MCDURMON
BRADY CENTER TO	SIDLEY AUSTIN LLP
PREVENT GUN VIOLENCE	1501 K Street, N.W.
840 First Street, N.E.	Washington, DC 20005
Washington, DC 20002	(202) 736-8000
(202) 370-8100	cphillips@sidley.com
dletter@bradyunited.org	

Counsel for Amicus Curiae

October 28, 2026 *Counsel of Record
[Additional counsel listed on inside cover]

CLAIRE G. LEE
SIDLEY AUSTIN LLP
One South Dearborn St.
Chicago, IL 60603
(312) 853-7000
claire.lee@sidley.com

TABLE OF CONTENTS

	Page
INTEREST OF <i>AMICUS CURIAE</i>	1
INTRODUCTION AND SUMMARY OF ARGUMENT.....	1
ARGUMENT.....	4
I. Historically, The Right To Self-Defense Was A Limited Right To Use Force That Is Reasonably Necessary To Avoid Imminent Death Or Serious Bodily Injury, And Could Not Be Disproportionate To The Threat Presented.....	4
A. Self-defense in the common law of England.	4
B. Self-defense in the Colonies and States in the eighteenth and nineteenth centuries.....	6
C. The limitations on the right to self- defense reflect a judgment that it is not only the defender’s life and liberty that warrant protection, but those of other members of society as well.	12
II. The AR-15 And Similar Assault Weapons May Be Banned Because Their Features Were Designed For Military Use And Are Ill-Suited For Lawful Self-Defense As That Concept Has Been Understood For Hundreds Of Years.....	15
A. The AR-15’s features were designed for military use.	16
B. The AR-15’s military features make it ill-suited for lawful self-defense.	21

TABLE OF CONTENTS—continued

	Page
C. The AR-15 is rarely used in self-defense	24
D. AR-15s may be banned because their possession or use may spread fear and terror that is incompatible with the carry of arms for lawful self-defense.....	25
CONCLUSION	28
ADDENDUM: Early American Formulations of Self-Defense	1a

TABLE OF AUTHORITIES

	Page
CASES	
<i>Aldrich v. Wright</i> , 53 N.H. 398 (1873)	12
<i>Barnett v. Raoul</i> , 180 F.4th 1035 (7th Cir. 2026)	18, 20, 21, 24, 26, 28
<i>Beard v. United States</i> , 158 U.S. 550 (1895)	10, 11, 12
<i>Bevis v. City of Naperville</i> , 85 F.4th 1175 (7th Cir. 2023)	17, 18
<i>Bianchi v. Brown</i> , 111 F.4th 438 (4th Cir. 2024) (en banc)	14, 15, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27
<i>Bondi v. VanDerStok</i> , 604 U.S. 458 (2025) .	1
<i>Commonwealth v. Drum</i> , 58 Pa. 9 (1868)....	12
<i>District of Columbia v. Heller</i> , 554 U.S. 570 (2008)	1, 2, 3, 4, 5, 6, 15, 16, 22
<i>Dyson v. State</i> , 26 Miss. 362 (1853)	10
<i>Edwards v. State</i> , 267 Md. App. 392 (2025)	11
<i>Erwin v. State</i> , 29 Ohio St. 186 (1876)	11
<i>Friedman v. City of Highland Park</i> , 784 F.3d 406 (7th Cir. 2015)	25
<i>Lander v. State</i> , 12 Tex. 462 (1854)	14
<i>McDonald v. City of Chicago</i> , 561 U.S. 742 (2010)	2
<i>N.Y. State Rifle & Pistol Ass’n v. Bruen</i> , 597 U.S. 1 (2022)	1, 2, 24
<i>Nat’l Ass’n for Gun Rts. v. Lamont</i> , 153 F.4th 213 (2d Cir. 2025), <i>cert. granted sub nom. Grant v. Higgins</i> , 146 S. Ct. 2811 (2026)	26, 28
<i>Nat’l Ass’n for Gun Rts. v. Lamont</i> , 685 F. Supp. 3d 63 (D. Conn. 2023), <i>aff’d</i> , 153 F.4th 213 (2d Cir. 2025)	21, 22, 25
<i>Ocean State Tactical, LLC v. Rhode Island</i> , 95 F.4th 38 (1st Cir. 2024)	21

TABLE OF AUTHORITIES—continued

	Page
<i>People v. Doe</i> , 1 Mich. 451 (1850)	7
<i>Pond v. People</i> , 8 Mich. 150 (1860)	12
<i>Rippy v. State</i> , 39 Tenn. (2 Head) 217 (1858)	10, 13
<i>Runyan v. State</i> , 57 Ind. 80 (1877)	11
<i>Rupp v. Bonta</i> , 723 F. Supp. 3d 837 (C.D. Cal. 2024)	17, 18, 19, 20, 22, 23, 25
<i>Shorter v. People</i> , 2 N.Y. 193 (1849)	9, 13
<i>State v. Benham</i> , 23 Iowa 154 (1867)	13
<i>State v. Chandler</i> , 5 La. Ann. 489 (1850)	8
<i>State v. Etienne</i> , 35 A.3d 523 (N.H. 2011)...	11
<i>State v. Glowacki</i> , 630 N.W.2d 392 (Minn. 2001)	11
<i>State v. Hill</i> , 4 Dev. & Bat. (Orig. Ed.) 491 (1839)	9
<i>State v. Tackett</i> , 8 N.C. (1 Hawks) 210 (1820)	10
<i>State v. Thompson</i> , 9 Iowa 188 (1859)	12
<i>State v. Walker</i> , 8 W.L.J. 145 (Ohio C.P. Hamilton Cnty. 1850)	7
<i>State v. Wells</i> , 1 N.J.L. 424 (N.J. Sup. Ct. 1790)	9
<i>Stoneman v. Commonwealth</i> , 66 Va. (25 Gratt.) 887 (1874)	12
<i>United States v. Rahimi</i> , 602 U.S. 680 (2024)	1, 11
<i>Wolford v. Lopez</i> , 609 U.S. 185 (2026)	1, 16
<i>Worman v. Healey</i> , 922 F.3d 26 (1st Cir. 2019)	24

STATUTES

Conn. Gen. Stat. § 53a-19	11
Del. Code Ann. tit. 11, § 464	11
Haw. Rev. Stat. § 703-304	11

TABLE OF AUTHORITIES—continued

	Page
Mass. Gen. Laws ch. 278, § 8A	11
Me. Rev. Stat. Ann. tit. 17-A, § 108.....	11
Neb. Rev. Stat. § 28-1409.....	11
N.J. Stat. § 2C:3-4	11
N.Y. Penal Law § 35.15.....	11
R.I. Gen. Laws § 11-8-8.....	11

SCHOLARLY AUTHORITIES

Justin L. Sola & Justin T. Pickett, <i>Widespread, Bipartisan Aversion Exists to Neighbors Owning AR-15s or Storing Guns Insecurely</i> , 121 Proc. Nat’l Acad. Sci. U.S.A. e2311825121, at 4 (Apr. 8, 2024), https://www.pnas.org/doi/epdf/10.1073/pnas.2311825121	27
Jack Tager, <i>Politics, Honor, and Self- Defense in Post-Revolutionary Boston: The 1806 Manslaughter Trial of Thomas Selfridge</i> , 37 Hist. J. Mass. 85 (2009).....	7

OTHER AUTHORITIES

Decl. of James E. Yurgealitis ¶ 149, <i>Black v. Hook</i> , No. CL26000241-00 (Va. Cir. Ct. filed June 11, 2026)	19
John Adams, <i>Adams’ Argument for the Defense: 3-4 December 1770</i> , https://founders.archives.gov/documents/ Adams/05-03-02-0001-0004-0016	7
3 William Blackstone, <i>Commentaries on the Laws of England</i> (4th ed. 1770).....	5, 6
4 William Blackstone, <i>Commentaries on the Laws of England</i> (4th ed. 1770).....	3, 5, 6, 14

TABLE OF AUTHORITIES—continued

	Page
Advanced Research Projects Agency, Office of the Secretary of Defense, <i>Field Test Report, AR-15 Armalite Rifle</i> (July 31, 1962), https://apps.dtic.mil/sti/pdfs/AD03 43778.pdf	16, 17
Thomas Lloyd & George Caines, <i>Trial of Thomas O. Selfridge, Counsellor at Law, Before the Hon. Isaac Parker, Esquire, for Killing Charles Austin, on the Public Exchange, in Boston</i> (2d ed. 1806), https://collections.nlm.nih.gov/catalog/nl m:nlmuid-2571038R-bk	7, 8
U.S. Army, <i>Report of the M-16 Rifle Review Panel, History of the M-16 Weapon System, C-1</i> (June 1, 1968), https://thecoltar15resource.com/report-of- the-m16-rifle-review-panel-1-jun-1968/ ...	16, 17

INTEREST OF *AMICUS CURIAE*^{*}

Amicus curiae the Brady Center to Prevent Gun Violence (“Brady”) is the nation’s longest-standing nonpartisan, nonprofit organization dedicated to reducing gun violence through education, research, legal advocacy, and political action. Brady works to free America from gun violence by passing and defending gun violence prevention laws, reforming the gun industry, and educating the public about responsible gun ownership.

Brady has a substantial interest in ensuring that the Constitution is construed to allow democratically elected officials to address the nation’s gun violence epidemic and to safeguard the interest of every American in being safe in their homes and communities. Brady has filed numerous briefs as an *amicus curiae* in cases involving firearms regulations, including in this Court. *E.g.*, *Wolford v. Lopez*, 609 U.S. 185 (2026); *Bondi v. VanDerStok*, 604 U.S. 458 (2025); *United States v. Rahimi*, 602 U.S. 680 (2024); *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1 (2022); *District of Columbia v. Heller*, 554 U.S. 570 (2008).

INTRODUCTION AND SUMMARY OF ARGUMENT

The Second Amendment right to keep and bear arms is “[d]erived from English practice” and “secures for Americans a means of self-defense.” *Rahimi*, 602 U.S. at 690. “Like most rights, though, the right secured by the Second Amendment is not unlimited.” *Id.* (cleaned

^{*} No counsel for any party authored this brief in whole or in part, and no person or entity aside from *amicus* and its counsel funded the brief’s preparation or submission.

up). “From Blackstone through the 19th-century cases, commentators and courts routinely explained that the right was not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose.” *Heller*, 554 U.S. at 626.

This Court has “not read the Second Amendment to protect the right of citizens to carry arms for *any sort* of confrontation.” *Id.* at 595 (emphasis in original). It has, instead, made clear that the right to bear arms for lawful self-defense is the “*central component*” of the Second Amendment right. *Id.* at 599 (emphasis in original); see also *McDonald v. City of Chicago*, 561 U.S. 742, 767 (2010); *Bruen*, 597 U.S. at 29. It follows that the prototypical confrontation for which a citizen has the right to carry arms is a confrontation in a home or public place that would justify a person using a weapon in lawful self-defense.

For that reason—and because Petitioners claim that millions of Americans possess AR-15s for self-defense—this brief discusses the scope of the right to lawful self-defense at the time of the adoption of the Second and Fourteenth Amendments and its implications for whether the challenged bans on AR-15s infringe that right.

At common law in England, at the founding of this country, and through the nineteenth century, self-defense law did not provide a right to defend one’s self, family, or property with any amount of force, or in any manner that one desires. It was a right to use the force reasonably necessary to defend against an imminent attack on one’s own person or property, or that of one’s family. The force used could not be disproportionate to the threat, lest the defender become the aggressor. These limitations on the right of lawful self-defense—necessity, imminence, and proportionality—reflect the law’s longstanding judgment that human life and

liberty of all members of society are valuable and deserve legal protection. See *infra* § I.

These limitations make the resolution of the question presented clear: the bans on AR-15s and similar assault rifles do not infringe the Second Amendment. See *infra* § II.

AR-15s and similar assault rifles have military features designed for the U.S. military to use in offensive combat in the Vietnam War, not for civilian use in lawful self-defense. They can fire dozens of rounds in rapid-fire succession with a force so devastating that they can pierce walls and bulletproof vests, and kill or maim dozens of people in a matter of seconds. That lethality makes them attractive to those seeking to rain down terror or mass destruction, and far exceeds the force necessary or appropriate for the constitutionally protected purpose of lawful self-defense in a home or in public spaces. Given their devastating and frequent use in mass shootings of innocent civilians, possession of the banned weapons can also spread fear and terror amongst the public that is incompatible with the right to carry arms for lawful self-defense.

This Court has made clear that the right to keep and bear arms is not a license to possess a weapon “to destroy [one’s] neighbor,” nor for “unlawful or unjustifiable purpose[s],” such as breaching the public peace. *Heller*, 554 U.S. at 612 (citation omitted). Since the founding, it has been understood that legislatures have the authority to ban the carrying of “dangerous or unusual weapons.” 4 Blackstone, *Commentaries on the Laws of England* 148 (4th ed. 1770); see *Heller*, 554

U.S. at 627.¹ And neither *Heller* nor its progeny has given any reason to doubt that “weapons that are most useful in military service,” such as “M-16 rifles and the like,” can be banned. 554 U.S. at 627.

The ban on AR-15s and similar assault rifles falls comfortably within that tradition. It is a permissible regulation to protect the public from an unusually dangerous weapon while imposing little, if any, burden on the ability to use an appropriate firearm for lawful self-defense.

ARGUMENT

I. Historically, The Right To Self-Defense Was A Limited Right To Use Force That Is Reasonably Necessary To Avoid Imminent Death Or Serious Bodily Injury, And Could Not Be Disproportionate To The Threat Presented.

A. Self-defense in the common law of England.

Because this Court has interpreted the Second Amendment as codifying a right to bear arms for self-defense derived from English practice, it is important to recognize how the Framers understood the English right.

In English common law, the right to self-defense was limited to using the amount of force reasonably necessary to protect one’s own life or property, or that of one’s family, from imminent attack. The force used

¹ As Respondent Connecticut explains, and Petitioners concede, this phrase is also formulated as “dangerous and unusual” in English law, and regardless of phrasing differences, the words are read together to form a “single, complex idea.” Br. for the Connecticut Respondents at 16.

could not be disproportionate to the threat, and in many instances, there was a duty to retreat before using any force at all.

William Blackstone—the “preeminent authority on English law for the founding,” *Heller*, 554 U.S. at 593—summarized the principles of the English doctrine in his well-known *Commentaries on the Laws of England*.

If a person was “forcibly attacked in his person or property,” it was “lawful for him to repel force by force.” 3 William Blackstone, *Commentaries on the Laws of England* 3 (4th ed. 1770). A person could also use force to repel an attack upon members of one’s household—a spouse, parent, child, master, or servant. *Id.*

Because self-defense was a “right of preventive defense,” the use of force was lawful only when an attack was imminent. 4 Blackstone, *Commentaries*, at 184. A person could use force in self-defense when attacked “in sudden and violent cases; when certain and immediate suffering would be the consequence of waiting for the assistance of the law.” *Id.* But a person could not use force to redress past injuries or avoid future injuries that were not imminent. “[I]nstead of attacking one another for injuries past or impending, men need only have recourse to the proper tribunals of justice.” *Id.*

For an act of self-defense to be lawful, the force used had to be necessary and proportional to the threat. Deadly force was permitted only when the aggressor used deadly force: “Where a crime, *in itself capital*, is endeavored to be committed by force, it is lawful to repel that force by the death of the party attempting.” *Id.* at 181 (emphasis added). When the aggressor used lesser force or posed a lesser threat, care had to “be

taken, that the resistance does not exceed the bounds of mere defense and prevention; for then the defender would himself become an aggressor.” 3 Blackstone, *Commentaries*, at 4.

To ensure that the defender used only the force necessary to avoid his own death or serious bodily harm, the law generally imposed a duty to retreat before using deadly force. According to Blackstone, “the person, who kills another in his own defense, should have retreated as far as he conveniently or safely can, to avoid the violence of the assault, before he turns upon his assailant.” 4 Blackstone, *Commentaries*, at 184–85; see also *id.* at 184 (“Wherefore, to excuse homicide by the plea of self-defense, it must appear that the slayer had no other possible means of escaping from his assailant.”)

Finally, self-defense generally was not an available defense if the person was the aggressor or a willing participant in the fight. In that situation, the person would have to exit the fight and “decline any further struggle.” *Id.* at 184. Only if he did so, and “afterwards, being closely pressed by his antagonist, kills him to avoid his own destruction,” then the homicide was “excusable by self-defense.” *Id.*

B. Self-defense in the Colonies and States in the eighteenth and nineteenth centuries.

The principles of self-defense from the English common law described by Blackstone were well known and followed in the Colonies and in the States after the founding.

1. In Colonial America, the provision of the English Bill of Rights giving Protestants the right to “have Arms for their Defence suitable to the Conditions, and as allowed by Law” was viewed as “one of the fundamental rights of Englishmen.” *Heller*, 554 U.S.

at 593–94 (citation omitted). It was well understood, however, that this right did not include a right to use arms offensively to threaten or harm others or breach the peace. In defending in court the soldiers charged in the Boston Massacre, John Adams emphasized that Bostonians had the right to bear arms “for their defence, not for offence.” Adams’ Argument for the Defense: 3–4 December 1770, <https://founders.archives.gov/documents/Adams/05-03-02-0001-0004-0016>. “[T]hat distinction,” he said, “is material and must be attended to.” *Id.*

2. Following Independence, state courts continued to look to Blackstone and English common law to define the right to self-defense in this country. An often-cited early example is the 1806 trial of Thomas Selfridge.

Selfridge was a prominent Federalist lawyer charged with manslaughter after he shot and killed the son of a political rival. See Jack Tager, *Politics, Honor, and Self-Defense in Post-Revolutionary Boston: The 1806 Manslaughter Trial of Thomas Selfridge*, 37 Hist. J. Mass. 85, 85–88 (2009). Selfridge claimed he fired in self-defense after the victim struck him with a heavy cane. *Id.* at 88.

Justice Isaac Parker drafted jury instructions based on the principles of self-defense in Blackstone and English common law. Thomas Lloyd & George Caines, *Trial of Thomas O. Selfridge, Counsellor at Law, Before the Hon. Isaac Parker, Esquire, for Killing Charles Austin, on the Public Exchange, in Boston* 159 (2d ed. 1806), <https://collections.nlm.nih.gov/catalog/nlm:nlmuid-2571038R-bk>. The instructions were published in a book about the trial and were widely cited thereafter as authority for the plea of self-defense. See Tager, *supra*, at 86; see also, e.g., *State v. Walker*, 8 W.L.J. 145 (Ohio C.P. Hamilton Cnty. 1850); *People v. Doe*, 1

Mich. 451, 456–57 (1850); *State v. Chandler*, 5 La. Ann. 489, 490 (1850).

Justice Parker’s instructions on self-defense had three components:

First. A man, who, in the lawful pursuit of his business, is attacked by another under circumstances which denote an intention to take away his life, or to do him some enormous bodily harm; may lawfully kill the assailant, provided he use all the means in his power, otherwise, to save his own life or prevent the intended harm—such as retreating as far as he can, or disabling his adversary without killing him, if it be in his power.

Secondly. When the attack upon him is so sudden, fierce and violent, that a retreat would not diminish, but increase his danger, he may instantly kill his adversary without retreating at all.

Thirdly. When from the nature of the attack, there is reasonable ground to believe that there is a design to destroy his life, or commit any felony upon his person, the killing the assailant will be excusable homicide, although it should afterwards appear that no felony was intended.

Lloyd & Caines, *supra*, at 160.

3. The instructions in *Selfridge* addressed the situation where a defendant was resisting an attack initiated by another person. As in English common law, if the defendant was the aggressor, he lost the right to defend himself with deadly force unless he had first quit the combat and retreated.

Take, for example, *State v. Hill*, 20 N.C. (4 Dev. & Bat.) 491 (1839). Hill initiated the confrontation by striking the deceased, who responded by pulling a knife and cutting Hill. Hill then fatally stabbed him. *Id.* at 492. Citing English authorities, the court said it is “settled law, that if a man assault another with malice prepense, even though he should be driven to the wall, and kill him there to save his own life, he is yet guilty of murder in respect of his first intent.” *Id.* at 494. The killing was excusable self-defense only if Hill “had quitted the combat before a mortal blow was given, if the fierceness of his adversary-permitted, and retreated as far as he might with safety, and had then killed his adversary of necessity, to save his own life.” *Id.* at 494–95.

4. Decisions in other States imposed similar requirements, limiting lawful self-defense to situations in which use of force was defensive, necessary to avoid imminent injury or death, and not disproportionate to or in excess of the force necessary to avoid imminent harm. The Addendum lists pertinent decisions from each State. A few are illustrative.

In *State v. Wells*, the New Jersey Supreme Court held that “no man is justified or excusable in taking away the life of another, unless the necessity for so doing is apparent as the only means of avoiding his own destruction or some very great injury.” 1 N.J.L. 424, 430 (N.J. Sup. Ct. 1790). The defense was not established where the victim was “without any kind of weapon that might have rendered it necessary for the prisoner to avail himself of the instrument which occasioned the death.” *Id.*; see also, *e.g.*, *Shorter v. People*, 2 N.Y. 193, 203 (1849) (one struck “with the naked hand,” with no reason to fear great bodily harm, “must not return the blow with a dangerous weapon”).

In *State v. Tackett*, the North Carolina Supreme Court held that “in order to reduce a homicide to excusable self-defence, it is incumbent upon the accused to prove that he killed his adversary through mere necessity in order to avoid immediate death;” a “slight blow, if it did not threaten[] death or great bodily injury would not excuse” the use of deadly force. 8 N.C. (1 Hawks) 210, 218–19 (1820).

And in *Dyson v. State*, Mississippi’s highest court held that to justify killing in self-defense “there must be some overt act indicating a present intention to kill the party or to do him some great personal injury,” and “the danger of such design being accomplished must be imminent, that is to say, immediate, pressing, and unavoidable at the time of [the] killing.” 26 Miss. 362, 388 (1853); see also, *e.g.*, *Rippy v. State*, 39 Tenn. (2 Head) 217, 220 (1858) (“absolutely necessary to kill at that moment”).

5. After the Civil War, one difference did emerge concerning the “ancient doctrine as to the duty of a person assailed to retreat as far as he can before he is justified in repelling force by force.” *Beard v. United States*, 158 U.S. 550, 561 (1895) (quoting *Runyan v. State*, 57 Ind. 80, 83 (1877)). By the end of the nineteenth century, this Court concluded that the “weight of modern authority” in this country establishes “the doctrine that when a person being, without fault, and in a place where he has a right to be, is violently assaulted, he may, without retreating, repel force by force, and if, in the reasonable exercise of his right of self-defense, his assailant is killed, he is justifiable.” *Id.* at 562 (quoting *Runyan*, 57 Ind. at 84).²

² The loosening of the duty to retreat would be irrelevant if the scope of the right to lawful self-defense were viewed only in terms

Not every State followed *Beard*. To this day, there are States that retain some duty to retreat.³

Yet even where the duty to retreat was abandoned, the other restrictions on the use of force in self-defense were retained. As *Beard* explained, to constitute lawful self-defense, a defendant’s use of force must be “necessary to save his own life, or to protect himself from great bodily injury.” 158 U.S. at 564. Other courts similarly recognized that “all authorities agree” that life may be taken in self-defense only “on the ground of necessity.” *Erwin v. State*, 29 Ohio St. 186, 199 (1876); see also, e.g., *Runyan*, 57 Ind. at 85 (defendant must have reasonably believed his actions were “necessary

of the common understanding when the Second Amendment was adopted in 1791. *Cf. Rahimi*, 602 U.S. at 693, n.1 (noting, but not resolving, the “ongoing scholarly debate on whether courts should primarily rely on the prevailing understanding of an individual right when the Fourteenth Amendment was ratified in 1868”) (quoting *Bruen*, 597 U.S. at 37).

³ See, e.g., Conn. Gen. Stat. Ann. § 53a-19 (West 2022) (duty to retreat except in own dwelling place or place of work, or is a peace officer acting within the scope of their duties); Del. Code Ann. tit. 11, § 464 (similar); Haw. Rev. Stat. § 703-304 (similar); Me. Rev. Stat. Ann. tit. 17-A, § 108 (duty to retreat except in own dwelling); Mass. Gen. Laws ch. 278, § 8A (duty to retreat except in own dwelling); Neb. Rev. Stat. § 28-1409 (duty to retreat except in home or at work or when cannot be done safely); N.J. Stat. Ann. § 2C:3-4 (West 2026) (duty to retreat except in home); N.Y. Penal Law § 35.15 (duty to retreat except in dwelling or when assisting law enforcement officer); R.I. Gen. Laws § 11-8-8 (duty to retreat except by owner, tenant or occupier of place where offense was committed); *Edwards v. State*, 267 Md. App. 392 (2025) (duty to retreat except in home, when retreat is unsafe or the escape route unknown, the defendant was being robbed or was lawfully arresting the victim); *State v. Glowacki*, 630 N.W.2d 392, 399 (Minn. 2001) (duty to retreat except in home); *State v. Etienne*, 35 A.3d 523, 536–39 (N.H. 2011) (duty to retreat except in home or curtilage or when assisting law enforcement officer).

for the safety of his own life or to protect him from great bodily harm”).

Lawful self-defense continued to require that the harm be imminent. As the Supreme Court of Virginia explained, “a bare fear that a man intends to commit a felony, however well grounded, will not warrant the killing the party by way of prevention. There must be some overt act indicative of imminent danger at the time.” *Stoneman v. Commonwealth*, 66 Va. (25 Gratt.) 887, 895 (1874).

To be lawful, the amount of defensive force still had to be proportional to the threat. The defendant could use such force as he “had reasonable grounds to believe, were necessary.” *Beard*, 158 U.S. at 564; see also, e.g., *Aldrich v. Wright*, 53 N.H. 398, 402 (1873) (force “should be proportioned to the apparent danger.... When force, purely defensive at first, increases and becomes more than is reasonably necessary for defence, the excess is aggressive and not defensive”); *Pond v. People*, 8 Mich. 150, 177 (1860) (“he must not take life if he can otherwise arrest or repel the assailant”); *State v. Thompson*, 9 Iowa 188, 192 (1859) (must be apparent “that the species of resistance used was necessary to avert” the imminent danger).

C. The limitations on the right to self-defense reflect a judgment that it is not only the defender’s life and liberty that warrant protection, but those of other members of society as well.

The limitations on the use of force in lawful self-defense—necessity, imminence, and proportionality—reflect the law’s longstanding judgment that human life and liberty are valuable and deserve legal protection. Notably, these limitations protect not just

the *defender's* life and liberty, but the lives and liberty of *other members of society* as well.

1. American courts have long emphasized that the doctrine of self-defense is premised on the judgment that human life is “the most sacred of all interests committed to its protection.” *State v. Benham*, 23 Iowa 154, 162 (1867). The “life of a human being must not be taken upon slight grounds.” *Shorter*, 2 N.Y. at 201. That is why the common law held that:

“[T]here can be no successful setting up of self-defense, unless the necessity for taking life is actual, present, urgent, unless in a word, the taking of his adversary’s life is the only reasonable resort of the party to save his own life, or his person from dreadful harm, or severe calamity, felonious in its character.”

Benham, 23 Iowa at 162; see also, *e.g.*, *Commonwealth v. Drum*, 58 Pa. 9, 22 (1868) (“When it comes to a question whether one man shall flee or another shall live, the law decides that the former shall rather flee than the latter shall die”).

Recognizing that the law of self-defense must be protective of human life, the Tennessee Supreme Court rejected as “monstrous” the argument that because “the deceased made violent threats against the life of defendant long before, and up to a short period of the killing,” the defendant “had a right to kill the deceased on sight.” *Rippy*, 39 Tenn. (2 Head) at 218–19. “No Court should for a moment entertain or countenance” so “bloody a principle.” *Id.* at 219. Killing in self-defense is justified only if the threat to the defendant’s life or great bodily injury is “apparent and imminent.” *Id.*

2. Courts also recognized that the limitations on self-defense protect the rule of law and contribute to a well-

ordered society. As the Texas Supreme Court explained, if the restrictions on the use of force are “relaxed or departed from,” it will “impair the estimate of the sanctity of human life” and “induce a loose estimate of its value.” *Lander v. State*, 12 Tex. 462, 477 (1854). It will also “tend to a state of society in which licentious, wanton violence, may go unrestrained, brute force usurp the prerogative of the law, ... [and] no right of person or property may be esteemed sacred and inviolable, or will be enjoyed in security.” *Id.*

3. Decisions like these make clear that the right to self-defense has never conferred a right for a person to defend themselves with an unlimited amount of force, or in any manner that they choose. Rather, as Judge Wilkinson wrote for the en banc court in *Bianchi*, “meaningful limits on the right [to self-defense] have always existed. Our legal tradition has never seriously contemplated that a citizen may employ force against another whenever he chooses upon mere speculation that such person poses a prospective threat.” *Bianchi v. Brown*, 111 F.4th 438, 449 (4th Cir. 2024) (en banc).

The limitations on self-defense demonstrate that “there are societal interests that can prevail over the right to protect oneself with force.” *Id.* The imminence requirement “ensures that the justice system, not the individual, is the preferred user of force to restrain unlawful action when that system has the time and capacity to act.” *Id.*; cf. 4 Blackstone, *Commentaries*, at 184 (no right to use force unless “certain and immediate suffering would be the consequence of waiting for the assistance of the law”). The other restrictions on “how much force may be employed, and against whom force may be used, clarify that it is not just the rights to life and liberty of the defender that matter, but also those of other members of society.

Else, how could we have any society at all?” *Bianchi*, 111 F.4th at 449.

II. The AR-15 And Similar Assault Weapons May Be Banned Because Their Features Were Designed For Military Use And Are Ill-Suited For Lawful Self-Defense As That Concept Has Been Understood For Hundreds Of Years.

The limitations on the lawful use of force in self-defense, and the values those limitations seek to protect, are critical in determining the scope of the Second Amendment right. As noted, the Second Amendment does not protect the right “to carry arms for *any sort* of confrontation.” *Heller*, 554 U.S. at 595. Because the right to bear arms for lawful self-defense is the “*central component*” of the Second Amendment right, *id.* at 599, the quintessential confrontation for which a citizen has the right to bear arms is a confrontation in a home or public place that would justify a person responding with lawful self-defense.

Such a confrontation would not permit an individual to possess a weapon for aggression or in a manner that incites fear or terror or contributes to a breach of the peace. Such firearm possession is unprotected by the right to lawful self-defense and thus by the Second Amendment. See *supra* §§ I.A–I.B; *infra* § II.D. Indeed, *Heller* cited with approval authorities stating that the Second Amendment right “ought not be abused to the disturbance of the public peace,” and that the Constitution confers no right to “keep[] a gun to destroy [one’s] neighbor.” 554 U.S. at 607, 612 (citation omitted).

Nor is a domestic confrontation in which a private person might need a weapon for lawful self-defense similar to the confrontation a soldier would face in a

wartime battle or military patrol in a hostile foreign territory. *Heller* did not question that “weapons that are most useful in military service,” such as “M-16 rifles and the like,” can be banned. *Id.* at 627.

Application of these principles demonstrates that a ban on assault weapons like the AR-15 “has little if any impact on the Second Amendment’s central objective: protecting the fundamental right to self-defense.” *Wolford*, 609 U.S. at 210. The AR-15’s features were designed for military use and are ill-suited for the constitutionally protected purpose of lawful self-defense. And given their unusual lethality and frequent use in mass killings, possession of an AR-15 or similar assault weapon may spread fear and terror that is incompatible with the right to carry arms for lawful self-defense.

A. The AR-15’s features were designed for military use.

1. The AR-15 and similar assault weapons were designed for soldiers to use in military patrol and combat. The AR-15 was developed by an engineer at the Armalite Corporation in response to the Army’s request for a lightweight, high velocity, small caliber rifle that could operate in semi- and fully-automatic modes with firepower capable of penetrating a steel helmet or body armor at 500 yards.⁴

The Army tested the AR-15 under combat conditions in Vietnam. A confidential report issued by the Advanced Research Projects Agency (ARPA) the following year concluded that the “lethality of the AR-

⁴ See U.S. Army, *Report of the M-16 Rifle Review Panel, History of the M-16 Weapon System, C-1* (June 1, 1968), <https://thecoltar15resource.com/report-of-the-m16-rifle-review-panel-1-jun-1968/>; *Viramontes v. Cnty. of Cook*, No. 21-04595 (N.D. Ill.), Dkt. No. 81-5 at 13–14; *Viramontes*, Dkt. No. 81-4 ¶ 96.

15 and its reliability record were particularly impressive.”⁵ One Army Ranger hit a Viet Cong combatant with three rounds of .223 caliber at a distance of approximately 15 meters. “One round in the head—took it completely off. Another in the right arm, took it completely off, too. One round hit him in the right side, causing a hole about five inches in diameter.” ARPA, *supra* note 5, at 22. Any one of the three shots would have caused death. *Id.*; see also *Viramontes*, Dkt. No. 81-4 ¶ 97.

The Army adopted the AR-15 as its standard issue rifle in the mid-1960s. After a series of engineering changes, the rifle was renamed the M-16. See *Viramontes*, Dkt. No. 81-5 at 14.

2. Seeking to capitalize on the military’s acceptance of the M-16, Colt (which had obtained ArmaLite’s patents and trademarks) decided to sell it on the civilian market under the AR-15 name. For the civilian AR-15 model, Colt removed the fully automatic capability but retained the same basic configuration and function of the military M-16 model. *Id.* at 17–18.

Thus, “the AR-15 is almost the same gun as the M-16 machinegun.” *Bevis v. City of Naperville*, 85 F.4th 1175, 1195 (7th Cir. 2023). The “two weapons are ‘generally chambered in similar rounds,’ ‘have a similar muzzle velocity,’ and, when the M-16 is fired in semiautomatic mode, have the same effective maximum rate of fire.” *Rupp v. Bonta*, 723 F. Supp. 3d 837, 852 (C.D. Cal. 2024) (citing undisputed evidence).

⁵ Advanced Research Projects Agency, Office of the Secretary of Defense, *Field Test Report, AR-15 Armalite Rifle*, 15 (July 31, 1962), <https://apps.dtic.mil/sti/pdfs/AD0343778.pdf>; *Viramontes*, Dkt. No. 81-4 ¶ 97.

“There is no dispute that when chambered with identical bullets, the AR-15 and the M16 fire rounds at approximately the same velocity—about 3,100 feet, or ten football fields, per second,” which is “about three times the velocity of a standard handgun bullet.” *Barnett v. Raoul*, 180 F.4th 1035, 1053 (7th Cir. 2026). AR-15s and M-16s “have the same maximum effective range of about 500 yards, compared to just 50 yards for a 9 mm handgun.” *Id.* And “AR-15s and M16s firing the same ammunition will have consistent wounding capabilities, as measured by the kinetic (or muzzle) energy of the rounds fired.” *Id.* The “only meaningful distinction” is “that the AR-15 has only semiautomatic capability (unless the user takes advantage of some simple modifications that essentially make it fully automatic).” *Bevis*, 85 F.4th at 1195.

Thus, the absence of automatic firing capability does not change the many other ways that AR-15s remain a potent military-style weapon. In fact, soldiers typically use the M-16 in semiautomatic mode, not automatic mode. *Rupp*, 723 F. Supp. 3d at 853. The U.S. Army Field Manual instructs that “semiautomatic fire is ‘[t]he most important firing technique during fast-moving, modern combat’ because it ‘is the most accurate technique of placing a large volume of fire on . . . multiple, or moving targets.’” *Bianchi*, 111 F.4th at 456 (quoting U.S. Dep’t of the Army, Field Manual 3-22.9, *Rifle Marksmanship M16-/M4-Series Weapons* 7-8 (Aug. 12, 2008)).

In short, the AR-15 is not meaningfully different from the military’s M-16.

3. Moreover, even in semiautomatic mode, an AR-15 is capable of an extremely high rate of fire up to 300 rounds per minute (and that rate can double if a “bump stock” is added). *Bevis*, 85 F.4th at 1196. A highly-proficient shooter can empty a thirty-round magazine

in as little as five seconds. *Bianchi*, 111 F.4th at 482 (Gregory, J., concurring). Even an operator with minimal training can fire 40–50 shots per minute using an AR-15 rifle in semiautomatic mode.⁶

AR-15s and similar assault weapons retain numerous other combat-functional features that support sustained, controlled rapid fire by a concealed moving shooter.

A pistol grip increases the ability of an operator to conceal and maneuver the firearm in confined spaces, and facilitates easier firing from positions other than the shoulder. *Viramontes*, Dkt. No. 81-5 at 22. It also “enables fast reloading and accuracy during sustained firing.” *Bianchi*, 111 F.4th at 455; see also *Rupp*, 723 F. Supp. 3d at 854 (“It is undisputed that a pistol grip allows a shooter to reload faster”).

A folding or telescoping stock is a feature found on the version of the U.S. military’s WWII rifle (the M1 carbine) that was modified for paratrooper use. *Viramontes*, Dkt. No. 81-5 at 23. It allows the operator to “more easily conceal or maneuver the rifle in a confined space.” *Id.*; see also *Rupp*, 723 F. Supp. 3d at 854 (“It is undisputed that a telescoping stock renders a rifle more concealable”) (cleaned up).

A barrel shroud has been a fixture of military semiautomatic and select-fire rifles since WWII. *Viramontes*, Dkt. No. 81-5 at 23. It protects the operator from “injury due to a hot barrel” from repeated shots. *Id.*; see also *Bianchi*, 111 F.4th at 455.

A muzzle brake vents gases directionally to counter the tendency of the rifle to move up and to the right after firing, allowing the shooter to reacquire control

⁶ Decl. of James E. Yurgealitis ¶ 149, *Black v. Hook*, No. CL26000241-00 (Va. Cir. Ct. filed June 11, 2026).

of the rifle more rapidly. *Viramontes*, Dkt. No. 81-5 at 23–24. The lower recoil allows the shooter to fire shots in rapid succession, and “makes the AR-15 uniquely dangerous compared to other high-powered rifles, which tend to have greater recoil that necessarily disrupts follow-on shots.” *Bianchi*, 111 F.4th at 456 (cleaned up).

A flash suppressor “facilitates night combat operations by mitigating the effects of muzzle flash on [the shooter’s] night vision goggles.” *Rupp*, 723 F. Supp. 3d at 854 (alteration in original). It also “conceals the shooter’s position.” *Bianchi*, 111 F.4th at 455.

The capability to accept a large-capacity magazine is also a feature derived from the military. Magazines have been used to feed cartridges to the light machine guns used in the military dating back to WWI. *Viramontes*, Dkt. No. 81-5 at 31. The ability to use detachable 20-round or 30-round magazines “increase[s] the weapon’s effective rate of fire” and is “most useful in prolonged firefights with enemy combatants.” *Bianchi*, 111 F.4th at 455; see also *Barnett*, 180 F.4th at 1053 (“AR-15s equipped with thirty-round magazines are indeed particularly dangerous” and similar to military M-16s).

4. Significantly, the civilian AR-15 also retains the lethality of a military-style weapon. As noted, “the AR-15 and the M16 fire rounds at approximately the same velocity,” *Barnett*, 180 F.4th at 1053; see also *supra* § II.A. AR-15 bullets discharge at around “three times the velocity of a typical handgun.” *Rupp*, 723 F. Supp. 3d at 853. Furthermore, an AR-15 can fire rounds that “yaw[]” or turn sideways when they impact human tissue, creating a temporary cavity that can be up to 11 or 12.5 times larger than the bullet itself. *Bianchi*, 111 F.4th at 455; see also JA104–05. “So, while a

typical 9mm bullet wound to the liver from a commonly used handgun like the Glock 19 will produce a pathway of tissue destruction in the order of one inch to two inches, an AR-15 wound will literally pulverize the liver, perhaps best described as dropping a watermelon onto concrete.” *Bianchi*, 111 F.4th at 455 (cleaned up); see also *Barnett*, 180 F.4th at 1053–54.

Thus, as a retired Army Major General explained, “[f]or all intents and purposes, the AR-15 and rifles like it are weapons of war”—very deadly weapons “with the same basic functionality that our troops use to kill the enemy.” *Nat’l Ass’n for Gun Rts. v. Lamont*, 685 F. Supp. 3d 63, 101 (D. Conn. 2023).

B. The AR-15’s military features make it ill-suited for lawful self-defense.

The features that make the AR-15 and similar civilian assault rifles so well-suited for military use also make them ill-suited for lawful self-defense.

1. As an initial matter, “civilian self-defense rarely—if ever—calls for the rapid and uninterrupted discharge of many shots.” *Ocean State Tactical, LLC v. Rhode Island*, 95 F.4th 38, 45 (1st Cir. 2024); see also *Bianchi*, 111 F.4th at 459; *Viramontes*, Dkt. No. 81-5 at 28. Notably, individuals “engaged in self-defense fire only 2.2 rounds on average.” *Barnett*, 180 F.4th at 1051; see also *Nat’l Ass’n for Gun Rts.*, 685 F. Supp. 3d at 96 (report showed “individuals firing 5 shots or fewer in 97.3% of all incidents nationally”). Thus, an individual engaged in lawful self-defense does not need a semiautomatic firearm with the offensive capability to shoot dozens of bullets in rapid-fire succession.

Indeed, the use of an AR-15’s rapid-fire capability could result in the use of force beyond that which would be considered lawful self-defense. The

imminence requirement for lawful use of deadly force necessitates that the threat is “ongoing, meaning that an individual engaged in self-defense must alter the response if the threat dissipates.” *Rupp*, 723 F. Supp. 3d at 855. But an AR-15’s rapid-fire capability “does not allow a shooter to reevaluate the circumstances and determine whether fatal force is still required,” *id.*, and thus risks discharging force that is disproportionate to the threat and that continues well beyond that necessary to avoid death or serious bodily injury. *Supra* § I; see also *Bianchi*, 111 F.4th at 459 (AR-15s firepower is “disproportionate to fulfilling the Second Amendment’s purpose of armed self-defense”).

2. The AR-15 has none of the advantages that *Heller* identified as establishing the handgun as “the quintessential self-defense weapon.” 554 U.S. at 629. “Compared to a handgun, the AR-15 is heavier, longer, harder to maneuver in tight quarters, less readily accessible in an emergency, and more difficult to operate with one hand.” *Bianchi*, 111 F.4th at 459; see also *Nat’l Ass’n for Gun Rts.*, 685 F. Supp. 3d at 97–98 & n.31.

The AR-15 also features a very long effective range—“approximately 400–500 yards, compared to 50 yards for a typical handgun.” JA101. That is useful for a soldier firing on enemy combatants, or a person desiring to commit a mass murder in a public space, but it is disproportionate for self-defense in a home, where rooms are measured in feet, not hundreds of yards.

Even in public places, most confrontations involving gunfire are at close range, so self-defense would require a gun with an effective range of approximately 3-10 yards. *Viramontes*, Dkt. No. 81-11 ¶ 25. And that is particularly true for confrontations in which the use of self-defense is *lawful*, since the imminence

requirement would generally require that the threat be at close range—a situation in which it could be “difficult to use an assault rifle.” *Rupp*, 723 F. Supp. 3d at 855.

3. An AR-15 or similar assault rifle is also ill-suited for lawful self-defense because its heightened firepower “poses a serious risk of ‘over-penetration’—that is, bullets passing through their intended target and impacting a point beyond.” *Bianchi*, 111 F.4th at 458 (cleaned up). Rounds from an AR-15 “have the ability to easily penetrate most materials used in standard home construction, car doors, and similar materials.” *Id.*; see also *Viramontes*, Dkt. No. 81-5 at 30–31. Use of an AR-15 for self-defense thus poses an extreme risk for others in the home, people in a neighboring apartment, or bystanders on the street should a person fire multiple rounds and miss the intended target. See *Bianchi*, 111 F.4th at 459; *Viramontes*, Dkt. No. 81-10 ¶ 15 (declaration of Chief of the Bureau of Counter Terrorism for the Chicago Police Department describing “witnessing scenes where an assault weapon has shot an innocent bystander through barriers such as cars or building walls”).

AR-15 use similarly poses substantial risk to law enforcement officers. Ammunition from an AR-15 can pierce standard bulletproof vests and police protective equipment. *Viramontes*, Dkt. No. 81-5 at 31; *Viramontes*, Dkt. No. 81-10 ¶¶ 14, 21. Bullet-proof vests with trauma plates are available, but they are expensive and limit an officer’s mobility, so it is not practical for officers to wear them unless they know assault rifles are present. *Viramontes*, Dkt. No. 81-10 ¶¶ 22–23. And even if an officer dons the extra protective vest, the coverage is limited to the chest, upper back and area over the heart, leaving the officer

at risk of death if a stray bullet hits another part of his body (where, as described above, it will cause massive physical damage). *Id.* ¶ 22.

Lawful self-defense has long required that the force used may not be excessive or disproportionate to the threat. *Supra* §§ I.A–I.B. Yet the “net effect of the AR-15’s military combat features is a capability for lethality” that “is a far cry from any notion of civilian self-defense.” *Bianchi*, 111 F.4th at 456 (cleaned up) (citation omitted). This “ability to inflict damage on a scale or in a manner disproportionate to the end of personal protection” is what separates AR-15s and similar assault rifles from the handgun and brings them beyond the protection of the Second Amendment. *Id.* at 451.

C. The AR-15 is rarely used in self-defense.

Although Petitioners claim that “tens of millions of Americans *choose*” AR-15s and similar semiautomatic rifles “for lawful purposes like self- and home-defense,” there is little evidence that such semiautomatic rifles are commonly *used* in lawful self-defense. Pet’rs’ Br. at 2 (emphasis added). Instead, the evidence suggests that “such use is exceedingly rare.” *Barnett*, 180 F.4th at 1051; see also, *e.g.*, *Worman v. Healey*, 922 F.3d 26, 37 (1st Cir. 2019) (record “offers no indication” that assault weapons like AR-15s “have commonly been used for home self-defense purposes”). In the summary judgment briefing below, the *Viramontes* Petitioners cited news reports of just six instances in which a person used AR-15s in self-defense *since 2010*. JA78–82. Regardless of how “in common use” is defined, that does not establish that AR-15s and similar automatic rifles “are weapons ‘in common use’ today for self-defense.” *Bruen*, 597 U.S. at 32 (quoting *Heller*, 554 U.S. at 627).

The paucity of evidence that AR-15s are actually used in self-defense is unsurprising given that AR-15 ownership is itself uncommon. Most Americans do not own guns, and most Americans who do own guns do not own assault weapons like AR-15s. *Viramontes*, Dkt. No. 81-4 ¶ 21.

Indeed, ownership of AR-15s is concentrated among a small percentage of gun owners. See *Rupp*, 723 F. Supp. 3d at 859; *Nat’l Ass’n for Gun Rts.*, 685 F. Supp. 3d at 96 & n.25. The average assault weapons owner owns three or more of these guns, meaning that there are far more AR-15s than there are AR-15 owners. *Nat’l Ass’n for Gun Rts.*, 685 F. Supp. 3d at 96; see also *Rupp*, 723 F. Supp. 3d at 859 (“undisputed that 66% of individuals who own an AR- or AK-platform rifle own two or more such rifles”).

In short, the ban on AR-15s places no legally cognizable burden on the right to lawful self-defense.

D. AR-15s may be banned because their possession or use may spread fear and terror that is incompatible with the carry of arms for lawful self-defense.

AR-15s and similar assault rifles may also be banned because their possession or use will in many circumstances “spread[] ‘fear’ or ‘terror’ among the people” due to their “frequent and devastating use in mass shootings of innocent civilians—an effect that our common-law tradition has long regarded as incompatible with lawful carry for self-defense.” *Bianchi*, 111 F.4th at 459 (quoting *Bruen*, 597 U.S. at 50) (cleaned up); see also *Friedman v. City of Highland Park*, 784 F.3d 406, 412 (7th Cir. 2015).

The display or use of AR-15s is likely to spread fear and cause terror because these weapons have been used in mass shootings that have received widespread

media coverage and are commonly seen in movies depicting military combat or massive shootouts involving violent groups like drug cartels.

1. The Founders could not have envisioned the terror and destruction that can be caused by a single gunman using an assault weapon to commit mass murder in a matter of seconds. “After all, in the 1770 Boston Massacre, seven British soldiers firing flintlock muskets into a crowd managed to take only five lives.” *Nat’l Ass’n for Gun Rts. v. Lamont*, 153 F.4th 213, 238 (2d Cir. 2025), *cert. granted in part sub nom. Grant v. Higgins*, 146 S. Ct. 2811 (2026). Yet in 2019, a single gunman “armed with an AR-15 equipped with 100-round magazines could fire 41 shots in just 32 seconds, killing nine people and wounding 17 others before he was stopped.” *Id.*; see also *Bianchi*, 111 F.4th at 457 (describing the Pulse shooting where, “[w]ith his rifle in hand, the ISIS-aligned perpetrator walked into the Orlando nightclub and fired approximately 200 rounds in five minutes,” shooting 102 innocent people and killing 49 of them).

Their utility for mass killing has made the AR-15 and other assault rifles “the preferred weapons” for those seeking to carry out terror attacks or mass death and destruction upon innocent civilians. *Bianchi*, 111 F.4th at 456–57. “AR-15 or AK-47 type assault rifles” have been used “in every major terrorist attack on U.S. soil in the past decade.” *Id.* at 457. Assault weapons also were used in 53% of mass shootings with at least six fatalities between 2019 and 2022, and 75% of mass shootings with at least 20 fatalities between 1991 and 2022. *Barnett*, 180 F.4th at 1058; see also *Bianchi*, 111 F.4th at 456 (assault rifles used in “every single mass shooting involving more than 40 deaths”).

2. Mass shootings cause immense harm beyond the tragic deaths and devastating injuries suffered by the

victims. Because mass shootings are seemingly random and unpredictable, they cause a feeling of helplessness, which makes them more traumatic than nearly all other causes of injury and death in the healthy populations that are exposed. *Viramontes*, Dkt. No. 81-16 at 14. Studies have found that approximately 80% of adults in the United States report feeling stressed about mass shootings. *Id.* at 15. This results in people avoiding locations like shopping malls, movie theaters, and large community events for fear of being shot. *Id.*

Fear of mass shootings also makes people afraid to exercise their First Amendment rights. A study showed that people were much less likely to attend a protest, carry a sign at a protest, vocalize views at a protest, or bring children to a protest if they knew firearms would be present. *Viramontes*, Dkt. No. 81-18 at 3. This was true in “all regions of the country,” across “all areas of the political spectrum,” and “for both gun owners and those who did not own guns.” *Id.* Neither gun owners nor non-gun-owners were “‘likely’ or ‘very likely’ to participate in a protest when firearms were present.” *Id.* at 10. And AR-15s are a particular source of fear. Studies show that Americans have widespread aversion to living next door to a neighbor who owns an AR-15—indicating that even gun owners view AR-15s as posing a particular threat to public safety in their communities.⁷

Finally, mass shootings at schools have caused immense fear and stress among American youth.

⁷ Justin L. Sola & Justin T. Pickett, *Widespread, Bipartisan Aversion Exists to Neighbors Owning AR-15s or Storing Guns Insecurely*, 121 Proc. Nat’l Acad. Sci. U.S.A. e2311825121, at 4 (Apr. 8, 2024), <https://www.pnas.org/doi/epdf/10.1073/pnas.2311825121>.

Three in four youths report mass shootings being a primary source of stress, with about 20% reporting that it causes them daily stress. *Viramontes*, Dkt. No. 81-16 at 14.

3. The Second Amendment does not render a representative government powerless to try to prevent mass shootings—and the immense harm they inflict on society—by banning the weapon most commonly used to perpetrate them. As demonstrated above, the AR-15’s military style features make it ill-suited for lawful self-defense, while its use by civilians threatens to undermine public safety and cause the loss of life that our law has long sought to avoid. A ban on AR-15s and similar assault rifles thus falls comfortably within our nation’s longstanding traditions of banning excessively dangerous weapons and promoting public peace while preserving avenues for lawful armed self-defense with more suitable arms. See *Bianchi*, 111 F.4th at 441–42, 454–73; *Barnett*, 180 F.4th at 1045–58; *Nat’l Ass’n for Gun Rts.*, 153 F.4th at 235–47.

CONCLUSION

The Court should affirm the judgments of the Seventh and Second Circuits.

Respectfully submitted,

DOUGLAS N. LETTER	CARTER G. PHILLIPS*
SHIRA LAUREN FELDMAN	KATHLEEN MUELLER
TESS M. FARDON	ANSLEY C. MCDURMON
BRADY CENTER TO	SIDLEY AUSTIN LLP
PREVENT GUN VIOLENCE	1501 K Street, N.W.
840 First Street, N.E.	Washington, DC 20005
Washington, DC 20002	(202) 736-8000
(202) 370-8100	cphillips@sidley.com
dletter@bradyunited.org	

29

CLAIRE G. LEE
SIDLEY AUSTIN LLP
One South Dearborn St.
Chicago, IL 60603
(312) 853-7000
claire.lee@sidley.com

Counsel for Amicus Curiae

October 28, 2026

*Counsel of Record

ADDENDUM

ADDENDUM TABLE OF CONTENTS

	Page
ADDENDUM: Early American Formulations of Self-Defense	1a

Delaware: *State v. Oliver*, 7 Del. (2 Houst.) 585, 608 (Del. Super. Ct. 1863) (Harrington, C.J., charging the jury)

“The law of self-defence justifies the repelling of force by force in such cases, even unto death, but gives no protection to wanton or unnecessary aggression.”

Pennsylvania: *Respublica v. Mulatto Bob*, 4 Dall. 145, 146 (Pa. 1795) (M’Kean, C.J., charging the jury)

“An assault and battery may, indeed, be resisted and repelled, by a battery more violent; but the life of a fellow creature must not be taken, unless in self-defence.”

New Jersey: *State v. Wells*, 1 N.J.L. 424, 430 (N.J. Sup. Ct. 1790)

“[N]o man is justified or excusable in taking away the life of another, unless the necessity for so doing is apparent as the only means of avoiding his own destruction or some very great injury”

“[T]he attack of the deceased was without any kind of weapon that might have rendered it necessary for the prisoner to avail himself of the instrument which occasioned the death.”

Georgia: *Howell v. State*, 5 Ga. 48, 54 (1848)

“By the 12th section of the 4th division of the penal code, it is *justifiable* homicide to kill a human being in self-defence ... against one who *manifestly intends* or endeavors, by violence or surprise, to commit a felony on either. The 13th section declares that ‘a *bare fear* of any of those offences, to prevent which the homicide is alleged to have been committed, shall not be sufficient to

justify the killing. It must appear that the circumstances were sufficient to excite the fears of a *reasonable* man, and that the party killing, really acted under the influence of those fears and not in a spirit of revenge” (quoting Ga. Penal Code div. 4, § 13).

Connecticut: *Morris v. Platt*, 32 Conn. 75, 83 (1864)

“A man who is assailed, and under such circumstances as to authorize a reasonable belief that the assault is with design to take his life, or do him extreme bodily injury which may result in death, will be justified in the eye of the criminal law if he kill his assailant, and in an action of trespass, if he unsuccessfully attempt to kill him, and he surviving brings his action, for the killing would have been lawful and of course the attempt lawful; and no man is liable in a civil suit or criminal prosecution for an injury lawfully committed in self-defense upon an actual assailant.”

Massachusetts: *Commonwealth v. Selfridge* (Mass. 1806) (Parsons, C.J., charging the grand jury), in *Trial of Thomas O. Selfridge, Counsellor at Law, Before the Hon. Isaac Parker, Esquire, for Killing Charles Austin, on the Public Exchange, in Boston*, August 4, 1806, at 7 (Boston, 2d ed. 1806)

“A man may repel force by force in defence of his person, against any one who manifestly intends or endeavors by violence or surprise, feloniously to kill him. And he is not obliged to retreat, but he may pursue his adversary until he has secured himself from all danger; and if he kill him in so doing, it is *justifiable self-defence*. But a bare fear, however well grounded, unaccompa-

nied by any open act, indicative of such an intention, will not warrant him in killing. There must be an actual danger at the time. And, ... it must plainly appear by the circumstances of the case, as the manner of the assault, the weapon, etc., that his life was in imminent danger; otherwise the killing of the assailant will not be *justifiable homicide*.”

Maryland: Research found no criminal cases before 1900 involving a plea of self-defense

South Carolina: *State v. Wood*, 1 S.C.L. (1 Bay) 345, 346–47 (1794)

“The general rule of law ‘that wherever the assault or battery proceeds from the plaintiff or prosecutor’s own fault; as where he gives the first blow &c. there it is sufficient justification to the defendant.’ But there must be however, in all cases, some proportion between the battery given, and the first assault. For Lord Holt lays it down as a rule, that the meaning of the plea *son assault* is, that the defendant struck *in his own defence* *Esp.* 389. So that the degree of resistance, ought to be in proportion to the nature of the injury offered; that is, that it be sufficient to ward off such injury, and no more. For the moment a man disarms or puts it out of the power of the aggressor from doing him further injury, he ought to desist from using further violence; and if he does commit any further outrage, he, in his turn, then becomes the aggressor. In *Salk.* 642, a question was, what assault was sufficient to maintain such plea? Lord Holt said, that Wyndham, J. would not allow such plea, if it was *an unequal return*. His lordship then says, that for every assault, he did not think it reasonable that a man should be *banged with a cudgel*.

That a small blow will not justify an enormous beating, &c. That the meaning of the plea was, that the *defendant struck in his own defence*. And of the same opinion were all the Judges on this occasion, and verdict was against the defendant accordingly.”

New Hampshire: *State v. Elliot*, 11 N.H. 540, 544 (1841)

“The defence of one’s self ... is, under certain circumstances, a natural right; but one general principle holds in these cases, that the self-defence must be regulated by the nature, degree, and design of the attack, and the repelling force must go no farther than is necessary to prevent the mischief intended by the aggressor.

The same general rule applies to the wresting of property from another by force. In such case, the owner of the property has a right to defend it, but he can in no case go beyond what the urgency of the occasion requires.”

Virginia: *Vaiden v. Commonwealth*, 53 Va. (12 Gratt.) 717, 729–30 (1855)

“When a man is assaulted in the course of a sudden brawl or quarrel, he may in some cases protect himself by slaying the person who assaults him, and excuse himself on the ground of self-defense. Before a party thus assaulted, however, can kill his adversary, he must have retreated as far as he safely could to avoid the assault, until his further going back was prevented by some impediment, or as far as the fierceness of the assault permitted. He must show to the jury that the defense was necessary to protect his own life, or to protect himself against grievous bodily harm.... And with regard to the necessity that

will justify the slaying of another in self-defence, it should seem that the party should not have wrongfully occasioned the necessity; for a man shall not in any case justify the killing of another by a pretense of necessity, unless he were without fault in bringing that necessity upon himself.”

New York: *Shorter v. People*, 2 N.Y. 193, 203 (1849)

“When a man is struck with the naked hand, and has no reason to apprehend a design to do him any great bodily harm, he must not return the blow with a dangerous weapon. After a conflict has commenced he must quit it, if he can do so in safety, before he kills his adversary: and I hardly need add, that if his adversary try to escape, he must not pursue, and give him fatal blows with a deadly weapon.”

North Carolina: *State v. Hill*, 20 N.C. (3 & 4 Dev. & Bat.) 491, 494–95 (1839)

“It is laid down as settled law, that if a man assault another with malice prepense, even though he should be driven to the wall, and kill him there to save his own life, he is yet guilty of murder in respect of his first intent.”

“Even if the prisoner had not begun the affray, but had been assaulted in the first instance, and then a combat had ensued, he could not excuse himself as for a killing in self-defence, unless he had quitted the combat before a mortal blow was given, if the fierceness of his adversary-permitted, and retreated as far as he might with safety, and had then killed his adversary of necessity, to save his own life.”

Rhode Island: *State v. Sherman*, 16 R.I. 631, 632 (1889)

“Where there is no homicide, the rule generally laid down is that the assaulted person may defend himself, opposing force to force,—using so much force as is necessary for his protection,—and can be held to answer only for exceeding such degree. ... “The assailed person is not permitted to stand and kill his adversary, if there is a way of escape open to him, while yet he may repel force by force, and, within limits differing with the facts of the case, give back blow for blow” (citation omitted).

Vermont: *Mellen v. Thompson*, 32 Vt. 407, 408 (1859)

“The amount and kind of force which the law authorizes one to use in defence of his own person, depends entirely upon the extent and character of the attack upon him, and all the attending circumstances. He may use such kind and amount as is necessary for his own protection and safety, even to destroying the life of his assailant. If it were necessary for a defendant pleading such defence to set forth all the particulars of the plaintiff’s prior assault, and all the various circumstances under which it was made, and which might in evidence affect his right to repel it, and to what extent, it would become next to impossible to frame such a plea, and ordinarily it would by no means enable the court to determine upon the face of the pleadings, whether or not, the force used by the defendant was justified by the first assault made by the plaintiff.”

Kentucky: *Rapp v. Commonwealth*, 53 Ky. (14 B. Mon.) 494, 501 (1854)

If the defendant “did believe, and that he had reasonable ground to believe, that [the victim] intended to proceed immediately to the infliction of bodily harm upon him with the knife in his hand, and that he would do so unless prevented by such act of self-defense as was then in the power of [defendant], then the shooting by [defendant] was excusable on the ground of self-defense and apparent necessity. But if he had not reasonable ground to apprehend immediate violence to his person by [the victim] by the use of the knife, then his act of shooting and thus aiming at the life of [the victim], was not only not excusable as being in self-defense, but it was not done under such provocation as on the ground of heat and passion would make it a misdemeanor instead of a felony.”

Tennessee: *Rippy v. State*, 39 Tenn. (2 Head) 217, 219–20 (1858)

“The law on this subject is, that, to excuse a homicide, the danger of life, or great bodily injury, must either be real, or honestly believed to be so at the time, and upon sufficient grounds. It must be apparent and imminent.... To constitute the defence, the belief or apprehension of danger must be founded on sufficient circumstances to authorize the opinion that the deadly purpose then exists, and the fear that it will at that time be executed.... So a case must not only be made out to authorize the fear of death or great harm, but such fear must be really entertained, and the act done under an honest and well founded belief that it is absolutely necessary to kill at that moment, to save himself from a like injury.”

Ohio: *Erwin v. State*, 29 Ohio St. 186, 199 (1876)

“It is true that all authorities agree that the taking of life in defense of one's person can not be either justified or excused, except on the ground of *necessity*; and that such necessity must be imminent at the time; and they also agree that no man can avail himself of such necessity if he brings it upon himself. [A] true man, who is without fault, is not obliged to fly from an assailant, who, by violence or surprise, maliciously seeks to take his life or do him enormous bodily harm.”

Louisiana: *State v. Chandler*, 5 La. Ann. 489, 490–91 (1850)

“A man may repel force by force in defence of his person, habitation or property, against one who manifestly intends or endeavors by violence or surprise to commit a known felony, such as murder, rape, robbery, arson and the like, upon either. In these cases he is not obliged to retreat but may pursue his adversary until he has secured himself from all danger, and, if he kill him in so doing, it is called justifiable self-defence.”

“[T]here must be actual danger at the time from the violence and a reasonable belief that a felony is intended.”

“[I]f [the victim] actually attacked [defendant], and was beating his head against a brick wall so as to put his life really in danger, and [defendant] then killed his assailant from absolute necessity to preserve his own life, the charge asked for was not only the law of self-defence, but was applicable to the case, and should have been given to the jury by the court. But if [the victim] was unarmed and sick, and only in consequence of a quarrel with [defendant's] wife the preceding

evening, the latter was so enraged that he rushed upon and gave him four stabs with a Bowie knife, until then concealed in his bosom—[the victim] being a perfectly passive victim—the charge asked was entirely inapplicable, and should have been refused by the judge on account of its irrelevancy to the case.”

Indiana: *Hayden v. State*, 4 Blackf. 546, 547 (Ind. 1838) (per curiam)

“The law is well settled, that a person thus assaulted may use as much force as is necessary for his defense, but he may not kill, wound or maim his antagonist, unless it be necessary to save his life, or protect himself from great bodily harm. Every assault will not justify every battery. *Son assault* is a good plea in *mayhem*, but it must appear that the degree of resistance was in proportion to the nature of the injury offered.”

Mississippi: *Cotton v. State*, 31 Miss. (2 George) 504, 510–11 (1856)

“The party interposing the plea of self-defence, on a trial for murder, must be understood as undertaking to show, that in the perpetration of the deed he acted under a necessity, either actual or apparent, forced upon him by the party killed; for if such were not the case, his defence can avail him nothing, or certainly not further than to mitigate the crime. The very defence itself presupposes danger to the party's life or person, except in cases where he may act in defence of the life or person of another.... The law says that there must be reasonable ground to apprehend a design to commit a felony, or do some great personal injury, and imminent danger of such design being accomplished.... Reasonable ground to

apprehend the design, and imminent danger of its accomplishment, must both exist at the same time.”

Illinois: *Campbell v. People*, 16 Ill. 17, 19 (1854)

“If the defendant was pursued or assaulted by the deceased in such a way as to induce in him a reasonable and ... well-grounded belief that he was actually in danger of losing his life, or suffering great bodily harm, when acting under the influence of such reasonable apprehension, he was justified in defending himself”

Alabama: *Oliver v. State*, 17 Ala. 587, 598 (1850)

“To justify the taking of life there must be an imperious necessity to prevent the commission of a felony or great bodily harm. Without this necessity, the law, although under some circumstances it will mitigate the crime to manslaughter, cannot hold the party slaying altogether justified.”

Maine: *State v. Field*, 14 Me. 244, 247 (1837)

“A man may oppose force to force in defence of his person, his family, or property, against one, who manifestly endeavors by surpris[e] or violence to commit a felony, as murder, robbery or the like. But to justify killing the aggressor *his apparent intent* must be to commit a felony.... and it must appear that the *danger was imminent*, and the species of resistance used, necessary to avert it.”

Missouri: *State v. Shoultz*, 25 Mo. 128, 152–53 (1857)

Approving jury instruction stating: “The law of self-defense is emphatically the law of necessity,

to which a party may have recourse under certain circumstances to prevent any reasonably apprehended great personal injury which he may have reasonable grounds to believe is about to fall upon him. If you believe that defendant had reasonable cause to apprehend a design on the part of deceased to commit a felony upon defendant, or to do him some great personal injury, and that there was reasonable cause to apprehend immediate danger of such design being carried out, and he shot and killed deceased to prevent the accomplishment of such apprehended design, then the killing is justified upon the ground of self-defense, and you should acquit.”

Arkansas: *Stanton v. State*, 13 Ark. 317, 323 (1853) (quoting trial court jury charge)

“That in ordinary cases of one person killing another, in self-defence, it must appear that the danger was so urgent and pressing that in order to save his own life, or to prevent his receiving great bodily injury, the killing of the other was necessary; and it must appear also that the person killed was the assailant, or that the slayer had really, and in good faith endeavored to decline any further contest, before the mortal blow or injury was given.”

Michigan: *Pond v. People*, 8 Mich. 150, 177 (1860)

“A man is not, however, obliged to retreat if assaulted in his dwelling, but may use such means as are absolutely necessary to repel the assailant from his house, or to prevent his forcible entry, even to the taking of life. But here, as in the other cases, he must not take life if he can otherwise arrest or repel the assailant”

Florida: *Pinder v. State*, 27 Fla. 370, 384 (1891)

“[T]he killing would to be excusable” self-defense, the defendant must show “that he was surrounded by such a condition of affairs as made it, from his stand-point, reasonable for a cautious and prudent man to believe it was necessary to ... strike the fatal blow in order to save himself from death or great bodily harm.”

Texas: *Lander v. State*, 12 Tex. 462, 476, 478 (1854)

“The right of self-defense rests upon the law of necessity.” “To justify a homicide on the ground of self-defense, it must clearly appear that it was a necessary act, in order to avoid death or some severe calamity” (citation omitted).

Iowa: *State v. Thompson*, 9 Iowa 188, 192–93 (1859) (citing Wharton, American Criminal Law 436) “To make a homicide excusable, on the ground of self defense, the danger must be shown to be actual and urgent. No contingent necessity will avail. It must be proved that the assault was eminently perilous; and without there be a plain manifestation of a felonious intent, no assault will justify killing the assailant.”

“If, under the circumstances, there was no reason for the belief by defendant, that his person was in danger of death or great bodily harm, but that an ordinary battery was all that was intended, and all that he had any reason to fear from the acts of the deceased, he had no right to take the life of his assailant.”

Wisconsin: Wis. Rev. Stat. ch. 133, § 5 (1849)

Homicide is justifiable “[w]hen committed in the lawful defence of such person ... when there shall be a reasonable ground to apprehend a design to

commit a felony, or to do some great personal injury, and there shall be imminent damage of such design being accomplished”

California: *People v. Hurley*, 8 Cal. 390, 391 (1857)

“A reasonable fear and actual belief, will excuse the party” in certain cases. “But a reasonable fear and actual belief of great bodily harm, are not sufficient in all cases. The statute says the killing must be ‘absolutely necessary’ to prevent it. The infliction of ‘great bodily harm’ upon another, may, or may not, amount to a felony. So an attempt to inflict it, may, or may not, be a felony. If attempted with a deadly weapon, or with the intent to commit a felony, then the reasonable fear, and actual belief, would justify the killing. (Sec. 50.) But when the attempt to inflict ‘great bodily harm’ does not constitute felony, there must exist the absolute necessity mentioned by the thirty-first section, to excuse the killing.”

Minnesota: *State v. Shippey*, 10 Minn. 223, 231–32 (1865)

“Self-defense *ex vi termini* is a defensive not an offensive act, and must not exceed the bounds of mere defense and prevention. To justify such act there must be at least an apparent *necessity* to ward off by force some bodily harm.”

“Where the party has not retreated from or attempted to shun the combat, but has as in this case unnecessarily entered into it, his act is not one of self-defense.”

Oregon: *Goodall v. State*, 1 Or. 333, 337–38 (1861) (quoting *Shorter v. People*, 2 N.Y. 193, 197–98 (1849))

Self-defense available “when, from the nature of the attack, there is reasonable ground to believe

that there is a design to destroy his life, or commit any felony upon his person, the killing the assailant will be excusable homicide, although it should afterwards appear that no felony was intended.”

Kansas: *State v. Howard*, 14 Kan. 173, 174–75 (1875)

Self-defense available where there is “a reasonable apprehension of imminent danger.”

West Virginia: *State v. Cain*, 20 W. Va. 679, 704 (1882)

Approving of jury instruction: “When one without fault himself is attacked by another in such a manner or under such circumstances as to furnish reasonable ground for apprehending a design to take away his life, or do him some great bodily harm, and there is reasonable ground for believing the danger imminent that such design will be accomplished, and the person assaulted has reasonable grounds to believe and does believe, such danger is imminent, he may act upon such appearances and may without retreating kill the assailant, if he has reasonable grounds to believe and does believe, that such killing is necessary to avoid the apprehended danger ...”

Nevada: *State v. Ferguson*, 9 Nev. 106, 117 (1874)

If the defendant “was without fault, and had reasonable ground to believe, and did believe, that he was in danger of his life, or of receiving great bodily harm, from [the victim], and that this could only be prevented by his using such means of defense as were within his power, and he acted under such belief and not in a spirit of revenge, then the killing of [the victim] was justifiable.”

Nebraska: *Williams v. State*, 6 Neb. 334, 336, 339 (1877)

Approving jury instruction permitting acquittal for self-defense if “the accused was in imminent or apparent danger of receiving great bodily harm from the deceased at the time of the homicide, or that the deceased was about to commit a felonious assault upon the defendant, was in the situation, had the implements and weapons, and possessed the animus, ability, and was in a position to do so at the time of the killing, or that the deceased was about to take the life of the prisoner, and there was no other way for him to save it than to commit the homicide; or that he had a just and well grounded apprehension that deceased was about to kill him or to do him great bodily harm, and that there was no other way to save himself from the impending danger of life, limb, or great bodily injury than to commit the homicide ...”