

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 TRANSPORTATION, *et al.*,
Respondents.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURTS
OF APPEALS FOR THE SEVENTH AND SECOND CIRCUITS

**BRIEF OF *AMICI CURIAE* NATIONAL
LEAGUE OF CITIES AND INTERNATIONAL
MUNICIPAL LAWYERS ASSOCIATION
IN SUPPORT OF RESPONDENTS**

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INTEREST OF AMICI¹

The National League of Cities (“NLC”), founded in 1924, is the oldest and largest organization representing U.S. municipal governments. NLC works to strengthen local leadership, influence federal policy, and drive innovative solutions. In partnership with 49 state municipal leagues, NLC advocates for over 19,000 cities, towns, and villages where more than 218 million Americans live.

The International Municipal Lawyers Association (“IMLA”) is the nation’s oldest and largest organization devoted solely to local government law. A nonprofit, nonpartisan, professional association, IMLA’s membership comprises more than 2,500 local government entities, including cities, counties, and subdivisions thereof, as represented by their chief legal officers, state municipal leagues, and individual attorneys. IMLA’s mission is to advance the responsible development of municipal law through education and advocacy by providing the collective viewpoint of local governments around the country on legal issues before the United States Supreme Court, as well as state and federal appellate courts.

Amici have an acute interest in preserving the ability of local governments to safeguard the health, safety, and welfare of their citizenry.

1. No part of this brief was authored by any party’s counsel, and no person or entity other than amici funded its preparation or submission.

INTRODUCTION AND SUMMARY OF ARGUMENT

The question presented is whether state and local governments have the authority to ban AR-15s or whether the Second Amendment guarantees an absolute right to possess such firearms nationwide, untethered from history and tradition and regardless of local conditions and factors that justify these restrictions. The question is not whether state and local governments must ban these weapons. What makes sense in Cook County, Illinois, a highly urbanized environment with virtually no hunting and limited recreational shooting opportunities, is quite different than what makes sense in Atascosa County, Texas, a rural community reliant on agriculture and ranching and ravaged by feral hogs. In the former, community leaders could rightly decide that an AR-15, which can easily spray more than one bullet per second, is likely to cause harm via a mass shooting event or an ambush on law enforcement. In the latter, community leaders could view the use of AR-15s by private landowners seeking to control the feral hog population that causes hundreds of millions of dollars in damage in crop loss and infrastructure damage as a positive benefit to the community. In both cases, local community leaders make that decision to advance the health, safety, and welfare of their communities. And in either case, if community members do not like their leaders' choices, then the answer lies at the ballot box.

That political accountability and local autonomy is entirely consistent with the Second Amendment and this Nation's history and tradition of regulating unusually dangerous weapons. AR-15 advocates argue that commonality supersedes their unusually dangerous

nature—despite repeated tragedies with hundreds of our fellow citizens being murdered in minutes and the dangers to law enforcement these weapons pose. Enhanced with readily-available mechanisms that approach machine-gun like rates of fire and large capacity magazines, the increasing lethality of AR-15s puts impossible pressures on law enforcement as they struggle to protect our communities from mass shooting events and recklessly endangers all of us, whether in school, on streets, at parades, in churches, or elsewhere. Restraining every local government nationwide from prohibiting semi-automatic weapons in their community needlessly endangers our society and fails to account for the harms local governments face when all-too-frequent mass shooting events occur. Because history and tradition does not transform the Second Amendment into an enabler of manifestly dangerous instrumentalities in our communities, local government leaders are not powerless to act. To the contrary, the Court’s foundational Second Amendment holdings have repeatedly recognized a continuing role for local government in fashioning reasonable firearm safeguards. This Court should make good on that recognition and affirm.

ARGUMENT

I. The Second Amendment does not impose a nationwide guarantee that assault weapons can be kept and borne everywhere.

State and local governments have the fundamental duty “to protect [their] citizens and provide for the safety and good order of society.” *Panhandle E. Pipe Line Co. v. State Highway Comm’n of Kansas*, 294 U.S. 613, 622

(1935). To fulfill this responsibility, localities must be empowered to address the hazards posed by unusually dangerous weapons in their midst. Considering the substantial risk assault weapons pose to public safety, Amici urge this Court to recognize that assault weapons, however common, are unusually dangerous and that the Second Amendment allows local governments to regulate such weapons.

A. The Second Amendment allows governments to restrict unusually dangerous weapons.

In *District of Columbia v. Heller*, 554 U.S. 570, 596 (2008), this Court confirmed that the Second Amendment does not “protect the right of citizens to carry arms for *any sort* of confrontation.” Implicit in that statement was the fact that weapons of war or those used largely by criminals for malevolent purposes—such as the machine guns and sawed-off shotguns regulated by the National Firearms Act of 1934—are not within Second Amendment protections. Accordingly, this Court explained that the Second Amendment’s scope is not unlimited and that “dangerous and unusual” weapons that were not “in common use at the time” may be regulated. *Id.* at 627.

Lower courts differ in deciding what constitutes “dangerous and unusual” weapons that can be regulated, with some treating the common law phrase as if it contains conjunctive statutory elements, requiring a weapon to be both dangerous and unusual, while others interpret the phrase to mean “unusually dangerous.” History and tradition advise that an “unusually dangerous” weapon may be regulated and that regulation is not prohibited simply because such a weapon is owned in large numbers.

1. The historic phrases “dangerous and unusual” and “dangerous or unusual” are best understood to mean weapons that are “unusually dangerous.”

Historical prohibitions of “dangerous and unusual” weapons are best understood as prohibitions on unusually dangerous weapons. This formulation is consistent with the Nation’s history and tradition of weapon regulation, gives independent meaning to the word “dangerous,” and better aligns with the purpose of the Second Amendment. Rather than focusing on a weapon’s commonality, it allows governments to consider whether a weapon’s destructive capacity is disproportionate to the lawful self-defense purpose the Second Amendment protects.

The historic use of the phrase “dangerous and unusual” confirms rather than defeats this understanding. Recognizing an “important limitation on the right to keep and carry arms,” *Heller* relied on common-law sources on the law of affray. 554 U.S. at 627; *see also* 1 William Hawkins, *A Treatise of the Pleas of the Crown* 135 (1716) (explaining an affray occurs “where a Man arms himself with dangerous and unusual Weapons, in such a Manner as will naturally cause a Terror to the People”); *see also* 4 William Blackstone, *Commentaries on the Laws of England* 148-49 (1769) (“The offence of riding or going armed, with dangerous or unusual weapons, is a crime against the public peace, by terrifying the good people of the land”). While those common-law sources concerned carrying weapons, *Heller* applied them to describe weapons subject to restriction under the Second Amendment generally. Underlying these restrictions was the principle that threats to public safety justified certain

limits on the right to keep and bear arms. Thus, the common-law sources relied on in *Heller* reflect a historical tradition of regulating weapons presenting an exceptional danger to the public.

Notably, *Heller* cited twelve historical sources to support the proposition that there is a “historical tradition of prohibiting the carrying of ‘dangerous and unusual weapons.’” 554 U.S. at 627. Six of the twelve used the phrase “dangerous or unusual” rather than “dangerous and unusual.”² Since *Heller*, one view is that arms must be both “dangerous” *and* “unusual” to be regulable. *See, e.g., Caetano v. Massachusetts*, 577 U.S. 411, 417 (2016) (Alito, J., concurring); *VanDerStok v. Garland*, 86 F.4th 179, 184 n.6 (5th Cir. 2023). As noted above, however, the historical sources *Heller* relied on do not support the conjunctive reading.

Moreover, reading “dangerous and unusual” conjunctively gives no meaning to “dangerous” because all weapons are inherently dangerous. “Dangerous” would become surplusage and “unusual” would do all the work. If “dangerous” means only the ordinary dangerousness inherent in all firearms, then “dangerous and unusual” functionally becomes “unusual” alone.

Instead, “dangerous and unusual” is best understood as a *hendiadys*, a figure of speech using “two terms separated by a conjunction [that] work together as a single complex expression.” Samuel Bray, “*Necessary*

2. Joseph Blocher, *The Common Use Test and the Question of Constitutional Coverage*, MICH. L. REV. (forthcoming 2027) (manuscript at 19), <https://ssrn.com/abstract=7035841>

and Proper” and “*Cruel and Unusual*”: *Hendiadys in the Constitution*, 102 Va. L. Rev. 687, 688 (2016). As a *hendiadys*, both “dangerous and unusual” and “dangerous or unusual” mean “unusually dangerous.” *Nat’l Ass’n for Gun Rts. v. Lamont*, 153 F.4th 213, 252 n.19 (2d Cir. 2025). This “unusually dangerous” interpretation is consistent with the historical sources on which *Heller* relies and results in a more workable standard for defining the Second Amendment’s scope.

Some circuits have interpreted “dangerous and unusual” this way. The Fourth Circuit reasoned that the relevant consideration is a weapon’s “ability to inflict damage on a scale or in a manner disproportionate to the end of personal protection.” *Bianchi v. Brown*, 111 F.4th 438, 451 (4th Cir. 2024) (en banc). Similarly, the Second Circuit concluded that “historical tradition encompasses those arms that legislators determined were unusually dangerous because of their characteristics.” *Lamont*, 153 F.4th at 233; *see also Hanson v. District of Columbia* 120 F.4th 223, 238 n.7 (D.C. Cir. 2024) (reading “dangerous and unusual” to mean “uncommonly dangerous”); *Barnett v. Raoul*, 180 F.4th 1035, 1046 (7th Cir. 2026) (recognizing a historical tradition of restrictions on “particularly dangerous weapons”). These courts interpret the phrase as the historical sources suggest—permitting restrictions on unusually dangerous weapons—rather than treating “dangerous” and “unusual” as independent requirements.

The Nation’s history of weapon regulations supports this interpretation. In the Nineteenth century, bowie knives and the like were subject to strict regulation because of their uniquely dangerous qualities. *See Cockrum v. State*, 24 Tex. 394, 402-03 (1859) (describing bowie knives as “the

instrument of almost certain death”); *Aymette v. State*, 21 Tenn. 154 (1840) (permitting restrictions on bowie knives because they are “dangerous to the peace and safety of the citizens”). Twentieth century firearm restrictions support the same conclusion. The National Firearms Act of 1934, which regulated ownership and registration of machine guns and short-barreled shotguns, was passed after those weapons became popular with “the mass shooters of their day.” *Ocean State Tactical, LLC v. Rhode Island*, 95 F.4th 38, 47 (1st Cir. 2024). Such restrictions arose because of the especially dangerous nature of the weapons, not because they were independently dangerous and unusual.

The unusually dangerous approach also better accounts for technological developments. The Second Amendment is not “trapped in amber,” its scope confined to regulations in existence in 1791. *United States v. Rahimi*, 602 U.S. 680, 691 (2024). Just as the Constitutional protection may account for modern developments, so too should the historical tradition of regulation account for developments that increase a weapon’s destructive capacity. To hold otherwise would permit technological advancements to expand the Second Amendment’s protections while simultaneously restricting governmental power to regulate the very dangers such advancements create. The unusually dangerous approach prevents this imbalance by allowing local governments to respond to modern developments in weapon technology with regulations consistent with the Nation’s historical tradition of regulating particularly dangerous weapons.

The unusually dangerous standard provides a more workable framework for delineating the Second Amendment. This Court has recognized that “individual

self-defense is the central component of the Second Amendment right.” *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1, 29 (2022) (internal citations omitted). The unusually dangerous standard protects the right to armed self-defense while still preserving the governmental power to regulate weapons whose destructive capacities far exceed that purpose in a particular community.

2. The Court should not decide whether the Second Amendment guarantees possession of a particular firearm based on how many of them currently exist.

Some equate whether a weapon is dangerous and unusual to whether the weapon is in “common use.” *See Duncan v. Bonta*, 133 F.4th 852, 903 (9th Cir. 2025) (Bumatay, J., dissenting) (noting that whether a weapon is dangerous and unusual or in common use are “different sides of the same coin”). An analysis asking only whether a weapon is in common use ignores the origin of the phrase “common use” in Second Amendment case law, fails to account for differences across the Nation, and creates a test that is simultaneously both over- and under-inclusive of Second Amendment protections.

The genesis of “common use” is *United States v. Miller*, 307 U.S. 174 (1939), where the Court explained that “ordinarily when called for service [militia] men were expected to appear bearing arms supplied by themselves and of the kind in *common use at the time*.” *Id.* at 179 (emphasis added). Though noting that *Miller* was “virtually unreasoned,” *Heller* relied on its passing reference to “common use at the time.” 554 U.S. at 624

n.24. Quoting *Miller*, *Heller* stated that the types of weapons within the Second Amendment’s scope were those “in common use at the time.” *Id.* at 627. But *Miller* did not purport to prescribe a test for determining the Second Amendment’s scope; it made a historical observation about militia service. *Miller*’s inquiry was historical, examining arms used by militiamen at the time of the founding, but Petitioners argue that the common use inquiry considers the contemporary prevalence of a weapon. *Heller* should not be understood to transform a passing historical observation from *Miller* into a constitutional standard for all time.

Some courts rely on circulation and ownership data to apply a common use test, but that approach ensures that “what can be banned depends on what has been banned.” *Barnett*, 180 F.4th at 1074. The approach thus produces “absurd results.” *Del. State Sportsmen’s Ass’n v. Del. Dep’t of Safety & Homeland Security*, 108 F.4th 194, 213 (3d Cir. 2024) (Roth, J., concurring). For example, the Federal Assault Weapons Ban of 1994 prohibited the manufacture, transfer, and possession of certain AR-15 style rifles produced after the act’s effective date. Public Safety and Recreational Firearms Use Protection Act, Pub. L. No. 103-322, 108 Stat. 1996 (1994). At the time it went into effect, few civilians owned AR-15s. *Del. State Sportsmen’s Ass’n*, 108 F.4th at 213 (Roth, J., concurring). When the ban expired in 2004, AR-15s “began to occupy a more significant share of the market.” *Id.* Looking only at circulation and ownership data, the ban would have been constitutional before 2004 and then would have become unconstitutional at some point thereafter. *Id.* The scope of a constitutional right should not “be contingent on the results of a popularity contest.” *Id.*

Additionally, reliance on ownership data imposes on cities standards that are better suited for rural areas. The D.C. Circuit has reasoned that the relevant geographical area for a common use inquiry is the entire United States because “[i]t would be anomalous for the protection offered by the Second Amendment to vary from one state or place to another based upon the local popularity of a particular firearm.” *Hanson*, 120 F.4th at 232. But it is not clear why that calculus would be anomalous. Historically, densely populated areas were permitted to tailor arms regulations to respond to dangers unique to those areas. The statute of Northampton provided that no man shall “ride armed by night nor by day, in *Fairs or Markets*.” Statute of Northampton, 1328, 2 Edw. 3, c. 3 (Eng.) (emphasis added). And restrictions on travel and storage of gunpowder in the eighteenth century were enacted to protect growing population centers such as Boston, Philadelphia, and New York City. Saul Cornell & Nathan DeDino, *A Well Regulated Right: The Early American Origins of Gun Control*, 73 Fordham L. Rev. 487, 510-11 (2004). Cities should not lose their ability to protect the public simply because a weapon is widely owned elsewhere.

Along with the difficulty of defining “common,” a common use inquiry risks being both over- and under-inclusive. On one hand, a common use test based on ownership would allow the government to act quickly when a new arm is developed to prevent it from ever becoming common, which would be over-inclusive. *See Heller*, 554 U.S. at 721 (Breyer, J., dissenting).

On the other hand, a common use test might protect newly-developed arms that are unusually dangerous, giving the government no opportunity to act, which

would be under-inclusive. Blocher, *supra* (manuscript at 49-50). Imagine that a company develops a popular app that makes cellphones capable of emitting a painful or deadly sound. The phones would then be “arms” as *Heller* defines them, but the government would have no opportunity to ban the app. *Id.* The apps could become “in common use” virtually overnight and possession under the Second Amendment would be guaranteed. *Id.* Thus, as technological innovation outpaces regulation, the common use test risks placing unusually dangerous weapons beyond the reach of regulation before governments have any meaningful opportunity to respond.

As the United States Conference of Catholic Bishops contends, “the commercial proliferation of a weapon before it is regulated should not constitute an automatic constitutional immunization from regulation in the future.” Brief for the United States Conference of Catholic Bishops as Amicus Curiae in Support of Neither Party at 21.

A common use test provides a shaky foundation for the Second Amendment’s scope. It lacks a clear definition of “common,” produces absurd results, and can lead to both over- and under-inclusion. Resolution of Second Amendment claims should instead focus on whether a weapon is unusually dangerous; that is, whether its ability to inflict damage is disproportionate to its lawful ends. This approach better comports with the Second Amendment’s purpose while avoiding the arbitrary consequences of an inquiry based on prevalence.

B. Assault weapons are unusually dangerous.

Assault weapons are unusually dangerous, based on their origin, their use in mass shootings, and their effects on law enforcement.

1. Their origin shows they are unusually dangerous.

Combining rapid fire, large ammunition capacity, and high-velocity rounds, assault weapons are uniquely capable of mass casualties. Assault weapons such as the AR-15 were created after World War II for the United States military. *Kolbe v. Hogan*, 849 F.3d 114, 124-25 (4th Cir. 2017) (en banc), *abrogated on other grounds by N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1 (2022). The Army found AR-15s to be superior to M-14s, a comparable military assault rifle then in use. *Id.* at 125. In the Vietnam War, American soldiers were equipped with AR-15s, and then the Department of Defense purchased more than 100,000 AR-15s for the Army and the Air Force, changing their name from “AR-15” to “M16.” *Id.* The intertwined origins of AR-15s and M16s show that these weapons were intended for military use, not individual self-defense. *See e.g., Bianchi*, 111 F.4th at 454; *Nat’l Ass’n for Gun Rts. v. Lamont*, 685 F. Supp. 3d 63, 101 (D. Conn. 2023), *aff’d*, 153 F.4th 213 (2d Cir. 2025).

AR-15s and other assault weapons are “semiautomatic versions of machineguns initially designed for military use.” *Kolbe*, 849 F.3d at 125. Automatic machineguns fire the ammunition in a large-capacity thirty-round magazine within approximately two seconds. *Id.* Semiautomatic

weapons can fire ammunition from the same capacity magazine within approximately five seconds. *Id.*

The similarities include more than firing speed. AR-15s use the same internal piston firing system and use the same ammunition that leaves the muzzle at a similar velocity, travels a similar distance, and delivers a similar amount of kinetic energy on impact. *See Bianchi*, 111 F.4th at 454-55. AR-15 assault weapons, like the M16, use 20- or 30-round magazines with compatibility up to 100-round magazines. *Id.* at 455. Both weapons can be equipped with a number of combat-focused features. *Id.* Beyond their military-focused design, assault weapons can be enhanced through devices such as a “forced reset trigger,” which enables a user to achieve machine-gun-like rates of fire, and bump stocks, an assault weapon accessory that “allows the shooter to rapidly reengage the trigger.”³

2. Their use in mass shootings shows they are unusually dangerous.

Given their military lineage, it is no surprise that assault weapons are often the weapon of choice for mass shootings, leading to mass casualties. Assault weapons have been used to kill innocent people at every type of large gathering, including schools, entertainment venues, holiday celebrations, grocery stores, and churches. These

3. *Garland v. Cargill*, 602 U.S. 406, 410 (2024); Lisa Fletcher, Andrea Nejman, & Nathan Aaron, *Months After Controversial Legal Move, Forced Reset Triggers Are Being Sold for Handguns*, ABC News 4 (Jan. 28, 2026), <https://abcnews4.com/news/spotlight-on-america/months-after-controversial-legal-move-forced-reset-triggers-are-being-sold-for-handguns-fully-automatic-ar15-semi-automatic-atf>.

tragic incidents illustrate the effects assault weapons have had on local governments and law enforcement.

In May 2022, a lone assailant used an assault weapon to kill nineteen students and two teachers and injure an additional seventeen students, teachers, and law enforcement officers at an elementary school in Uvalde, Texas.⁴ During a seventy-seven minute delay in entering the classrooms, Uvalde CISD’s Police Chief noted that officers needed more “firepower” because most officers only had handguns.⁵ Officers pointed to the suspect’s assault weapon as a central reason for delay, despite some officers being armed with the same rifle, as they waited for a Border Patrol SWAT team that had “more protective body armor, stronger shields and more tactical training.”⁶ Local police alone could not breach the classrooms without incurring multiple casualties.⁷

In the Nation’s deadliest shooting to date, in October 2017, a lone assailant used AR-15 and AR-10 assault weapons to kill fifty-eight people and injure 413 more,

4. U.S. Customs & Border Prot., Off. of Pro. Resp., *Case Closing Report UF2022586*, (Apr. 2024), https://www.cbp.gov/sites/default/files/2024-09/uvalde_-_case_closing_report_final_-_redacted_public_0.pdf.

5. U.S. Dep’t of Just., *Critical Incident Review, Active Shooter at Robb Elementary School* (2024), <https://web.ped.nm.gov/wp-content/uploads/2025/01/Uvalde-TX-Robb-Elem.-Critical-Incident-Review.pdf>.

6. Zach Despart, “*He Has a Battle Rifle*”: *Police Feared Uvalde Gunman’s AR-15*, Tex. Trib. (Mar. 20, 2023), <https://www.texastribune.org/2023/03/20/uvalde-shooting-police-ar-15-2/>.

7. *Id.*

who sustained gunshot wounds or shrapnel-type injuries at a music festival in Las Vegas.⁸ From the thirty-second floor of a nearby hotel, he fired more than 1,000 rounds into the crowd below.⁹ The assailant's assault weapons and ammunition were purchased legally.¹⁰ During the ten-minute shooting, officers outside of the venue received direct gunfire: one officer was shot in the neck while taking cover behind a patrol car, and another was injured when a bullet went into his right bicep and then his chest.¹¹

The impact of assault weapons in a mass shooting event includes more than the direct victims of gunshot wounds and their families. In an investigative report, the Las Vegas Metropolitan Police Department recognized that “the approximate 22,000 people who attended the Route 91 Harvest music festival are all victims” as well as the “hundreds and possibly thousands who were walking along Las Vegas Boulevard outside the Las Vegas Village venue at the time of the shooting.”¹²

At the Pulse nightclub in Orlando, in June 2016, a suspect used an assault weapon and a handgun to kill

8. Las Vegas Metro. Police Dep't, *LVMPD Criminal Investigative Report of the 1 October Mass Casualty Shooting*, (Aug. 3, 2018), <https://www.lvmpd.com/home/showpublisheddocument/134/638298568313170638>.

9. *Id.* at 34-38.

10. *Id.*

11. *Id.*

12. *Id.* at 18.

forty-nine people and injure fifty-three others.¹³ Within a minute, an Orlando Police Department detective heard shots being fired and requested additional officers¹⁴ The detective “immediately recognized that his Sig Sauer P226 9mm handgun . . . was no match” for the assault weapon being fired inside the club and moved to the parking lot to seek cover.¹⁵ The suspect fired approximately 200 rounds in under five minutes.¹⁶ One of every three people in the nightclub was either wounded or killed.¹⁷ Officers who responded said the scene was unlike any they had ever encountered. The forty-nine decedents had an average of four-and-a-half entry and exit wounds apiece.¹⁸

Gunmen have used assault weapons at church services, too. In November 2017, a subject armed with an assault weapon opened fire at the First Baptist Church in Sutherland Springs, Texas, after the Sunday morning service began.¹⁹ The perpetrator killed twenty-six people,

13. Frank Straub et al., *Rescue, Response, and Resilience, A Critical Incident Review of the Orlando Public Safety Response to the Attack on the Pulse Nightclub*, Community Oriented Policing Services, U.S. Dep’t of Just. (2017), <https://www.fbi.gov/file-repository/reports-and-publications/critical-incident-review-of-orlando-nightclub-attack.pdf/view>.

14. *Id.*

15. *Id.*

16. *Id.*

17. *Id.* at 16.

18. *Id.* at 20.

19. David Montgomery, Christopher Mele, & Manny Fernandez, *Gunman Kills at Least 26 in Attack on Rural Texas Church*, N.Y. Times (Nov. 5, 2017), <https://www.nytimes.com/2017/11/05/us/church-shooting-texas.html>.

including an unborn child, and wounded twenty others.²⁰ No one at the church was left uninjured.²¹ This massacre left 4% of Sutherland Springs' population dead.²²

Assault weapons have also been used at grocery stores, disrupting local communities for months. In May 2022, for example, a perpetrator opened fire on shoppers and employees at a grocery store in Buffalo, killing ten people and wounding others.²³ The gunman, wearing body armor and wielding an assault weapon, specifically targeted Black people. Complaint at 4, *United States v. Gendron*, No. 22-mj-124 (W.D.N.Y. June 15, 2022). The shooting caused the supermarket to close for months, creating a food desert and resulting in a need for local community groups to provide basic necessities.²⁴

Mass shootings can strain local government resources by overwhelming hospitals, emergency medical services,

20. Adam Roberts, *Man Who Shot Texas Church Gunman Shares His Story*, ABC 4029 News (Nov. 7, 2017), <https://www.4029tv.com/article/man-who-shot-texas-church-gunman-shares-his-story/13437943>.

21. *Id.*

22. *Id.*

23. Carolyn Thompson et. al, *10 Dead in Buffalo Supermarket Attack Police Call Hate Crime*, AP News (May 15, 2022), <https://apnews.com/article/buffalo-supermarket-shooting-442c6d97a073f39f99d006dbba40f64b>.

24. Jaclyn Diaz, *The Buffalo Shooting Shuttered Tops and Left a Food Desert. Locals Are Stepping In*, NPR (May 19, 2022), <https://www.npr.org/2022/05/19/1099833194/buffalo-shooting-shuttered-tops-food-desert-locals-help>.

and first responders.²⁵ Children and families impacted by a mass casualty event rely on hospitals that serve local communities and are staffed by community members. During the Las Vegas shooting, traditional surge capacity planning failed to account for this type of modern mass casualty event.²⁶ “The majority of patients arriving at hospitals required immediate surgical intervention to control hemorrhaging, making the speed of moving patients through the system, rather than the number of available beds, the determining factor in saving lives.”²⁷ Unlike in a traditional emergency situation, patients were not triaged by EMS or other first responders at the scene and were instead arriving to hospitals in rideshare vehicles and other private cars.²⁸

For all these reasons, the use of assault weapons in mass shootings shows they are unusually dangerous.

3. Their effects on law enforcement show they are unusually dangerous.

Assault weapons pose an outsized risk to law enforcement officers, who routinely face gun violence and are directly affected by the proliferation of assault weapons. As a result, law enforcement groups have

25. *Id.*

26. Christopher K. Lake, *A Day Like No Other: The Las Vegas Mass Shooting Lessons From America's Largest Mass Casualty Event*, Trauma Surgery & Acute Care Open (Apr. 14, 2025), <https://pmc.ncbi.nlm.nih.gov/articles/PMC12094114/>.

27. *Id.*

28. *Id.*

addressed concerns surrounding assault weapons through a variety of channels, including by maintaining and increasing their stock of military equipment and engaging in local and national advocacy.

Police departments across the country have sought to increase their preparedness for heavily armed, violent offenders. These efforts include expanding law enforcement access to high-powered weapons, body armor, and other new equipment. The departments are reacting to past incidents where officers were ill-prepared for perpetrators using assault weapons. For example, in Hayward, CA, the Police Chief cited incidents in Hayward and Los Angeles where officers were “sent to retrieve their personal hunting rifles” and “were considerably outmatched” by subjects with AK-47 and AR-15 rifles.²⁹ In other jurisdictions, police departments have requested specialized firearms and ammunition in response to “long distance threats” and “those threats who are heavily armed, armored, or both.”³⁰

These concerns are well-founded. From 1998 through 2001, at least forty-one of the 211 law enforcement officers killed in the line of duty were killed with assault weapons.³¹

29. Bryan Matthews & Amy Rothman, *Military Equipment Use Policy Staff Report* (Jun. 21, 2022), <https://www.hayward-ca.gov/sites/default/files/police/Military-Equipment-Use-Policy-Staff-Report-220621.pdf>.

30. Campbell Police Dep’t, *Assembly Bill 481 – Military Equipment Funding, Acquisition and Use Police*, City of Campbell, Cal., <https://www.campbellca.gov/1264/Assembly-Bill-481---Military-Equipment-F>.

31. Violence Pol’y Ctr., *“Officer Down,” Assault Weapons and the War on Law Enforcement* (May 2003), <https://vpc.org/studies/officer%20down.pdf>.

From 2016 through 2018, the figure was thirty-four of 164.³² In 2016 alone, assault weapons killed sixteen of the sixty-four officers slain, and in four of those deaths the bullet passed through the officer's body armor.³³ Peer-reviewed research confirms the pattern: assault weapons account for 2-12% of guns used in crime, but 13-16% of guns used in murders of police.³⁴ Assault weapons are "disproportionately used to kill law enforcement officers." *N.Y. State Rifle & Pistol Ass'n v. Cuomo*, 804 F.3d 242, 262 (2d Cir. 2015); *Kolbe*, 849 F.3d at 140.

The reason is apparent. While most police departments require officers to wear body protection in the field, it is usually soft armor "designed to offer protection against assaults with handguns," not assault weapons.³⁵ Under the federal standard, handgun-rated body armor is tested only against handgun ammunition, not the 5.56mm round

32. Press Release, Violence Pol'y Ctr., *New Data Shows One in Five Law Enforcement Officers Slain in the Line of Duty from 2016 to 2018 Were Felled by an Assault Weapon* (Feb. 3, 2021), <https://vpc.org/publication/new-data-shows-one-in-five-law-enforcement-officers-slain-in-the-line-of-duty-from-2016-to-2018-were-felled-by-an-assault-weapon/>.

33. *Id.*

34. Christopher S. Koper et al., *Criminal Use of Assault Weapons and High-Capacity Semiautomatic Firearms: An Updated Examination of Local and National Sources*, 95 J. Urb. Health 313, 313 (2018).

35. Nat'l Institute of Just., U.S. Dep't of Just., *Selection & Application Guide 0101.06 to Ballistic-Resistant Body Armor 5* (2014), <https://www.ojp.gov/pdffiles1/nij/247281.pdf>.

fired by AR-15-style rifles.³⁶ Criminals armed with assault weapons therefore “possess a ‘military-style advantage’ in firefights with law enforcement officers,” because “their rounds easily pass through the soft body armor worn by most law enforcement officers.” *Kolbe*, 849 F.3d at 127. Because of their capacity and power, assault weapons have been used by criminals in targeted attacks on law enforcement in recent years.³⁷

Moreover, local governments may reasonably ban possession of assault weapons, not just their carry, because fewer than half of American gun owners store their firearms safely.³⁸ Many guns kept in homes are stolen; from 2005 through 2010, about 1.4 million firearms, an annual average of 232,400, were taken in burglaries

36. Nat’l Institute of Just., U.S. Dep’t of Just., *Specification for NIJ Ballistic Protection Levels and Associated Test Threats* 9–10 tbls. 1–2 (Oct. 2023), <https://www.ojp.gov/pdffiles1/nij/307347.pdf>.

37. See, e.g., Ian Karbal, *York County DA Describes How Deadly Shooting Unfolded That Left Three Police Officers Dead*, Penn. Capital-Star (Sept. 18, 2025), <https://penncapital-star.com/criminal-justice/york-county-da-describes-how-deadly-shooting-unfolded-that-left-three-police-officers-dead/>; Kevin Shalvey & Meredith Deliso, *AR-15 Rifle Recovered from Scene Where 4 Law Enforcement Officers Were Killed in Charlotte: Police*, ABC7 News (Apr. 30, 2024), <https://abc7.com/post/charlotte-shootout-us-marshal-3-law-enforcement-officers-killed-serving-warrant/14744903>; *2 Officers Killed, 1 Released From Hospital After Ambush-Style Shooting in Bristol*, NBC Conn. (Oct. 13, 2022), <https://www.nbcconnecticut.com/news/local/3-police-officers-shot-in-bristol-state-police/2891895>.

38. Cassandra K. Crifasi et al., *Storage Practices of US Gun Owners in 2016*, 108 Am. J. Pub. Health 532, 532 (2018) (only 46% of gunowners reported safely storing their gun).

and other property crimes.³⁹ Many of the poorly stored and stolen guns are taken by children.⁴⁰ Because assault weapons can so readily fall into the wrong hands and then pose extreme risk to law enforcement, local governments should have the ability to regulate their possession.

Organizations including the Major Cities Chiefs Association and the International Association of Chiefs of Police have supported common-sense gun regulation, including reinstating an assault weapons ban.⁴¹ Buffalo's Police Commissioner testified that access to assault weapons was a key contributor to the mass shooting there in May 2022.⁴² Though a retired Buffalo police officer was armed and on the scene, with over thirty years of policing experience, "[h]is service weapon was no match for the

39. Lynn Langton, U.S. Dep't of Just., Bureau of Just. Stat., NCJ 239436, *Firearms Stolen During Household Burglaries and Other Property Crimes, 2005–2010*, at 1 (2012), <https://bjs.ojp.gov/content/pub/pdf/fshbopc0510.pdf>.

40. U.S. Secret Serv., Nat'l Threat Assessment Ctr., *Protecting America's Schools: A U.S. Secret Service Analysis of Targeted School Violence* 22 (2019).

41. Int'l Ass'n of Chiefs of Police, *Firearms Policy Position Statement* (2018), https://www.theiacp.org/sites/default/files/all/i-j/IACP%20Firearms%20Position%20Paper_2018.pdf; *The Urgent Need to Address the Gun Violence Epidemic: Hearing Before the H. Comm. on Oversight & Reform*, 117th Cong. (2022) (statement of Joseph Gramaglia, Comm'r, Buffalo Police Dep't) (describing Major Cities Chiefs Association positions), <https://majorcitieschiefs.com/wp-content/uploads/2022/06/Commissioner-Gramaglia-Written-Testimony.pdf>.

42. *Gun Violence Epidemic Hearing*, *supra* note 41.

military-style weapons and armor the perpetrator was equipped with.”⁴³

Following the Buffalo mass shooting, a study of police attitudes there showed that police officers more strongly favored gun regulation, including prohibitions or restrictions on certain weapons and ammunition.⁴⁴ The data reflected that “because of the proximity and intimacy of experiences with a high-profile mass shooting, Buffalo officers would be more concerned for officer safety as it relates to firearms and more likely to favor firearm legislation than their counterparts . . . who had not recently experienced a mass shooting.”⁴⁵

In sum, local governments can reasonably conclude that assault weapons are unusually dangerous because of their military design, their frequent use in mass shootings at large gatherings of all types, and the dangers they pose to law enforcement officers.

C. Local governments need the power to regulate unusually dangerous weapons where appropriate.

Petitioners would have this Court curtail the authority of local governments, the entities that respond to mass

43. *Id.*

44. Tammy Rinehart Kochel & Scott W. Phillips, *The Views of Police Officers Toward Gun Legislation and Public Health Policies Driven by Firearm Safety Concerns*, J. Cmty. Health (2024), <https://link.springer.com/article/10.1007/s10900-023-01302-9>.

45. *Id.*

shootings. That authority rests on three foundations. First, this Nation’s tradition of firearm regulation is one of calibrating arms regulation to place and entrusting that calibration to the governments of those places. Second, our constitutional structure commits community safety to the States and their subdivisions as a trust, and an essential part of that trust is protecting the public from gun violence. Finally, the institutions that discharge this trust are overwhelmingly local. Amici do not contend that local authority is unlimited. They ask only that this Court not replace a working allocation of responsibility with a single national rule for assault weapons. *See* Catholic Bishops Br. at 14 (“[A] uniform constitutional standard need not require uniform firearm policy.”).

1. This Nation’s historical tradition of firearm regulation is to entrust regulation to localities.

The allocation of responsibility to local governments to regulate firearms is not a modern development. It is how this Nation has regulated arms from the beginning. “[T]he regulation of health and safety matters is primarily, and historically, a matter of local concern.” *Hillsborough Cnty., Fla. v. Automated Med. Labs., Inc.*, 471 U.S. 707, 719 (1985).

The Founding generation did not regulate arms uniformly across the countryside; it regulated them where settlement made them dangerous. Massachusetts declared that “the depositing of loaded Arms in the Houses of the Town of Boston, is dangerous,” and forbade keeping a loaded firearm in any “Dwelling-House, Stable, Barn, Out-house, Store, Ware-house, Shop or other Building”

in that town. Act of Mar. 1, 1783, ch. XIII, 1783 Mass. Acts 218.⁴⁶ While still a colony, Massachusetts also barred discharging a gun “in the town of Boston ... or in any Part of the Harbor between the Castle and said Town.” Ch. X, § 2, 1746 Mass. Acts 208. Pennsylvania prohibited firing “within any county town, or within any other town or borough, in this province, already built and settled.” 1750 Pa. Laws 208.

Gunpowder, without which a firearm was inert, was subject to storage regimes in Boston, Philadelphia, and New York City, and in smaller nearby boroughs. *E.g.*, Act of Apr. 13, 1784, ch. 28, 1784 N.Y. Laws 627 (vessels to deposit powder at a magazine before berthing at “any wharf, pier or key within the city”); Act of Apr. 13, 1782, ch. XIV, § XLII, 1781–1782 Pa. Laws 25, 41–42 (concerning storage of gunpowder in the Town of Carlisle).

Following ratification, state legislatures conferred authority over firearms and gunpowder directly upon municipal corporations by charter, time and time again. Tennessee empowered the towns of Winchester and Reynoldsburgh to “restrain and punish . . . shooting and carrying guns.” Act of Dec. 3, 1825, ch. CCXCII, 1825 Tenn. Priv. Acts 307. Connecticut authorized the common councils of Hartford, New Haven, New London, Norwich, and Middletown to adopt by-laws “relative to prohibiting and regulating the bringing in, and conveying out, or storing of gun-powder in said cities.” Ch. 1, § 20,

46. For a more robust discussion of this and other acts, see Saul Cornell & Nathan DeDino, *A Well Regulated Right: The Early American Origins of Gun Control*, 73 Fordham L. Rev. 487, 502–17 (2004); Joseph Blocher, *Firearm Localism*, 123 Yale L.J. 82, 114–21 (2013).

1836 Conn. Pub. Acts 104-05. So too Trenton, § 24, 1837 N.J. Laws 373; Key West, ch. 58, § 8, 1838 Fla. Laws 70; Nebraska City, § 25, 1867 Neb. Laws 68; and Jacksonville, empowered to “suppress the carrying of concealed weapons,” ch. 3775, § 4, 1887 Fla. Laws 160, 164-65. Municipalities exercised their authority: Cleveland barred the discharge of firearms within its limits in 1820, Lincoln, Nebraska in 1895. *Cleveland Herald*, Aug. 15, 1820, at 1; Lincoln, Neb., Gen. Ordinances art. 26, § 1 (1895).

Petitioners would set this all aside as post-ratification. Pet. Br. 46. But *Bruen* held only that later practice cannot “overcome or alter” an inconsistent original meaning. 597 U.S. at 36. *Bruen* did not make a consistent later practice irrelevant to confirming what earlier enactments show. These charters contradict nothing in the Founding-era record. Rather, they continue it. Sovereigns that confer the same power on town after town for four generations were recognizing where power to regulate resided. Municipal corporations are, after all, “convenient agencies for exercising such of the governmental powers of the state as may be [e]ntrusted to them.” *Hunter v. City of Pittsburgh*, 207 U.S. 161, 178 (1907).

Petitioners’ principal response is that under *Heller* the historical record need not be consulted at all. In their view, *Heller* reduced the historical inquiry for arms to a single question, whether the weapon is “in common use,” so that “there is no need for fresh historical analysis because *Heller* already has set the historical ground rules.” Pet. Br. 24; *see id.* at 28-29. But in *Heller* the Court expressly declined to “undertake an exhaustive historical analysis . . . of the full scope of the Second Amendment.” 554 U.S. at 626. The Court cautioned that its first in-depth

examination of the right should not be expected “to clarify the entire field.” *Id.* at 635. Its common-use language was a conclusion drawn from history, a limitation “fairly supported by the historical tradition,” not a substitute for that history. *Id.* at 627. The tradition Petitioners decline to consult is there. It is written in the ordinances of towns and in the charters that empowered them, and it holds that the governments nearest a danger may act against it.

2. The police power is a trust committed to state and local governments for the safety of communities.

It is well-established that “the power of governing is a trust committed by the people to the government, no part of which can be granted away.” *Stone v. Mississippi*, 101 U.S. 814, 820 (1880). Through our Constitution, the Founders denied the federal government this police power; it is instead “reposed in the States.” *United States v. Morrison*, 529 U.S. 598, 618 (2000). “Public safety, public health, morality, peace and quiet, law and order—these are some of the more conspicuous examples of the traditional application of the police power to municipal affairs.” *Berman v. Parker*, 348 U.S. 26, 32 (1954). Throughout their history, state and local governments “have exercised their police powers to protect the health and safety of their citizens.” *Medtronic, Inc. v. Lohr*, 518 U.S. 470, 475 (1996).

This Court has repeatedly recognized that a central responsibility of state and local government is “protecting the health, safety, and welfare of its citizens.” *United Haulers Ass’n v. Oneida-Herkimer Solid Waste Mgmt. Auth.*, 550 U.S. 330, 342 (2007); *see also Metro. Life Ins.*

Co. v. Massachusetts, 471 U.S. 724, 756 (1985) (“The States traditionally have had great latitude under their police powers to legislate as to the protection of the lives, limbs, health, comfort, and quiet of all persons.”). A Second Amendment interpretation that prohibits local governments from regulating assault weapons does precisely the opposite: what should be a question for state and local governments to debate and decide to protect their citizens is instead improperly removed from their sphere.

“[T]he Constitution establishes a federal republic where local differences are cherished as elements of liberty, rather than eliminated in a search for national uniformity.” *Friedman v. City of Highland Park*, 784 F.3d 406, 412 (7th Cir. 2015), *cert. denied*, 577 U.S. 1039 (2015) (relying in part on federalism to hold that a city’s assault weapon ban did not violate the Second Amendment). James Madison echoes this principle in *The Federalist* No. 39: “local or municipal authorities form distinct and independent portions of the supremacy, no more subject, within their respective spheres, to the general authority, than the general authority is subject to them, within its own sphere.” State and local governments are meant to have distinct and independent powers to protect and promote the safety of their citizens—but Petitioners ask the Court to curtail these powers.

Local governments have raised this concern before and received assurances that “local experimentation with reasonable firearms regulations will continue under the Second Amendment.” *McDonald v. City of Chicago*, 561 U.S. 742, 784-85 (2010). In *McDonald*, the municipal respondents argued that incorporating the

Second Amendment would disable local governments from addressing conditions peculiar to their communities. *Id.* at 783-84. The Court did not reply that federalism has no place in this area. The Court stated that a fundamental guarantee “limits (but by no means eliminates) their ability to devise solutions to social problems that suit local needs and values,” and that “[d]espite municipal respondents’ doomsday proclamations, incorporation does not imperil every law regulating firearms.” *Id.* at 785-86.

Heller similarly stated that while “the enshrinement of constitutional rights necessarily takes certain policy choices off the table,” “[t]he Constitution leaves the District of Columbia a variety of tools for combating” handgun violence. 554 U.S. at 636. Those assurances answered precisely the concern amici raise here, and local governments have legislated in reliance on them for over fifteen years. And the greater dangers assault weapons impose on society should ensure local governments a greater “variety of tools” for combating assault weapon violence.

Legislatures do not pass assault weapon regulations in a vacuum, and that is especially evident in the cases consolidated before this Court. For Connecticut, the General Assembly made its legislative judgment concerning assault weapons after the tragic mass-shooting at Sandy Hook Elementary School in 2012. *Cuomo*, 804 F.3d at 248. For Cook County, there have been various ordinances in place banning the possession of assault weapons since 1993. *Wilson v. Cnty. of Cook*, 968 N.E.2d 641, 645 (Ill. 2012). These ordinances were passed due to “easy access to firearms and ammunition” becoming “a concern of public health, safety and welfare for the

citizens of Cook County” and due to assault weapons being “20 times more likely to be used in the commission of a crime than other kinds of weapons.” *Id.* Both Connecticut and Cook County’s assault weapon bans were legislative judgments made for the purpose of promoting public safety. That distinction is particularly important because the work of public safety falls overwhelmingly on cities and counties.

3. Local governments respond to, and bear the cost of, mass shootings.

When mass shootings occur, local governments are closest to the harm and bear the heaviest costs.⁴⁷ Consider for a moment everything that a shooting sets in motion. As members of the public see and respond to the shooting, their calls go to a public safety answering point operated by a city or a county.⁴⁸ A dispatcher sends officers from a municipal police department or a county sheriff’s office. Paramedics arrive from a local fire department or a county emergency medical service, and a fire crew secures the scene. If the shooting happened at a school, a locally elected board closes the building, and district counselors

47. As of March 2025, local governments employed 829,586 full-time police protection personnel (642,746 with power of arrest) against 106,421 for state governments, and 391,761 full-time fire protection personnel against none at the state level. U.S. Census Bureau, *2025 Annual Survey of Public Employment & Payroll*, tbls. GS00EMP02 & GS00EMP03 (2025).

48. Cong. Research Serv., *Funding the Transition to Next Generation 911 (NG911): Considerations for Congress* (R48015, Apr. 5, 2024), <https://www.everycrsreport.com/reports/R48015.html> (“Most PSAPs are owned and operated by local governments (e.g., counties, cities).”).

meet with students over the coming weeks. If it happened in a park or near a public space, a municipal department closes it.

The ambulance, which is provided by the local government, carries the wounded to a hospital that in many communities is operated by the state or local government. If victims die, a county medical examiner performs the autopsies and notifies the families.⁴⁹ City or county detectives investigate, and evidence goes to a county laboratory. A county prosecutor charges the case, a county public defender answers it, and any pretrial detention happens in a county jail. Following the shooting, the local city council or county board that funds every one of these functions will face its residents at the next public meeting.

Beyond these immediate impacts, mass shootings have been found to reduce employment in the affected county by roughly 1.3%, with lasting effects on earnings and housing prices. Abel Brodeur & Hasin Yousaf, *On the Economic Consequences of Mass Shootings*, 107 Rev. Econ. & Stat. 109, 112 (2025).

Based on all these local effects, it is unsurprising that when this Court has reviewed firearm regulations, the challenged acts have often been municipal. *See, e.g., McDonald*, 561 U.S. at 750 (reviewing Chicago’s handgun ordinance); *Heller*, 554 U.S. at 574-75 (2008) (the same

49. U.S. Dep’t of Just., Bureau of Just. Stat., *Medical Examiner and Coroner Offices*, 2018, at tbl.1 (NCJ 302051, Nov. 2021), <https://bjs.ojp.gov/content/pub/pdf/meco18.pdf> (of 2,036 offices, 1,630 coroner and 384 medical examiner offices were city, county, district, or regional; 22 were state offices).

for D.C.). Because weapons in a closet can so easily reach a schoolyard or other public gathering, community representatives may reasonably decide that regulations against possessing unusually dangerous weapons are necessary.

The governments involved at nearly every step before and after a shooting are the governments Petitioners ask this Court to curtail. They are the governments that all Americans continue to hold in high esteem: Pew has found that 63% of Republicans and 64% of Democrats hold a favorable view of their local government, against 11% and 32% respectively for the federal government.⁵⁰ Gallup has similarly found that trust in local government has remained between 66% and 73% since the 1970s, and above 60% in every political affiliation in every decade, even as trust in the federal government to handle domestic problems fell from 70% to 38%.⁵¹

Whatever has become of Americans' confidence in more distant institutions, the local forum is one that citizens of both parties still credit and still use. A county board meeting is a forum an ordinary resident can attend on a weeknight. Thus, whenever a constitutional rule forbids local governments from acting, it removes the

50. Pew Research Center, *Americans Rate Their Federal, State and Local Governments Less Positively Than a Few Years Ago* (Apr. 11, 2024), <https://www.pewresearch.org/short-reads/2024/04/11/americans-rate-their-federal-state-and-local-governments-less-positively-than-a-few-years-ago/>.

51. Gallup, *U.S. Trust in Government Depends Upon Party Control* (Nov. 10, 2025), <https://news.gallup.com/poll/697421/trust-government-depends-upon-party-control.aspx>

issue from the people most affected by it and forecloses their revisiting it as conditions change.

The Constitution entrusts the safety of communities to the governments nearest them. Those governments will act in the aftermath of the next mass shootings whatever this Court holds. The only question is whether they may also act beforehand.

CONCLUSION

The judgments below should be affirmed.

Respectfully submitted,

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