

Nos. 25-238, 25-566

In The
Supreme Court of the United States

CUTBERTO VIRAMONTES, *ET AL.*, PETITIONERS,
v.
COOK COUNTY, ILLINOIS, *ET AL.*, RESPONDENTS.

EDDIE GRANT, JR., *ET AL.*, PETITIONERS,
v.
RONNELL HIGGINS, *ET AL.*, RESPONDENTS.

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

**BRIEF OF FIFTY-SIX VETERANS OF THE
UNITED STATES ARMED FORCES AS *AMICI
CURIAE* SUPPORTING RESPONDENTS**

ERIC SCHMOLL
BAKER BOTTS L.L.P.
101 California Street
San Francisco, California
(415) 291 6247
eric.schmoll@baker-
botts.com

ALLISON WATKINS
MALLICK
Counsel of Record
BAKER BOTTS L.L.P.
101 California Street
San Francisco, California
(415) 291 6269
allison.mallick@baker-
botts.com

Counsel for *Amici Curiae*
(additional counsel listed on inside cover)

YUYAN PU
BAKER BOTTS L.L.P.
101 California Street
San Francisco, California
(415) 291 6295
yuyan.pu@bakerbotts.com

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INTEREST OF *AMICI CURIAE*¹

Amici are fifty-six veterans of the United States Armed Forces whose service spans the Army, Marine Corps, Navy, and Air Force from the late 1970s to the present. Their relevant experience includes training with, carrying, maintaining, and instructing others in the use of military service rifles. They submit this brief in their individual capacities to offer a practical military perspective on the AR-15-style rifles banned in Cook County and Connecticut and to explain the military significance of the capabilities retained by those rifles. The individual *amici* are identified in Appendix A.²

In addition to their military service, some *amici* are also current gun owners, and therefore have experience with both civilian firearm ownership and firearm use in military service.

SUMMARY OF ARGUMENT

To serve our nation, we were trained on and have experience using the military-designated M16 and M4 rifles. Petitioners argue that these rifles are fundamentally different from AR-15s, which are semiautomatic assault weapons.³ Grant Pet. Br. 16. As veterans, we know that is not the case.

¹ No counsel for a party authored this brief in whole or in part. No party or counsel for a party made a monetary contribution intended to fund its preparation or submission. No person other than *amici* or their counsel made such a contribution.

² The views expressed herein are solely those of the individual *amici* and do not reflect the official policy or position of any service branch, the U.S. Department of Defense, or the U.S. Government. *Amici* join in their individual capacities, and their views do not represent the views of any organization or entity.

³ This brief uses “assault weapons” to refer to the semiautomatic rifles covered by the challenged laws and at issue here, following the

We write to share our perspective on the similarities between the weapons we used in military service and the AR-15 rifles covered by the laws at issue in this case.⁴ These weapons functionally are equivalent to their military counterparts, like the M4 and M16; while the military versions may have additional firing modes, members of our military are trained to use semiautomatic fire in all but narrow circumstances, and as a result rarely, if ever, use these additional modes. Further, these service rifles share design and operating features identical to the AR-15.

Having served in the military, we know what makes a weapon effective in combat. We agree with U.S. Army veteran and Fourth Circuit Judge J. Harvie Wilkinson III, speaking for the Fourth Circuit en banc: “The primary difference between the M16 and AR-15—the M16’s capacity for automatic fire, burst fire, or both, depending on the model—pales in significance compared to the plethora of combat-functional features that makes the two weapons so similar.” *Bianchi v. Brown*, 111 F.4th 438, 456 (4th Cir. 2024) (en banc). The judgments below should be affirmed.

terminology in those laws and respondents’ submissions. See Conn. Gen. Stat. § 53-202a(1); Cook County, Ill., Code § 54-211.

⁴ This brief focuses on the AR-15 and functionally equivalent rifles made by other manufacturers. For brevity, this brief uses “AR-15” to refer to all these AR-15-style rifles.

ARGUMENT

I. IT IS U.S. MILITARY POLICY TO USE SEMIAUTOMATIC FIRE EVEN WHEN BURST OR FULLY AUTOMATIC MODES ARE AVAILABLE, EXCEPT IN NARROW CIRCUMSTANCES

In delineating the scope of the Second Amendment right as held by private citizens, this Court has indicated that those “weapons that are most useful in military service—M-16 rifles and the like—may be banned.” *District of Columbia v. Heller*, 554 U.S. 570, 627 (2008). Here, the United States, as *amicus* for petitioners, attempts to distinguish AR-15s from those bannable weapons because they lack “the capacity for fully automatic fire.” U.S. *Amicus* Br. 20 (U.S. Sept. 4, 2026). This distinction ignores how these weapons actually are used in military service, including combat situations. M16 and M4 military rifles are used almost exclusively in semiautomatic mode, as service members are trained to do, even when more rapid firing is available. *Amici’s* military experience, and sworn declarations filed in another case by two experts with decades of military service (one of whom is participating as *amicus* here), confirm that riflemen—consistent with their training—“almost *never*” use the automatic or burst capabilities of their standard-issue service rifles. Report of Lieutenant Colonel Jason Dempsey, U.S. Army retired ¶ 16 (June 8, 2024), Ex. 1 to Declaration of Jason Dempsey, *Barnett v. Raoul*, No. 3:23-cv-00209 (S.D. Ill. Sept. 6, 2024), Dkt. No. 222-3 (Dempsey *Barnett* Report). As set out below, such use would more often impair rather than serve combat objectives.

A. Civilian AR-15s Are Identical to M16s and M4s in Design and Operation When Fired in Semiautomatic Mode

The civilian AR-15 is operationally identical to the M16 and the M4 in all respects but one—the military

versions can fire in burst or fully automatic mode in addition to semiautomatic mode. See Dempsey *Barnett* Report ¶ 15. In semiautomatic mode, each shot requires a separate trigger pull. In burst mode, the rifle will fire three rounds with each trigger pull. In fully automatic mode, it will fire until the trigger is released. An M4 in fully automatic mode also will stop firing when it exhausts the magazine capacity—which in the military is almost always 30 rounds and therefore exhausts quickly in fully automatic mode.

Each variant of the M16 and M4 can toggle between semiautomatic fire and either burst or automatic fire, depending on the model. The table below, from the Army’s active training circular on rifles and carbines, lays out the firing modes of common military service rifle variants. U.S. Dep’t of the Army, Training Circular 3-22.9, *Rifle and Carbine* Tbl. 2-1 (May 2016, last updated Nov. 20, 2019) (2016 Manual). The M4 is a carbine: a shorter, lighter version of the M16 with a 14.5-inch barrel (versus 20 inches) and a collapsible stock. *Ibid.*

Table 2-1. Model Version Firing Methods Comparison

<i>Weapon</i>	<i>Selector Switch Position</i>			<i>Buttstock</i>	<i>Barrel Length</i>
M16A2	SAFE	SEMI	BURST	Full	20 inches
M16A3	SAFE	SEMI	AUTO	Full	20 inches
M16A4	SAFE	SEMI	BURST	Full	20 inches
M4	SAFE	SEMI	BURST	Collapsible	14.5 inches
M4A1	SAFE	SEMI	AUTO	Collapsible	14.5 inches
Legend: SEMI: semi-automatic firing selection AUTO: fully automatic firing selection BURST: three-round burst firing selection					

The similarities between these military service rifles and civilian AR-15s have been explored in assault weapons cases in the courts of appeals and district courts—including in decisions upholding the Connecticut and Cook County laws against Second Amendment challenges. See,

e.g., *Grant* Pet. App. 47a–48a; *Viramontes* Pet. App. 14a–15a, 23a–24a; *Barnett v. Raoul*, 180 F.4th 1035, 1053–1054 (7th Cir. 2026); *Bianchi*, 111 F.4th at 454–456; *Bevis v. City of Naperville*, 85 F.4th 1175, 1195–1196 (7th Cir. 2023), cert. denied, 144 S. Ct. 2491 (2024); *Capen v. Campbell*, 708 F. Supp. 3d 65, 85 (D. Mass. 2023), *aff’d*, 134 F.4th 660 (1st Cir. 2025); *Rupp v. Bonta*, 723 F. Supp. 3d 837, 852 (C.D. Cal. 2024). Retired Marine Colonel Craig Tucker and retired Army Lieutenant Colonel Jason Dempsey each provided a sworn declaration in one of these cases, and Colonel Tucker provided a declaration in another, based on their knowledge and experience as military veterans.

Colonel Tucker and Lieutenant Colonel Dempsey are experienced veterans with extensive knowledge of the military’s training and use of firearms. Colonel Tucker commanded numerous infantry units and battalions during his 25 years of service, including in intense infantry combat in Iraq. Report of Colonel (Ret.) Craig Tucker ¶ 1 (June 7, 2024), Ex. 1 to Declaration of Craig Tucker, *Barnett v. Raoul*, No. 3:23-cv-00209 (S.D. Ill. Sept. 6, 2024), Dkt. No. 222-2 (Tucker *Barnett* Report). After returning from Iraq, Colonel Tucker trained and certified units for combat in Iraq and Afghanistan at the Marine Corps National Training Center. *Ibid.* Lieutenant Colonel Dempsey served in the U.S. Army for 22 years after graduating from the U.S. Military Academy at West Point. Dempsey *Barnett* Report ¶¶ 1, 14. Over the course of his career, he was deployed to Afghanistan and Iraq and trained or supervised the training of thousands of infantry riflemen for combat. *Id.* ¶¶ 1, 18.

As the testimony of Colonel Tucker and Lieutenant Colonel Dempsey describes, when operated in semiautomatic mode, an M16 or an M4 is no different from an AR-15. See Supplemental Expert Report and Declaration of Colonel (Ret.) Craig Tucker ¶¶ 1, 13, *Rupp v. Bonta*, No.

8:17-cv-00746 (C.D. Cal. May 26, 2023), Dkt. No. 151-15 (Tucker *Rupp* Report). They have “the same rates of fire, the same maximum effective range, the same maximum range, [and] use the same magazines designed for combat and the same ammunition.” *Id.* ¶ 13. Thus, an M4 or M16 rifle in semiautomatic mode fulfills a military purpose that would be equally well-served by a semiautomatic AR-15 platform rifle. See Dempsey *Barnett* Report ¶ 34.

B. The Military Directs the Use of Semiautomatic Mode for M16s and M4s in Nearly All Instances Because It Is More Accurate, Efficient, and Reliable than Automatic or Burst Fire in a Combat Setting

“[S]emi-automatic fire is the preferred method of employment” for military service rifles like the M16 and M4. Tucker *Barnett* Report ¶ 10. According to the Army’s 2008 marksmanship manual, “[t]he most important firing technique during fast-moving, modern combat is rapid *semiautomatic* fire.” U.S. Dep’t of the Army, FM 3-22.9, *Rifle Marksmanship: M16-/M4-Series Weapons* 7–8, ¶ 7-12 (Aug. 12, 2008) (2008 Manual) (emphasis added). For this reason, “M16 rifles and M4 carbines should normally be employed in the semiautomatic fire mode.” *Id.* at 7-13.

Amici elaborate below on three reasons why using semiautomatic fire with a service rifle is preferable to automatic or burst fire in a combat setting.

Accuracy: An M16 or M4 firing in semiautomatic mode is more accurate than the same weapon firing in automatic or burst mode. The 2016 Manual explains why this is so: “[a]utomatic or burst fires drastically decrease the probability of hit due to the rapid succession of recoil impulses and the inability of the Soldier to maintain proper sight alignment and sight picture on the target.” 2016 Manual at 8-6; see also 2008 Manual at 7-12 (“Automatic or burst fire is inherently less accurate than semiautomatic fire.”).

Lieutenant Colonel Dempsey explained that if a three-round burst is fired, “the first bullet may hit its intended target, but the recoil of the weapon is likely to send the next two rounds well above the initial point of aim.” Dempsey *Barnett* Report ¶ 19. And the accuracy problems are “only exacerbated” with fully automatic fire. *Ibid.* Rather than increasing combat effectiveness, an M16 or M4 set to fully automatic mode is “difficult to control and providing aimed fire of any type is very challenging.” Tucker *Barnett* Report ¶ 13.

Lieutenant Colonel Dempsey provided an example of how this works in a combat situation. In a basic four-man infantry unit, the rifleman armed with an M16 or M4 is tasked with “placing well-aimed fire on the enemy,” which requires semiautomatic fire. Dempsey *Barnett* Report ¶ 21 (quoting U.S. Dep’t of the Army, ATP 3-21.8, *Infantry Rifle Platoon and Squad*, (Jan. 2024)). Meanwhile, another team member is responsible for providing “a high volume of sustained suppressive” fire—the rifleman armed with an M249 machine gun. *Ibid.* (quoting same). Unlike the M16 and M4, the M249 machine gun “is stabilized” with components that allow for “automatic fire that is both more rapid and more accurate than can be provided” by burst or automatic fire from a typical service weapon. *Id.* ¶ 23. Thus, in the instances where the military sees tactical benefit to fully automatic fire, it uses a weapon specifically designed for this purpose.

Efficiency: Semiautomatic fire allows for ammunition discipline—the management, tracking, and control of how many rounds are expended—making it more efficient than automatic or burst fire. Automatic fire and burst fire both use more ammunition than semiautomatic rifle fire because those modes expend more than one bullet when the trigger is held. The 2008 Manual directs that “[a]utomatic or burst fire should be used sparingly” to conserve ammunition. 2008 Manual at 7-17. The rare instance in

which Colonel Tucker witnessed automatic fire from an M16 or M4, during the First Battle of Fallujah, resulted in “a critical ammunition shortage.” Tucker *Barnett* Report ¶ 11. Army materials similarly link effective semiautomatic fire to ammunition conservation. See 2008 Manual at 7-9, 7-15.

Reliability: An M16 or M4 fired in automatic or burst mode is more likely to jam or overheat, making it less reliable. These weapons are “not designed to fire on automatic for extended periods of time” and overheating can lead to misfires and magazine feed issues. Tucker *Barnett* Report ¶ 13; see also 2016 Manual at 2-13 (describing the challenge of cooling “[l]ightweight weapons like the M4 and M16”). Of course, any heating issue or jam resulting from automatic fire can put a rifleman “at greater risk of becoming combat ineffective.” Dempsey *Barnett* Report ¶ 24.

Amici do not contend that automatic or burst fire has no application. The 2008 Manual recognizes that “[i]n some combat situations, the use of automatic or burst fire can improve survivability and enhance mission accomplishment.” 2008 Manual at 7-13. For example, “limited use of automatic or burst fire” may be required to clear buildings and ambushes. *Ibid.* However, the manual directs that such fire “should be used sparingly and only to gain initial fire superiority.” *Id.* at 7-17.

C. Consistent with Their Training, Combat Veterans Used M16s and M4s Almost Exclusively in Semiautomatic Mode and Rarely, if Ever, Used Burst or Fully Automatic Fire

Military doctrine makes semiautomatic fire the default, see Part I.B, *supra*, and veterans’ firsthand accounts confirm that the default holds in training and in combat. The experience of Lieutenant Colonel Dempsey, who trained thousands of infantry riflemen over the course of

a 22-year Army career, reflects this clear preference for semiautomatic mode. He “never once trained or instructed any infantry rifleman to use an M4/M16 service rifle on the 3-round burst or fully automatic setting.” Dempsey *Barnett* Report ¶¶ 14, 16–18. Instead, he trained “each and every one of them to fire exclusively on the semiautomatic setting.” *Id.* ¶ 18; see also 2008 Manual at 7-13. Nor did Lieutenant Colonel Dempsey ever use his own service rifle for burst or automatic fire. Dempsey *Barnett* Report ¶ 16. He testified that this training and practice reflected an intentional choice to use semiautomatic fire because of the benefits of that firing mode in combat situations. *Id.* ¶¶ 16, 22.

Colonel Tucker’s experience was similar. Like Lieutenant Colonel Dempsey, he “almost exclusively” emphasized semiautomatic fire in qualification, training, and combat. Tucker *Barnett* Report ¶¶ 10–13 (emphasis omitted). And he “never once saw any infantry member fire their rifle on automatic” apart from “very short auto bursts upon room entry” during the First Battle of Fallujah. *Id.* ¶ 11. Chief Warrant Officer 5 Marine Gunner Jeffrey Eby described his own M4 combat firing as “[a]lways in semi-auto.” Deposition of Jeffrey Eby 40:13-15 (July 18, 2024), *Barnett v. Raoul*, No. 3:23-cv-00209 (S.D. Ill. Sept. 13, 2024), Dkt. No. 232-3; see also *Bianchi*, 111 F.4th at 456 (“decorated former U.S. Navy SEAL” “‘never once fired full auto in combat’ during a decade of special operations combat deployments, including the 2011 Osama Bin Laden raid”).

The testimony of these veterans is instructive and accords with *amicus*’s experiences in military service.

* * *

In sum, although military service rifles like the M16 and M4 are capable of fully automatic or burst fire, the United States military uses these modes exceedingly

rarely. Instead, these weapons are routinely used and taught to be used on the semiautomatic setting, such that they operate just like civilian AR-15s. The capability for automatic or burst fire cannot justify prohibition of M16s or M4s but not AR-15s.

II. THE BANNED AR-15 FEATURES COMBAT-RELATED DESIGN ELEMENTS

A military rifle like the M16 and M4, fired semiautomatically, is “no different than” the AR-15. Tucker *Barnett* Report ¶ 15; see also Kyleanne Hunter, *The Role of Assault Weapons in Mass Shooting Incidents: State of the Science* 4–5, testimony before the S. Comm. on the Judiciary (July 20, 2022), RAND CT-A2184-1 (Hunter Testimony) (“The attributes that made the M-16 a beneficial service rifle are also present in the AR-15 rifles.”). In fact, with the exception of fully automatic or burst firing mode, AR-15s are “identical copies of military firearms” that “retain a number of features originally designed to maximize their effectiveness in combat.” Report of James E. Yurgealitis, *Viramontes v. Cook County*, No. 1:21-cv-04595 (N.D. Ill. Mar. 3, 2023), Dkt. No. 81-5, at 21 (Yurgealitis *Viramontes* Report).

A. The Banned AR-15 Shares the Same Design and Features Intended to Maximize Combat Effectiveness in Service Rifles

The table below, prepared using information from the Yurgealitis *Viramontes* Report, demonstrates how AR-15s are “identical copies of military firearms.” Yurgealitis *Viramontes* Report at 21.

Feature	Military rifle	AR-15 rifle
Highest rate of fire	Automatic	Semiautomatic
Weight	~6.5-7.5 pounds	~6.5-7.5 pounds
Dimensions	~33-39 inches	~30-35 inches
Size of bullets	5.56mm / .223 caliber	5.56mm / .223 caliber
Standard internal magazine capacity	30 rounds	30 rounds (in unrestricted jurisdictions)
Accepts detachable large-capacity magazines	Yes (up to 100 rounds)	Yes (up to 100 rounds)
Internal components	• Threaded barrel • Rotating bolt • Pistol grip • Rail integration system	• Threaded barrel • Rotating bolt • Pistol grip • Rail integration system
Internal systems	• Air-cooled • Gas-operated • Magazine-fed • Piston firing	• Air-cooled • Gas-operated • Magazine-fed • Piston firing
Compatible accessories (that come with rifle or can be easily attached)	• Barrel shroud • Flash suppressor • Silencer • Muzzle brake / compensator • Forward grip • Compact stock configurations (e.g., folding / telescopic stocks)	• Barrel shroud • Flash suppressor • Silencer • Muzzle brake / compensator • Forward grip • Compact stock configurations (e.g., folding / telescopic stocks)

This Court has described the AR-15 as “the civilian version of the military’s M-16 rifle.” *Staples v. United States*, 511 U.S. 600, 603 (1994). That description reflects the rifle’s design history. The AR-15 is a military rifle sold to civilians with its automatic fire control removed. Production of the ArmaLite design, developed for the U.S. military in the early 1960s, was licensed to Colt, and “initially the model designation was, as produced, AR-15.” Yurgealitis *Viramontes* Report at 14. Only later, after a series of engineering changes, was the military designation “changed to M-16.” *Ibid.* The M16 is thus the AR-15 renamed, not a separate weapon from which the civilian rifle was copied. Colt then marketed the semiautomatic version itself, which differed from the military rifle only by “removal of fully automatic capability” through a handful of modifications to the fire control system—changes that “did not change the general overall appearance, physical features or semi-automatic rate of fire of the rifle.” *Id.* at 17–18.

That shared origin persists in the rifles sold today. As Judge J. Harvie Wilkinson III has observed, “the civilian versions of the AR-15 have not strayed far from the rifle’s military origin.” *Bianchi*, 111 F.4th at 454. The “overall design configuration” of AR-type civilian rifles is “identical or nearly so” to that original production design. Yurgealitis *Viramontes* Report at 15. “[T]he basic configuration, appearance, construction and operation of the internal gas operating system” of the military M16 and civilian AR-15 “[have] remained unchanged since [their] initial inception as a military weapon.” *Id.* at 14. Colonel Tucker likewise explained that the M16 “is a lightweight, 5.56mm, air-cooled, gas-operated, magazine-fed assault rifle, with a rotating bolt. So is the AR-15. It has the exact same design.” Tucker *Barnett* Report ¶ 15.

Amici highlight below the specific similarities between AR-15 rifles and military rifles and how these similarities make these weapons most suitable for combat.

Size of Ammunition Rounds: The civilian AR-15 and military rifles are built to carry the same size rounds: 5.56mm/.223 caliber cartridges. Yurgealitis *Viramontes* Report at 15; see also *Rupp*, 723 F. Supp. 3d at 852. These rounds are “substantially smaller than [those] used in previous service rifles,” giving these weapons “three main advantages” in military combat. Hunter Testimony at 5; see also Yurgealitis *Viramontes* Report at 15–16 (discussing how these characteristics “influenced the US Military’s decision to switch over from the 7.62 x 51mm / .308 caliber round used in the preceding model M-14 rifles.”). First, the smaller size allows troops in combat to carry more rounds. Hunter Testimony at 5 (“For the same weight, four times as many M-16 rounds than M-1 rounds can be carried.”). Second, the small size allows troops to fire more rounds without stopping. *Ibid.* Third, it allows each round to cause “more damage to the human body.” *Ibid.*

Magazine Capacity: The standard magazine for both the military M16 and the civilian AR-15 holds 30 rounds, and both platforms accept magazines holding up to 100 rounds. See *Bianchi*, 111 F.4th at 455; Yurgealitis *Viramontes* Report at 27. That shared figure is a military specification rather than a sporting one. Semiautomatic rifles “designed, manufactured and marketed as ‘hunting rifles’ traditionally have an internal magazine capacity of less than 10 rounds.” Yurgealitis *Viramontes* Report at 26. Indeed, large-capacity detachable magazines were not “initially designed or intended for the civilian marketplace”—rather, they “can be traced directly to a military heritage.” *Id.* at 26–27. A detachable magazine allows a combat rifleman to efficiently carry a combat load, to rapidly change magazines in combat, and to significantly reduce reload time. See Tucker *Rupp* Report ¶ 15 (“During

intense combat, the detachable magazine provides a rifleman the capability to fire 120 rounds on semiautomatic in three minutes at a high-sustained rate of 45 rounds per minute.”); see also *Rupp*, 723 F. Supp. 3d at 854 (“A rifle’s capability of accepting detachable magazines allows a shooter to rapidly change magazines and continue firing. * * * [A] detachable magazine decreases a shooter’s reload time by about 3–5 seconds compared to a fixed magazine.”) (internal citations omitted). The “ability to fire an increased quantity of cartridges without reloading increases the lethality and effectiveness of small arms in combat[,] or the military would not have incorporated this feature.” Yurgealitis *Viramontes* Report at 27. In both civilian AR-15 rifles and military service rifles, “[a]ny increase to magazine capacity increases the killing efficiency.” Tucker *Rupp* Report ¶ 21 (explaining that this also applies to large-capacity fixed magazines).

Internal Components: AR-15s contain the same built-in features that make military rifles combat-appropriate. *Bianchi*, 111 F.4th at 455. These features include “a threaded barrel for the affixing of a flash suppressor, recoil compensator, or silencer,” and a “rail integration system.” *Ibid.* These features make these weapons “combat-functional.” *Ibid.* Threaded barrels allow the firearm’s operator to affix features such as flash suppressors and muzzle compensators, which are themselves combat-functional for reasons explained below. See *ibid.*

Weight and Dimensions: Both AR-15 rifles and service rifles are lightweight and shorter than other rifles, or can be shortened through commonly added accessories. Compare Hunter Testimony at 4 (listing the M16’s lighter weight and shorter length, compared to its military predecessors, as two of its “benefits”) with Report of Dr. Martin A. Schreiber ¶ 28, *Barnett v. Raoul*, No. 3:23-cv-00209 (S.D. Ill. May 31, 2024), Dkt. No. 194-1 (Schreiber *Barnett* Report) (describing how AR-15s “tend to be

lightweight and highly maneuverable”). These characteristics are desirable for combat because they “maximize the accuracy and hence lethality of the individual shooter,” and allow the weapons to be “easily carried” and “rapidly and accurately sighted and fired at a target.” Schreiber *Barnett* Report ¶ 28.

Combat Accessories: Finally, AR-15s also incorporate or accept as an accessory many of the same attachable “combat-functional features” as their military counterparts. See *Bianchi*, 111 F.4th at 455. These accessories generally increase the “effectiveness and lethality” of the weapons, and thus move AR-15s’ functionality “towards the military side of the spectrum and away from the sporting side.” Yurgealitis *Viramontes* Report at 21–22; see also Tucker *Rupp* Report ¶ 22 (explaining that such features “enhance the lethality of both semiautomatic and automatic rifles and are most appropriate for combat applications when used in conjunction with those types of weapons systems.”). Such features include:

- **Barrel shrouds:** A barrel shroud, or handguard, is a “combat-functional feature that the AR-15 and M16 share.” *Bianchi*, 111 F.4th at 455. Military rifles have featured a shroud that encircles the barrel since before World War II. Yurgealitis *Viramontes* Report at 23. This feature protects military operators from injury due to a hot barrel or other component, and provides additional grip space for soldiers to steady the rifle. *Ibid.* That protection answers a need particular to combat. The sustained, rapid fire of combat heats the barrel quickly in a way that the intermittent shots of hunting do not, and the shroud is what allows a soldier to keep a firm grip and continue firing “without being burned.” *Ibid.*; see 2016 Manual at 2-13 (describing the challenge of cooling “[l]ightweight weapons like the M4 and M16”).

- **Pistol grips:** The pistol grip (or “rear grip”) beneath a rifle’s action has functional significance to the military. Both contemporary AR-15-style rifles and M16s have incorporated pistol grips that enable fast reloading and accuracy during sustained firing. See *Bianchi*, 111 F.4th at 455. The pistol grip on a rifle “serves only two purposes.” Tucker *Rupp* Report ¶ 16. It allows a rifleman to pull the rifle into his shoulder with each shot, increasing stock weld (required for effective semiautomatic and automatic rapid fire), reducing both semiautomatic and automatic recoil, and reducing barrel rise. *Ibid.* And it “functions as a hand rest to reduce hand/finger fatigue during long combat engagements.” *Ibid.* These actions “increase the killing efficiency of automatic rifles and are necessities in sustained combat operations of weeks or months when firing a rifle rapidly.” *Ibid.* “Rifles traditionally considered sporting firearms are generally not designed and produced as such.” Yurgealitis *Viramontes* Report at 22.
- **Forward grips:** The forward grip provides stability and control of the rifle’s movement during firing. Tucker *Rupp* Report ¶ 17. This can contribute to more accurate semiautomatic fire. *Id.* ¶¶ 14, 16–17. It allows increased stability of the firearm by the operator, and allows the operator to better control recoil and muzzle climb, thus increasing the hit probability of successive shots. Yurgealitis *Viramontes* Report at 22. A forward pistol grip can also “help insulate the non-trigger hand from heat during rapid fire.” *Rupp*, 723 F. Supp. 3d at 854. Forward pistol grips were added to military rifles to “increase [] killing efficiency.” Tucker *Rupp* Report ¶ 17. They are not features found on traditional sporting firearms; it was not until the U.S. military adopted Rail Attachment

Systems that foregrips for semiautomatic rifles grew in popularity. Yurgealitis *Viramontes* Report at 22.

- **Compact stock configurations:** The AR-15 rifles, like many military service rifles, are compatible with compact stock configurations, such as folding or telescoping stocks, which allow a person to drastically reduce the length of a rifle. Tucker *Rupp* Report ¶ 18. These configurations respond to specific military needs. Colonel Tucker explains that a folding stock—which “causes weapon instability”—was “designed for military personnel” as “weapon[s] for offensive combat” for soldiers escaping damaged vehicles or abandoning a destroyed weapon system. *Ibid.* Folding and telescoping stocks also allow the operator to more easily conceal or maneuver a rifle in a confined space, and facilitate easier or more comfortable firing from positions other than the shoulder. Yurgealitis *Viramontes* Report at 23; see also *Rupp*, 723 F. Supp. 3d at 854 (“[A] telescoping stock ‘renders [a] rifle more concealable.’”) (internal citation omitted).
- **Flash suppressors:** Another “combat-functional” design feature that appears in both the civilian AR-15 rifles and service rifles is the flash suppressor. *Bianchi*, 111 F.4th at 455. A flash suppressor both “conceals a shooter’s position and facilitates night combat operations.” *Ibid.* As Colonel Tucker explains, the “purpose of the flash suppressor is to reduce combat signature by cooling and dispersing burning gases,” which “makes it more difficult for the enemy to pinpoint a rifleman’s location” and “facilitates night combat operations by reducing muzzle flash and mitigating muzzle flash impact on night vision goggles.” Tucker *Rupp* Report ¶ 20. For these reasons, this “accessory serves specific combat-oriented purposes.” *Ibid.*
- **Muzzle brakes/recoil compensators:** In addition to pistol grips and forward grips, muzzle brakes and recoil

compensators are devices attached to or built into the end of a firearm barrel to diminish the recoil of the firearm, making it easier to fire a gun rapidly. *Bianchi*, 111 F.4th at 455 (characterizing a recoil compensator, which can be affixed to the threaded barrel of an AR-15/M16, as a “combat functional feature”). A muzzle brake in a civilian semiautomatic rifle can serve a number of purposes depending on its design and placement, such as allowing the operator to regain control of the rifle more rapidly after firing. Yurgealitis *Viramontes* Report at 23. The “net advantage” of the operator’s faster recovery of control of the rifle after firing “is that it allows the operator to more rapidly reacquire targets [and] fire accurate additional shots if required.” *Id.* at 24.

B. AR-15 Rifles and Service Rifles Have the Same Capacity to Inflict Severe Injury

The AR-15 rifle is just as destructive and lethal as service rifles like the M4 and M16. All are “designed for the purpose of maximum killing in wartime settings.” Schreiber *Barnett* Report ¶ 44. “When operated in semi-auto mode, the AR-15 and M4 share the same rates of fire, the same maximum effective range, the same maximum range, use the same magazines designed for combat and the same ammunition.” Tucker *Rupp* Report ¶ 13. In short, “AR-15s and the like are designed to empower an individual soldier to kill as many people in as little time as possible.” *Bianchi*, 111 F.4th at 465; see also *Barnett*, 180 F.4th at 1054 (“AR-15s, in other words, are dangerous not only in the sense that all firearms are dangerous but also relative to the semiautomatic handguns that *Heller* confirmed are protected.”).

AR-15s are “deadly accurate weapons with enormous destructive capacity.” Schreiber *Barnett* Report ¶ 44. The AR-15 has an effective range of 400–500 yards,

making it “highly accurate at great distances.” *Id.* ¶ 29. Additionally, the AR-15 has a muzzle velocity of approximately 3,200 feet per second and kinetic energy of 1,303 foot-pounds. *Id.* ¶¶ 21–22. This results in phenomenal force that can inflict significant damage. See, e.g., Hunter Testimony at 5 (the speed of assault rifle bullets “contributes to the amount of damage that rounds fired are able to inflict.”); Yurgealitis *Viramontes* Report at 30 (assault weapons risk “overpenetration of common household materials.”); *id.* at 31 (noting that commonly available 5.56mm/.223 caliber ammunition can penetrate Level III body armor); *Capen*, 708 F. Supp. 3d at 86 (“Rounds from an AR-15 can pass through most construction materials, even at ranges of 350 yards.”).

The AR-15’s “round is designed to kill, not wound.” Tucker *Rupp* Report ¶ 13. Dr. Martin Schreiber has treated hundreds of patients suffering from gunshot wounds, both as a civilian surgeon and on military deployments. He found that AR-15 wounds he treated in civilians “were identical to the wounds made by the M16s” in combat. Schreiber *Barnett* Report ¶¶ 34–36.

The severity and complexity of wounds from AR-15s increase the chances of complications and fatality. *Id.* ¶¶ 36–39. When a bullet from a firearm penetrates the human body, it creates a cavity. The “larger the cavity, the more severe the injury.” *Id.* ¶ 23. The kinetic energy and force generated by the AR-15 “mean[] that a round fired by such a weapon typically creates a relatively large temporary cavity in a human body, with devastating effects to tissue and surrounding organs.” *Id.* ¶ 24. Further, the lightweight bullets used in these weapons “are disrupted when they hit flesh, and shatter bone, resulting in an erratic pattern that causes extensive damage.” Hunter Testimony at 5; see also *Bianchi*, 111 F.4th at 455 (“The ‘catastrophic’ damage caused by AR-15 rounds means that the injuries they leave in their wake—such as

‘multiple organs shattered,’ bones ‘exploded,’ and ‘soft tissue absolutely destroyed’—‘often cannot be repaired’ by trauma surgeons.”) (internal citations omitted).

The accuracy, efficiency, and reliability of AR-15s, combined with their semiautomatic rate of fire, also contribute to their lethality. These qualities enable a shooter to “deliver the large kinetic energy” generated by the firearm repeatedly, “either to the same victim or to multiple victims.” Schreiber *Barnett* Report ¶ 25. A “higher rate of fire creates greater potential lethality, but bullets have to hit their target to be lethal”—and AR-15s “are also designed to maximize the accuracy and hence lethality of the individual shooter.” *Id.* ¶¶ 27–28. Due to their low recoil, shooters can also continue firing without having to resight, or re-aim, the weapon at the target: “the shooter is able to keep the assault weapon still and produce a consistently straight line of fire.” *Id.* ¶ 28. This can “increase the number of victims and lethality of injuries per event.” *Id.* ¶ 25; see also *Rupp*, 723 F. Supp. 3d at 853 (noting that the combination of an AR-15’s lethality and rapid-fire capability “allow[s] ‘a shooter to kill dozens of people within a matter of seconds.’”) (internal citations omitted).

Together, the “high kinetic energy, the ability to fire rounds rapidly, deadly accuracy at a great distance, a high degree of maneuverability, low recoil, and the instability of the projectile—coupled with enhancements to accuracy for an individual shooter—results in maximum killing potential” that is appropriate only on the battlefield. Schreiber *Barnett* Report ¶ 30. Put simply, an AR-15 rifle is an “offensive combat weapon no different in function or purpose” than service rifles—with both weapons “designed to kill as many people as possible, as efficiently as possible.” Tucker *Rupp* Report ¶ 22; see also Dempsey *Barnett* Report ¶ 21(a) (describing the purpose of military service rifles as “placing well-aimed fire on the enemy.”).

CONCLUSION

For these reasons, and those set forth by respondents, the judgments below should be affirmed.

Respectfully submitted.

ERIC SCHMOLL
BAKER BOTTS L.L.P.
101 California Street
San Francisco, California
(415) 291 6247
eric.schmoll@baker-
botts.com

ALLISON WATKINS
MALLICK
Counsel of Record
BAKER BOTTS L.L.P.
101 California Street
San Francisco, California
(415) 291 6269
allison.mallick@baker-
botts.com

YUYAN PU
BAKER BOTTS L.L.P.
101 California Street
San Francisco, California
(415) 291 6295
yuyan.pu@bakerbotts.com

Counsel for *Amici Curiae*

October 28, 2026

APPENDIX

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3. Matt Blumenthal, U.S. Marine Corps veteran
4. Lt. Col. Brandon Brooks, U.S. Marine Corps, retired
5. Mary Beth Bruggeman, U.S. Marine Corps veteran
6. Matthew S. Collier, U.S. Army veteran
7. Master Sgt. Greg Coonfare, U.S. Air Force, retired
8. Lt. Col. Scott Cooper, U.S. Marine Corps, retired
9. Jeffrey Coppola, U.S. Army veteran
10. Staff Sgt. Brandon Curtis, U.S. Air Force veteran
11. Lt. Col. Jason Dempsey, U.S. Army, retired
12. Michael Diamond, U.S. Army Reserve veteran
13. Val Dike, Jr., U.S. Army veteran
14. Lindsey Donovan, U.S. Army veteran

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15. Sgt. 1st Class Elana Duffy, U.S. Army, retired
16. Rachel Fedeli, U.S. Army veteran
17. Lt. Col. Mark Fogel, U.S. Air Force veteran
18. Lt. Col. Melanie Frost, U.S. Air Force Reserve, retired
19. Brenda Sue Fulton, U.S. Army veteran
20. Sara Galvin, U.S. Army veteran
21. Temple Hiatt, U.S. Army Reserve veteran
22. Staff Sgt. Sean Horgan, U.S. Marine Corps Reserve, retired
23. Christopher Howard, U.S. Army veteran
24. Lt. Cmdr. Angelica Jaimes, U.S. Navy Reserve
25. Col. Michael D. Jason, U.S. Army, retired
26. Leigh Johnson, U.S. Army veteran
27. Sgt. 1st Class Natasha Lovelace, U.S. Army, retired
28. Capt. Daniel Lynch, U.S. Navy, retired
29. Capt. Chris Marvin, U.S. Army, retired

- 30.** Melody Geddis McFadden, U.S. Army veteran
- 31.** Justin McFarlin, U.S. Army veteran
- 32.** Lt. Col. Amy McGrath, U.S. Marine Corps, retired
- 33.** Sgt. 1st Class Stephen Miller-Pitts, U.S. Army, retired
- 34.** Maili Neverosky, U.S. Navy veteran
- 35.** Laura Newberger, U.S. Navy veteran
- 36.** Upneet Nijjar, U.S. Army veteran
- 37.** Cmdr. Frank Orsino, U.S. Navy, retired
- 38.** Lt. Col. Joseph M. Plenzler, U.S. Marine Corps, retired
- 39.** Molly Mae Potter, U.S. Air Force veteran
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- 41.** Carrie Powell, U.S. Navy veteran
- 42.** Christopher Purdy, U.S. Army veteran
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- 45. Christopher Russell, U.S. Air Force veteran
- 46. Amber Schleuning, U.S. Army veteran
- 47. Capt. Todd Severance, U.S. Navy, retired
- 48. Malia Shimokawa, U.S. Army veteran
- 49. Petty Officer 1st Class Benjamin G. Sims Jr., U.S. Navy, retired
- 50. Kiley Stewart, U.S. Navy veteran
- 51. Anthony Swofford, U.S. Marine Corps veteran
- 52. Isaac Tait, U.S. Marine Corps veteran
- 53. Jonathan Tennis, U.S. Army veteran
- 54. Lt. Col. John D. Thurman, U.S. Marine Corps, retired
- 55. Master Sgt. Mike Washington, U.S. Marine Corps Reserve, retired
- 56. Robert Weaver, U.S. Navy veteran