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*LEGISLATIVE TESTIMONY*

“Protecting America From Assault Weapons”

Testimony before the Committee on the Judiciary  
U.S. House of Representatives  
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Chairman Nadler, Ranking Member Collins, and distinguished Members of Congress:

My name is Amy Swearer, and I am the Senior Legal Policy Analyst in the Edwin Meese III Center for Legal and Judicial Studies at The Heritage Foundation.<sup>1</sup> One of my primary issues of research is the Second Amendment and firearm-related policy. I have been heavily involved in the Heritage Foundation’s School Safety Initiative, which was begun immediately after the tragic 2018 shooting at Marjory Stoneman Douglas High School in Parkland, Florida, to ensure that conservative voices played an active role in conversations about gun violence and school safety. My colleague John Malcolm and I have also co-authored a series of Heritage Legal Memoranda examining the role of serious untreated mental illness in gun violence.

Having a correct understanding of the reality of gun-related violence—its scope, its causes, its exacerbating factors—is vitally important to the creation of good public policy. Just as doctors must form a correct diagnosis based on an accurate assessment of symptoms if they are to recommend an effective treatment plan, policy analysts and policymakers must have an accurate understanding of the societal problems they are seeking to combat. Unfortunately, too many policymakers appear completely uninformed about basic factual realities related to guns and gun violence.

When we honestly assess the characteristics of so-called “assault weapons,” the reality of gun-related violence in the United States, and the limited role those weapons play in that violence, we find that they do not pose a serious threat to public safety. In short, the public perception of these semi-automatic rifles is not consistent with reality. As an objective measure, semi-automatic rifles are simply not used in the vast majority of gun deaths. Moreover, in the small percentage of cases where they are used, it is often unlikely that their use—as opposed to the use of other firearms—made any meaningful difference. Finally, while these types of firearms are rarely used to commit crimes, they are used countless numbers of times every year by law-abiding citizens for lawful purposes, including self-defense.

### **I. The Characteristics of “Assault Weapons” Make Them Safer For Lawful Use, Not More Dangerous.**

The term “assault weapon” does not have one official definition, but typically denotes firearms that have a range of features associated with modern semi-automatic rifles such as the AR-15. It should be noted that the phrase “assault weapon” is not a technical or legal term, but rather appears to have become popular as part of a concerted effort by gun control advocates to

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manipulate those with limited knowledge of firearms into confusing certain semi-automatic rifles with “assault rifles,” which are functionally distinct and heavily regulated by the federal government.<sup>2</sup> However, unlike “assault rifles,” which are distinguished from other rifles based on features that affect a firearm’s mechanics and allow for faster rates of fire, “assault weapons” are universally categorized based on cosmetic features alone.<sup>3</sup> The addition of these cosmetic features, such as barrel shrouds, pistol grips, forward grips, and collapsible buttstocks, do not change the lethality of the round fired or increase the rate at which those rounds can be fired. In fact, these features exist for the purpose of making the firearm safer to operate and easier to fire in a more accurate manner.

For instance, barrel shrouds are a component of “assault weapons” that protect the operator’s hand by partially or completely covering the rifle barrel, which can often become hot enough to cause serious burns after as little usage as shooting through one standard magazine at a range.<sup>4</sup> The protective function of the barrel shroud is so fundamental to its existence that recently proposed legislation to ban its use defined the feature as: “a shroud that is attached to, or partially or completely encircles, the barrel of a firearm so that the shroud protects the user of the firearm from heat generated by the barrel.”<sup>5</sup> And yet, despite the fact that the entire function of a barrel shroud is to protect lawful users from injury during lawful use, gun control advocates routinely point to this feature as something that must be banned because it also protects unlawful users from injury.<sup>6</sup>

Similarly, collapsible or folding stocks do not affect the mechanics of a firearm, but allow its length to be adjusted to better suit the operator’s specific height, wingspan, and firing stance.<sup>7</sup> Prohibiting the use of collapsible stocks for civilian purposes because criminals might also take advantage of those features is the logical equivalent of prohibiting the use of seat adjustment settings in a car so that would-be drunk drivers have a slightly more difficult time comfortably operating a vehicle while under the influence of alcohol. The prohibition does not meaningfully affect the ability of the drunk driver to break the law and put lives in danger, but it does make it significantly more difficult for many lawful drivers to operate standard cars in a safe manner.

The same reasoning is true of prohibitions on the use of pistol grips and forward grips, which allow the operator to gain a more stable shooting base and fire in a more accurate manner.<sup>8</sup> Accuracy is objectively less important for a would-be mass shooter, whose goal is not meaningfully thwarted if some rounds miss the intended target and strike another. But for the recreational shooter, the hunter, and the individual utilizing a firearm in self-defense, accuracy is

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<sup>2</sup> For example, many attribute the popularization of the term to the Violence Policy Center’s Josh Sugarman, who in 1988 authored a paper insinuating that its use was beneficial to fostering public support for gun control. See Aaron Blake, *Is It Fair To Call Them “Assault Weapons”?*, WASH. POST (Jan. 17, 2013), <https://www.washingtonpost.com/news/the-fix/wp/2013/01/17/is-it-fair-to-call-them-assault-weapons/?arc404=true>.

<sup>3</sup> See generally David B. Kopel, *Rational Basis Analysis of “Assault Weapon” Prohibition*, 20 J. CONTEMP. L. 381, 395–401 (1994); E. Gregory Wallace, “Assault Weapons” Myths, 43 S. Ill. U. L.J. 193 (2018).

<sup>4</sup> See Dennis P. Chapman, *Features and Lawful Common Uses of Semi-Automatic Rifles*, Working Paper, at 63–68 (last revised Aug. 29, 2019), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3436512](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3436512).

<sup>5</sup> Assault Weapons Ban of 2013, S. 150, 113th Cong. § 2(b)(38) (2013).

<sup>6</sup> See Chapman, *supra* note 4, at 37–38; Wallace, *supra* note 3, at 211–212.

<sup>7</sup> See Kopel, *supra* note 4, at 398–99; Chapman, *supra* note 4, at 80–87.

<sup>8</sup> Wallace, *supra* note 4, at 230–31; Kopel, *supra* note 4, at 396–97.

vital. For someone relying on a firearm in self-defense, in particular, the ability to accurately hit a moving target and end the threat can mean the difference between life or death.

In short, proposals to ban “assault weapons” are, for all intents and purposes, proposals to force law-abiding citizens to use firearms that are harder to fire accurately and more likely to cause them injuries, even when being used for lawful purposes. As will be expounded below, this logic is even less persuasive in light of the fact that semi-automatic rifles are not a significant factor behind gun violence of any kind.

## II. Semi-Automatic Rifles Are Not A Significant Factor Behind Gun Violence

Banning the civilian possession of certain commonly owned semi-automatic rifles is an unnecessary and ineffective means of combating gun-related violence, in large part because these rifles are simply not used in the overwhelming majority of firearm-related deaths in the United States. They play such a minimal role in gun-related violence that, even if prohibition were 100 percent successful and no substitution for other firearms occurred, such a law would fail to have a meaningful impact on overall rates of gun violence.

### A. Semi-Automatic Rifles Play No Meaningful Role in Firearm Suicides

For almost the last 20 years, the clear driving force behind gun deaths in the United States has not been homicide, but suicide, which now accounts for almost two-thirds of all gun-related deaths in the country every year.<sup>9</sup> Without a doubt, the type of firearm most commonly used in those suicides is the handgun.<sup>10</sup> However, even where semi-automatic rifles are used to commit suicide, the nature of suicide renders the type of firearm irrelevant. The unfortunate reality is that it does not matter whether the suicidal person pulled the trigger on a handgun, a shotgun, or a rifle—the outcome would be the same. For the increasing majority of gun-related deaths, then, policies directed at firearm type are far less meaningful than policies directed at more general mental health intervention.<sup>11</sup>

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<sup>9</sup> See Drew Desilver, *Suicides Account for Most Gun Deaths*, PEW RESEARCH CENTER (May 24, 2013), <http://www.pewresearch.org/fact-tank/2013/05/24/suicides-account-for-most-gun-deaths>; Sherry L. Murphy et al., *Deaths: Final Data for 2015*, 66 National Vital Statistics Report No. 6, 39, Table 8 (Nov. 27, 2017), [https://www.cdc.gov/nchs/data/nvsr/nvsr66/nvsr66\\_06.pdf](https://www.cdc.gov/nchs/data/nvsr/nvsr66/nvsr66_06.pdf). See also, National Center for Injury Prevention and Control, Web-based Injury Statistics Query and Reporting System (WISQARS) (last visited July 1, 2019), [www.cdc.gov/injury/wisqars](http://www.cdc.gov/injury/wisqars). Importantly, even as the total number of suicides has increased over the last 30 years, the percentage of suicides carried out with firearms has actually decreased. See Sally C. Curtin et al., *Increase in Suicide in the United States, 1999–2014*, NATIONAL CENTER FOR HEALTH STATISTICS DATA BRIEF NO. 241 (Apr. 2016), <https://www.cdc.gov/nchs/products/databriefs/db241.htm>.

<sup>10</sup> See, e.g., Philip Alpers et al., *United States—Death and Injury*, Sydney School of Public Health, GunPolicy.Org (last visited Aug. 17, 2019), <https://www.gunpolicy.org/firearms/region/united-states>. For suicides where data is available, the number of suicides committed with handguns routinely and substantially outpaces the number of suicides committed with long guns of any type. *Id.*

<sup>11</sup> These measures can include, among other things, increasing the number of public psychiatric beds available for treating those in the midst of mental health crises, as well as the use of so-called red flag laws. See John G. Malcolm & Amy Swearer, *Part I: Mental Illness, Firearms, and Violence*, Heritage Found. Legal Memorandum No. 239 (Jan. 31, 2019), <https://www.heritage.org/civil-society/report/part-i-mental-illness-firearms-and-violence>; John G. Malcolm & Amy Swearer, *Part II: The Consequences of Deinstitutionalizing the Severely Mentally Ill*, HERITAGE FOUND. LEGAL MEMORANDUM NO. 240 (Feb. 5, 2019), <https://www.heritage.org/firearms/report/part-ii-the-consequences-deinstitutionalizing-the-severely-mentally-ill>; John G. Malcolm & Amy Swearer, *Part III: The Current*

The complete irrelevance of semi-automatic rifles to firearm suicides is especially important in light of the greater reality of gun violence in this country. The United States is actually in the midst of a decade of historically low rates of violent crime, with national rates of gun homicide and overall homicide roughly 50 percent lower today than at their height in the early 1990s.<sup>12</sup> This is not merely a case of better emergency medical practices saving lives, either, as non-fatal firearm crime rates are now one-sixth of what the nation experienced in the early 1990s.<sup>13</sup> Amazingly, this dramatic decrease in interpersonal violence has occurred during a time when rates of household gun ownership have remained stable, the number of firearms per capita has increased by roughly 50 percent, and semi-automatic rifles are becoming increasingly popular amongst civilians.<sup>14</sup>

## B. Handguns, Not Semi-Automatic Rifles, Are Used in Most Gun Crimes

Far from being the weapon of choice for would-be criminals, semi-automatic rifles are statistically the type of firearm least likely to be used for unlawful purposes, particularly compared to handguns.<sup>15</sup> Over the last decade, rifles of any kind were definitively used in only

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*State of Laws Regarding Mental Illness and Guns*, HERITAGE FOUND. LEGAL MEMORANDUM No. 241 (Feb. 13, 2019), <https://www.heritage.org/civil-society/report/part-iii-the-current-state-laws-regarding-mental-illness-and-guns>. While red flag laws in particular may be useful as specific interventions to temporarily disarm objectively dangerous individuals, in order to be unobjectionable, they must afford stringent and meaningful due process protections. See Amy Swearer, *Answers to Common Questions About “Red Flag” Gun Laws*, HERITAGE FOUNDATION (Aug. 16, 2019), <https://www.heritage.org/firearms/commentary/answers-common-questions-about-red-flag-gun-laws>. Any laws that fail to afford adequate protections against the wrongful or arbitrary loss of constitutional rights by law-abiding and non-dangerous citizens should be categorically rejected as an inappropriate means of combating gun-related violence.

<sup>12</sup> See Jens Manuel Krogstad, *Gun Homicides Steady After Decline in ‘90s; Suicide Rate Edges Up*, PEW RESEARCH CENTER (Oct. 21, 2015), <https://www.pewresearch.org/fact-tank/2015/10/21/gun-homicides-steady-after-decline-in-90s-suicide-rate-edges-up/>.

<sup>13</sup> See *id.*; Michael Planty & Jennifer L. Truman, *Firearm Violence, 1993–2011*, Bureau of Justice Statistics NCJ 241730 (May 2013), <https://www.bjs.gov/content/pub/pdf/fv9311.pdf>; Michael Planty & Jennifer L. Truman, *Criminal Victimization, 2017*, Bureau of Justice Statistics NCJ 252472 (Dec. 2018), <https://www.bjs.gov/content/pub/pdf/cv17.pdf>.

<sup>14</sup> In 1994, Americans owned an estimate 192 million firearms, while the 2018 Small Arms Survey indicated that Americans now own roughly 400 million firearms. Compare Jens Ludwig and Phillip J. Cook, *Guns in America: National Survey on Private Ownership and Use of Firearms*, NCJ 165476, May 1999, <http://www.ncjrs.org/pdffiles/165476.pdf> with Aaron Karp, *Estimating Global Civilian-Held Firearms Numbers*, SMALL ARMS SURVEY BRIEFING PAPER (June 2018), <http://www.smallarmssurvey.org/fileadmin/docs/T-Briefing-Papers/SAS-BP-Civilian-Firearms-Numbers.pdf>. Rates of household gun ownership have remained consistently in the area 40 to 45 percent since 1974, with the United States seeing both a high of 51 percent in 1993 and a low of 34 percent in 1999 before evening back out in recent years. See *Historical Trends: Guns—Do You Have A Gun In Your Home?*, GALLUP (last visited Sept. 23, 2019), <https://news.gallup.com/poll/1645/guns.aspx>. See also, Brief of the National Shooting Sports Foundation, Inc., New York State Pistol & Rifle Ass’n, Inc. v. Cuomo, 804 F.3d 242 (2nd Cir. 2015), <http://www.nysrpa.org/files/SAFE/NSSF-amicus2.pdf>.

<sup>15</sup> Handguns are used in the overwhelming majority of both firearm-related homicides and non-fatal firearm crimes. Federal Bureau of Investigation, *Crime in the United States 2017, Expanded Homicide Data Table 8*, FEDERAL BUREAU OF INVESTIGATION: UNIFORM CRIME REPORTS (Last Reviewed Sept. 23, 2019), <https://ucr.fbi.gov/crime-in-the-u.s/2017/crime-in-the-u.s.-2017/tables/expanded-homicide-data-table-8.xls>; Federal Bureau of Investigation, *Crime in the United States 2013, Expanded Homicide Data Table 8*, FEDERAL BUREAU OF INVESTIGATION: UNIFORM CRIME REPORTS (Last Reviewed Sept. 23, 2019), <https://ucr.fbi.gov/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/offenses-known-to-law-enforcement/expanded->

3-4 percent of gun homicides, and it is not clear how many of those deaths actually involved the use of “assault weapons” compared to other types of rifles.<sup>16</sup> The average American is, in fact, four times more likely to be stabbed to death than he or she is to be shot to death with a rifle of any kind.<sup>17</sup>

Even where semi-automatic rifles were used to commit homicide, it is nearly impossible to determine how many of those homicides would not have been successfully committed if the perpetrator had relied on a different type of firearm. This same low estimate of rifle usage holds true across non-fatal firearm crimes, where 90 percent are attributable to handguns and only 10 percent are attributable to long guns of any kind.<sup>18</sup> The official analysis of the 1994 federal assault weapons ban only underscores the reality that the prohibition of firearms least likely to be used in violent crime is an ineffective way of combating that violent crime. It concluded that “[s]hould it be renewed, the ban’s effects on gun violence are likely to be small at best and perhaps too small for reliable measurement. [Assault weapons] were rarely used in gun crimes even before the ban.”<sup>19</sup>

### C. Handguns, Not Rifles, are the “Weapon of Choice” in Mass Public Shootings

Gun control advocates, politicians, and the media routinely characterize semi-automatic rifles, specifically the AR-15, as the “weapon of choice” for mass public shooters. This is objectively incorrect. Over the last decade, more than half of mass public shooters have used handguns

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[homicide/expanded\\_homicide\\_data\\_table\\_8\\_murder\\_victims\\_by\\_weapon\\_2009-2013.xls](#); Marianne W. Zawitz, *Guns Used in Crime*, BUREAU OF JUSTICE STATISTICS NCJ-148201 (July 1995), <https://www.bjs.gov/content/pub/pdf/GUIC.PDF>; *Firearms Trace Data: Firearm Types Recovered and Traced in the United States and Territories*, BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES (Last Reviewed Sept. 23, 2019), <https://www.atf.gov/resource-center/firearms-trace-data>.

<sup>16</sup> Federal Bureau of Investigation, *Crime in the United States 2017, Expanded Homicide Data Table 8*, Federal Bureau of Investigation: Uniform Crime Reports (Last Reviewed Sept. 23, 2019), <https://ucr.fbi.gov/crime-in-the-u.s/2017/crime-in-the-u.s.-2017/tables/expanded-homicide-data-table-8.xls>; Federal Bureau of Investigation, *Crime in the United States 2013, Expanded Homicide Data Table 8*, Federal Bureau of Investigation: Uniform Crime Reports (Last Reviewed Sept. 23, 2019), [https://ucr.fbi.gov/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/offenses-known-to-law-enforcement/expanded-homicide/expanded\\_homicide\\_data\\_table\\_8\\_murder\\_victims\\_by\\_weapon\\_2009-2013.xls](https://ucr.fbi.gov/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/offenses-known-to-law-enforcement/expanded-homicide/expanded_homicide_data_table_8_murder_victims_by_weapon_2009-2013.xls).

<sup>17</sup> Federal Bureau of Investigation, *Crime in the United States 2017, Expanded Homicide Data Table 8*, Federal Bureau of Investigation: Uniform Crime Reports (Last Reviewed Sept. 23, 2019), <https://ucr.fbi.gov/crime-in-the-u.s/2017/crime-in-the-u.s.-2017/tables/expanded-homicide-data-table-8.xls>; Federal Bureau of Investigation, *Crime in the United States 2013, Expanded Homicide Data Table 8*, Federal Bureau of Investigation: Uniform Crime Reports (Last Reviewed Sept. 23, 2019), [https://ucr.fbi.gov/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/offenses-known-to-law-enforcement/expanded-homicide/expanded\\_homicide\\_data\\_table\\_8\\_murder\\_victims\\_by\\_weapon\\_2009-2013.xls](https://ucr.fbi.gov/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/offenses-known-to-law-enforcement/expanded-homicide/expanded_homicide_data_table_8_murder_victims_by_weapon_2009-2013.xls).

<sup>18</sup> Michael Planty & Jennifer L. Truman, *Firearm Violence, 1993–2011*, Bureau of Justice Statistics NCJ 241730 (May 2013), <https://www.bjs.gov/content/pub/pdf/fv9311.pdf>.

<sup>19</sup> Christopher S. Koper, *An Updated Assessment of the Federal Assault Weapons Ban: Impacts on Gun Markets and Gun Violence, 1994–2003* (June 2004), <https://www.ncjrs.gov/pdffiles1/nij/grants/204431.pdf>.



alone.<sup>20</sup> Of those who did use rifles, the majority also brought other firearms, such as shotguns or handguns.<sup>21</sup>

The reality is that, even if all would-be mass public shooters were successfully diverted to the use of “non-assault weapons,” it would likely have no meaningful impact on their ability to kill large numbers of unarmed civilians. With only a few notable exceptions, such as the Las Vegas shooting in 2018, the type of firearm was simply not a major factor in the ability of mass shooters to cause significant casualties, particularly compared to other important factors such the time the shooter remained unopposed by an armed response.<sup>22</sup> While it is deeply unsettling to consider, when individuals intent on evil have several minutes to hunt down and kill unarmed civilians confined together as “soft targets,” it does not matter whether the person has a shotgun, a handgun, or a rifle. Some of the deadliest mass public shootings in United States history have been carried out with nothing more than handguns. This includes the worst school shooting in U.S. history, at Virginia Tech in 2006, where the shooter was able to fire 174 rounds in roughly 11 minutes, killing 30 people and wounding 17 others with nothing more than common, relatively low-caliber handguns.<sup>23</sup> Similarly, in 1991 a shooter at a Luby’s Cafeteria in Killeen, Texas, fatally shot 23 and wounded another 19 with two handguns.<sup>24</sup>

All of this must be factored in light of the incredibly small role mass public shootings play in the overall number of firearm-related violence, accounting for only a fraction of a percent of all gun deaths every year.<sup>25</sup> This is not to minimize the devastating impact such events can have on the families and communities impacted by them, and these acts certainly affect important public perceptions of overall safety from gun-related violence. It is, rather, to give important perspective to a policy proposal that, even if perfectly implemented without any risk of shooters

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<sup>20</sup> See John R. Lott, Jr., & Rebekah C. Riley, *The Myths About Mass Public Shootings: Analysis*, Crime Research Prevention Center (Sept. 30, 2014), <https://crimeresearch.org/wp-content/uploads/2014/10/CPRC-Mass-Shooting-Analysis-Bloomberg1.pdf>. More recent data compiled by the Mother Jones mass public shooting database for the 48 mass shootings between January 1, 2014 and September 23, 2019 shows that handguns continue to be the firearm of choice for mass public shooters, with the data showing 22 cases where the shooter used handguns alone but only 11 where the shooter used rifles alone. Mother Jones Mass Public Shooting Database, 1982–2019 <https://www.motherjones.com/politics/2012/12/mass-shootings-mother-jones-full-data/>. The other 16 shooters used some combination of handguns, shotguns, and rifles.

<sup>21</sup> *Id.*

<sup>22</sup> Consider, for example, that just weeks after the shooter at Marjory Stoneman Douglas High School in Parkland, Florida, killed 17 people over the span of six minutes with a semi-automatic rifle, a shooter at Santa Fe High School, in Santa Fe, Texas, was able to kill 10 people in under four minutes with a shotgun and revolver. See *Unprepared and Overwhelmed*, SUN SENTINEL (Dec. 28, 2018), <https://projects.sun-sentinel.com/2018/sfl-parkland-school-shooting-critical-moments/#nt=oft09a-2gp1>; Jack Healy and Manny Fernandez, *Police Confronted Texas School Gunman Within 4 Minutes, Sheriff Says*, N.Y. TIMES (May 21, 2018), <https://www.nytimes.com/2018/05/21/us/santa-fe-officer-wounded-john-barnes.html>.

<sup>23</sup> The shooter used a .22 caliber Walther P22 and a 9mm Glock 10. TriData Division, MASS SHOOTINGS AT VIRGINIA TECH: ADDENDUM TO THE REPORT OF THE REVIEW PANEL, at 30-A (Nov. 2009), <https://scholar.lib.vt.edu/prevail/docs/April16ReportRev20091204.pdf>.

<sup>24</sup> See Thomas C. Hayes, *Gunman Kills 22 and Himself in Texas Cafeteria*, N.Y. TIMES (Oct. 17, 1991), <https://www.nytimes.com/1991/10/17/us/gunman-kills-22-and-himself-in-texas-cafeteria.html>; Paula Chin, *A Texas Massacre*, PEOPLE MAGAZINE (Nov. 4, 1991), <https://people.com/archive/a-texas-massacre-vol-36-no-17/>.

<sup>25</sup> See Appendix A (breaking down the number of annual gun deaths attributable to mass public shootings and analyzing those numbers as a percent of total firearm deaths every year).

substituting other firearms, would have a statistically insignificant impact on gun violence rates in this country.

### **III. Semi-Automatic Rifles Are Commonly Owned By Law-Abiding Citizens and Have Legitimate Civilian Functions.**

While it is difficult to determine the exact number of semi-automatic “assault weapons” owned by civilians in the United States, recent estimates for the total national stock of “modern sporting rifles” reach as high as 16 million.<sup>26</sup> Regardless of whether the number of civilian-owned semiautomatic sporting rifles is, in fact, 16 million or in the lower part of the estimated range of several million, it is difficult to argue that an item owned by millions of Americans is “uncommon.”<sup>27</sup>

Over the last several decades, there has been a concerted effort by gun control activists to characterize certain semi-automatic rifles as “weapons of war” that have “no business on our streets.” Ostensibly, this is to create the impression that the cosmetic features associated with firearms like the AR-15 serve no legitimate civilian purpose, and render a firearm objectively inappropriate for lawful uses like hunting, recreational target shooting, or self-defense. On its face, this is an absurd premise. As noted above, the cosmetic features distinguishing “assault weapons” from “non-assault weapons” do not change the lethality or mechanical operation of a firearm, but rather make the firearm safer and easier to operate in lawful contexts. Moreover, the simple market reality is that millions of law-abiding Americans continue to buy these firearms precisely because they use them literally countless numbers of times every year for a variety of lawful activities.

In stark contrast to assertions that semi-automatic rifles are not defensive weapons fit for use against threats faced by civilians, law enforcement agencies around the country have long insisted just the opposite—that these types of firearms are actually necessary for confronting some types of civilian threats. In the United States, law enforcement agencies serve an entirely defensive and reactive function. Police officers are called upon, not to conduct offensive war or engage in military battles, but to protect and defend against threats made in a civilian context. Police departments routinely issue semi-automatic rifles to their officers precisely because these rifles are useful against the very same criminals initially faced by the innocent citizens who called the police in the first place.

Moreover, federal law enforcement agencies refer to even select-fire AR-15 style rifles as “personal defense weapons.” This is not a new designation by a gun-friendly Republican Administration, but rather a designation routinely utilized by federal agencies under President

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<sup>26</sup> National Shooting Sports Foundation, 1990–2016 Estimated US Firearm Production of Semi-Automatic Rifles, GUNS.COM, <https://news.guns.com/wp-content/uploads/2018/09/NSSF-MSR-Production-Estimates-2017.pdf>.

<sup>27</sup> For context, in 2015, the United States had only 8.6 million registered motorcycles, accounting for roughly 3 percent of all registered vehicles, roughly on par with estimates of both the total number of semi-automatic “assault weapon” rifles and the percentage of these rifles compared to the total national gunstock. See NATIONAL CENTER FOR STATISTICS AND ANALYSIS, TRAFFIC SAFETY FACTS: MOTORCYCLES, at 2 (updated March 2017), <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/812353>. While motorcycles, like AR-15s, are not “household items,” few would argue that motorcycles are “uncommon” among lawful drivers in any meaningful sense of the term.



Obama. For example, in 2012, the Department of Homeland Security opened up a bidding process to find contractors who would arm federal law enforcement agents with “personal defense weapons.”<sup>28</sup> The specifications for these explicitly defensive weapons included features that if used by a civilian would, in the eyes of ardent gun control advocates, magically turn the firearm from a defensive weapon into an “assault weapon”—they were to be chambered in 5.56x45mm NATO<sup>29</sup> and equipped with a collapsible buttstock, a pistol grip, a Picatinny rail for mounting sights and accessories, and “standard” 30-round magazine.<sup>30</sup>

It is little wonder, then, that many law-abiding citizens also rely on semi-automatic rifles as their own personal defense weapons, particularly in situations where law enforcement cannot protect them. Far from needing to be better protected from these rifles, law-abiding Americans benefit when they are allowed to defend themselves with them. Just last week, a homeowner in Rockdale County, Georgia, relied on his semi-automatic “assault weapon” to defend himself against three masked teens who used at least one handgun to try to rob him and other residents in their own front yard.<sup>31</sup> In other words, this “assault weapon” was used defensively to protect innocent people against assault, while the perpetrators used a handgun “offensively” to actually commit assault. This successful defensive use of AR-15 style rifles is not an anomaly, but a recurrent theme in civilian defensive gun uses, particularly in home invasion scenarios or where an individual is outnumbered by attackers.<sup>32</sup>

Beyond home invasions, some of the most famous examples of the civilian use of semi-automatic rifles come from scenarios where the government has been either unable or unwilling to defend entire communities from large-scale civil unrest. In 1992 during the L.A. riots, store owners in Koreatown found themselves at the mercy of hundreds of looters intent on ransacking and burning their businesses. For days, law enforcement was nowhere to be found, and the Koreatown storeowners took it upon themselves to defend their livelihoods from lawlessness.

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<sup>28</sup> *Personal Defense Weapons Solicitation*, Department of Homeland Security HSCEMS-12-R-00011 (June 2, 2012), [https://www.fbo.gov/?s=opportunity&mode=form&tab=core&id=d791b6aa0fd9d3d8833b2efa08300033&\\_cview=0](https://www.fbo.gov/?s=opportunity&mode=form&tab=core&id=d791b6aa0fd9d3d8833b2efa08300033&_cview=0)

<sup>29</sup> 5.56x45mm NATO is a common round for semi-automatic rifles, including the AR-15.

<sup>30</sup> Part I – The Schedule, Section C – Description/Specifications/Statement of Work, HSCEMS-12-R-00011, [https://www.fbo.gov/?s=opportunity&mode=form&tab=core&id=d791b6aa0fd9d3d8833b2efa08300033&\\_cview=0](https://www.fbo.gov/?s=opportunity&mode=form&tab=core&id=d791b6aa0fd9d3d8833b2efa08300033&_cview=0)

<sup>31</sup> See Guy Benson, *Self Preservation: Homeowner Defends Himself Against Trio of Armed Robbers Using ‘Assault Weapon’*, TOWNHALL (Sept. 19, 2019), <https://townhall.com/tipsheet/guybenson/2019/09/19/self-preservation-homeowner-defends-himself-against-trio-of-armed-robbers-using-assault-weapon-n2553238>.

<sup>32</sup> See, e.g., Austin L. Miller, *Summerfield Homeowner Injured, Kills 2 Intruders With AR-15*, OCALA STARBANNER (Updated July 12, 2019), <https://www.ocala.com/news/20190711/summerfield-homeowner-injured-kills-2-intruders-with-ar-15>; *Police: Tallahassee Homeowner Shot 2 Out Of 4 Home Invasion Suspects, All 4 Charged*, WTXL Tallahassee (Updated May 24, 2019), <https://www.wtxl.com/news/local-news/tpd-investigating-home-invasion-robbery>; Rob Shikina, *Victim Fires AR-15 at Suspects in Haiku Home Invasion Robbery, Maui Police Say*, STAR ADVERTISER (July 21, 2018), <https://www.staradvertiser.com/2018/07/21/breaking-news/victim-fires-ar-15-at-suspects-in-haiku-home-invasion-robbery-maui-police-say/>; Allison Sylte, *Retired Officer Used 2 AR-15s to Stop Man Accused of Firing at Random People*, 9NEWS.COM (July 9, 2018), <https://www.9news.com/article/news/crime/retired-officer-used-2-ar-15s-to-stop-man-accused-of-firing-at-random-people/572102809>; Garrett Pelican, *5 Charged in Baker County Home Invasion Turned Deadly Shootout*, NEWS 4 JACKSONVILLE (Apr. 16, 2018), <https://www.news4jax.com/news/5-arrested-after-florida-home-invasion-ends-deadly-shootout>; Shannon Antinori, *AR-15-Weilding Neighbor Speaks Out, 2 Charged in Stabbing*, PATCH.COM (Updated Mar. 2, 2018), <https://patch.com/illinois/oswego/ar-15-threat-used-stop-knife-attack-sheriff>; *Homeowner’s Son Kills Three Would-Be Burglars With AR-15*, N.Y. POST (Mar. 28, 2017), <https://nypost.com/2017/03/28/homeowners-son-kills-three-would-be-burglars-with-ar-15/>;

The Los Angeles Times, among others, recounted the story of Richard Rhee, one of many shop owners who barricaded their stores with employees and defended their inalienable rights to life, liberty, and property<sup>33</sup> through the use of all manner of firearms, including fully automatic rifles.<sup>34</sup> Similarly, during the civil unrest in Ferguson, Missouri, in 2014, Reuters reported on several African American men who stood armed with various semi-automatic rifles outside the gas station of a white friend, successfully protecting his business from looters and rioters.<sup>35</sup>

#### IV. Conclusion

Nothing in the data about gun violence in the United States or the technical aspects of semi-automatic firearms supports a policy of stripping law-abiding gun owners of rifles that are often used for lawful purposes and rarely used to commit crimes. There are, unfortunately, many Americans who will conclude that I do not care about protecting innocent life and that I harbor a callous disregard for those affected by mass shootings.

While it is certainly the case that I believe public policy should be based on an accurate assessment of reality, a defense of semi-automatic rifles is more than an exercise in data and technical functions. At the end of the day, this about my mother.

My mother did not grow up with firearms. In fact, she had never handled a firearm until I took her to the gun range for the first time. Like every other novice, my mother was terrible with a handgun, and struggled to hit a stationary target from just a few yards away. But when she picked up an AR-15 for the first time, she put a fist-sized grouping of lead in the center of that target from 20 yards out.

Now, I pray that my mother is never confronted with a situation where she is compelled to point a firearm at another human being, much less pull the trigger. I would infinitely prefer to live a world where I never have to consider the possibility that someone would threaten her life or the lives of those around her.

But I study gun violence every day. Even though violent crime rates are dropping, as a policy analyst I am acutely aware that Americans use their firearms in defense of themselves or others between 500,000 and 2 million times every year. That is not some number range I made up as a conservative talking point, but one which in 2013, the Centers for Disease Control and Prevention confirmed has been found by almost every major study on the issue.<sup>36</sup>

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<sup>33</sup> While the Declaration of Independence references “life, liberty, and the pursuit of happiness,” the Framers believed that the rights to “liberty” and “property” could not be separated, as one cannot exist without the other. See Paul J. Larkin, Jr., *The Original Understanding of “Property” In the Constitution*, 100 MARQ. L. REV. 1 (2016).

<sup>34</sup> See Ashley Dunn, *King Case Aftermath: A City In Crisis*, L.A. TIMES (May 2, 1992), <https://www.latimes.com/archives/la-xpm-1992-05-02-mn-1281-story.html>.

<sup>35</sup> See Emily Flitter, *In Ferguson, Black Residents Stand Guard At White-Owned Store*, REUTERS (Nov. 26, 2014), <https://www.reuters.com/article/us-usa-missouri-shooting-gasstation/in-ferguson-black-residents-stand-guard-at-white-owned-store-idUSKCN0JA1XF20141126>.

<sup>36</sup> INST. OF MEDICINE & NAT’L RESEARCH COUNCIL, PRIORITIES FOR RESEARCH TO REDUCE THE THREAT OF FIREARM-RELATED VIOLENCE 15 (Alan I. Leshner, Bruce M. Altevogt, Arlene F. Lee, Margaret A. McCoy, and Patrick W. Kelley, eds. 2013), <https://www.nap.edu/read/18319/chapter/3>.

Over the past few months, I have drafted several articles on defensive gun uses by ordinary Americans. I have been struck time and time again by the number of mothers just like mine, who are confronted on otherwise ordinary days by extraordinary threats. They do not live in gated communities. They cannot afford private security. They do not receive police details. They do not have the luxury of waiting for law enforcement to arrive. To them, the ability to defend themselves with a firearm they can trust themselves to handle comfortably, to fire accurately, and to stop the threat in its tracks is not a statistical exercise.

God forbid that my mother is ever faced with a scenario where she must stop a threat to her life. But if she is, I hope she has a so-called “assault weapon” to end that threat.

## APPENDIX A

<b>Year</b>	<b>Total Gun Deaths<sup>+</sup></b>	<b>Total Mass Public Shooting Deaths<sup>++</sup></b>	<b>MPS Deaths as Percentage of Total Gun Deaths</b>
2017	39,773	117*	0.294
2016	38,658	71	0.184
2015	36,247	46	0.127
2014	33,594	18	0.057
2013	33,635	35	0.104
2012	33,563	71	0.212
2011	32,351	19	0.059
2010	31,672	9	0.028

\* The 2017 death toll for mass public shootings was significantly above average due to one statistical outlier incident—the October 1, 2017 shooting in Las Vegas, Nevada, which claimed 58 lives. This single outlier accounted for nearly one-half all mass public shooting deaths that year.

<sup>+</sup> Data from National Center for Injury Prevention and Control. Web-based Injury Statistics Query and Reporting System (WISQARS) (last visited Sept. 22, 2019) [www.cdc.gov/injury/wisqars](http://www.cdc.gov/injury/wisqars).

<sup>++</sup> Data from Mother Jones Mass Public Shooting Database, 1982–2019  
<https://www.motherjones.com/politics/2012/12/mass-shootings-mother-jones-full-data/>.

## Appendix B\*

<b>Year</b>	<b>Total Firearm Deaths</b>	<b>Total Handgun Deaths</b>	<b>Total Rifle Deaths</b>	<b>Total Shotgun Deaths</b>	<b>Total Other Firearm Deaths</b>	<b>Total Unidentified Firearm Deaths</b>	<b>Total Percent of Firearm Deaths Caused by Rifles</b>
2017	10,982	7,032	403	264	187	3,096	3.7%
2016	11,138	7,204	378	261	187	3,108	3.4%
2015	9,778	6,569	258	272	177	2,502	2.6%
2014	8,312	5,673	258	264	93	2,024	3.1%
2013	8,454	5,782	285	308	123	1,956	3.4%
2012	8,897	6,404	298	310	116	1,769	3.3%
2011	8,653	6,251	332	362	97	1,611	3.8%
2010	8,874	6,115	367	366	93	1,933	4.1%
2009	9,199	6,501	351	423	96	1,828	3.8%

\* Data from Federal Bureau of Investigation, *Crime in the United States 2017, Expanded Homicide Data Table 8*, FEDERAL BUREAU OF INVESTIGATION: UNIFORM CRIME REPORTS (Last Reviewed Sept. 23, 2019), <https://ucr.fbi.gov/crime-in-the-u.s/2017/crime-in-the-u.s.-2017/tables/expanded-homicide-data-table-8.xls>; Federal Bureau of Investigation, *Crime in the United States 2013, Expanded Homicide Data Table 8*, FEDERAL BUREAU OF INVESTIGATION: UNIFORM CRIME REPORTS (Last Reviewed Sept. 23, 2019), [https://ucr.fbi.gov/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/offenses-known-to-law-enforcement/expanded-homicide/expanded\\_homicide\\_data\\_table\\_8\\_murder\\_victims\\_by\\_weapon\\_2009-2013.xls](https://ucr.fbi.gov/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/offenses-known-to-law-enforcement/expanded-homicide/expanded_homicide_data_table_8_murder_victims_by_weapon_2009-2013.xls).