

Nos. 25-238, 25-566

In the Supreme Court of the United States

CUTBERTO VIRAMONTES, ET AL.,
Petitioners,

v.

COOK COUNTY, 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 *AMICI CURIAE* SOCIAL SCIENCE
SCHOLARS SUPPORTING RESPONDENTS**

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INTEREST OF *AMICI CURIAE*¹

Amici are a group of social scientists specializing in epidemiology, survey research, data science, economics, and criminology. Collectively, the *amici* have more than a century of experience conducting empirical research on firearm ownership and use and have published more than 300 peer-reviewed journal articles related to these issues. They file this brief on behalf of themselves as individuals, not as representatives of any institution.

Deborah Azrael is the Director of Research of the Harvard Injury Control Research Center, with over 25 years of grant-funded leadership in firearm violence and injury surveillance. Named by *The Trace* as one of the ten Americans who shaped the gun debate and recipient of the American Public Health Association's Excellence in Science Award, she co-directed the pilot for what became the National Violent Death Reporting System—a comprehensive 50-state surveillance system tracking all homicides, suicides, and unintentional firearm deaths—and has authored over 150 peer-reviewed articles on firearm ownership, storage practices, and suicide prevention.

Professor Philip Cook is Professor Emeritus of Public Policy and Economics at Duke University, a member of the National Academy of Medicine, and the recipient of the Stockholm Prize in Criminology—

¹ Pursuant to Supreme Court Rule 37.6, *amici* state that no counsel for any party authored this brief in whole or in part and no entity or person, aside from *amici* or their counsel, made any monetary contribution intended to fund its preparation or submission.

internationally recognized as the highest honor in the field—for decades of pioneering research on gun violence and its societal effects. Among the first scholars to systematically study gun violence prevention, he has authored landmark books and numerous peer-reviewed articles on the costs, consequences, and regulation of firearm availability.

Professor David Hemenway is Professor of Health Policy at the Harvard T.H. Chan School of Public Health and Director of the Harvard Injury Control Research Center. Recognized by the Centers for Disease Control and Prevention with its 20 for 20 Leadership Award as one of the twenty most influential injury and violence professionals over a two-decade span, he has authored over 200 peer-reviewed articles on injury and firearm violence, alongside seminal books such as *Private Guns, Public Health*.

Professor Matthew Miller is University Distinguished Professor of Health Sciences and Epidemiology at Northeastern University, Adjunct Professor of Epidemiology at the Harvard T.H. Chan School of Public Health, and Co-Director of the Harvard Injury Control Research Center. Elected to the National Academy of Medicine for foundational epidemiological research establishing the causal link between firearm access and heightened suicide risk, Dr. Miller has authored more than 200 peer-reviewed papers related to firearm ownership, use, and the medical, social, and public-health-related risks and benefits of firearm ownership.

Oren Tirschwell is a Data Scientist at the

University of Chicago Crime Lab. He applies data science and machine learning techniques to better understand complex social science and public policy questions. His research covers survey analysis on various firearm-related instruments (blending inferential and predictive techniques), U.S. crime data analyses, and analysis of federal violence-prevention funding in major cities.

Amici's shared interest in these cases is in the integrity of the empirical record on which courts rely. *Amici* have devoted their careers to conducting empirical research on firearm ownership and use, including published, peer-reviewed work assessing the survey evidence Petitioners press here. *Amici* therefore do not come to these questions for the first time in this litigation, and they submit this brief to assist the Court in distinguishing evidence that can bear constitutional weight from evidence that cannot.

SUMMARY OF ARGUMENT

Petitioners and aligned *amici* ask this Court to resolve a constitutional question of national importance by relying heavily on a small set of contested empirical claims about ownership and use of AR-15 platform and similar semiautomatic rifles. *See, e.g., Viramontes* Pet. Merits Br. 11–12, 34–35; *Grant*, Pet. for Cert. 9–10; Br. of *Amicus Curiae* Nat'l Shooting Sports Found. 6; Br. of *Amicus Curiae* United States 21. Chief among their sources are two non-peer-reviewed papers that report the results of surveys conducted by Professor William English: the first from 2021, and the second from 2026.

At the threshold, the English Surveys fail to establish that AR-15-style rifles are “commonly used” in the sense contemplated by the Second Amendment. “Common use” is not judged merely by a present-day snapshot; the question is whether an arm has proven itself, across time, to be the sort of weapon ordinary citizens actually rely upon for lawful purposes, such as self-defense. See *Bianchi v. Brown*, 111 F.4th 438, 450 (4th Cir. 2024) (Wilkinson, J.) (en banc), *cert. denied sub nom. Snope v. Brown*, 145 S. Ct. 1534 (2025). Yet neither English Survey speaks to that question. And as explained below, the surveys do not even succeed at providing a current-day snapshot of gun ownership.

Professor English is not a disinterested source whose work Petitioners happened to find. He is a participant in this litigation, having filed an *amicus* brief in these consolidated cases urging the result Petitioners seek, just as he did in *New York State Rifle & Pistol Assn., Inc. v. Bruen*. See Nos. 25-238, 25-566, Br. of *Amici Curiae* Prof. William English & Center for Human Liberty Supporting Petitioners; No. 20-843, Br. of *Amici Curiae* William English, Ph.D., and the Center for Human Liberty in Support of Petitioners. In fact, the 2026 Survey was still in the field only weeks before Petitioners’ merits brief was filed, and English did not issue his report until four days before that filing. Likewise, the 2021 Survey was fielded in the weeks before this Court granted certiorari in *Bruen*.

Nor is Professor English an expert in firearm ownership and use patterns or in survey research. Indeed, English has never published anything in the

peer-reviewed literature related to firearms, and his sole prior published research using survey data he collected is limited to a single small, non-probability sample on a topic that has nothing to do with firearm ownership or use. See William English, *Demystifying trust: Experimental evidence from Cambodia and Thailand*, 24 J. of Theoretical Politics 172 (2012) (considering a two-page questionnaire administered to 97 high school students in Thailand and Cambodia, entirely unrelated to firearms). His research on firearms appears to have begun only in 2021 in connection with an NRA-backed lawsuit. See Mike McIntire & Jodi Kantor, *The Gun Lobby's Hidden Hand in the 2nd Amendment Battle*, N.Y. Times (June 18, 2024).²

The 2021 Survey—which purported to provide estimates of AR-15 and similar rifle ownership and use—was marred by defects, as recognized by judges and scholars, including *amici*, which render its findings unreliable. See *Ass'n of N.J. Rifle & Pistol Clubs, Inc. v. Att'y Gen.*, 183 F.4th 211, 303 n.10 (3d Cir. 2026) (Krause, J., dissenting); *Barnett v. Raoul*, 2024 WL 4719468, at *7 (S.D. Ill. Nov. 8, 2024); Deborah Azrael, Joseph Blocher, Philip J. Cook, David Hemenway & Matthew Miller, *A Critique of Findings on Gun Ownership, Use, and Imagined Use From the 2021 National Firearms Survey: Response to William English*, 78 SMU L. Rev. 239 (2025).

The 2026 Survey is expressly framed as a response to critics of the 2021 Survey. But the new Survey repeats many of the design choices that made its

² <https://perma.cc/SR5P-NERX>.

predecessor unreliable. It again primes respondents towards affirmative answers and relies on an opt-in survey methodology, rendering it non-representative of gun owners nationwide. Further, English’s results cannot be reconciled with his previous results, independent surveys, firearm production data, the effects of long-standing state bans, or public records of concealed-carry permits. Finally, the 2026 Survey provides this Court with no evidence of the frequency with which AR-15 and similarly styled rifles are used for lawful self-defense.

In sum, neither the 2026 Survey nor its predecessor can support Petitioners’ efforts to invalidate the laws at issue. The methodological defects of the 2026 Survey render it unreliable, and it cannot show that AR-15 platform and similar semiautomatic rifles are in common use.

ARGUMENT

I. The English Surveys Cannot Be Used To Establish “Common Use,” As They Provide No More Than A Deeply Flawed Present-Day Snapshot Of Firearm Markets

The Second Amendment “does *not* protect those weapons not typically possessed by law-abiding citizens for lawful purposes.” *District of Columbia v. Heller*, 554 U.S. 570, 625 (2008) (emphasis added). “Drawing from ... historical tradition,” it “protects only the carrying of weapons that are those ‘in common use at the time.’” *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1, 47 (2022) (citation omitted). Those are empirical questions:

how many law-abiding citizens keep a given arm, and for what purposes they use it. Answering them requires reliable evidence.

The “common use” inquiry is not satisfied by a present-day snapshot of ownership or use. In *Bianchi*, for example, Judge Wilkinson explained that “[a]rms typically used by average citizens for self-defense are generally within the ambit of the Second Amendment, presumably because these arms had proven *over time* to effectively amplify an individual’s power to protect himself without empowering him to single-handedly reign terror upon a community.” 111 F.4th at 450 (emphasis added). Assessing use “over time” helps ensure that “arms manufacturers” cannot “secure constitutional immunity for their products so long as they distribute a sufficient quantity before legislatures can react.” *Id.* at 450, 461.

A rule under which a weapon acquires constitutional protection by proliferating before a legislature responds would improperly transform legislative inaction or delay into a forfeiture of legislative authority, tying the hands of present and future legislators. Justice Barrett warned against considering legislative inaction in the historical-tradition inquiry, as demanding “overly specific” historical analogues to challenged laws “assumes that founding-era legislatures maximally exercised their power to regulate, thereby adopting a ‘use it or lose it’ view of legislative authority.” *United States v. Rahimi*, 602 U.S. 680, 739–40 (2024) (Barrett, J., concurring). Her observation addresses a different aspect of the Second Amendment analysis, but the assumption she rejects is the same one: that a

legislature that has not yet acted somehow, at some ill-defined point, thereby loses the power to act. Such “assumptions are flawed, and originalism does not require them.” *Id.* at 740.

Whatever evidence might satisfy the common-use inquiry, it is manifest that neither English Survey supplies it. Neither asks when respondents acquired AR-15 or similarly styled rifles nor how long they have owned them. *See* William English, *2021 National Firearms Survey: Updated Analysis Including Types of Firearms Owned* 33 (Georgetown McDonough Sch. of Bus. Rsch. Paper No. 4109494, May 13, 2022), <https://perma.cc/E8H9-N6RZ> (“2021 Survey”); William English, *2026 National Firearms Survey: Results from the Second Wave, Including Current Ownership of AR-15 Style Rifles, Other “Assault Weapons,” and Magazines that Hold More than 10 Rounds* 57 (Georgetown Univ. Working Paper, Aug. 2026), <https://perma.cc/L535-DTQF> (“2026 Survey”). And as the balance of this brief explains, the surveys do not reliably establish even the present-day ownership they purport to measure.

In short, even setting aside the critical methodological defects in the English Surveys, they fail to provide the necessary evidence of “common use” that this Court’s Second Amendment jurisprudence requires. *Bruen*, 597 U.S. at 47.

II. Reliance On The English Studies Is Misplaced

The linchpin of Petitioners’ case is that AR-15-style rifles are “in common use and therefore protected by the Second Amendment.” Pet. Br. 34.

They rely heavily on Professor William English’s Surveys of gun owners to establish how many Americans own these rifles, why they own them, and how often rifles are used for defense. *Id.* at 11–12, 34–35.

The English Surveys do not reliably or accurately support Petitioners’ claims about firearm ownership and use, failing in both methodology and analysis. The surveys were tailored for litigation and have never been peer reviewed. English drew his respondents from opt-in online panels, which cannot be assumed to represent the U.S. population overall, or the population of gun owners. His key ownership question primes respondents to provide preferred answers, and English’s results conflict with one another, as well as with independent data. Any empirical evidence this Court considers must reliably and accurately measure firearm ownership and use. The English surveys fall far short.

A. The Surveys Have Never Been Tested By Peer Review

Neither English Survey has been peer reviewed—both were circulated as working papers. 2026 Survey 1; *see id.* at 49 (listing the 2021 report as a Georgetown McDonough School of Business research paper). Nor did the Surveys arise from a neutral inquiry. English’s survey work began as research for an NRA-backed lawsuit.³ Only the 2026 Survey names a funder—the Wealth of Nations Institute.⁴

³ *See McIntire & Kantor, supra* n. 2.

⁴ According to the organization, it “conducts and promotes scholarly research and education on the importance of markets,

2026 Survey 5.

Parties cannot put forward unpublished, non-peer-reviewed studies they find most beneficial and demand the Court ignore the studies' defects. Non-adjudicative facts—including empirical evidence on the ownership and use of firearms—are a legitimate and often necessary part of appellate decision-making. As Judge Dyk of the Federal Circuit has explained, appellate courts, “including the Supreme Court,” regularly consider such facts in formulating legal rules, and their use is “legitimate and common.”⁵ But reliability and accuracy are paramount. Courts “should consider whether a study was peer reviewed or whether it has been accepted and cited approvingly by experts in the field,” and “should be wary of untested empirical statements and predictions provided by interested parties.”⁶ Courts “should treat the results of surveys with particular caution” and “carefully assess the methodology and representativeness of surveys.” *Jack Daniel's Props., Inc. v. VIP Prods. LLC*, 599 U.S. 140, 163 (2023) (Sotomayor, J., concurring). This Court should not risk “accept[ing] the studies' findings on faith, without examining their methodology at all.” *Sykes v. United States*, 564 U.S. 1, 31 (2011) (Scalia, J.,

individual rights, and peace.” Wealth of Nations Institute, <https://perma.cc/MB3C-FQMP>. It was formed in 2024, and its website identifies no officers, donors, or other projects. *See id.*

⁵ Timothy B. Dyk, *The Role of Non-Adjudicative Facts in Judicial Decisionmaking*, 76 Stan. L. Rev. Online 10, 11, 22–23 (2023), <https://perma.cc/D9UA-SRQB>.

⁶ *Id.*

dissenting), *overruled on other grounds by Johnson v. United States*, 576 U.S. 591 (2015).

The English Surveys raise each of these red flags. Absent peer review, the Court cannot be confident that English’s findings reflect sound methodology. And the origins of English’s survey work demand scrutiny, as it “originated as research for a National Rifle Association-backed lawsuit,” rather than an examination of current trends, while English reportedly “has received tens of thousands of dollars as a paid expert for gun rights advocates.”⁷

At the certiorari stage, Petitioners relied on the 2021 Survey. Pet. for Cert. 8. Notably, only after this Court granted certiorari did English produce the 2026 Survey. *See* 2026 Survey 1. Petitioners cite a version dated August 24, four days before they filed their merits brief. Pet. Br. 11. The study thus has not been subjected to meaningful examination. Yet Petitioners ask the Court to accept its findings as reliable empirical evidence. “Supreme Court briefs are an inappropriate place to develop the key facts in a case.” *Sykes*, 564 U.S. at 31 (Scalia, J., dissenting). But that is precisely what Petitioners attempt to do by invoking English’s survey.

Courts are already aware of the issues posed by English’s original survey. Addressing the 2021 Survey in a challenge to Illinois’s restrictions on AR-15s and other semiautomatic firearms, the district court found that “the methodological errors and inherent biases raise concerns about the reliability of

⁷ *See McIntire & Kantor, supra* n.2.

Professor English’s survey relating to his determination that various challenged semiautomatic firearms and large-capacity magazines are in common use.” *Barnett*, 2024 WL 4719468, at *7. It “elect[ed] not to rely on the English Survey in resolving any questions of fact.” *Id.* (emphasis omitted).

A court reviewing the Connecticut law challenged here emphasized that the 2021 survey asked whether respondents had “ever owned” a large-capacity magazine, not whether they currently did, and that respondents’ stated reasons for owning assault weapons did “not demonstrate that assault weapons and LCMs possess characteristics that make them well-suited for self-defense.” *Nat’l Ass’n for Gun Rts. v. Lamont*, 685 F. Supp. 3d 63, 95 n.22, 97 (D. Conn. 2023) (emphasis omitted), *aff’d*, 153 F.4th 213 (2d Cir. 2025). More fundamentally, the survey is “an unpublished, non-peer-reviewed summary of an online survey” with “hidden sponsorship funding” and a failure to “fully and openly disclose the measurement tools.” *Ass’n of N.J. Rifle & Pistol Clubs, Inc.*, 183 F.4th at 303 n.10 (Krause, J., dissenting).

The 2026 Survey remains an unpublished, non-peer-reviewed report that is untested legally or scientifically. These defects make scrutiny essential before its results are employed to inform the scope of a constitutional right. As explained below, the questions, the sampling, and the results each give

concrete reasons to doubt its reliability.⁸

B. English Primes Respondents Toward Affirmative Answers

Statements placed immediately before a survey question can influence the answers.⁹ English acknowledges this risk, purporting to design screening questions to avoid “priming respondents with the sensitive topic of the survey.” 2026 Survey 6. But he courted that very risk in the questions that matter most.

Leading questions and explanatory preambles can create “demand characteristics”—cues that reveal what a study seeks to establish and may cause respondents to “echo that information back” in their answers.¹⁰ The Federal Judicial Center’s survey-research guide warns that respondents who know a survey’s purpose or sponsor “may adjust their

⁸ English’s dataset (which includes the ordering and text of questions) is available through download at: English, William, 2026, *2026 National Firearms Survey (Wave 2)*, <https://doi.org/10.7910/DVN/QNSWP1>, Harvard Dataverse, V1, UNF:6:aDyC3qphgxF+Uw0Fc55FRA== [fileUNF]. The *amici* downloaded these data to conduct analyses not reported in English’s report and to ascertain question wording and ordering.

⁹ See AAPOR, *Code of Professional Ethics and Practices* § III.A.3 (requiring disclosure of “any preceding contextual information that might reasonably be expected to influence responses”), <https://perma.cc/N8QP-97CT>; cf. Fed. R. Evid. 611(c), 1972 committee note (The “suggestive powers of the leading question are as a general proposition undesirable.”).

¹⁰ Matthew B. Kugler & Lior Jacob Strahilevitz, *The Myth of Fourth Amendment Circularity*, 84 U. Chi. L. Rev. 1747, 1789 (2017).

responses,” so standard practice is to avoid clues about “the expected responses.”¹¹ Yet English did the opposite.

His AR-15 ownership question begins with an argument: “Some have argued that few gun owners actually want or use guns that are commonly classified as ‘assault weapons.’” 2026 Survey 37, 57. It then asks whether the respondent currently owns “an AR-15 or similarly styled rifle,” and adds that “[a]nswering this will help us establish how popular these types of firearms are.” *Id.* at 57. The first statement invites gun owners to rebut a claim that unnamed opponents have made about them. The second tells them what their answers will be used to show.

The question that immediately precedes the ownership question adds to the cue. It tells respondents that “[m]any hunting organizations and shooting organizations have argued” that “assault weapon” bans will make States that adopt them “less attractive destinations for hunters, competitive shooters, and recreational shooters.” *Id.* at 5 n.1 (Excel dataset). It then asks whether respondents agree that such bans “will have a negative impact.” *Id.* Respondents thus reach the ownership question just after being asked to endorse an argument against laws like those at issue here. English’s report does

¹¹ Shari Seidman Diamond, Matthew Kugler & James N. Druckman, *Reference Guide on Survey Research*, in *Reference Manual on Scientific Evidence*, Vol. 1, 709–10 (Fed. Jud. Ctr. & Nat’l Acads. Scis., Eng’g & Med. 4th ed. 2025), <https://perma.cc/L7UW-AKSR>.

not disclose that question, although survey standards call for disclosure of preceding context that may influence responses. *See supra* n. 9.

Each of these cues pushes respondents in the same direction: toward reporting that they own AR-15 or similarly styled rifles. A survey that announces the result it seeks cannot reliably measure that result. Yet frequency of ownership (which Petitioners label as “popularity”) is precisely what Petitioners cite the Survey to prove. Pet. Br. 11 (Survey “further demonstrates the popularity of AR-15 and similar semiautomatic rifles”).

**C. English’s Opt-In Survey Method
Does Not Support Its National AR-
15- Or Rifle-Ownership Estimates**

English’s AR-15- and rifle-ownership estimates depend on an assumption his surveys do not establish: that his opt-in sample represents the U.S. adult population overall or the population of gun owners. Opt-in samples cannot provide a reliable basis for that assumption, demographic weighting does not eliminate selection bias, and the rifle figures Petitioners invoke cannot be weighted to make them representative, a problem that is not corrected for by English’s decision to present them unweighted. Petitioners cannot rely on those responses to establish how many Americans own or use these rifles.

The English Surveys use paid “opt-in” samples furnished by Centiment. *See* English Br. 6 (discussing Centiment’s role in conducting the survey). English does not describe his sampling

scheme, which draws on a panel of people who “are not selected randomly but instead [are] recruited from a variety of online sources like banner ads or social media.”¹² The American Association for Public Opinion Research advises researchers to “avoid nonprobability online panels when one of the research objectives is to accurately estimate population values,” as there is “no generally accepted theoretical basis” for treating their results as projectable to the general population.¹³ The Federal Judicial Center’s Reference Manual on Scientific Evidence likewise explains that probability samples offer “superior accuracy” when estimating characteristics of a national population and that, when nonprobability samples are used, researchers must account for potential biases “particularly when the goal is to arrive at a precise estimate of a population value.”¹⁴ English pays no heed to these warnings, drawing participants from a paid online panel and attempting, contrary to well-established findings that it is not possible to do so, to address unexplored and largely unexplorable potential biases by weighting the respondents to the full population after the fact. 2026 Survey 5, 8.

Studies have confirmed why use of an opt-in

¹² Andrew Mercer, Courtney Kennedy & Scott Keeter, *Online Opt-In Polls Can Produce Misleading Results, Especially for Young People and Hispanic Adults*, Pew Rsch. Ctr. (Mar. 5, 2024), <https://perma.cc/3KU5-X6AH>.

¹³ AAPOR, *AAPOR Report on Online Panels*, 74 Pub. Opinion Q. 711, 758 (2010).

¹⁴ Diamond, Kugler & Druckman, *supra* n.11, at 701–02.

survey skews results. In a head-to-head comparison of three probability-based panels and three opt-in samples, the Pew Research Center found that the “error on opt-in samples was about twice that of probability-based panels,” even though Pew applied the same weighting scheme to all six samples.¹⁵ English’s opt-in population does not necessarily represent adults, gun owners, or AR-15 style rifle owners nationwide, and simply matching the sample’s demographics to those of the country through weighting does not solve that problem. Pew has also found that opt-in polls produce their largest errors among respondents self-reporting as young and Hispanic.¹⁶ Divergences between English’s estimates and estimates from other, often longstanding surveys are consistent with this observation. For example, English’s survey finds that overall firearm ownership falls as age rises, whereas probability surveys consistently show that gun ownership is higher among older adults.¹⁷ Similarly, on ethnicity, English

¹⁵ Andrew Mercer & Arnold Lau, *Comparing Two Types of Online Survey Samples*, Pew Rsch. Ctr. (Sept. 7, 2023), <https://perma.cc/CEW2-3ZXF>.

¹⁶ Mercer, Kennedy & Keeter, *supra* n. 12.

¹⁷ *Compare* 2026 Survey 52–53, 56 (35% of the respondents aged 18 to 30 own a gun; 26% of those over 65 own a gun), *with* Pew Rsch. Ctr., *For Most U.S. Gun Owners, Protection Is the Main Reason They Own a Gun* 8 (Aug. 16, 2023) (21% of adults under 30 own a gun; 35% of adults 65 and older own a gun), <https://perma.cc/6H4U-TKXB>. English does not report gun-ownership rates by age. *Amici* calculated the unweighted rates for the closest available age groups by dividing the number of validated gun owners in each age bracket, 2026 Survey 56, by

estimates that 31.3% of Hispanic adults own a gun, whereas Pew puts the figure at 20%.¹⁸

English’s attempt to correct for the makeup of his panel by “weighting” the responses also fails. English applies “raked weighting” to adjust how much each response counts so that the sample matches the national population on basic traits, such as gender, age, race, and state. 2026 Survey 8. So if women are underrepresented in his sample, for instance, each woman’s response counts for more.

But weighting balances only the traits English targeted: gender, age, race, and state.¹⁹ It does nothing about other ways his panel might differ from the national norm, as there is no baseline against which to weigh. So if gun enthusiasts were overrepresented in the sample, adjusting the weight given to sex or race does not fix that issue—the panel would still have too many gun enthusiasts, and its

the number of completed survey respondents in that bracket, derived from the sample proportions reported in *id.* at 52–53.

¹⁸ Compare 2026 Survey 10, with Pew Rsch. Ctr., *supra* n. 17.

¹⁹ *Amici*’s calculations, using English’s dataset and the 2020 Census, reveal that English’s weighting also makes his state-level estimates unreliable. See 2026 Survey 5 & n.1, 8 n.4. He weights each State’s share of the sample to match its share of the national population. But he never adjusts who those respondents are within each State, badly skewing the state-level samples. In West Virginia, 65% of his respondents are women, but women make up only 51% of the State’s adults. Thirteen States’ samples are more than 10 points too female. New York’s skews the other way, with too many men.

answers would still overstate how many people own these rifles.²⁰

English acknowledges this problem, noting that the panel has too few high-income people. The usual fix would be to count each high-income respondent more heavily, so that wealthy people make up their true share of the results. English refuses, explaining that the wealthy people who did join “are unlikely to be representative of high-income adults generally.” 2026 Survey 8. Giving those respondents extra weight would only magnify whatever makes them unusual. *See id.* at 8–9, 65–66.

So too with rifle owners and enthusiasts. Weighting can make English’s panel include the right share of men and women, young and old, and other traits for which there is an established baseline. But it does nothing to ensure that the gun owners in his panel resemble gun owners nationwide. If AR-15 owners are overrepresented among them, his results will skew toward pro-AR-15 responses.

Petitioners’ arguments inherit this problem.

²⁰ Surveys that pick people at random mitigate this problem, because the people they ask do not choose themselves based on seeing an advertisement and can, in contrast to opt-in surveys, be compared to those who chose not to take the survey, allowing for characterization of potential bias. Pew tested whether weighting could fix samples like English’s. It found that even the best methods “were unable to remove most of the bias.” Andrew Mercer, Arnold Lau & Courtney Kennedy, *For Weighting Online Opt-In Samples, What Matters Most?*, Pew Rsch. Ctr. (Jan. 26, 2018), <https://perma.cc/452S-8WA7>. And a bigger sample does not help, as “[v]ery large sample sizes do not fix the shortcomings of online opt-in samples.” *Id.*

Relying on the 2026 Survey, Petitioners claim three figures support their argument: 30% of gun owners own an AR-15 or similar rifle, 83% of those owners cite defense as a reason, and rifles of every kind account for 16.4% of defensive gun uses. Pet. Br. 11–12. All three estimates depend on whether the gun owners in English’s sample accurately represent gun owners nationwide. No outside source can confirm that they do. The Census does not ask about gun ownership, and English acknowledges that no “independent, authoritative source akin to the Census Bureau” establishes the “true” makeup of gun owners. 2026 Survey 68.

English claims two checks validate his sample. Neither does. First, English says weighting barely changed his results: the gun-ownership rate was 33.3% before weighting and 32.7% after. 2026 Survey 11. Because the adjustment was so small, he reasons that his sample must have been “already highly representative.” *Id.*; *see also* English Br. 15–16. It means no such thing. As explained above, weighting cannot correct an overrepresentation of AR-15 owners, for example. The two figures show only that his sample’s gun-ownership rate held steady when he applied demographic weighting. They do not show that the gun owners in his sample own the same kinds of firearms as gun owners nationwide.

Second, English notes that his overall gun-ownership rate of 32.7% is close to the rates reported by Pew (32%) and Gallup (34%). 2026 Survey 11; English Br. 3–4. But the overall gun-ownership rate is not what is at issue here. Petitioners rely on different figures: how many owners have AR-15s, why

they own them, and how they use them. It would be like relying on a survey that accurately estimated how many Americans own cars generally but reported that 90% of them own Ferraris. The accurate overall estimate would not make the Ferrari estimate reliable. The same is true here. Agreement with Pew and Gallup on overall gun ownership likewise does not establish the reliability of English's estimates concerning AR-15s.

Petitioners do not acknowledge the Survey's defects in their brief, presenting the results as facts about "American gun owners." Pet. Br. 11. But the Survey provides no support for that claim.

D. English's Figures Do Not Hold Up Against Outside Data Or His Own

Many of English's results cannot be reconciled with his own counts, independent data, or public records—yet another reason to treat the results as unreliable.

1. English's Own Numbers Are Irreconcilable

The reliability of English's survey depends on respondents accurately identifying and counting their rifles. After priming respondents (as discussed above), the survey asks if respondents own any AR-15 or similarly styled rifles, and if so, how many AR-15-type and similarly styled rifles respondents own. Later, *without priming respondents*, the survey separately asks how many rifles they own in total. The first two numbers, added together, cannot exceed the third. English acknowledges that basic constraint. 2026 Survey 38–39. Yet only 76.8% of

respondents who claimed either type supplied “jointly consistent counts.” *Id.* at 39 n.13. So almost one in four reported owning a greater number of AR-15 and similarly styled rifles than the *total* number of rifles they later said they owned. This inconsistency can neither be adequately explained nor resolved, and suggests that the Court should not give credence to English’s estimates.²¹

2. *English’s Results Cannot Be Reconciled With Independent Surveys Or Firearm Production Data*

Probability-based surveys provide an independent check on English’s estimates and consistently produce lower figures. They report both a smaller share of adults owning these rifles and fewer rifles in private hands. And while differences in survey dates and firearm definitions do not make the comparisons one-to-one, the significant gap still raises concerns about the validity of the English Surveys.

English reports that 25% of gun owners currently own an AR-15-type rifle and 12.9% own another similarly styled semiautomatic rifle, with 30% owning

²¹ English attempts to rectify this by discarding inconsistent answers when calculating how many rifles each owner has. *Id.* at 39. But that removes the conflicting numbers without resolving what caused them. Simply removing inconsistent answers does not establish that the remaining answers are accurate. Nearly one in four respondents gave conflicting rifle counts, suggesting that the *questions* failed to produce reliable answers.

at least one of the two types. Those owners purportedly represent approximately 9.8% of U.S. adults. 2026 Survey 37–38. By contrast, peer-reviewed and methodologically superior surveys provide lower estimates. The 2024 National Firearms Survey²² estimates that 13.9% of gun owners, or 3.8% of adults, own a semiautomatic military-style rifle. Deborah Azrael, Samuel Fischer & Matthew Miller, *Prevalence and Concentration of Military-Style Semi-Automatic Rifle Ownership in the United States: Results From the 2024 National Firearms Survey*, Annals of Internal Med. at 2 (forthcoming). Similarly, an analysis of the 2019 National Firearms Survey, which predates English’s surveys, found that a similar share of adults owned semiautomatic military-style rifles. John Berrigan, Deborah Azrael & Matthew Miller, *The Number and Type of Private Firearms in the United States*, 704 Annals Am. Acad. Pol. & Soc. Sci. 70, 76 tbl. 2 (2022). Additionally, a *Washington Post–Ipsos* probability survey found that about 20% of gun owners owned an AR-15, equivalent to roughly 6% of adults. Wash. Post–Ipsos, *Poll of Current Gun Owners* 1 (2022); see also Pet. Br. 11, 34.

²² English chose to name his survey the National Firearm Survey despite the fact that the series of surveys conducted by several of the *amici* dating back to 2015 used that name. *Amici* do not refer to the English surveys here as “National Firearms Surveys,” but the Court should note that some confusion surrounding these identically named surveys might be possible in other filings. The National Firearms Surveys conducted by some of the *amici* were conducted in 2015, 2019, 2021 and 2024. English’s surveys were conducted in 2021 and 2026, leaving potential confusion with respect to 2021 National Firearms Survey references.

English’s estimate of the share of adults owning an AR-15 or similar rifle exceeds all three estimates.

Firearm production data also fail to substantiate English’s estimates. Petitioners cite NSSF data showing that approximately 32 million “AR-15, AK-47, and comparable rifles” entered the domestic market from 1990 through 2023. Pet. Br. 13 (citing *NSSF Releases Most Recent Firearm Production Figures*, NSSF, at 2, 7 (Jan. 15, 2026), <https://perma.cc/KU3T-8QAQ>). But English estimates that Americans currently own approximately 60 million AR-15 and similarly styled semi-automatic rifles (40 million AR-15-type rifles and another 20 million similarly styled rifles), nearly twice the number that NSSF reports entered the domestic market over the past 35 years. 2026 Survey 39. English does not confront that 60-million-to-32-million gap.²³ His assumption cannot bridge the 28-million-rifle gap.

These discrepancies leave Petitioners without reliable support for the ownership figures they ask

²³ Instead, English compares NSSF’s 32 million rifles only to his 40 million AR-15-type rifles, omitting the additional 20 million “similarly styled” rifles that make up one-third of his own estimate. 2026 Survey 39–40. He attempts to close the remaining gap by assuming such firearms entered the market at “more than 2.5 million per year” through 2026. *Id.* But that claim is little more than a post hoc attempt to paper over the gap and is not supported by any evidence. Indeed, NSSF reports that total domestic firearm production fell 15.4% from 2022 to 2023, while production of modern sporting rifles fell 46.2%. NSSF, *supra*. English identifies no evidence supporting his assumption that production continued at that rate through 2026 despite that decline.

the Court to use in determining constitutional common use.

3. *State Bans Leave No Footprint In English's Data*

English reports nearly identical AR-15 rifle-ownership rates in States with decades-old bans and States without bans on these weapons. His data also show higher AR-15 ownership among younger gun owners in California and New York, which is unlikely given the States' legislative landscape.²⁴ These patterns raise doubts about whom his survey represents and how to understand the number of rifles his respondents report owning. English's speculation that respondents may count modified rifles or rifles kept elsewhere leaves those doubts unresolved.

English reports AR-15 ownership rates for each of the fifty States. 2026 Survey 13, 43. Analysis of his published tables reveals that approximately 30% of gun owners report owning an AR-15 or similarly styled rifle both in States that have restricted these rifles for at least a quarter-century and in States that have never banned them. *See id.* at 13, 43. A decades-old ban on these exact rifles should leave *some* mark on who owns them. Yet English's survey does not reflect one.

English's age data further undermine his survey's reliability. His figures imply that about 2.3 million California adults own an AR-15 or similarly styled

²⁴ *Amici's* calculations were conducted using English's dataset. *See* 2026 Survey 5 & n.1.

rifle, despite a ban on these rifles that dates to 1989.²⁵ If rifles acquired before the ban explained that figure, ownership should be higher among older owners, who had more time to acquire such rifles before the ban took effect. English's data show the opposite, and English offers no credible explanation: 34.9% of California gun owners under 50 report owning such a rifle, as do 39.1% of those under 35, compared with 29.9% of all California gun owners. New York shows the same pattern: 37.2% and 39.9%, compared with 31.0% overall. The age pattern also fits Pew's finding that opt-in samples produce their largest errors among young adults. *See supra* Part II.C.

4. *English's Permit Estimates Contradict Public Records*

English's survey substantially overstates concealed-carry permit ownership, further undermining confidence that his surveys can produce accurate results. Illinois—where Cook County's ban is at issue—is a simple case. Illinois requires a license to carry a concealed firearm, and the State Police publish a count of concealed carry license cards: 516,213 when *amici* accessed it on October 19, 2026.²⁶ Applying English's own state-level estimation methodology, his survey implies that 1,739,928 Illinois adults aged 21 and over hold one, more than

²⁵ *Amici* derived these figures from English's published tables. English reports, for each State, the share of gun owners who own a magazine holding more than 10 rounds and the estimated number of such owners. 2026 Survey 35 tbl.6.

²⁶ *Statistics*, Illinois State Police, <https://perma.cc/V46X-G3ML>.

three times the official count.²⁷

Nor is Illinois an exception. English's survey overstates permit holders in 21 of the 22 jurisdictions that require one, by a factor of 2.4 overall. The widest gap is in California, the same State whose AR-15 figures cannot be reconciled with a ban dating to 1989. *See supra* Part II.D.3. There, English's survey implies 3.5 million permit holders; administrative records show 158,190 as of July 2025.

Although this question concerns permits, the answers came from the same sample of gun owners whose answers produced English's AR-15 figures,

²⁷ *Amici's* calculations again use English's dataset. *See* 2026 Survey 5 & n.1. Adapting English's method for state-level counts, *id.* at 35–36 & tbl.6, to adults 21 and over, *amici* multiplied (1) the unweighted share of validated gun owners aged 21 and over in each State who report a concealed-carry permit issued by their home State by (2) the estimated number of gun owners aged 21 and over in that State (reconstructed from English's data as the survey's weighted ownership rate for that age group in the State, times the State's Census population aged 21 and over). As with English's "public carrier" estimate, *id.* at 27, the calculation is limited to adults 21 and over. Permit counts for the 22 jurisdictions are from the Crime Prevention Research Center (CPRC, which itself filed as an amicus supporting Petitioners) Table 1. John R. Lott, et al., *Concealed Carry Permit Holders Across the United States: 2025*, Crime Prevention Rsch. Ctr., at 16–19 tbl.1 (Nov. 30, 2025), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5882802; U.S. Census Bureau, *Annual State Resident Population Estimates for 6 Race Groups (5 Race Alone Groups and Two or More Races) by Age, Sex, and Hispanic Origin: April 1, 2020 to July 1, 2025* (SC-EST2025-ALLDATA6) (June 2026), <https://www2.census.gov/programs-surveys/popest/datasets/2020-2025/state/asrh/sc-est2025-alldata6.csv>.

scaled up using English's own method for state-level counts. Whether the excess reflects respondents who misreport or a sample that over-represents permit holders, these are the respondents whose rifle counts Petitioners ask the Court to credit.

* * *

In sum, English's figures do not reliably establish Petitioners' claims regarding AR-15 ownership. His respondents give conflicting rifle counts, his ownership estimates far exceed probability-based estimates, his state figures show no clear effect of longstanding bans, and his permit estimates vastly exceed administrative records. These problems undermine confidence in the accuracy and reliability of responses to questions pertaining to AR-15 ownership, and gun ownership more generally, in this survey. Petitioners cannot reasonably rely on those questionable figures to establish constitutional common use.

III. English's Estimates Fail To Support Claims Of AR-15-Style Rifle Use For Self-Defense

The 2026 Survey says nothing about how often AR-15-style rifles are used in self-defense. Petitioners invoke the 2026 Survey to show how often Americans defend themselves with rifles. Pet. Br. 12. But the survey asked respondents only one question about the weapon used in each reported incident: "What sort of firearm did you use during this incident?" The answer choices were handgun, rifle, and shotgun. 2026 Survey 23. As a result, the survey says nothing useful for the present litigation about

lawful self-defense gun use with an AR-15 platform or similarly styled rifle.²⁸

Where reliable records do exist, there is no evidence that AR-15-style rifles are frequently used for lawful self-defense. The CDC's National Violent Death Reporting System (NVDRS) compiles data from death certificates, coroner and medical-examiner reports, and law-enforcement reports.²⁹ Among them are justifiable homicides: killings by private citizens that authorities classify as justified, such as shooting an attacker in self-defense. In these defensive encounters, records reliably identify the make and model of gun used in most cases.

²⁸ Nor can the overall defensive-gun-use estimate Petitioners cite, Pet. Br. 12, be taken at face value. It rests on a survey method shown to produce massive overestimates. *See* Azrael, Blocher, Cook, Hemenway & Miller, *supra*, at 251–52, 254–55; David Hemenway, *False Positive Paradox in Survey Research: Examples from Gun Studies*, Inj. Prevention (published online Apr. 9, 2026), <https://doi.org/10.1136/ip-2026-046163>; David Hemenway, *The Myth of Millions of Annual Self-Defense Gun Uses: A Case Study of Survey Overestimates of Rare Events*, 10 *Chance* 3, 6-10 (1997).

²⁹ The NVDRS covers homicides, suicides, legal intervention deaths, unintentional firearm deaths, and deaths of undetermined intent that may be due to violence, in all 50 states, the District of Columbia, and Puerto Rico. *See* Ctrs. for Disease Control & Prevention, *National Violent Death Reporting System*, <https://perma.cc/6VT6-AE6T>. Descriptive NVDRS data are publicly available through CDC's WISQARS query tool. More detailed data are available only through the NVDRS Restricted Access Database (RAD). Access to RAD data requires a written project proposal reviewed by a CDC panel, demonstrated training in the ethical use of sensitive data, and a data sharing agreement signed by all collaborators.

Of justifiable homicides in which the type of gun is known, 86.4% involved a handgun. Just 1.2%—about 1 in 100—involved an AR-15 or similar rifle. Counting every rifle recorded as semiautomatic, the share is just over 2 in 100.³⁰ Scarcity does not explain this infrequent use. According to the probability-based 2024 National Firearms Survey, these rifles constitute about 5 in 100 guns in America (5.5%)—yet they appear in only about 1 in 100 justifiable homicides, far below what their share of the gun stock would predict.

Nor is this rarity explained by a lack of access. In the 2024 National Firearms Survey, 97.5% of owners

³⁰ *Amici's* calculations use the NVDRS Restricted Access Database, [2005-2023]. See Ctrs. for Disease Control & Prevention, *National Violent Death Reporting System*, <https://perma.cc/6VT6-AE6T>. *Amici* identified all NVDRS cases (2005–2023) coded as justifiable homicides and excluded legal intervention deaths (killings by law enforcement officers in the line of duty). For the remaining cases, *amici* used NVDRS's weapon-type variable to classify the type of weapon involved (e.g., knife, firearm). For cases involving a firearm, *amici* then used NVDRS's firearm-type variables to identify specific types (e.g., handgun, semi-automatic rifle). Because NVDRS has no code for assault rifles, *amici* reviewed the incident narratives for every case involving a semi-automatic rifle. *Amici* coded a case as involving an assault rifle if the narrative (a) described the weapon as an assault rifle, an AR-15, or similar, or (b) gave a make and model that appears on New Jersey's statutory list of assault firearms. The New Jersey law also covers some unlisted semi-automatic models that have certain features. The narratives did not give enough detail to identify weapons with those characteristics, so they were not counted. In three assault-rifle incidents, more than one gun was present. *Amici* conservatively assumed that an assault rifle fired the fatal shot in each.

of semiautomatic military-style rifles also owned a handgun.³¹ And the handgun—“the quintessential self-defense weapon,” *Bruen*, 597 U.S. at 47 (quoting *Heller*, 554 U.S. at 629)—is what Americans used defensively in 86 of every 100 justifiable homicides. Indeed, this is the very class of weapon *Heller* found “overwhelmingly chosen by American society for th[e] lawful purpose” of self-defense. 554 U.S. at 628.

The same comparison tells a different story about public mass shootings. Handguns are used in most of them, as Petitioners note. Pet. Br. 42. But research (including citations in English’s own amicus brief) has found an assault rifle used in around 25 of every 100 public mass shootings—about five times what these rifles’ share of the gun stock would predict.³² Put simply, these rifles represent about 5 in 100 guns, about 1 in 100 justifiable homicides, and about 25 in 100 public mass shootings (a crime Americans fear

³¹ Azrael, Fischer & Miller, *supra*, at 2.

³² *Bianchi*, 111 F.4th at 456 (AR-platform rifles, “about 5% of the firearms in the United States,” “were used in 25% of mass shootings”) (citing *Rupp v. Bonta*, 723 F. Supp. 3d 837, 853 (C.D. Cal. 2024); accord Nat’l Inst. of Just., U.S. Dep’t of Just., *Public Mass Shootings: Database Amasses Details of a Half Century of U.S. Mass Shootings with Firearms, Generating Psychosocial Histories* (Feb. 3, 2022), <https://perma.cc/FW3C-CDMH> (25.1% of public mass shooters “used assault rifles”); English Br. 21 (recoding a published dataset and concluding that “about 27%” of the incidents “involved an ‘assault rifle’”); see also James A. Densley & Jillian K. Peterson, *Assault Weapon Platform Lethality in US Mass Public Shootings 1966–2025*, Sci. Rep. (2026) (advance online publication) (AR- or AK-pattern rifle the primary weapon fired in 58 of 197 public mass shootings, 1966–2025).

more than being murdered by a stranger).³³

To summarize: When Americans defend themselves with a firearm, they do so overwhelmingly with a handgun, and rarely with an AR-15 platform or similar rifle. Nearly everyone who owns one of these rifles already owns a handgun; not having an AR-15 would do little to affect their ability to defend themselves with a gun. These rifles are used in about 1% of justifiable homicides, but in about 25% of the public mass shootings that terrorize American communities.

CONCLUSION

For the foregoing reasons, the Court should affirm the judgments below.

Respectfully submitted,

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³³ Chapman Univ., *The Chapman Survey of American Fears, Wave 11: The Complete List of Fears* (2025), <https://perma.cc/7CFS-WB35> (44.3% “afraid” or “very afraid” of a random or mass shooting, versus 33.5% for murder by a stranger).