

**HOW BUMP STOCKS AND OTHER  
CONVERSION DEVICES ARE AMPLIFYING  
THE GUN VIOLENCE EPIDEMIC**

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**HEARING**

BEFORE THE

**COMMITTEE ON THE JUDICIARY  
UNITED STATES SENATE**

ONE HUNDRED EIGHTEENTH CONGRESS

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# **HOW BUMP STOCKS AND OTHER CONVERSION DEVICES ARE AMPLIFYING THE GUN VIOLENCE EPIDEMIC**

**WEDNESDAY, NOVEMBER 13, 2024**

UNITED STATES SENATE,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC.*

The Committee met, pursuant to notice at 10 a.m., in Room 226, Dirksen Senate Office Building, Hon. Richard J. Durbin, Chair of the Committee, presiding.

Present: Senators Durbin [presiding], Whitehouse, Klobuchar, Blumenthal, Hirono, Booker, Ossoff, and Butler.

## **OPENING STATEMENT OF HON. RICHARD J. DURBIN, A U.S. SENATOR FROM THE STATE OF ILLINOIS**

Chair DURBIN. The Senate Judiciary Committee will come to order. Let me say at the outset that the Republican Caucus is having a leadership election as we meet here today and will be unable for the most part to join us. They've given me permission to proceed. We always try to wait until there's bipartisan presence, but today it will be extremely difficult, and we certainly want to be cooperative with their own undertaking.

I'll make an opening statement and introduce the witnesses, and have them each make an opening statement, and then proceed to questions. This is our 14th gun violence prevention hearing in the last 4 years. Why? Because every Monday morning, I wake up to the news of how many people have been shot and killed over the weekend, not just in Chicago, but around the United States.

And those who believe that the gun violence is only a product of Blue States and Blue cities are just plain wrong. Gun violence is across this Nation in every political environment that you can imagine, and we should view it as an American problem, not as any political problem for any particular party.

I hope to be able to work with the new incoming Chairman of the Judiciary Committee, Chuck Grassley. He and I have literally been friends for 30 years, and that friendship is going to continue. We proved something that our critics didn't think was possible. We came up with a sentencing reform bill, known as the First Step—First Step Act that was passed and signed into law by President Trump, a bipartisan measure, which has been viewed as one of the singular reform measures when it comes to criminal sentencing. I hope we can follow that same model on a bipartisan basis in the new Congress.

And now to the subject of our hearing. We're examining the spread of deadly conversion devices that are increasing the gun lethality of gun violence in America. On October the 1st, 2017, a gunman opened fire in a crowd of concert goers in Las Vegas, killing 58, wounding over 400, traumatizing thousands. The extent of the carnage was made possible by a conversion device known as a bump stock. In the aftermath, Republicans and Democrats agreed that we needed to act swiftly to restrict access to go to bump stocks. I just wanted to check. We have a video that I want to run, and I wanted—let's if we're ready. Let's do it now.

[Video is shown.]

Chair DURBIN. After the Las Vegas shooting, Republicans and Democrats agreed that we needed to act swiftly to restrict access to bump stocks. Then President, Donald Trump, directed the Department of Justice to issue a rule banning bump stocks, and he said, quote, "We will ban all devices that turn legal weapons into illegal machine guns," end of quote. Then Attorney General, Jeff Sessions, a staunch defender of the Second Amendment said it, and I quote, "This proposed rule is a critical step in our effort to reduce the threat of gun violence. That's in keeping with the Constitution and laws passed by Congress."

But earlier this year, the Supreme Court struck down the Trump Administration's regulation in a 6-3 decision. The Republican-appointed justice has concluded, wrongly in my view, that the Trump Administration could not define bump stocks as machine guns under the National Firearm Act. Congress should respond to this court decision by passing legislation making it clear the National Firearms Act covers bump stocks, but Senate Republicans have objected to the legislation such as the Bump Act that would ban the sale and possession of these deadly devices.

Additionally, we'll hear from witnesses today about particularly dangerous device known as the Glock switch because it can easily convert or switch a Glock pistol from a semi-automatic handgun into an automatic machine gun. Glock switches, which are banned under Federal law, are cheap, often costing less than \$20, and they've been increasingly common across our country. ATF agents recovered over 5,400 guns with conversion devices at crime scenes between 2017 and 2021. A 570 percent increase from the previous 5-year period.

This disturbing trend has not slowed in recent years. Last month, for example, four people were killed, 17 injured in a mass shooting outside of nightclub in Birmingham, Alabama, by an individual using a gun with a Glock switch. A survivor of the shooting, he said, and I quote, "It literally looked like a war scene. It's scary knowing how close I was to dying."

We cannot allow this to continue. I've said it many times before, but I don't know how else to say it as I have in the past. We have the tools to address the gun violence crisis in America, and this is one of them. We must act. Gun manufacturers can and should do more to ensure their products cannot be converted into illegal machine guns. If manufacturers fail to act, Congress should take up legislation to hold these companies liable for the foreseeable consequences of their actions.

And I agree with Senator Grassley that Federal agencies must increase their efforts to prevent illegal Glock switches from being smuggled into the United States by foreign companies. I stand ready to work with my colleagues. When Senator Graham arrives today, or if he decides that he can't be with us, I'll insert his opening statement at this point in the record.

[The prepared statement of Senator Graham appears as a submission for the record.]

Chair DURBIN. At this point, I want to introduce the witnesses before us. Give them an opportunity to speak after they're sworn in. Majority witnesses, the first is Jens Ludwig. I hope I pronounced that correctly. Is that right?

Professor LUDWIG. Yes.

Chair DURBIN. Close?

Professor LUDWIG. Yes.

Chair DURBIN. Thank you. The Edwin A. and Betty L. Bergman Distinguished Service Professor at the University of Chicago, and director of the University of Chicago Crime Lab. He's also the co-director of the National Bureau of Economic Research Working Group on the economics of crime.

We're also joined by Esther Sanchez-Gomez. Ms. Sanchez-Gomez is the litigation director at Giffords Law Center, where she also leads the Center's and Make Us Brief Program.

We also welcome Laura O'Donnell. Thank you for being here, Laura. She's a former officer with the Chicago Police Department, where she worked for over 24 years, retiring as a sergeant in 2021. She managed 22 real time crime centers across Chicago. Received the superintendent's award of merit for your service. She's also, coincidentally, a survivor of the 2017 mass shooting at Route 91 Harvest Festival in Las Vegas.

The two minority witnesses are; Zach Smith. Thank you for being here. Senior legal fellow and manager of the Supreme Court and Appellate Advocacy Program for the Edwin Meese Center for Legal and Judicial Studies of the Heritage Foundation.

And Ryan Cleckner, former special operations sniper team leader with the U.S. Army's 1st Ranger Battalion. Also, an attorney who represents Federal firearm licensees and helps them to stay compliant with Federal laws and regulations.

I want to thank all our witnesses and ask them to please rise for the administration of the oath.

[Witnesses are sworn in.]

Chair DURBIN. Thank you. Let the record reflect that all of the witness, thank goodness, answered in the affirmative, so that we can go forward. And we're going to start with Mr. Ludwig.

**STATEMENT OF JENS LUDWIG, EDWIN A. AND  
BETTY L. BERGMAN DISTINGUISHED SERVICE PROFESSOR,  
UNIVERSITY OF CHICAGO, CHICAGO, ILLINOIS**

Professor LUDWIG. Good morning. Thanks so much for having me. I'm here to talk about a particularly troubling trend that we're seeing in the data, which reflects a particularly troubling trend that we're seeing on the streets of America.

In the past several years, we're seeing a rise all across the country in the so-called "shooting fatality rate" defined as the fraction

of gunshot victims that wind up dying as a result of their wounds. In my hometown Chicago, the fraction of shootings that resulted in the victim's death has increased by 6 percentage points. That's about 50 percent since 2010.

Research by Janet Lauritsen and Theodore Lentz shows something similar is happening all across the United States. That's to say this isn't a problem that seems to be unique to Chicago, it's not unique to other big cities. It's not unique to suburbs, rural areas, Red States, or Blue States. It seems to be a problem everywhere.

When we look at the data to see why this is happening, the explanation that's best supported seems to be a large increase in the number of rounds fired per shooting. And a significant increase—a significant contributor to the increase in the number of rounds fired per shooting seems to be the use of things like Glock switches and bump stocks, what are sometimes called “machine-gun conversion devices”. This was mentioned in the opening statement. These devices modify semi-automatic firearms, so they fire automatically functionally equivalent to a machine gun. A switch does so for a handgun, a bump stock for a rifle.

In Chicago, the number of firearms recovered that have been modified by these devices to fire automatically has increased. It was just 9 in 2010. So, it was 9 in 2010, and in 2023, that number had increased to, fully, 465. In fact, just last week, only a few miles from my house on the South Side of Chicago, a Chicago Police officer named Enrique Martinez was carrying out a traffic stop in the Chatham neighborhood and was shot and killed with a weapon outfitted with one of these switches.

This proliferation of machine-gun conversion devices together with the growing use of high-capacity magazines have contributed to this large increase in rounds fired and shooting fatality rates. Now, I know that a shooting fatality rate is a very abstract way to think about the real-world impact of the problem. So, I want to offer a different way to think about the public safety implications of this that might be more concrete.

In the city of Chicago where I live, we've averaged something like 2,000 to 3,000 shootings per year since I've lived there, in 2007. A 6-percentage point increase in the shooting fatality rate since 2010 means that there are 184 more murders that happened in 2023 in Chicago than would have happened if the shooting fatality rate had been the same.

One hundred eighty-four murders in Chicago is about one-third of all the murders that happened in my hometown. That's a huge proportional increase in the total number of people killed at the hands of someone else as a result of these trends in what's happening with firearms.

So, what might be done? The good news is that the data suggests there are multiple, potentially helpful paths forward. Of course, Glock switches, as was mentioned by Senator Durbin, Glock switches are already illegal under Federal law. Evidence to suggest that ban is helpful comes from the 1930 data that looks at the 1934 National Firearms Act, which resulted in a sharp drop in the number of shootings with machine guns that happened in the United States.

What else could be done? When I talk to my friends who are Chicago Police officers, one thing they tell me they're increasingly worried about is the possibility that 3D printers are being used to create these switches. Whether there are legislative ways to make that harder could be one policy the data suggests might be worth exploring and has some analogs to policies that make it harder, for an instance, for color printers to print counterfeit money. There's a large body of evidence from social science showing the deterrent effects of prosecution and sentencing that suggests the potential value of ensuring or potentially enhancing the capacity of local U.S. attorney's offices to investigate and prosecute gun crimes involving machine gun conversion devices.

Finally, some of the work that my own research center, the University of Chicago Crime Lab, has been doing with different government agencies and nonprofits suggest there are different social programs that can help prevent young people from picking up guns in the first place and using them against other people, which seems particularly valuable in a world in which these guns are getting more lethal over time.

Beyond specific possible solutions, the main point I would like to emphasize here is that on the long list of things that we could be worried about from a public safety perspective, this increase in shooting lethality needs to be, in my opinion, near the very top. Thank you very much.

[The prepared statement of Professor Ludwig appears as a submission for the record.]

Chair DURBIN. Thank you, Professor. Mr. Smith.

**STATEMENT OF ZACK SMITH, SENIOR LEGAL  
FELLOW, HERITAGE FOUNDATION, WASHINGTON, DC**

Mr. SMITH. Thank you, Chairman Durbin, Ranking Member Graham, and distinguished Members of the Committee. I appreciate the opportunity to appear before you today.

My name is Zach Smith, and I currently serve as a senior legal fellow in the Meese Center for Legal and Judicial Studies of the Heritage Foundation. Before joining Heritage, I served for several years as an assistant United States attorney, worked in private practice, and clerked for Hon. Emmett R. Cox on the U.S. Court of Appeals for the 11th Circuit.

Fundamentally, today's hearing is focused on the wrong solution, aimed at the wrong problem. Contrary to the title of today's hearing, there is not a gun violence epidemic in our country, but there is a violent crime epidemic. And unfortunately, too many elected leaders are refusing to take the simple yet necessary steps needed to combat this crime epidemic, namely, funding the police and prosecuting criminals.

But why are elected leaders reluctant to take these common-sense steps? Unfortunately, too many have bought into the twin myths that our criminal justice system is systemically racist, which it's not, and that we have a mass incarceration problem, or that we lock up too many people in our country. We don't. But many have called for policy choices to be made based on these faulty assumptions.

For example, the Brennan Center for Justice has called for the prison population to be reduced by 39 percent. The ACLU has called for a 50 percent reduction, and one academic has even proposed policies that would result in an 85 percent drop in the number of people behind bars. These proposals are astounding because most people behind bars today are serving time in prison for committing violent crimes.

As I've explained elsewhere, the vast majority of people in prison today are serving time in State prisons, and the vast majority of State prisoners are there for committing crimes such as murder, manslaughter, robbery, aggravated assault, or other crimes, including gun-related crimes.

According to 2022 statistics, those convicted of violent crimes make up 62.9 percent of all State prisoners. So, reducing the prison population by 50 percent or more necessarily means not locking up or releasing from prison early, clearly violent criminals. We also know that repeat offending is a fact of life with criminals, with many offenders going on to re-offend again after leaving prison. And we know that aside from the seriousness of someone's crime, nothing affects that individual's sentence more than their own criminal history. This generally means that when someone repeatedly commits more crimes, their subsequent sentences tend to be and likely should be harsher.

In States such as California that have adopted three strikes laws, these harsher sentences have increased the prison population. But guess what? These laws are effective at combating crime. Sadly, many elected officials at the local, and State levels, as well as Federal leaders have ignored common sense policies and have instead pushed policies that hurt public safety.

One simple action that any Justice Department should pursue is an emphasis on felon-in-possession prosecution, Section 922G cases as they're colloquially known after the relevant U.S. Code Section. This provision makes it illegal for those who have been convicted of a felony and those who meet certain other requirements too, to possess a firearm.

Think about it. By definition, if someone is convicted of this offense, they already have a felony conviction. They're disregarding relevant laws by illegally possessing a firearm. And from a resource perspective, these cases tend to be straightforward to prosecute and are very effective in targeting individuals who are often drivers of violent crime in their own communities.

The Justice Department under the Trump Administration prioritized prosecuting these cases, particularly in jurisdictions burdened with rogue prosecutors at the local level, and hopefully, will prioritize them again. The District of Columbia with its unique status also provides insight into what happens when local leaders defund the police and prosecutors refuse to prosecute crimes. Crime rates, including gun crimes increase as a result. Because of the District's unique status, subject to Congress's control, reforming these problematic policies should be a top priority.

Finally, the Committee does deserve praise for holding today's hearing in at least two regards. First, today's hearing focuses, albeit indirectly, on victims. Too often today, criminals are treated as victims and the true victims are the forgotten component when dis-

cussing crime, violence, and criminal justice reforms. Second, the Committee deserves praise for considering this problem rather than passing the task to unelected, unaccountable individuals in administrative agencies.

So, while this Committee's time and efforts would be better spent focused on the violent crime epidemic taking place across our country, at least the conversation is taking place here with the American people's elected representatives.

I appreciate the Committee's invitation to testify, and I welcome the Committee's questions.

[The prepared statement of Mr. Smith appears as a submission for the record.]

Chair DURBIN. Thank you, Mr. Smith. Ms. Sanchez-Gomez.

**STATEMENT OF ESTHER SANCHEZ-GOMEZ,  
LITIGATION DIRECTOR, GIFFORDS LAW CENTER  
TO PREVENT GUN VIOLENCE, BROOKLYN, NEW YORK**

Ms. SANCHEZ-GOMEZ. Thank you, Chairman Durbin, and Members of the Committee for the opportunity to testify here today.

My name is Esther Sanchez-Gomez, and I'm the litigation director with Gifford's Law Center to prevent gun violence. I'm here to talk to you about machine guns, dangerous weapons that Congress has taken action on repeatedly, and for which there's no constitutional impediment to legislation.

But I'd like to begin by reflecting on the origins of the organization that I represent. Nearly 14 years ago, in my hometown, Congresswoman Gabby Giffords was shot in the head during a constituent event. On that January morning, in Tucson, in 2011, 6 people were killed and 12 others injured. Six years later, my fellow panelist, Laura O'Donnell, survived a different mass shooting, one that killed 60 people and injured 500 more. That gunman equipped his firearms with bump stocks.

When a rifle is modified with a bump stock, the shooter only needs to pull the trigger once, and the gun will fire continuously so long as the shooter keeps his trigger finger stationary and applies forward pressure by leaning into the bump stock. The shooting heard at the scene that day was accurately described as machine gun fire. Perhaps the biggest tragedy is that these shootings aren't just isolated moments in our Nation's history, but examples of the sort of preventable gun violence that continues to ravage this country.

In response to the 2017 Las Vegas shooting, and under President Trump's direction, the Bureau of Alcohol, Tobacco Firearms and Explosives, or ATF, amended its regulations to make clear that bump stocks meet the current Federal definition of a machine gun. As machine guns, they were subject to the Federal ban.

But this past June, the Supreme Court supplanted its firearms expertise for that of the ATF and issued a decision in *Garland v. Cargill* striking down ATF's regulation. Although bump stocks are currently regulated by a number of States, they're now legal under Federal law.

Unfortunately, bump stocks aren't the only devices equipping shooters with weapons capable of automatic fire. In March of this year, 8 high schoolers were shot while waiting at a bus stop in

Philadelphia. The shooter fired 30 rounds in mere seconds. The gunman was able to do so because his Glock handgun was equipped with an auto sear.

Autos sears are small Lego size machine gun conversion devices. They can be easily inserted into a firearm, allowing it to fire continuously with a single pull of the trigger. These devices are also called Switches or Glock switches because of their pervasive use on Glock pistols. Unlike bump stocks, autos sears are classified as machine guns under Federal law and are currently illegal.

Despite this, autos sears have proliferated significantly in recent years with the help of online marketplaces and the rise of 3D printing technology. ATF's most recent data shows that there was a 570 percent increase, 570 percent increase, in auto sears recovered by the agency during the last decade. That statistic is sadly borne out in the lived trauma of our communities.

This isn't the first period of American life marred by machine gun violence. During the 1920's and 1930's, the country was rocked by a gun violence epidemic fueled by Prohibition Era organized crime. This violence spurred Congress to action. They passed the National Firearms Act in 1934 to regulate automatic firearms through registration and taxation.

As technology changed, our regulation of automatic firearms has adapted to keep pace. Since 1934, Congress has acted twice to address the violence that the proliferation of machine guns and conversion devices causes. First, in 1968, Congress expanded the definition of machine gun to include a combination of parts that could convert a weapon into a machine gun. Then in 1986, Congress completely banned civilian ownership of newly manufactured machine guns. Congress has repeatedly taken action to regulate machine guns, and address technological advances and workarounds.

The violence we see perpetrated today with bump stocks and auto sears can be prevented. Congress has the constitutional authority to ban bump stocks, and Congress can grant ATF and other Federal law enforcement agencies the resources to properly enforce these laws.

We aren't condemned to live in a society where every shooting is a mass shooting. Our schools, places of worship, political rallies, concerts, and other gatherings need to be protected from gun violence. The Supreme Court has made clear that you can act, and the harm occurring in our communities compels you to do so.

Thank you again, Chairman Durbin and Members of the Senate Judiciary Committee for the opportunity to testify here today. I look forward to answering your questions.

[The prepared statement of Ms. Sanchez-Gomez appears as a submission for the record.]

Chair DURBIN. Thanks, Ms. Sanchez-Gomez. Mr. Cleckner, before you begin, let me thank you for serving our country. You're welcome today to start your testimony.

**STATEMENT OF RYAN CLECKNER,  
ATTORNEY, FFLSAFE, FLAGSTAFF, ARIZONA**

Mr. CLECKNER. Good morning, Chairman Durbin, and Senators of the Committee. I'm Ryan Cleckner. I'm an attorney specializing

in Federal firearms law, and the Bureau of Alcohol, Tobacco, Firearms and Explosives compliance.

I'm here today as a firearms expert to talk about the legal and technical qualities and the differences between bump stocks and conversion devices. And I'd like to address them separately because they are two very different things.

Now, a machine gun under the National Firearms Act is a firearm that will expel more than one bullet for a single operation of the trigger. Bump stocks are not machine guns. They are pieces of plastic that could be put onto some firearms in place of their standard bump stock that allows someone to bump fire the firearm. Now, the term bump fire, that's not illegal. Matter of fact, I can bump fire a firearm without a bump stock. Bump firing is nothing more than allowing a firearm to move rearward under its recoil, and then be pulled back into a stationary trigger finger.

Now, bump stocks do make it easier for some people to bump fire, but that's all they are. The fundamental operation of the firearm has not been changed. The trigger still needs to be manipulated every single time a bullet comes out of the firearm just like it was designed and intended.

Now, putting this into perspective of how big of a problem bump stocks by themselves are, the FBI's most recent crime stats from last year say that all rifles were used in about 15,000 incidences of violent crime. Includes all categories of violent crime by the FBI. Blunt objects such as hammers were used 78,000 times. More than five times—more than all rifles, not just rifles, which could have a bump stock or even the smaller category of rifles that actually did have a bump stock on them.

The only evidence I can find of a bump stock being used is the horrible, horrific 2017 Las Vegas shooting. And what that mass murderer did was horrific. I don't think a bump stock being on some of his firearms makes a difference enough to try to redefine the law about what these items are.

Now, these conversion devices, or Glock switches, or auto sears, they are absolutely machine guns, Okay? Not only the National Firearms Act define the firearm, but later laws like the Gun Control Act says that any parts that can be used to convert a firearm into a machine gun are also a firearm. That's what these things are. They're already heavily regulated. They're already completely illegal.

The ATF is already going out of the way to enforce this rise that we have with them being used, but the vast majority of them that I know of are being imported right now into this country, and they're not being stopped as they're being imported in this country.

I think the way that we solve this problem is not to make an item more illegal because it's status of being a significantly illegal item does nothing, apparently, to stop these criminals from using them. I mean, that's the definition of a criminal, right? Someone who doesn't obey the law.

I don't think we can make them more illegal, and if we did, I don't think that's going to stop their use. I think what's going to stop their use is if we actually prosecute the criminals that are using these illegal items, if we keep these dangerous people off the

streets, and we do maybe the best we can to stop the influx of these items across our border.

I'm also seeing lawsuits right now against firearms companies like Glock saying that their design somehow invites the use of these devices. I think on its face, that's false. I think the reason that there are common with Glocks is because Glocks are so common. Sixty percent or more of law enforcement across the country uses Glock pistols. The Capitol police I passed on the way in this building had Glock pistols on. That's why they're so common. I think lawsuits against these companies, I think, a misguided focus on trying to make certain items more illegal is only going to harm more Americans because the real solution is getting the bad people off the streets.

Thank you. I welcome your questions.

[The prepared statement of Mr. Cleckner appears as a submission for the record.]

Chair DURBIN. Thank you, Mr. Cleckner. Ms. O'Donnell.

**STATEMENT OF LAURA O'DONNELL, RETIRED  
CHICAGO POLICE LIEUTENANT, CHICAGO, ILLINOIS**

Ms. O'DONNELL. Good morning, Chairman Durbin, and Committee Members. My name is Laura O'Donnell. I'm a retired Chicago police lieutenant, and I am one of the over 22,000 survivors of the 2017 Route 91 Music Festival in Las Vegas.

I spent over 24 years serving some of the most violent areas of Chicago. I'm accustomed to seeing people on their worst day. I've witnessed numerous crime scenes, gunshot victims, and even people taking their final breath. Yet nothing could have prepared me for October 1st, 2017, the day of the deadliest mass shooting in U.S. history.

We all know what happened that night. However, I'd like you to hear it firsthand. My husband, best friend, coworker, and I, all Chicago police officers, along with my sister-in-law, who's a nurse, traveled to Las Vegas to attend a 3-day country concert. On the last night, at 10:05 p.m., the unimaginable and indescribable chaos began.

We heard a pop, pop, pop, at first thinking it was fireworks. But then a few seconds later, we heard it again, and we knew it was gunfire. My husband pushed us all to the ground, and he laid his body over ours as you can hear the bullets hitting the ground and screams surrounded us.

When the shooting momentarily paused, we tried to escape, but encountered bottleneck people as more gunfire erupted. We were separated from my friends. We dropped to the ground, but realized the risk of getting trampled. With the gates being locked, people started climbing eight-foot fences, desperate to escape.

As police officers, we're trained to seek cover when under gunfire, but the only protection was these metal bleachers. Bullets struck them echoing with a ping, ping sound, while the smell of burning food filled the air as rounds hit the metal grills in the concession stands through a slot of the bleachers. I watched my husband move cautiously through the venue, urging people to drop everything and go while checking on those, lying on the ground amid hundreds of bullets I feared he might get hit and die right in front of me.

When you're in a fight-or-flight response, your body shuts down everything that's not essential. Things seem to move in slow motion, and it's difficult to process anything. However, I remember thinking, "How can this still be going on? How can someone still be firing rounds?" I also remember trying to think of the last things I said to my three children, my twin, and my younger sister.

I had thought I might die, and I had hoped that I told them I loved them. When the shooting finally stopped. I have no memory of the minutes that followed. As we passed the medical tent. I sometimes wonder how chaotic and horrific it must have been that my mind blocked it. Yet, other memories are still so vivid to this day.

In the aftermath of the shooting, I was in a daze. My mind was moving slow, yet I was hypervigilant. I had trouble sleeping, and I struggled to cope with flashbacks. I had survivor's guilt. I often wondered, "Why am I still here? Why not me?" Panic attacks struck me in places like the grocery store, and I would leave without buying anything. Leaving home alone felt unsafe, especially in crowds. I wanted some control and my normal life back. So, I returned to work, but it was challenging.

At the time, I was a coordinator of the first SDSC, basically, a real time crime center in one of the most violent areas of Chicago, Englewood. One of my duties was to listen to audio of gunfire captured by ShotSpotter. As you can probably imagine, it was distressing for me, and I needed to take more time off of work.

I sought help through my employee assistance program and returned to work. But triggers of the shooting would lead to heightened anxiety during scenario-based training and firearm qualifications. It was difficult to be in charge of officers during major events with large crowds and fireworks. I knew I needed more help.

I began cognitive behavioral therapy with a trauma therapist who worked with law enforcement. I joined a weekly support group through the Vegas Strong Resiliency Center. I also attended an intensive inpatient therapy program at Onsite called Triumph Over Tragedy for mass shooting survivors. There, I learned coping skills that I still rely on today.

Seven years later, loud noises, crowded places, outdoor concerts just to name a few still activate me. To give you an example, a co-worker once invited me to a Cubs game. And this is how it plays out in my mind. It's an outdoor venue. It's going to be crowded. Will I be sitting near an exit? I'll make sure to wear gym shoes in case I need to run. This usually leads me to decline invites to things I once enjoyed.

I have my life before Route 91, and I have my life after Route 91. I know there must be a purpose to my life and a reason I survived. Maybe telling my story here today is one of those reasons. The shooter had 23 weapons, including 14 modified with a bump stock, turning them into fully automatic weapons capable of firing over 100 rounds in 10 seconds. That's almost 10 times more than without that modification.

While I was in the venue, he unleashed over 1,000 rounds in 11 agonizing minutes. Four hundred people were shot, over 800 were injured. Fifty-eight people died that day. Thirty-six women, 22 men. The 3 youngest were only 20 years old. I believe that if the

shooter did not have a bump stock, more people would've escaped. Less people would've been injured, and, of course, less would've died.

Every day, I think of those people who lost their lives. Do not let these lives be forgotten. Links to the gunfire are in my written testimony. I urge you all to take the time to listen to it and take action today to ban these modifications to prevent future tragedies. Just last week, Chicago police officer, Enrique Martinez, was killed in the line of duty by a firearm modified with a switch, making it fully automatic. There's no good reason to turn a semi-automatic weapon into a machine gun.

Despite my progress, the scars from October 1st, 2017, continue to impact my life. It's a day that I will never forget. It will never be forgotten by the 22,000 survivors or the family members of those who died. I hope you honor their memory as our lives will never be the same. Thank you.

[The prepared statement of Ms. O'Donnell appears as a submission for the record.]

Chair DURBIN. Thank you, not only for your testimony about that horrible day in your life, but for your service as a police officer in Chicago. It's not an easy assignment, and I respect the fact that you did it for over 20 years.

So, let me ask you this. Do you think most policemen that you served with in Chicago or in other places would agree that bump stocks have no place to be sold in the United States?

Ms. O'DONNELL. Yes, I believe most police officers would agree with me with that.

Chair DURBIN. Mr. Cleckner, you and Mr. Smith seem to zero in on the mechanics of mass shooting. When we think of the purpose of the Second Amendment for self-defense, sport, and hunting, is there a circumstance that you think in the ordinary course of life where you need to have that capacity of a firearm?

Mr. CLECKNER. Senator Durbin, respectfully, I think you're missing a category of why the Second Amendment exists. We wrote it shortly after overthrowing a tyrannical government. And I think that a bump stock, although has no application for hunting and maybe not very much for self-defense, I don't believe that banning this item would stop a criminal that's already willing to ignore so many other laws.

Chair DURBIN. You just mixed two things up. We talked about ending tyranny against the United States, and you talked about a criminal in the same breath.

Mr. CLECKNER. Fair.

Chair DURBIN. I don't understand

Mr. CLECKNER. What I'm saying, sir, Senator, is that banning an item or making it illegal is not going to prevent a criminal from using it. It's already illegal for that shooter to be a mass murderer. It's already illegal for them to do many other things that the laws did not prevent them from doing.

Chair DURBIN. So, let's stick with your logic. What's the point of banning machine guns?

Mr. CLECKNER. Well, machine guns, Senator, are actually legal. They're legal for some people to possess. They're just extremely regulated, and I believe—

Chair DURBIN. Is that a violation of a constitutional right, to regulate that firearm?

Mr. CLECKNER. I think most gun laws are infringements of the Second Amendment. Yes, Senator.

Chair DURBIN. Well, I think that's where we're going to part company. Because I think most people would agree, even firearm owners in my own family, that reasonable regulation is not too much to ask if it means saving the life of innocent people. When you hear Ms. O'Donnell's portrayal of what happened, you described it as a mass murder.

Mr. CLECKNER. Yes.

Chair DURBIN. You described it as horrific.

Mr. CLECKNER. Mm-hmm.

Chair DURBIN. And to think that some regulation might slow down the purchase of a device which converts a regular gun into an automatic gun, a semi-automatic into automatic gun is an unreasonable restriction on the constitutional rights, I think that's where we would disagree. Certainly would.

Ms. Sanchez-Gomez, when it comes to the incidents of mass shootings and the proliferation of these devices, what do you see lies ahead?

Ms. SANCHEZ-GOMEZ. I think it's incredibly important that we regulate these weapons. Machine guns are designed to do one thing; kill a lot of people in a very short amount of time. We have been regulating machine guns in this country since the beginning of the 20th century. We made them unlawful for civilian ownership in the 1980's, and we need to extend into the future our regulation of machine guns to incorporate changes in technology workarounds that the gun industry has found for the current State of the law. And there is no constitutional impediment for doing so.

Chair DURBIN. I think of the situation just a few years ago in Highland Park, Illinois, on the 4th of July, when people were assembled for a 4th of July parade. And there were many members of law enforcement there who were watching the scene and even marching in the parade, and a lone shooter got on the roof of a building and fired off, I believe 83 rounds in 60 seconds, killing seven people and injuring dozens of others.

It was a young man who had some mental issues before that day, and his father decided that a good thing for him to do was to buy this type of assault weapon and practice with it in a shooting range. It prepared him for that awful day, which changed lives in every direction.

I look at that and think, what is the purpose of his ownership of that gun? Is it to stop tyranny according to Mr. Cleckner, that's one of the elements that went into the Founding Father's calculation of the Second Amendment? What do you think about that?

Ms. SANCHEZ-GOMEZ. The Supreme Court has been incredibly clear that military-style weapons are not protected by the Second Amendment. The Supreme Court has explained that any reading of the Second Amendment and of the Court's decisions would be startling if it implied that the NFA and its regulations of machine guns was unconstitutional.

Chair DURBIN. Professor Ludwig, when you hear Mr. Smith describe this as a gun violence problem, or a crime problem and not

an issue that should involve firearms, I think, I don't think he mentioned bump stock in his testimony maybe once at the beginning. What is your reaction?

Professor LUDWIG. I think one potentially useful comparison is the United States versus the United Kingdom. When you look at rates of—so there's a sense in which Mr. Smith is right; that there are countries around the world that have lots of guns and very low crime rates, and that does not lead to lots of gun violence. But there are other countries around the world which have similar rates of violent crime to the United States, similar numbers of robberies, similar number of assaults, countries like the United Kingdom, and they have almost no guns.

And what you see in countries with lots of violent crime and no guns is very, very few murders. So, London is a city that's three times the size of Chicago. They have fewer murders per year than my hometown. The thing that makes violent crimes so deadly in the United States is the ready availability of guns.

As you and many in the room know, we have something like 400 million guns in circulation and 330 million Americans. And I think there's lots of evidence from the data that suggests that widespread gun availability increases the lethality of the violent crime that happens. And I think there's lots of evidence to suggest that the availability of these machine gun conversion devices further increases the lethality of firearms.

Chair DURBIN. Thanks, Professor. Senator Klobuchar.

Senator KLOBUCHAR. Very good. Thank you, Chairman, for having this very important hearing right now. I'll start with you, Professor Ludwig, with the facts. In 2023, police in Minneapolis reported that they recovered three times as many Glock switches as they did when they first started tracking them in 2021. That's only in 2 years. Could you talk, and we've seen these same kind of numbers nationally, how does the increase proliferation of illegal machine-gun conversion devices threaten public safety?

Professor LUDWIG. And so, we're seeing these increases, unfortunately, as you note, Senator, in every big city in which I've been able to see the data. We're seeing these increases. I think the challenge that the growing use of machine-gun conversion devices play, maybe combined with the availability of high-capacity magazines, means now that more and more people are able to fire off larger numbers of rounds over a shorter period of time.

We can see in the data that that's leading to more shots fired per shooting incident, more injuries per shooting event, and higher lethality rates. Even modest changes in the shooting lethality rate winds up leading to very outsized increases in the number of people who die as a result of gun violence.

Senator KLOBUCHAR. Thank you. Ms. Sanchez-Gomez, I introduced legislation to require Federal law enforcement to coordinate with our State and locals because of what we're seeing, in my former job as a prosecutor. And, in fact, one of parts of this that we have to look going forward as there are efforts to reduce or defund, not the ATF, on the national basis coming from some of our Federal colleagues.

I just want to give one example of ATF working with the St. Paul Police Department, Minnesota Bureau of Criminal Apprehension,

and our U.S. Attorney, was well respected on both sides of the aisle, Andy Luger, to investigate and convict a teenager who led police down a high-speed chase after firing a Glock equipped with a machine-gun conversion device into a densely populated neighborhood.

Can you talk about the importance of funding ATF in addition to putting in place better safety guardrails when it comes to these devices?

Ms. SANCHEZ-GOMEZ. Thank you, Senator. I think that that's exactly right. We need to be giving law enforcement the resources that they're asking for. We've been hearing from attorneys general across the country, and from ATF, and from local law enforcement, that they need more education and more resources to understand the scope of the problem and to address it at the source.

Which is, one, importantly, preventing these items from being trafficked into the country and preventing them from ending up in the hands of people who would use them to do harm. Harm, like the harm that occurred in Detroit, Michigan, when 2 people were killed and 19 others injured at a neighborhood block party.

It's important that we give law enforcement the tools that they're asking for. These are already illegal, has been mentioned a number of times, and preventing them from ending up in our communities is the most important first step in combating the problem.

Senator KLOBUCHAR. Thank you. Ms. O'Donnell, thank you for your work and your searing testimony. I believe we need to do more to protect our law enforcement officers and support them. That's why I lead the COPS Reauthorization Bill and have done a lot of work in this area. Could you talk about the challenges that law enforcement face when responding to gun violence incidences that involve handguns that are illegally modified into automatic?

Ms. O'DONNELL. Thank you for the question. What I could say is, I think just the last few officers from Chicago who died in the line of duty were all from switches. So, you don't have time to react. They're just firing too fast. We don't have the same weapons firing back. So, it is a big problem. It's definitely multiplied in the last few years, as Professor Ludwig said, and it's becoming a bigger and bigger problem.

Senator KLOBUCHAR. Okay. Thank you very much. Thank you.

Chair DURBIN. Senator Hirono.

Senator HIRONO. Thank you, Mr. Chairman. As I sit here, I remember one of our earlier hearings on firearms legislation, that both the minority witnesses as well, in fact, the entire panel consisting of majority and minority witnesses said they agreed that this Nation is awash with guns. And Mr. Ludwig, you mentioned that we have over 400 million guns and 330 million Americans. So, we are awash with guns. I mean, is there anybody on this panel who does not think that we are awash with guns in this country? Raise your hand if you think otherwise.

Okay. So, we are awash with guns. And meanwhile, the Supreme Court in various decisions, *Heller* was pretty much an astounding decision to me, when suddenly individuals by the Second Amendment could own firearms. But Scalia did say that we could legislate various kinds of limitations, I suppose that you could call it that. And then you fast forward to the *Bruen* decision, where suddenly

we're supposed to look to what the Founding Fathers thought about in, what, 1791, or some astounding timeframes such as that *Bruen* has led to some unintended consequences, by the way.

So, here we sit talking about—debating about whether or not we should put some limits on these kinds of enhanced weapons. My staff person just showed me a video of how these—how fast these enhanced weapons shoot. And I can understand why in the Las Vegas situation, so many people were killed. Astounding, horrifying. And just listening to the firepower of these weapons, one questions whether or not these should be illegal at all, and we should not be sitting here talking about whether ATF can regulate these firearms or whether we—it is somehow left to Congress, “Hey, good luck with that.”

So, I hardly know where to start, but maybe it does occur to me that there are few, very few instances where Congress has rendered companies to be immune. So, gun manufacturers are immune from the consequences of people using their products. So, Mr. Ludwig, is there a possibility that gun manufacturers—making them liable, is that an approach that we should consider?

Professor LUDWIG. I'm not a lawyer so I wouldn't want to—thank you for the question, Senator. I'm not a lawyer, so I wouldn't want to speak to the legality of that. I think as an economist and a social science scientist, I would talk about the larger data and evidence about the effects of product regulation. And I think we have lots of examples from other products like motor vehicles where changing—changing product designs have led to massive improvements in safety, whether that's through litigation approaches or regulation approaches. We can see that when products become safer, products that are prone to misuse, that can wind up leading to lives—

Senator HIRONO. Oh, do we not have any lawyers on the panel? Okay, so Ms. Sanchez-Gomez—

Ms. SANCHEZ-GOMEZ. Yes, absolutely.

Senator HIRONO [continuing]. You're a lawyer.

Ms. SANCHEZ-GOMEZ. Yes.

Senator HIRONO. Yes. What about holding manufacturers liable?

Ms. SANCHEZ-GOMEZ. I think it's a really, really important point. I think regulating the gun industry in the way that we regulate other industries using litigation, which changes incentives for them to act in ways that are responsible to act, in ways that prevent the foreseeable harmful consequences of their actions, is an incredibly important tool of our civil legal system.

Senator HIRONO. Could States hold gun manufacturers liable, or is this an area for—or that only the Federal Government can act?

Ms. SANCHEZ-GOMEZ. Well, the Federal Government passed—the Congress passed a law that gives—

Senator HIRONO. Yes.

Ms. SANCHEZ-GOMEZ [continuing]. The gun industry broad immunity. It's not absolute immunity, but it is very broad and unprecedented for this industry. And so, the Federal Government is the one that needs to act if we want to repeal that immunity.

Senator HIRONO. Well, I have the—but the question is, can States act? Can States enact legislation that holds gun manufacturers liable?

Ms. SANCHEZ-GOMEZ. Yes, absolutely. And States are passing laws.

Senator HIRONO. Okay. I think that's one of the ways that we can proceed. So, the fact of the matter is, as I watch what the Supreme Court is doing, and I have described, by the way, this Supreme Court majority as an out of control Supreme Court, because I have a growing list of precedents that this Supreme Court is tossing out in so many areas of the law, and they're not done yet.

So, I just want to say to this Committee and my wonderful Members of the Judiciary Committee that I think we need to pay attention to Supreme Court reform, starting with that they don't even have any ethics provisions that apply to them. Thank you, Mr. Chairman.

Chair DURBIN. That's an issue we've talked about a lot, and I hope we'll continue to. Ms. Sanchez-Gomez, how is it that a person can buy a 3D printer with instructions from the internet to create a Glock switch or a ghost gun? What is that all about?

Ms. SANCHEZ-GOMEZ. Glock switches are incredibly small devices. They're Lego sized devices that are very simplistic, easy to manufacture, and that's also why they're so easy to traffic into this country. They're small, they're difficult to detect, and that's why a bill like Senator Klobuchar's, which would give resources to law enforcement to prevent these from being trafficked into the country, to detect, you know, marketing that is deceptive to consumers, that implies that these are lawful to own. That's why we need to get ahead of this problem to stop it from getting into our communities in every direction.

Chair DURBIN. Why are pistols equipped with another device, which we haven't spoken much about? The stabilizing brace, particularly dangerous to the public?

Ms. SANCHEZ-GOMEZ. So, stabilizing braces are not machine guns. I want to start off by being clear. When we talk about stabilizing braces, we're talking about short-barreled rifles.

And short-barreled rifles are more dangerous because they allow a pistol to be shot from the shoulder, which gives it more power and more velocity, and therefore more lethality. But still being concealable in the way that a pistol is because it's smaller.

Stabilizing braces were initially designed to allow a shooter to stabilize a handgun on the wrist or forearm, but what started happening was that the gun industry saw a loophole where they began designing stabilizing braces that allowed a shooter to shoot from the shoulder, thereby making—converting that weapon into a short-barreled rifle, which is regulated under the National Firearms Act, and subject to taxation and registration.

Chair DURBIN. Mr. Cleckner, what do you think about that?

Mr. CLECKNER. I don't think pistol braces are a problem. I don't think they're being used in crimes. I don't think they're making crimes worse. I think she brings up a great point about the concealability. I think it makes it much harder to conceal a pistol when there's a pistol brace on. It makes it much larger. And if we're going to talk about increased lethality and velocity, a pistol brace does neither of those.

In fact, a regular rifle has increased velocity and lethality, and that has a regular butt stuck on it, which is arguably worse than a pistol brace.

Chair DURBIN. So, pistols with braces have been used in several mass shootings in Dayton, Ohio, and Boulder, Colorado, but you don't think that's a problem?

Mr. CLECKNER. I'm not saying it's a problem that they're being used, Senator. I think that, like I said before, I think banning them is not going to stop it any more than the banning mass murder is going to stop it.

Chair DURBIN. Ms. Gomez, any reaction to that?

Ms. SANCHEZ-GOMEZ. When we talk about firearms, we know that access to firearms is a key tool in reducing firearm violence, in reducing gun violence. And I think that regulating access to dangerous weapons like machine guns, like short-barreled rifles, is an important tool that we have to reduce gun violence in this country.

Chair DURBIN. I see Senator Blumenthal has returned, and he's now recognized.

Senator BLUMENTHAL. Thank you, Senator Durbin. Thank you for having this hearing. And you know, I must say, as I talk to law enforcement personnel in Connecticut and around the country, these kinds of conversion devices, call them Glock switches, whatever, are among their biggest worries because they're on the firing line. They're the ones who often are targets, and they're out-matched when their adversaries, criminals have these kinds of devices that can convert semi-automatics into automatics.

And even if you say they should be permitted to some extent, I'm wondering whether gun manufacturers don't have a responsibility to make devices that they sell safer. And I know that Senator Hirono kind of raised PLCAA. I have been a longtime advocate of repealing PLCAA and enabling litigants who have been harmed the opportunity to take action against gun manufacturers, just as they do against manufacturers of cars, toasters, most consumer products, all consumer products except some that are given a specific exemption.

So, Mr. Ludwig, let me ask you. Are there ways that private litigants, if given the right to take action—and I was Attorney General of the State of Connecticut for some 20 years, but I used to welcome the people I called “private attorneys general”, who indicated the public interest by taking action on their own behalf—would gun manufacturers have more of an incentive to make their products safer and to avoid the kind of advertising that they do now, often appealing to young men as a matter of their manhood, if there were the right of individuals to take action in our courts?

Professor LUDWIG. Thank you, Senator, for the question. I'm an economist. I look at data for a living. We haven't had lots of these regulations in the past, so we don't have a lot of data to look at what would happen in the case of firearms, specifically. But we can look at other consumer products where we've changed incentives for manufacturers.

I mentioned—I mentioned automobiles earlier. There's a long list of examples of whether it's regulation or whether it's litigation, where we've changed incentives for manufacturers to improve the

safety of their products. And we've seen big improvements in product safety and response.

Senator BLUMENTHAL. Let me ask other witnesses whether they have a view on that question. Ms. Sanchez-Gomez, do you have an opinion?

Ms. SANCHEZ-GOMEZ. Thank you, Senator. As a litigator, I know that litigation is an incredibly powerful tool in creating incentives for, in any industry, and the gun industry in particular, to change its behavior, to address problems that it knows its products are causing in communities. And I think the repeal of PLCAA would be an incredible step in that direction.

Senator BLUMENTHAL. Ms. O'Donnell.

Ms. O'DONNELL. I'm not a lawyer, so I don't litigate anything, but I think, if anything, to get these high-powered and fast-firing weapons off the streets is great.

Senator BLUMENTHAL. Thanks, Mr. Chairman.

Chair DURBIN. Thank you, Senator.

Senator WHITEHOUSE. Give me a minute to get settled.

Chair DURBIN. Okay. We'll just give my colleague a moment to get settled in.

Senator WHITEHOUSE. So, welcome, Ms. Sanchez-Gomez. What do you foresee as the legal perils to bump stock bans at the State level? And what legal safeguards do you see, assuming that a State like mine, Rhode Island, has a ban on bump stocks? To what extent do you think that is a safe safeguard, or is it one that can be overruled by Congress for instance?

Ms. SANCHEZ-GOMEZ. I think that there is no constitutional impediment to regulating bump stocks. The Supreme Court has made incredibly clear that machine guns can be regulated, that machine guns are unprotected by the Second Amendment, and bump stocks are machine guns in that they approximate rates of fire that can only be achieved by fully automatic weapons.

The Supreme Court in its recent decision, while it said that ATF could not bring bump stocks within the Federal definition of machine gun, it did invite Congress to act to do just that. And I think in doing that, it suggested very strongly that Congress could do this constitutionally, and that States, of course, could also do this.

Senator WHITEHOUSE. Well, indulge me in the hypothetical that we end up with a Congress that makes bump stock bans illegal at the State level—

Ms. SANCHEZ-GOMEZ. At the State level.

Senator WHITEHOUSE [continuing]. Tries to repeal or override State-level bump stock bans. How do you see that fitting into the constitutional matrix?

Ms. SANCHEZ-GOMEZ. Well, a State is welcome to repeal a bump stock ban if it so chooses, but I think that that would be a dangerous choice because these weapons are incredibly dangerous. They allow a person to shoot a weapon in a way that it increases the lethality of that weapon and ultimately sacrifices the accuracy in doing so. These are weapons that are very dangerous for people to own. We've been regulating machine guns on the Federal level for a very long time, and it's precisely because of the sort of features that a bump stock gives to a rifle.

Senator WHITEHOUSE. Do you think Congress has the constitutional authority to override local laws against bump stocks?

Ms. SANCHEZ-GOMEZ. If Congress were to pass a law regulating bump stocks, I think it would be in addition to. I think that Congress absolutely has the authority to ban bump stocks on the Federal level by bringing bump stocks within the Federal definition of machine gun.

Senator WHITEHOUSE. Yes, I'm clear on that. What I'm worried about is that Congress in years ahead will go the opposite direction and ban, not bump stocks, but bump stock bans.

Ms. SANCHEZ-GOMEZ. That's an interesting question, Senator. I'm not sure that I'm prepared to answer exactly that particular issue of Federal law.

Senator WHITEHOUSE. If you don't mind taking that as a question for the record and responding, I'd be gratified.

Ms. SANCHEZ-GOMEZ. I'd be very happy to. Thank you.

Senator WHITEHOUSE. Thanks very much. Thank you, Chairman.

Chair DURBIN. Thank you to the panel for your testimony. The record will be open for 1 week for submission of materials, and if there are any further questions from the colleagues who were precluded from attending today.

This is an issue of life and death and should be viewed as such. Just not a political debate. And the question we have before us is whether this Congress, whoever controls it, is going to try to make America safer. I certainly hope we do. We owe it to the people of this country.

So, thank you-all for coming today. And with that, the hearing stands adjourned.

[Whereupon, at 11:04 a.m., the hearing was adjourned.]

TESTIMONY OF RYAN M. CLECKNER  
BEFORE THE SENATE COMMITTEE ON THE JUDICIARY,

NOVEMBER 13, 2024

**“HOW BUMP STOCKS AND OTHER CONVERSION DEVICES ARE AMPLIFYING  
THE GUN VIOLENCE EPIDEMIC”**

Good morning Chairman Durbin, Ranking Member Graham, and Senators of the Committee. I am Ryan Cleckner, an attorney specializing in federal firearms law and Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) compliance.

I am actively involved in the firearms industry, and I help Federal Firearms Licensees (FFLs) to stay compliant with federal laws and ATF rules and regulations through online training at RocketFFL. Most recently, I co-founded a software company—FFLSafe—that provides free ATF compliance software. I am also a former firearms industry executive, university lecturer and special operations sniper.

I am here today, as a firearms expert, to testify about the legal and technical qualities and differences of “bump stocks” and “machine gun conversion devices.”

I’d like to address “bump stocks” and “conversion devices” separately because they are two very different things.

A “machine gun” is defined in the National Firearms Acts as a firearm where more than one bullet is fired for a single operation of the trigger. As the ATF applies it, this definition includes not just a completed weapon, but also parts designed to modify a regular firearm into a machine gun.

Bump stocks do not turn firearms into a machine guns nor are they machine guns themselves. They are pieces of plastic that replace a rifle’s standard bump stock and can be used to help “bump-fire” a rifle. “Bump firing” is not illegal - it is a process by which a firearm is allowing a firearm to move rearward under recoil and then pulled back into a stationary trigger finger thereby

engaging the trigger again and firing another bullet. A bump stock can help some shooters to shoot faster, however, it does not change the underlying mechanics nor operation of a firearm.

Bump stocks also have significant physical limitations. First, an unskilled person is not likely to be able to use a bump stock effectively. Second, bump stocks can only be used on certain rifles. Finally, a bump stock is not necessary to bump-fire a rifle. Bump-firing can be done with any semi-automatic rifle - the use of a bump stock just makes it easier for some people.

Despite this, the ATF banned bump stocks in 2019 by incorrectly determining them to be “machine guns.” This is contrary to the law and just one example the ATF over-stepping its authority. Thankfully, the Supreme Court agreed and recently struck-down the federal ban on bump stocks because it was contrary to the plain language of the law.

We must be realistic about the actual threat. FBI crime stats for 2023 (appendix A) show that rifles, of all types, were used in approximately 15,000 instances of violent crime - this includes all assault, homicide, human trafficking, kidnapping/abduction, sex offenses, and robbery.

Blunt objects, such as hammers, were used in 78,500 instances. That means that blunt objects like hammers were used in violent crime last year over 5 times more than all rifles let alone the smaller subset of the rifles on which a bump stock can even be used, let alone the ones on which a bump stock was actually used.

Beyond that, there have been no recorded cases that I have found where a bump stock was used in a crime since the Las Vegas shooting in 2017. What that mass murderer did was truly horrific. However, I believe that the focus on bump stocks in that case is a mistake. Based on my experience and understanding of firearms and what I know of the incident, I believe that the shooter would have been able to cause a similar degree of harm with or without a bump stock.

Conversion devices, or auto sears, on the other hand, actually convert a standard firearm into a full-auto machine gun. These are already highly regulated and illegal to possess absent special licensing and conditions.

There is no question that these devices materially change the operation of a firearm and can make a firearm more lethal. However, unless current gun laws are actually enforced and criminals are prosecuted, new laws concerning these devices are not going to help to protect anyone.

According to a 2017 study from the University of Chicago Crime Lab the average murder or shooting suspect had approximately 12 prior arrests in their criminal history record. This means that enforcing the current laws and keeping criminals off the streets will do more to protect the American public than adding even more laws for criminals to ignore.

In 2002, a so-called Glock-switch, which is a type of auto sear, first appeared in the United States. These devices are precision made instruments with exact specifications - you won't be able to make it in your garage without dedicated equipment and knowledge. Many of them appear to be shipped in from China. They attach to the back of a Glock handgun to suppress the trigger bar and permit automatic fire.

The ATF is targeting these devices and attempting to stop them from being imported into the United States for use by criminal gangs, as they should. But it's important to keep this issue in perspective as well. Any semi-automatic firearm can be converted into a machine gun with certain illegal modifications. There is no practical way to prevent this as a possibility because of the basic nature of a semi-automatic firearm.

Recently, the city of Chicago filed a lawsuit against the gunmaker Glock on a products liability theory to try to blame Glock for having a design that allows Glock switches to exist. This is absurd on its face. It is no easier to make an auto sear for a Glock than for other semi-automatic firearms; it's just that Glock produces the most popular and widespread handguns in the world, used by 60% of law enforcement, so it makes sense that these would be the target of modifications. Even Vice President Harris stated that she owned a Glock.

This appears to be a politically motivated lawsuit, apparently instigated by the gun control group Everytown for Gun Safety. It is part and parcel of a concerted attempt by gun control groups to

target the gun industry. We have seen these sorts of strategies for a long time, which is why Congress in 2005 passed the Protection of Lawful Commerce in Arms Act. This lawsuit appears to me to be just another attempt to get around that law and undermine the Second Amendment by bankrupting the gun industry.

The answer here is to start enforcing the law and prosecuting these criminals. Allowing ourselves to be distracted with lawsuits against the gun industry for something out of their control or trying to make certain objects even more illegal with new laws is futile and does not protect American citizens.

Thank you for the opportunity to speak here today and I'm willing to answer any questions you may have,

Ryan Cleckner

APPENDIX A

Offenses Involving Weapon Use								
Offense Category								
by Type of Weapon/Force Involved, 2023 <sup>1</sup>								
Type of Weapon/ Force Involved	Offense Category <sup>2</sup>							
	Assault Offenses	Homicide Offenses <sup>3</sup>	Human Trafficking Offenses	Kidnapping/ Abduction	Sex Offenses	Extortion/ Blackmail	Robbery	Weapon Law Violations
<b>Firearms</b>	<b>274,379</b>	<b>13,593</b>	<b>101</b>	<b>5,264</b>	<b>1,983</b>	<b>269</b>	<b>66,759</b>	<b>278,502</b>
Firearm	93,338	5,173	30	1,289	565	119	14,927	68,019
Automatic Firearm	2,237	131	0	31	25	3	295	1,282
Handgun	149,766	6,793	65	3,430	1,253	93	46,999	180,178
Automatic Handgun	3,966	194	4	67	35	0	936	4,547
Rifle	12,336	641	0	238	29	38	1,695	11,857
Automatic Rifle	744	46	0	4	3	0	89	465
Shotgun	4,789	182	0	106	14	0	440	6,205
Automatic Shotgun	63	3	0	2	1	0	11	64
Other Firearm	7,001	424	2	93	57	15	1,336	5,738
Automatic Other Firearm	139	6	0	4	1	1	31	147
<b>Knife/Cutting Instrument</b>	<b>119,892</b>	<b>1,442</b>	<b>17</b>	<b>2,327</b>	<b>1,288</b>	<b>41</b>	<b>15,564</b>	<b>35,181</b>
<b>Personal Weapons</b>	<b>1,881,304</b>	<b>754</b>	<b>580</b>	<b>22,914</b>	<b>108,800</b>	<b>1,388</b>	<b>57,932</b>	<b>1,597</b>
<b>All Other</b>	<b>459,767</b>	<b>3,636</b>	<b>748</b>	<b>6,105</b>	<b>25,342</b>	<b>3,698</b>	<b>21,314</b>	<b>35,803</b>
Blunt Object	71,904	327	7	613	528	10	5,175	7,935
Motor Vehicle	37,144	1,314	18	655	39	2	847	395
Poison	804	23	4	6	48	1	134	96
Explosives	409	2	0	4	4	16	62	2,199
Fire/Incendiary Device	1,529	108	0	30	18	2	49	448
Drugs/Narcotics/Sleeping Pills	1,310	375	23	67	1,191	4	51	432
Asphyxiation	20,858	146	8	402	471	1	255	36
Other Weapon	252,101	588	219	2,303	6,447	2,314	10,059	18,595
Unknown Weapons	73,708	753	469	2,025	16,596	1,348	4,682	5,667
<b>No Weapon/Force Involved</b>	<b>270,917</b>		<b>1,703</b>	<b>13,884</b>	<b>67,913</b>	<b>21,673</b>	<b>23,710</b>	<b>13,060</b>

<sup>1</sup>Because law enforcement can report up to three types of weapons/uses of force for each offense (up to ten) in an incident, some offenses may have been counted more than once to attribute them to each of the weapon types associated with them. Therefore, the figures in the table do not reflect the number of weapons or offenses reported in the related incidents.

<sup>2</sup>The Type of Weapon/Force Involved is collected through the National Incident-Based Reporting System for 8 offense categories comprised of 15 offense types. See the Methodology for more information.

<sup>3</sup>Homicide offenses must be reported with a specific weapon, so the category No Weapon/Force Involved is not applicable for these offenses.

FBI Crime Stats for 2023 - Violent Crime by Type of Weapon

Testimony to the US Senate Judiciary Committee  
November 13, 2024

Good morning, my name is Jens Ludwig. I am the Edwin A. and Betty L. Bergman Distinguished Service Professor at the University of Chicago and the Pritzker Director of the University of Chicago Crime Lab, which I helped found to work closely with local, state and federal government as an “R&D partner” to use data to help reduce gun violence and promote justice. In 2011 I was elected to the National Academy of Medicine, and I currently serve on the Committee on Law and Justice of the National Academies of Science.

Today I’m here to talk to you about a particularly troubling trend we are seeing in the data, which reflects a particularly troubling trend we are seeing on the streets of America.

In the past several years Chicago and other US cities have seen a large increase in the so-called “shooting fatality rate”, defined as the odds that a shooting will result in a fatality. That figure went from 1 in 7 in 2010 to closer to 1 in 5 today (from 12.6% to 18.7%). That is a large increase, on the order of nearly 50%.

While these figures come from Chicago, the problem is not unique to Chicago. We seem to be seeing the same increases in shooting lethality all across the United States, in Red States and Blue States, in big cities, suburbs and rural areas, according to research by Janet Lauritsen and Theodore Lentz. In the appendix I show what these trends look like for two places I was able to obtain data for myself that went in different directions in the 2024 presidential race – Pennsylvania (Philadelphia) and California (Los Angeles).

Unfortunately, this problem is not an abstract one to me: I’ve experienced it firsthand, having been robbed at gun point several years ago picking up my daughter from piano lessons on the South Side of Chicago where I live with my family. Just last week, the Monday before election day, just a few miles south of my home a Chicago Police Officer named Enrique Martinez was shot and killed as part of a traffic stop.

I don’t think there can be much argument that this is a very damaging development for public safety in America.

We set out to try to understand what is driving this increase in shooting lethality. After testing several hypotheses, the explanation that is best supported by the data is a large increase in the number of rounds fired per shooting. And a significant contributor to this increase seems to be the use of Glock switches and bump stocks, or what are sometimes called “machine-gun conversation devices” (MCDs).

Briefly, these are after-market devices that modify semi-automatic firearms so that they fire automatically, functionally equivalent to a machine gun. A switch does so for a handgun; a bump stock for a rifle.

In Chicago the number of firearms recovered that have been modified by these devices to fire automatically has increased from just 9 in 2010 to fully 465 in 2023. In fact, the Chicago Police

Officer recently shot and killed during a traffic stop, Enrique Martinez, was killed by a weapon that was outfitted with such a switch.

This proliferation of MCDs has contributed to the large increase in the number of rounds fired per shooting in Chicago shootings. For example, the number of shooting incidents in which Chicago police recovered 20 or more shell casings increased over the period 2010 to 2021 from 20 to 1,033.

I should note that MCDs do not alone account for the increase in rounds fired. A switch that allows for automatic fire is even more deadly if a shooter has a large number of rounds available to fire without having to reload, and Chicago has also seen a dramatic increase in the recovery of high capacity magazines. Between 2010 and 2023, there was over a five-fold increase in the number of magazines recovered with a capacity of 15 or more rounds, and a similarly large increase in the number of magazines recovered with a capacity of 30 or more rounds.

I realize that something like a 'shooting fatality rate' is not a very intuitive way to think about America's challenge with gun violence. So here is a more concrete way to think about this.

With 2000 to 3000 shootings per year in Chicago, even a seemingly small rise in the shooting fatality rate has a significant impact in the homicide rate. The increase in lethality from 12.6% to 18.7% means that compared to a world in which this figure had stayed constant at 2010 levels, the city of Chicago in 2023 had 184 more murders than it would have had otherwise. That's one-third of the total homicides in Chicago last year. 184 families whose lives will never be the same.

While I realize different people will have different views about the right solution to this problem, the main point I would like to emphasize here is that on the long list of things that we can be worried about, this increase in shooting lethality is a major one. Counter-intuitively, even small changes in the lethality rate of a few percentage points can wind up leading to big swings in the murder rate, both in terms of the absolute number of deaths (given the large number of shootings that occur in the US every year) or as a percentage of the total number of murders. The impact of these increases in shooting fatality rates on the number of homicides, the number of families and communities devastated and the larger implications for these cities themselves as people and businesses flee to safety, is heartbreaking.

I hope something here winds up being helpful to the committee's deliberations, thank you.

**Appendix - Data Description & Exhibits**

I carried out this analysis as part of my work directing the University of Chicago Crime Lab, where our mission includes analyzing data to inform the public about key facts and trends related to public safety and the public sector's response to that challenge.

For that purpose the Crime Lab has expertise in not only accessing the publicly available data sources that I draw on here (the city of Chicago public data portal; the city of Philadelphia public data portal; and FOIA'd data from the Los Angeles Police Department) but also restricted-use data from the Chicago Police Department (CPD) that the Crime Lab has access to for research purposes through a data sharing agreement with the city of Chicago. Restricted-use datasets analyzed here include:

- The CPD shooting victim database,
- The CPD crime incident database
- The CPD inventoried evidence database.

TABLE 1

Chicago Fatal and Non-Fatal Shooting Victims and the Shooting Lethality Rate

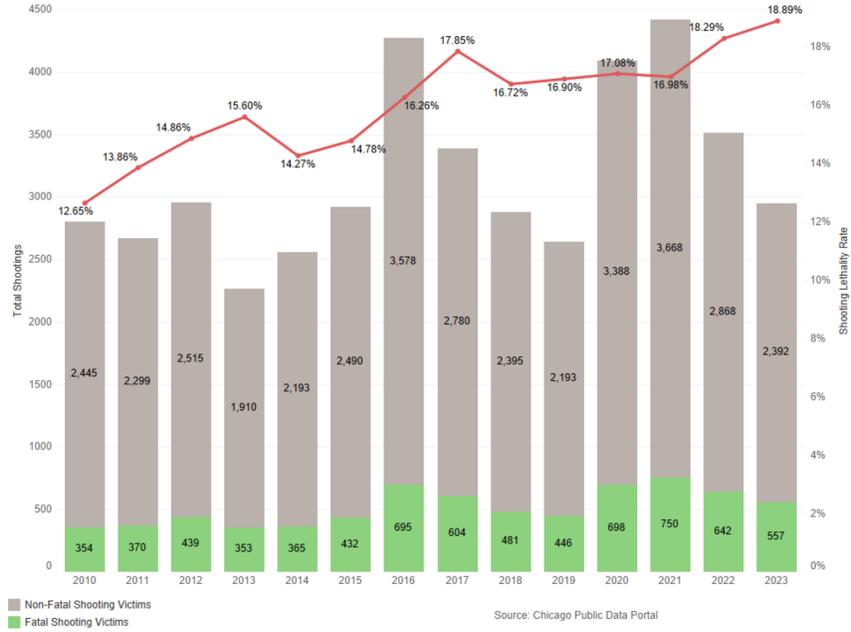


TABLE 2

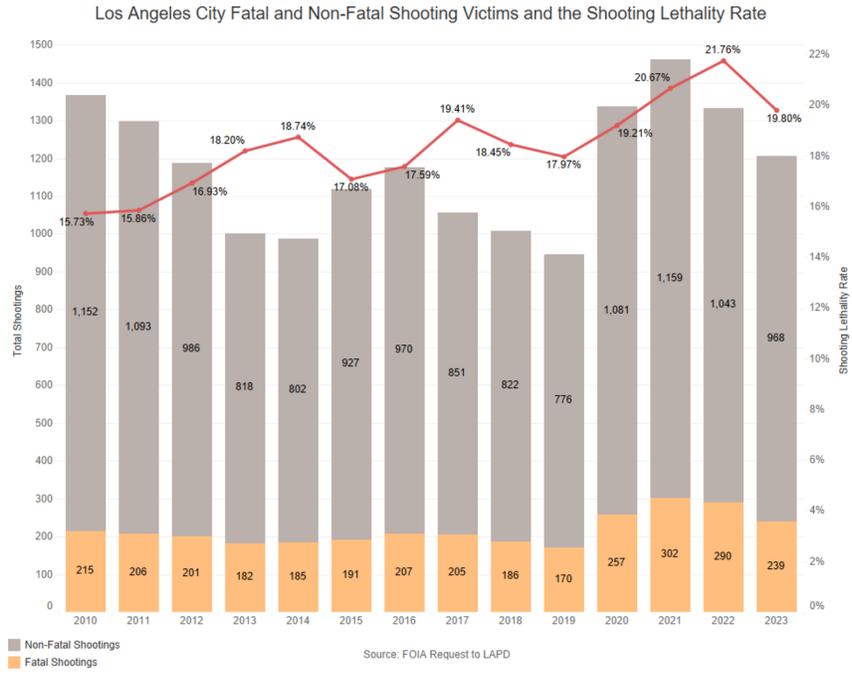


TABLE 3

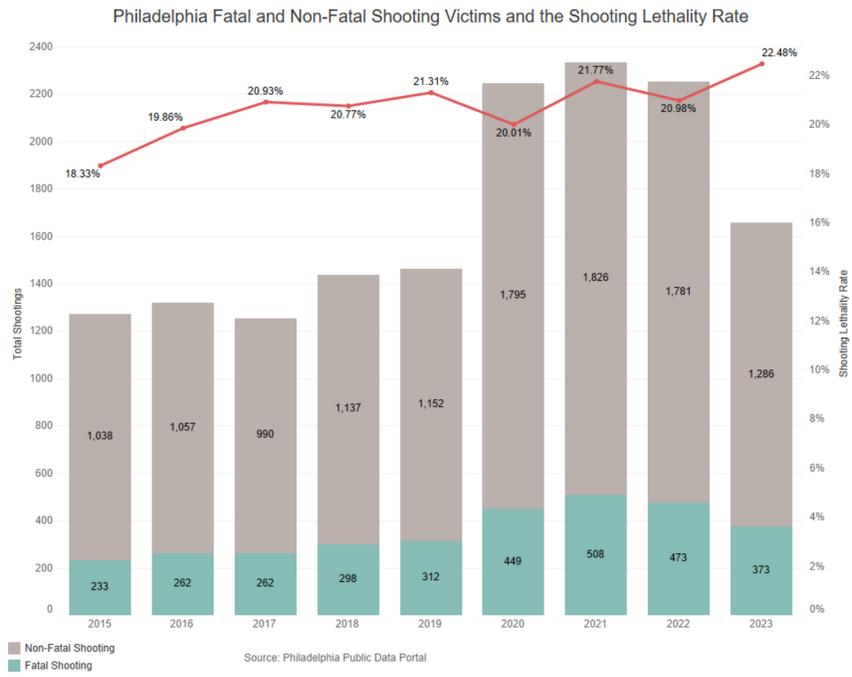


TABLE 4

Fatal Shooting Victims in Chicago if 2010 Shooting Lethality had Stayed Constant

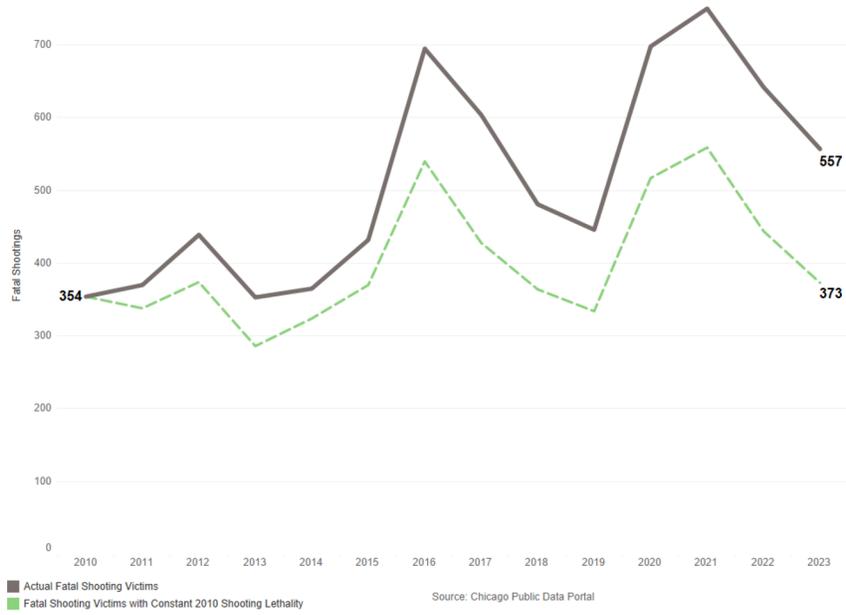


TABLE 5

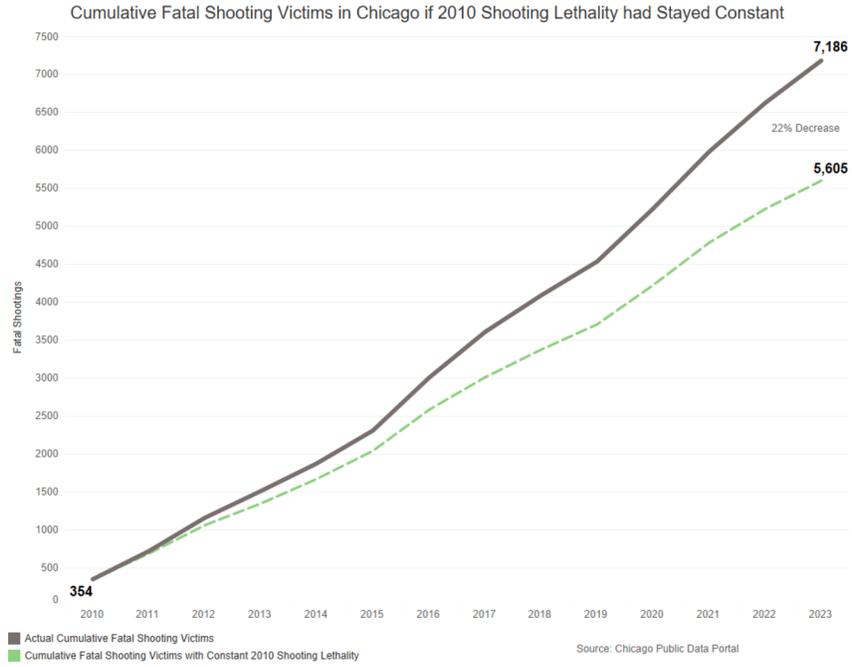


TABLE 6

Fatal Shooting Victims in Los Angeles City if 2010 Shooting Lethality had Stayed Constant

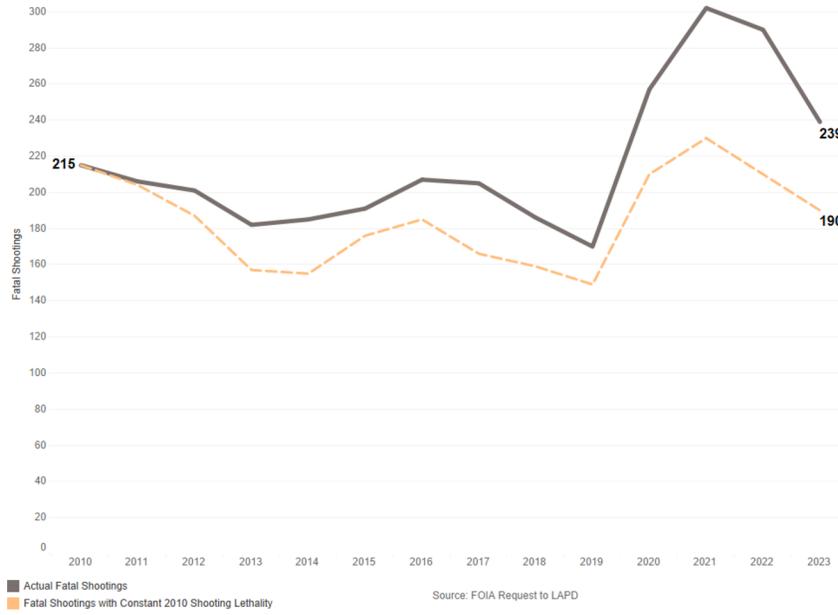


TABLE 7

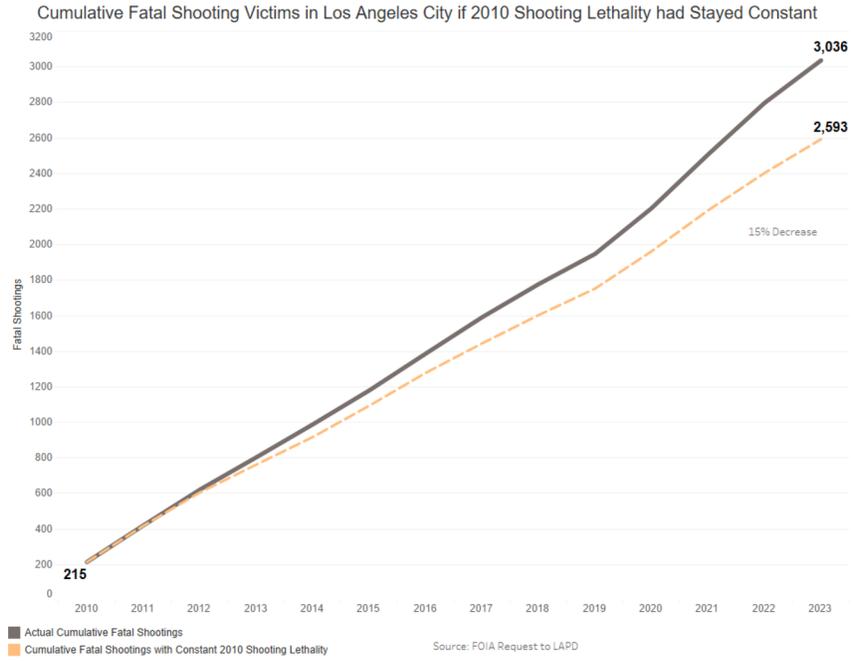


TABLE 8

Fatal Shooting Victims in Philadelphia if 2015 Shooting Lethality had Stayed Constant

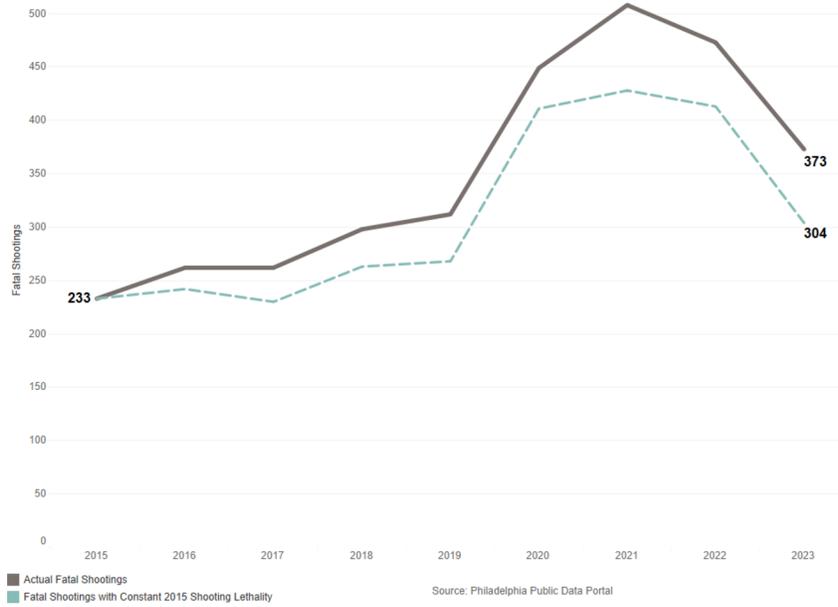


TABLE 9

Cumulative Fatal Shooting Victims in Philadelphia if 2015 Shooting Lethality had Stayed Constant

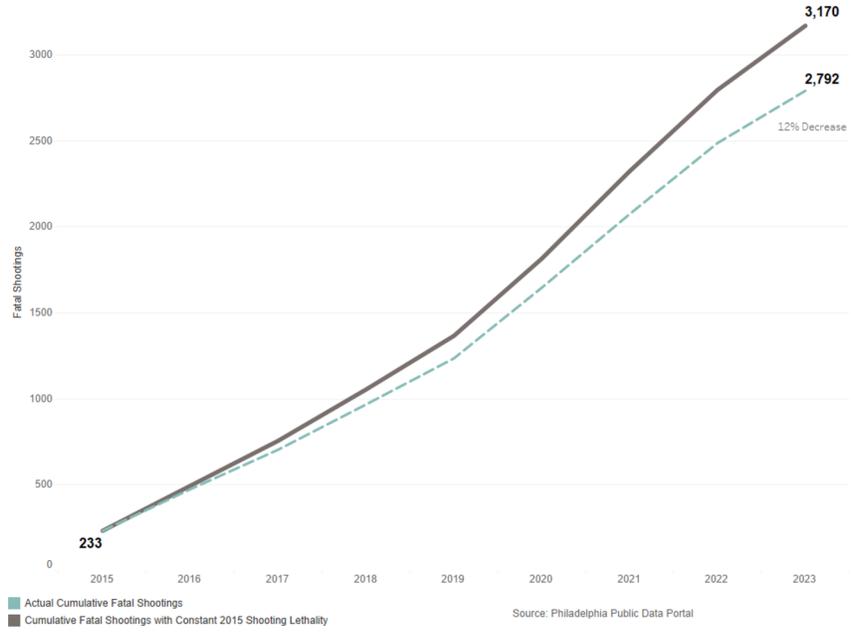
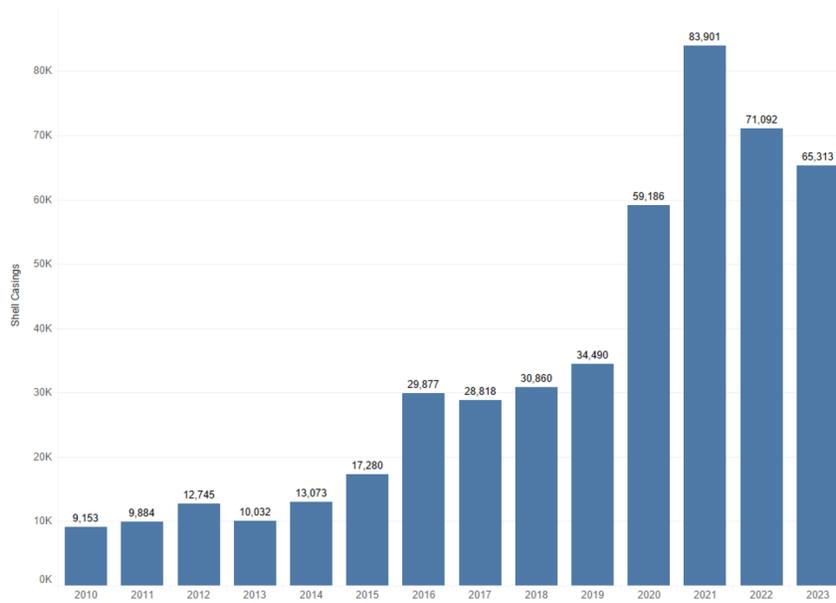


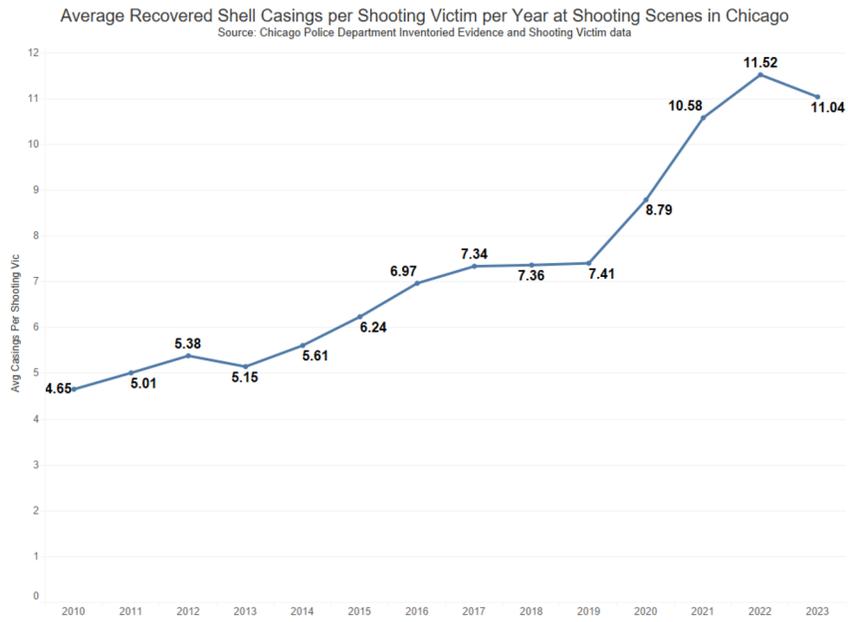
TABLE 10

Spent Shell Casings Recovered by the Chicago Police Department by Year  
Source: Chicago Police Department Inventoried Evidence



These are all shell casings recovered by the Chicago Police Department, regardless of whether or not they were connected to an injured shooting victim.

TABLE 11



This is calculated by filtering recovered shell casings to those that link to a shooting incident via the case report ID. Then the total number of shell casings for that incident is divided by the number of shooting victims in that incident. These shell-casings-per-shooting-victim counts are then averaged by year.

TABLE 12

Shooting Incidents in Chicago by Number of Recovered Shell Casings

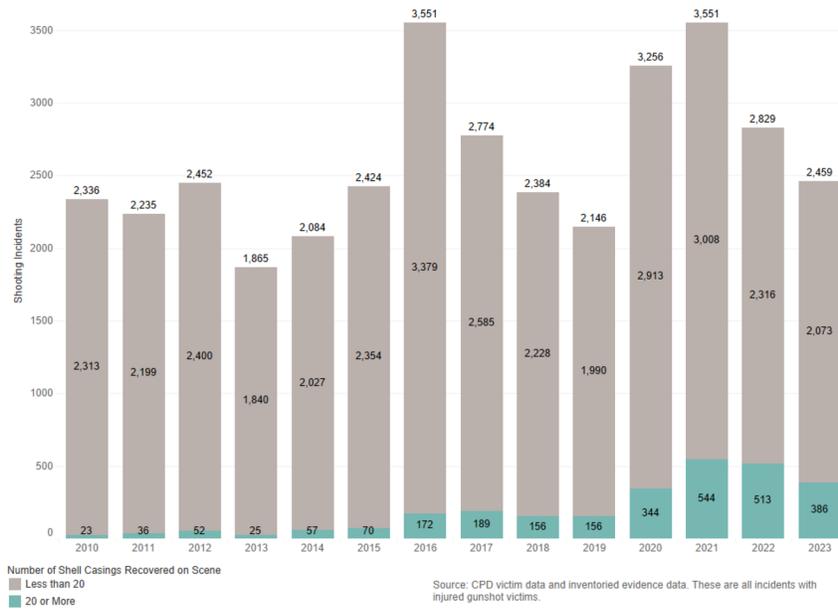


TABLE 13

Seized Magazine Capacity by Year in Chicago  
 Source: Chicago Police Department Inventoried Evidence

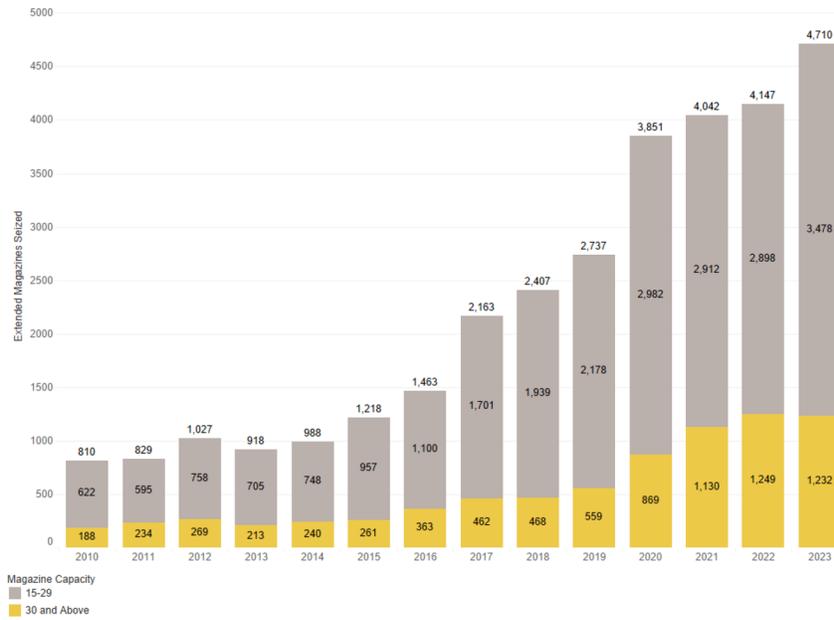
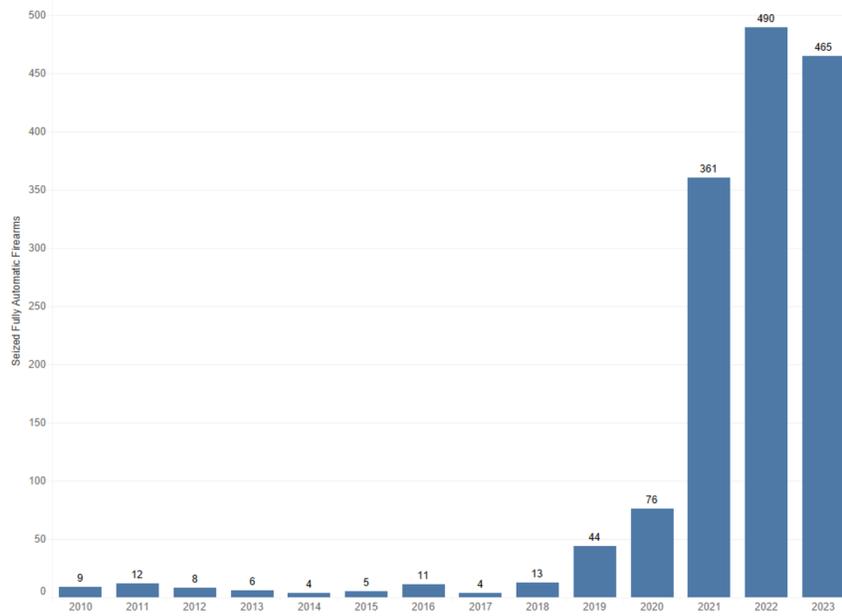


TABLE 14

Number of Firearms Modified to Fire Automatically Seized by the Chicago Police Department  
Source: Chicago Police Department Inventoried Evidence



**Good morning Chairman Durbin and members of the committee.**

**My name is Laura O'Donnell. I am a retired Chicago Police Lieutenant and I am one of the over 22,000 survivors of the Route 91 music festival mass shooting in Las Vegas.**

**I spent 24 years working in some of the most violent areas of Chicago, I am accustomed to seeing people on their worst day. I have witnessed numerous crime scenes, gunshot victims and even people taking their final breath. Yet nothing could have prepared me for October 1st 2017, the day of the deadliest mass shooting in U.S. history, when over 400 people were shot, 58 lives were lost and 2 others later succumbed to their injuries.**

**I know that you have all heard and possibly seen video of what happened but I want you to hear it from someone who was there. My husband, best friend, a co worker and I, all Chicago Police Officers, along with my sister in law who is a nurse, traveled to Las Vegas to attend a 3 day country concert. On the last night at 10:05 pm the unimaginable, indescribable chaos erupted. We heard pop pop pop, pop pop pop. At first, we thought it might be fireworks. Then a few seconds later we heard it again and we KNEW it was gunfire. It was louder, faster and nonstop. My husband pushed us all to the ground and laid his body over ours. With every volley of gunfire you could hear the bullets hitting the ground and people were screaming all around us. When the shooting momentarily paused, we began running towards the exit but we got to a bottleneck of people. We were separated from 2 of my friends and more gunfire erupted in a longer volley of bullets, we hit the ground again. We realized that we**

could get trampled by this crowd and there was no other way out, the gates were locked and people started climbing fences.

As police officers, we are trained to look for cover when taking on gunfire and the only bit of protection was the metal bleachers. Once under the bleachers I saw people were crying, screaming and a lot were praying. You could hear the bullets hitting the bleachers making this ping ping ping sound. They were also hitting the metal grills in the food area and you could smell the food burning. I peered out of a slot of the bleachers, as I watched my husband move cautiously along the right side of the venue, telling people to drop everything and go while checking on people who were laying on the ground. Then longer volleys, hundreds of bullets. I was worried that my husband might get hit and die right in front of me. When you are in a fight or flight response, survival mode, your body shuts down everything that is not essential. It feels as if things are moving in slow motion, it is difficult to process anything but I remember thinking how can this still be going on, how can someone still be firing rounds? I also remember trying to think of the last things I said to my three children, my twin and younger sister. I really thought I might die in this venue and wanted to feel at peace that I had told them that I loved them. The shooting finally stopped, it seemed to last forever. I have no memory of the next few minutes as we walked out of the venue, passing the medical tent. Sometimes I wonder how chaotic and horrific that medical tent must have been that my mind will not let me remember it while other memories are still so vivid to this day. This is a picture of my husband and I minutes before the shooting started. This could have been the last picture we ever took.



This is the last picture that Carly Kreibaum took with her

friends.



She was 33 years old, a wife and a mother of two . She worked as a manager at Walmart and on the farm with her husband. She came from a small town of 500 people and had never been on a plane before that trip. I helped her two frantic friends check ambulances, showing her picture to police officers and calling hospitals looking for Carly. They later found out that she was shot multiple times and died inside the venue. We later drove 8 hours to Sutherland Iowa to attend her wake and stand as her honor guards in our CPD dress uniform with the town's lone police officer at her funeral.

In the aftermath of the shooting, I was in a daze, my mind was still moving slow but I was hyper vigilant. I had

trouble sleeping and struggled to cope with the memories that would replay in my mind. I had survivor guilt, I often wondered why am I still here? Why not me? During that time, I would have panic attacks in the grocery store and would just walk out without any groceries. It was difficult to leave my house unless my husband was with me as I did not feel safe especially in crowds. I wanted some control and my normal life back so I returned to work but it was challenging for me. My job at that time was the coordinator of the first SDSC, basically a Real Time Crime Center, in one of the most violent areas of Chicago, Englewood. One of my duties was to listen to the audio of gunfire captured by the ShotSpotter technology. As you can probably imagine it was distressing to listen to incidents of gunfire every day and I had to take more time off of work.

I sought help through my Employee Assistance Program. I did eventually return to work but triggers of the shooting would lead to heightened anxiety during scenarios training and annual qualifications at the shooting range. It was difficult to be in charge of officers during major events with large crowds and loud fireworks. I knew I needed more help. I began cognitive behavior therapy with a trauma therapist who worked with law enforcement. I also joined a weekly support group through the Vegas Strong Resiliency Center, which I am still apart of today. I even attended an intensive inpatient week long therapy program at Onsite called Triumph over Tragedy for mass shooting survivors, learning coping skills that I still rely on today.

Although it has been 7 years, loud noises, helicopters, crowded places, outdoor concerts to name a few, still activate me. To give you an example .... a co worker once

invited me to a Cubs game. This is how it plays out in my mind. It's an outdoor venue, it will be crowded, will I be sitting near an exit, I will have to wear gym shoes so I can run if I need to. I usually end up not going to things like this that I once enjoyed. My life is just not the same. I have my life before Route 91 and my life after Route 91. I know there must be a purpose to my life and there must be a reason I survived. Maybe telling my story here today is one of those reasons.

The shooter used multiple weapons including an AR-15 modified with a bump stock, turning it into a fully automatic weapon capable of firing 90 rounds in 10 seconds. That is almost 10 times more than without that modification. While I was in the venue, he unleashed over 1,000 rounds in 11 agonizing minutes. 400 people shot and over 800 injured. 58 people died that day, 36 women and 22 men. The 3 youngest were only 20 years old. I believe that if the shooter did not have a bump stock, more people would have had time to get out of the venue, less people would have been injured and of course less would have died. Every day I think of the people who lost their lives. Do not let those lives be forgotten. There are links at the end of my written testimony to the fully automatic gunfire from that day. I hope you all take the time to listen to it. I am urging you to take action today to ban these modifications to firearms to prevent future tragedies. Last week Chicago Police Officer Enrique Martinez was killed in the line of duty by a firearm modified with a switch, making it fully automatic. There is no good reason to turn a semi-automatic weapon into a machine gun.

Despite the progress I made, the scars from that day continue to impact my daily life. 1 October 2017 is a day

**that I will never forget, it will never be forgotten by the 22,000 survivors or the family members of the 60 people who died. I hope you honor their memory. Our lives will never be the same.**

**Please consider supporting the Forever One Memorial, a permanent monument dedicated to honoring the 58 lives lost. It will be built on the festival grounds and hopefully completed by the 10 year anniversary to serve as a lasting reminder of those we lost and a place of reflection for all.**

**The pin I am wearing today was designed by Sue Ann Cornwell, a Route 91 survivor. The orange ribbon represents the Route 91 survivors and the monarch butterfly represents hope, change, transformation and the souls of the deceased.**

**VIEWER DISCRETION IS ADVISED**

- <https://www.youtube.com/watch?v=l82X-7pwWmQ>
- <https://www.cnn.com/videos/us/2017/10/02/las-vegas-shooting-concert-video-shots-von.cnn>
- <https://www.nytimes.com/video/us/100000005473328/las-vegas-shooting-timeline-12-bursts.html>



LMPD Preliminary Investigative Report

Carly is #19



**Testimony of Esther Sanchez-Gomez  
Litigation Director, GIFFORDS Law Center To Prevent Gun Violence**

**U.S. Senate Committee on the Judiciary  
How Bump Stocks and Other Conversion Devices are  
Amplifying the Gun Violence Epidemic  
November 13, 2024**

Thank you, Chairman Durbin, and members of the Committee for the opportunity to testify here today. My name is Esther Sanchez-Gomez and I am the Litigation Director at GIFFORDS Law Center to Prevent Gun Violence. GIFFORDS Law Center was formed more than 30 years ago after a mass shooting at a San Francisco law firm and renamed for former Congresswoman Gabby Giffords after joining forces with the organization she leads.

It is worth noting the origins of the organization I represent—three mass shootings over two decades. The Law Center to Prevent Gun Violence was founded in the aftermath of the July 1993 shooting at the San Francisco law firm of Pettit & Martin which claimed the lives of eight people and wounded six others. Your former colleague, Congresswoman Gabby Giffords was shot in the head during a constituent event in January of 2011 where six were killed and twelve others injured. She was compelled into action during her own recovery after witnessing the horror of the Sandy Hook Elementary School shooting, forming GIFFORDS to find a path forward on gun violence prevention.

GIFFORDS Law Center is a non-profit policy organization serving lawmakers, advocates, legal professionals, gun-violence survivors, and others who seek to reduce gun violence and improve the safety of their communities. Through partnerships with gun-violence researchers, public-health experts, and community organizations, GIFFORDS Law Center researches, drafts, and defends the laws, policies, and programs proven to effectively reduce gun violence. GIFFORDS Law Center also advocates for the interests of gun owners and law enforcement officials who understand that gun-safety legislation and community violence prevention strategies are not only consistent with the Second Amendment—they are essential to protecting the health, safety, and lives of every person in the nation.

Perhaps the bigger tragedy is that these shootings are not just isolated moments in our nation's history, but examples of the sort of senseless gun violence that continues to ravage our country. Recently, this problem has taken a form this body sought to outlaw a century ago—machine guns have returned to American streets, destroying lives and forever changing communities across our country.

My fellow panelist is here today because she survived the October 1, 2017 shooting in Las Vegas. That day, a gunman armed with AR-15-style rifles shot over 500 people at a concert. Sixty concert goers were killed in what remains the deadliest mass shooting in our country's



history.<sup>1</sup> Numerous witnesses, including police officers, described hearing the assailant's weapons shooting "automatic gunfire."<sup>2</sup> Their descriptions of automatic gunfire, or machinegun fire, are accurate. The gunman equipped his firearms with bump stocks. When a rifle is modified with a bump stock, the shooter only needs to pull the trigger once, and the gun will fire continuously so long as the shooter keeps his trigger finger stationary and applies forward pressure by leaning into the bump stock. These devices allowed the Las Vegas gunman to fire over 1,000 rounds in 11 minutes.<sup>3</sup>

In response to the 2017 Las Vegas shooting, under President Trump's direction, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) amended its regulations to find bump stocks subject to the federal ban on machine guns and machine gun conversion devices. However, this past June, the Supreme Court supplanted its firearms expertise for that of the ATF and issued a decision in *Garland v. Cargill*, striking down this regulation. And while bump stocks are currently regulated by a number of states, they are now legal under federal law.

Bump stocks are not the only devices equipping shooters with weapons capable of automatic fire. In March of this year eight high schoolers were shot while waiting at a bus stop in Philadelphia. The shooter fired 30 rounds in mere seconds. The gunman was able to do so because his Glock handgun was equipped with a device called an auto sear.<sup>4</sup> Just this September, several people opened fire in the popular entertainment district of Birmingham, Alabama, killing four people and injuring 17 others. Law enforcement recovered over 100 shell casings from the crime scene, and believe the shooters used auto sears to convert their firearms into fully automatic weapons.<sup>5</sup>

Auto sears are small, lego-sized, machine gun conversion devices that can be easily inserted into a firearm, allowing it to fire continuously with a single pull of the trigger. These devices are also called "switches" or "Glock switches" because of their pervasive use on Glock pistols. Unlike bump stocks, auto sears are classified as machine guns under federal law and are illegal. However, they have proliferated significantly in recent years because of the ease of access created by online marketplaces and the rise of 3D printing technology. ATF's most current reports on firearms commerce and trafficking find that there has been a 570% increase in auto sears recovered by the agency in recent years.<sup>6</sup> That statistic is borne out in the lived

<sup>1</sup> Jonathan Bernstein & Mark Gray, *Five Years Since the Route 91 Massacre No One Knows a Damn Thing*, Rolling Stone (Sept. 21, 2022), <https://tinyurl.com/bdjkavk2>.

<sup>2</sup> See Las Vegas Metro. Police Dep't, LVMPD Criminal Investigative Report of the 1 October Mass Casualty Shooting 7, 34-36, 40-41, 56-57, 58, 73 (Aug. 3, 2018).

<sup>3</sup> *Id.* at 125.

<sup>4</sup> Bill Hutchinson and Jennifer Vilcarino, "Machine-gun conversion device dubbed 'Glock switches' taking violence to the 'next level': Experts," ABC News, June 12, 2024, <https://abcnews.go.com/US/machine-gun-conversion-device-taking-violence-level-experts/story>.

<sup>5</sup> Michelle Watson, et al., "Up to \$100,000 In Rewards Offered for Tips to Solve Birmingham Shooting That Left 4 People Dead," CNN (Sept. 23, 2024),

<https://www.cnn.com/2024/09/23/us/birmingham-shooting-what-we-know/index.html>.

<sup>6</sup> Bureau of Alcohol, Tobacco, Firearms & Explosives & Dep't of Just., *Part VII: Recommendations and Future Enhancements*, in Nat'l Firearms Commerce and Trafficking Assessment (NFCTA): Crime Guns (2023), <https://web.archive.org/web/20240419184738/https://gunswitch.org/product/glock-switch>.



trauma of our communities. The examples I gave before, of shootings in Philadelphia and Alabama, this year are a tiny sampling of shootings being committed with auto sear enabled machine guns.

This is not the first period of American life marred by machine gun fire. During the 1920s and '30s the country was rocked by a gun violence epidemic fueled by prohibition era organized crime.<sup>7</sup> The weapon of choice was the Thompson submachine gun, which fired 600 rounds per minute.<sup>8</sup>

The ceaseless stream of violence spurred Congress to action, passing the National Firearms Act (NFA), which President Roosevelt signed into law in 1934. The NFA effectively banned automatic firearms through a tax and registration policy. It is our country's first and most enduring federal gun violence prevention legislation.

Instructively, it has been amended over time to account for changes in commerce and technology, and to make an explicit ban on civilian ownership of automatic weapons. Which is to say, the violence we see perpetrated today with the aid of bump stocks and auto sears can be prevented. Congress has the constitutional authority to ban bump stocks, and Congress can grant ATF and other federal law enforcement agencies the resources to address the trafficking of machine gun conversion devices.

We are not condemned to live in a society where a gunman can enter our places of worship, political rallies, concerts, or any other type of gathering and slaughter Americans by the dozens with the single pull of a trigger. The Supreme Court has made clear that you can act—and the harm occurring in our communities compels you to do so.

The remainder of my testimony further discusses the legal regime governing automatic weapons and both bump stocks and auto sears in greater detail. I have submitted it in writing for the Committee's consideration.

### **Congress explicitly banned automatic weapons, and expanded the definition of “machine gun” to counteract efforts to circumvent that ban.**

#### **The History of the National Firearms Act.**

Congress, confronted with the brutal, machine gun fueled violence of prohibition-era organized crime in the 1920s and '30s imposed a registration requirement and a hefty \$200 tax on the making and transfer of machine guns via the National Firearms Act (NFA).<sup>9</sup> Adjusted for inflation

<sup>7</sup> “Prohibition-Era Gang Violence Spurred Congress To Pass First Gun Law,” NPR, June 30, 2016, <https://tinyurl.com/4s6e2efn>.

<sup>8</sup> Ronald G. Shafer, “They were killers with powerful guns. The president went after their weapons.,” The Washington Post, May 26, 2022, <https://www.washingtonpost.com/history/2022/05/26/fdr-machine-gun-control-dillinger/>.

<sup>9</sup> See, e.g., S. Rep. No. 73-1444, at 1-2 (1934) (“[The] law violator must be deprived of his most dangerous weapon, the machine gun.”); H.R. Rep. No. 73-1780, at 1 (1934) (same).



that tax would be well over \$3,500 today, and during the Great Depression effectively functioned to ban civilian ownership of machine guns.<sup>10</sup> The NFA reflected Congress's judgment that machineguns have no legitimate civilian purpose, because they were neither useful nor necessary for sport or self-defense.<sup>11</sup>

As originally proposed, the NFA defined "machinegun" as "any weapon designed to shoot automatically or semiautomatically twelve or more shots without reloading."<sup>12</sup> In a hearing before a House Committee, the National Rifle Association's then-President, Karl T. Frederick, expressed concern that this definition was too narrow and could be easily circumvented by firearm manufacturers. He was specifically worried that a gun with an ammunition-feeding device limited to 11 rounds or fewer would circumvent the regulation but still fire automatically in practice.<sup>13</sup>

Instead, Fredrick proposed a broader definition for Congress to adopt. He said a machine gun should be defined as a weapon that "shoots automatically more than one shot without manual reloading, by a single function of the trigger."<sup>14</sup> This was the final definition in the NFA when President Roosevelt signed it into law.

#### **The Evolution of the Automatic Weapons' Regulation.**

Despite the NFA's initial success in helping tamp down the violence of prohibition era United States, firearm manufacturers found a way to circumvent the regulation by producing components that converted semi-automatic weapons to fully automatic machine guns. Congress acted twice to reign in the proliferation of machine gun conversion devices. First, by enacting the Gun Control Act of 1968 ("GCA"), which expanded the NFA's machine gun definition to include "any combination of parts designed and intended for use in converting a weapon into a machine gun."<sup>15</sup> The gun industry continued to work around those regulations, however, and by the 1980s converted machine guns accounted for 20 percent of machine guns recovered by ATF.<sup>16</sup> In 1986 Congress responded by passing the Firearms Owners' Protection Act, which replaced the prior registration scheme with a complete ban on civilian ownership of newly manufactured machine guns.<sup>17</sup> In doing so, Congress broadened the definition of machine gun to capture any part used to convert a weapon into a machine gun.

<sup>10</sup> *Supra* at note 7.

<sup>11</sup> See S. Rep. No. 73-1444, at 2 (1934) ("[T]here is no reason why anyone except a law officer should have a machine gun or sawed-off shotgun."); H.R. Rep. No. 73-1780, at 1 (1934) (same).

<sup>12</sup> Hearings Before a Subcommittee of the Committee on Commerce of the United States Senate on S. 885, S. 2258 and S. 3680, at 75 (1934).

<sup>13</sup> See Hearings Before The Committee on Ways and Means, House of Representatives on H.R. 9066, at 39-40 (1934) ("House NFA Hearing") ("A gun which fires automatically or semiautomatically less than 12 shots is not under this definition a machine gun. And yet, in my opinion, it is in fact a machine gun and should be so classified.");

<sup>14</sup> *Id.* at 40.

<sup>15</sup> Pub. L. No. 90-618, 82 Stat. 1213 (Oct. 22, 1968).

<sup>16</sup> See Sen. Comm. on the Judiciary, 97th Cong., Federal Regulation of Firearms 26 (1982).

<sup>17</sup> Pub. L. No. 99-308, § 102(9).

There is a consistent throughline in federal firearms legislation—Congress and the American people agree that the public good is served by banning automatic weapons from civilian use.

### **Bump stocks create automatic weapons in function and practice.**

#### **Bump stocks harness a firearm's recoil movement to enable continuous fire.**

Bump stocks serve one function—to convert semi-automatic rifles into machine guns. Automatic and semi-automatic rifles have very few mechanical differences. In semi-automatic rifles, the firing process is controlled by a “disconnecter,” which requires each shot to be fired with a trigger pull. In automatic rifles, a trigger pull disengages the disconnecter, and the auto sear then controls the firing process. The auto sear harnesses the kinetic force created by the combustion reaction that fires each round, to load and fire a new round without additional operator action. Bump stocks harness the back-and-forth movement from the same combustion reaction, allowing the disconnecter cycle to loop and the gun to continuously fire, without the need for the shooter to make repeat trigger pulls. This turns a semi-automatic weapon into an automatic weapon.

The name “bump stock” is helpful in understanding how these devices function. A bump stock allows the rifle to slide within the stock. The recoil from each shot, combined with forward pressure from the operator’s non-shooting hand (or a spring in some bump stocks), causes the rifle to slide back and forth, “bumping” the operator’s stationary trigger finger, which rests on the bump stock’s “trigger ledge.” Each bump initiates a new firing sequence, allowing the hammer to fire another round without the shooter acting to pull the trigger.

The primary difference between a traditional automatic rifle and a rifle equipped with a bump stock is the method by which the rifle harnesses kinetic energy to create automatic fire. Traditional machine guns have an internal mechanism, the bolt carrier, to leverage excess gas from the combustion to activate continuous fire. Bump stocks harness the movement of the rifle created by the combustion to activate continuous fire. With a bump stock, so long as the shooter keeps a stationary finger on the trigger ledge and holds the gun in place by applying forward pressure to the barrel via the stock, the rifle will fire continuously.

#### **Bump stocks enable fire at the same rate as machine guns.**

Bump stocks enable firing rates that rival other automatic weapons. A firearm’s fire rate is measured by the time between firing a loaded round and locking a new round into firing position.<sup>18</sup> The military-issue M16 has a fire rate of 800 rounds per minute (RPM). Semi-automatic rifles cannot achieve this rate because they are constrained by a shooter’s physical ability to successively pull the trigger. Professional sport-shooting competitors, who use semi-automatic rifles, have a maximum theoretical firing rate of about 180 RPM.<sup>19</sup> However, a

<sup>18</sup> FM23-9 at Glossary 7.

<sup>19</sup> Steven Koff, “Assault Weapons, Semi-Automatic Rifles and the AR-15: Defining the Debate,” Cleveland.com (Apr. 18, 2018), [https://www.cleveland.com/nation/2018/04/assault\\_weapons\\_semi-automatic\\_1.html](https://www.cleveland.com/nation/2018/04/assault_weapons_semi-automatic_1.html).

semi-automatic rifle equipped with a bump stock can fire between 400 and 800 RPM.<sup>20</sup> The Thompson submachine gun—which, as discussed earlier, was responsible for much of the violence that prompted the passage of the NFA—has a fire rate of 600 RPM. Bump stock equipped rifles are machine guns in practice, enabling fire rates that rival other automatic firearms. They are entirely within the universe of devices Congress has already deemed to be too dangerous for civilian use.

**Bump stock equipped rifles are analogous to the devices Congress has already deemed too dangerous for the public and should be regulated as such.**

Bump stocks are entirely within the universe of devices Congress has already deemed to be too dangerous for civilian use. This past summer, the Supreme Court read the definition of machine guns in its *Garland v. Cargill* decision to explicitly exclude bump stock devices from the definition of machine guns under federal law. As my testimony has sought to explain, in both use and purpose, bump stock equipped rifles are indistinguishable from traditional automatic firearms. But you do not need to take my word for it. Justice Alito, in his *Cargill* concurrence said:

“There can be little doubt that the Congress that enacted 26 U. S. C. §5845(b) would not have seen any material difference between a machinegun and a semiautomatic rifle equipped with a bump stock. . . . There is a simple remedy for the disparate treatment of bump stocks and machineguns. Congress can amend the law—and perhaps would have done so already if ATF had stuck with its earlier interpretation. Now that the situation is clear, **Congress can act.**”<sup>21</sup>

Congress should act to close the loophole that now exists in our federal ban on machine guns.

**Auto sears are illegal machine guns that require modern, robust enforcement measures.**

**Auto sears are the quintessential machine gun conversion device.**

Auto sears—short for automatic sear—are small devices that attach to semi-automatic firearms and convert them into fully automatic firearms capable of firing one to two dozen rounds per second.<sup>22</sup> The mechanics are straightforward. The sear is the part of the trigger mechanism that holds back the striker. The striker, in turn, is a part of the firing mechanism that strikes the primer and initiates the explosion that propels the bullet. Once the sear is overtaken, the striker can continue firing with just one trigger pull. Stated simply, a gun with an auto sear will fire continuously until the ammunition runs out or the shooter releases the trigger.

<sup>20</sup> See “The ‘Bump Stocks’ Used in the Las Vegas Shooting May Soon Be Banned,” *Economist* (Oct. 6, 2017), <https://www.economist.com/graphic-detail/2017/10/06/the-bumpstocks-used-in-the-las-vegas-shooting-may-soon-be-banned>.

<sup>21</sup> Alito, J., concurring, *Garland v. Cargill*, 602 U. S. \_\_\_\_ (2024) (emphasis added).

<sup>22</sup> Alain Stephens and Keegan Hamilton, “Auto Sears: The Return of the Machine Gun,” *The Trace*, March 24, 2022, <https://www.thetrace.org/2022/03/auto-sear-gun-chip-glock-switch-automatic-conversion>.

Firearms equipped with auto sears pose a particular public safety risk. The uninterrupted stream of fire these devices enable increases the recoil of the firearm. This coupled with the lack of any time between shots fired creates a situation where it is extremely difficult for the shooter to manage the recoil and control the weapon. The resulting harm is an indiscriminate barrage of bullets.

Auto sears are often referred to as switches or the more specific “Glock switch.” This is just a different name for the same type of device. Glock switches have established a brand name affiliation because Glock pistols are both common and particularly easy to modify with an auto sear. A person with no training, technical expertise, or specialized tools can install a Glock switch in a short time. All it requires is removing the slide cover plate from the back of the Glock pistol and attaching the Glock switch to the rear of the slide.

**A combination of global internet based marketplaces and modern technologies are fueling the proliferation of auto sears.**

Despite being banned as machine guns under existing federal law, auto sears are increasingly being recovered from crime scenes, corresponding with an increase in the frequency of automatic gun fire reported across the United States. ATF reports that, between 2017 and 2021, the number of machine gun conversion devices recovered by the agency increased by approximately 570% compared to a similar analysis the five years before.<sup>23</sup> This corresponds with another troubling increase. ShotSpotter—an acoustic gunshot detection system deployed in communities throughout the United States—detected more than 75,000 rounds of fully automatic gunfire across 127 cities in 2022. This was a 49% increase in fully automatic incidents the system detected in these cities from the prior year.<sup>24</sup>

The proliferation of auto sears is likely attributable to the appeal of their function combined with their inexpensive market price and ease of purchasability. Conversion devices are primarily manufactured outside the United States, commonly in China and Russia, and sold into American consumers through online platforms. For example, a 2019 investigation by ATF uncovered nearly 4,000 PayPal orders for auto sears from just a single exporter, suspected to be a Chinese company, that sold the devices for under \$20 each.<sup>25</sup> In a similar vein, Glock switches and conversion devices are being marketed to Americans through social media platforms like Facebook, Instagram, and Twitter.<sup>26</sup>

<sup>23</sup> *Supra* at note 6.

<sup>24</sup> Ernesto Londoño & Glenn Thrush, “Growing in Popularity, Switch Devices are Making Guns Deadlier,” N.Y. Times (Aug. 12, 2023), <https://web.archive.org/web/20240419183906/https://www.nytimes.com/2023/08/12/us/guns-switch-devices.html>.

<sup>25</sup> Scott Glover, “ATF on the hunt for thousands of illegal machine gun conversion devices smuggled into US,” CNN, May 23, 2019, <https://www.cnn.com/2019/05/23/us/atf-agents-hunting-down-illegal-machine-gun-device-invs>.

<sup>26</sup> Cyrus Farivar, “It’s Shockingly Easy to Buy Illegal Gun Modifiers on Instagram, Facebook and Twitter,” Forbes (Jun. 28, 2023), <https://web.archive.org/web/20240419190626/https://www.forbes.com/sites/cyrusfarivar/2023/06/28/its-shockingly-easy-to-buy-illegal-gun-modifiers-on-instagram-facebook-and-twitter/?sh=6254964f67e5>.



Further aiding the proliferation of auto sears is the rise of 3D printing technology. As this technology has developed and gone mainstream, the ability for illicit domestic manufacture of auto sears has increased dramatically. At a time where the risk of political violence in the United States is higher than it has been in a generation, the ease of access 3D printing technology offers those who seek auto sears is particularly dangerous. This is not hyperbole. In 2020, a West Virginia man was charged with 3D printing and selling hundreds of auto sears to domestic extremists, including to a man who subsequently shot two police officers and two security guards in California, killing two of the four victims.<sup>27</sup>

**Auto sears are illegal under existing federal law, meaning their proliferation can be curtailed with greater enforcement.**

Under existing federal law it is illegal to possess, transfer, manufacture, or import auto sears, with limited exceptions. Auto sears, unlike bump stocks, are considered machine guns under the NFA definition which includes: "any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun." ATF has also issued a decision further clarifying that the definition of "machinegun" includes auto sears regardless of whether they are installed on a firearm. Furthermore, the Supreme Court's decision in *Cargill* included dicta specifying that auto sears are machine guns under the current legal regime.

The Biden Administration has taken a number of proactive steps to address this problem, including an executive order just this past September establishing the Emergency Firearms Threats Task Force, which will develop "a risk assessment and strategy to stop the proliferation of machinegun conversion devices, with a particular emphasis on the devices used to convert a standard, semiautomatic firearm to a machinegun."<sup>28</sup>

Congress must be a partner to the next administration and the state and local governments working to address the challenge of modern machine guns. ATF must be fully funded and staffed to carry out their enforcement mission. Likewise, other federal law enforcement agencies, such as Customs and Border Protection, must be equipped to assist the Department of Justice in its anti-trafficking work.

**Conclusion**

My message to this committee is simple—Congress has regulated automatic firearms out of civilian use repeatedly over the past century, and Congress can continue to do so by updating our laws to regulate bump stocks and better enforce restrictions on autosears. There are currently pending legislative proposals that you should consider to address this challenge:

<sup>27</sup> Azi Paybarah, "West Virginia Man Sold Machine Gun Conversion Devices to Extremists, US Says," New York Times, November 18, 2020.

<https://www.nytimes.com/2020/11/18/us/boogaloo-machine-gun-sales-indicted.html>.

<sup>28</sup> Exec. Order No. 14127, 2 C.F.R. § 3 (2024).



- **S. 1909: Banning Unlawful Machinegun Parts (BUMP) Act** – proposed by Sen. Martin Heinrich (D-NM), this bill prohibits the import, sale, manufacture, transfer, receipt, or possession of bump-fire devices and requires persons currently in possession of these devices to register them under the NFA.
- **S. 1319: Preventing Illegal Weapons Trafficking Act** – proposed by Sen. Amy Klobuchar, (D-MN) this bill requires federal law enforcement to coordinate efforts to prevent the importation and trafficking of auto sears and seize all profits that come from the illegal trafficking of these devices.

Whether through these legislative proposals or otherwise, I sincerely hope Congress takes action to address the violence done by bump stocks and auto sears. Thank you for the opportunity to testify before you today.

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#### **ABOUT GIFFORDS LAW CENTER**

For 30 years, the legal experts at GIFFORDS Law Center to Prevent Gun Violence have been fighting for a safer America. Led by former Congresswoman Gabrielle Giffords, GIFFORDS Law Center researches, drafts, and defends the laws, policies, and programs proven to save lives from gun violence.



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*LEGISLATIVE TESTIMONY*

“How Bump Stocks and Other Conversion Devices are Amplifying the Gun Violence Epidemic”  
Hearing before the U.S. Senate Committee on the Judiciary  
November 13, 2024

Zack Smith  
Senior Legal Fellow  
Manager, Supreme Court and Appellate Advocacy Program  
Edwin Meese III Center for Legal and Judicial Studies  
The Heritage Foundation

Chairman Durbin, Ranking Member Graham, and distinguished Members of the Committee:

Thank you for the opportunity to appear before you today. My name is Zack Smith, and I currently serve as a Senior Legal Fellow in the Edwin Meese III Center for Legal and Judicial Studies at The Heritage Foundation.<sup>1</sup> Before joining the Heritage Foundation, I served for several years as an Assistant United States Attorney, worked in private practice, and clerked for the Hon. Emmett R. Cox on the U.S. Court of Appeals for the Eleventh Circuit.

### **Not a Gun Violence Epidemic But a Crime Epidemic**

Fundamentally, today’s hearing is a solution in search of a problem. Or more accurately, it’s the wrong solution aimed at the wrong problem. Contrary to the title of today’s hearing, there is not a gun violence epidemic in our country. There is a violent crime epidemic.<sup>2</sup> And unfortunately, too many elected leaders are refusing to take the simple, yet necessary, steps needed to combat this crime epidemic: funding the police and prosecuting criminals.

### **Ideological Underpinnings of Soft-on-Crime Policies**

But why are elected leaders reluctant to take these commonsense steps? Unfortunately, too many have bought into the twin myths that our criminal justice system is systemically racist (It’s not) and that we have a mass incarceration problem, or lock up too many people, in our country (We don’t).<sup>3</sup>

At bottom, both claims can trace their origins back to something known as the Prison Abolition Movement. Angela Davis, a leading proponent of this movement, asks those who read her book, *Are Prisons Obsolete?* to “imagine a world without prisons.”<sup>4</sup> She argues that few, if any, people should be locked up. She has claimed that “prisons are racist institutions” designed to be “a black

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<sup>1</sup> The title and affiliation are for identification purposes. Members of The Heritage Foundation staff testify as individuals discussing their own independent research. The views expressed here are my own and do not reflect an institutional position for The Heritage Foundation or its board of trustees. The Heritage Foundation is a public policy, research, and educational organization recognized as exempt under section 501(c)(3) of the Internal Revenue Code. It is privately supported and receives no funds from any government at any level, nor does it perform any government or other contract work. The Heritage Foundation is the most broadly supported think tank in the United States. The Heritage Foundation’s books are audited annually by the national accounting firm of RSM US, LLP.

<sup>2</sup> Cully Stimson & Zack Smith, *Crime Rates are High, No Matter What the Media Says*, *The Daily Signal* (Jan. 26, 2024), <https://www.dailysignal.com/2024/01/26/crime-rates-continue-explode-blue-cities-despite-medias-narrative-contrary/>

<sup>3</sup> See, e.g., Zack Smith, *The Myth of Mass Incarceration Remains Strong—Despite All Evidence to the Contrary*, 25 *Fed. Soc. Rev.* 42 (2024), <https://fedsoc.org/fedsoc-review/the-myth-of-mass-incarceration-remains-strong-despite-all-evidence-to-the-contrary>.

<sup>4</sup> Cully Stimson & Zack Smith, *The Myth of Mass Incarceration*, Leg. Mem. No. 353, *The Heritage Found.* (May 29, 2024), <https://www.heritage.org/sites/default/files/2024-05/LM353.pdf> (citing Angela Davis, *Are Prisons Obsolete?* (2003)).

hole into which the detritus of contemporary capitalism is deposited.”<sup>5</sup> And she has claimed—without support—that “enormous numbers of people are in prison simply because they are, for example, black, Chicano, Vietnamese, Native American, or poor.”<sup>6</sup>

These claims are easily debunked. But many have called for policy choices to be made based on these faulty assumptions. The Brennan Center for Justice has called for the prison population to be reduced by up to 39 percent.<sup>7</sup> The ACLU has called for a 50 percent reduction in the number of people locked up in our nation’s jails and prisons.<sup>8</sup> And one academic has even proposed policies that would result in an “85 percent drop” in the number of people behind bars.<sup>9</sup>

These proposals are astounding because most people behind bars today are serving time in prison for committing violent crimes. As I have explained elsewhere, “The vast majority of people in prison are serving time in state prisons . . . [And t]he vast majority of state prisoners are there after being convicted of a violent crime, including things like murder, manslaughter, rape or sexual assault, robbery, or aggravated assault, among others. According to 2022 statistics, those convicted of violent crimes make up 62.9 percent of all state prisoners.”<sup>10</sup> So reducing the prison population by 50 percent—or more—necessarily means not locking up or releasing from prison clearly violent criminals.

We also know that not everyone who commits a violent crime has been arrested. Of those arrested, not all are prosecuted. Of those prosecuted, not all are convicted. And of those convicted, not all are sent to prison. On top of that, data shows that many more violent crimes occur than are even reported to police.<sup>11</sup> So the violent crime problem is even worse than many report.

Pointing out the fact that the United States locks up more people than other countries is also inapposite. Sadly, the United States has a much higher violent crime rate than many other countries, which our higher prison population reflects. And while there are a number of economic and sociological theories for why the United States suffers from this higher crime rate, it’s clear that promoting policies that will not hold offenders—particularly violent offenders accountable—only exacerbates the problem.

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<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 6-7.

<sup>8</sup> *Id.*

<sup>9</sup> Smith, The Myth of Mass Incarceration Remains Strong—Despite All Evidence to the Contrary, *supra* note 3, at 45.

<sup>10</sup> Stimson & Zack Smith, The Myth of Mass Incarceration, *supra* note 4.

<sup>11</sup> @tzsmith, X (Sept. 23, 2024, 11:08 AM), <https://x.com/tzsmith/status/1838249084781527256> (thread discussing flaws with FBI crime statistics and the fact that the Justice Department’s Crime Victimization Survey shows much higher violent crime rates).

We also know that “[r]epeat offending is a fact of life with criminals,” with many offenders going on to reoffend again after leaving prison.<sup>12</sup> As noted criminologist Barry Latzer has stated, “[a]side from the seriousness of the crime, nothing affects sentencing severity more than the criminal history of the defendant.”<sup>13</sup> This generally means that when someone repeatedly commits more crimes, their subsequent sentences tend to be—and likely should be—harsher. In states such as California that have adopted three-strike laws, these harsher sentences have increased the prison population. But guess what? These laws are effective at combating crime. As a colleague and I have noted elsewhere:

Professors Daniel Kessler of Stanford University and Steven Levitt of the University of Chicago tested a research model using California’s Proposition 8, which imposed sentence enhancements for a select group of crimes. They found that in “the year following its passage, crimes covered by [three-strikes] fell by more than 10 percent relative to similar crimes not affected by the law, suggesting a large deterrent effect.” More strikingly, they found that “three years after the law [came] into effect, eligible crimes have fallen roughly 20-40 percent compared to non-eligible crimes.” They concluded that California sentence enhancements has a large deterrent effect and “may be more cost-effective than is generally thought.”<sup>14</sup>

Sadly, many elected officials at the local and state levels, as well as federal leaders, have ignored commonsense policies and have instead pushed policies that hurt public safety.

#### **Flawed Policing and Prosecution Policies**

Emblematic of these flawed efforts is the support that the current Biden-Harris administration has expressed for policies that would make it more difficult and dangerous for police officers to do their jobs. Vice President Harris explicitly voiced support for defunding the police, and President Biden issued an executive order implementing at the federal level many of the problematic policies put forward in the ill-conceived George Floyd Justice in Policing Act.<sup>15</sup> As I said then:

<sup>12</sup> Barry Latzer, *The Myth of Overpunishment, A Defense of the American Justice System and a Proposal to Reduce Incarceration While Protecting the Public* 114 (2022).

<sup>13</sup> *Id.*

<sup>14</sup> Zack Smith & Cully Stimson, *The D.C. City Counsel Failed at Criminal Justice Reform—Congress Must Fix It*, Leg. Mem. No. 337, The Heritage Found. At 30 (Jul. 12, 2023), <https://www.heritage.org/sites/default/files/2023-07/LM337.pdf> (citing Daniel Kessler & Steven D. Levitt, *Using Sentence Enhancements to Distinguish Between Deterrence and Incapacitation*, Nat’l Bureau of Econ. Res., Working Paper 6484 (March 1998), <https://www.nber.org/papers/w6484>. See also David S. Abrams, *Estimating the Deterrent Effect of Incarceration Using Sentencing Enhancements*, Inst. For L. & Econ., U. Pa. L. Sch., Research Paper No. 11-13 (Jan. 2011), [https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?arti-clc=1360&context=faculty\\_scholarship](https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?arti-clc=1360&context=faculty_scholarship) (taking a “similar methodological approach to Kessler and Levitt” and finding “evidence for a deterrent effect of sentence enhancements in the form of add-on gun laws”).

<sup>15</sup> See Zack Smith, *Kamala Harris’s Pro-Crime Policies*, Backgrounder No. 3847, The Heritage Found. (Sept. 10, 2024), [https://www.heritage.org/sites/default/files/2024-09/BG3847\\_0.pdf](https://www.heritage.org/sites/default/files/2024-09/BG3847_0.pdf) (discussing Vice President Harris’s

Law enforcement officers throughout the United States are already suffering from low morale, hostility in the media and other elites, crude stereotyping that classifies them all as racists, and increasing crime rates everywhere due to the defund movement and rogue prosecutors who refuse to prosecute the criminals they arrest

... As important as what's contained in the executive order is what's not contained in it: It makes no provision to put more cops on the street today. It makes no provision to put more cops on the street in the long run. And it makes no provisions to encourage federal and state prosecutors to increase their prosecutions of violent crimes, drug trafficking, or other crimes that cripple the public's sense of safety and security.<sup>16</sup>

This latter point, prosecutors not prosecuting entire categories of crimes, deserves special attention. The overwhelming majority of prosecutions in the United States take place at the state and local level. In fact, there are over 2,300 local elected prosecutors who maintain primary responsibility for prosecuting crimes ranging from petty theft to violent crimes such as rape, robbery, and murder. And yet today, there has been a concerted effort to fund and empower certain of these prosecutors not to do their jobs.<sup>17</sup> In many cities such as Chicago, Los Angeles, and Philadelphia, just to name a few, violent crime rates have been all too high over the past several years at the same time the local rogue prosecutors pursued soft-on-crime policies.

Fortunately, citizens in cities governed by these rogue prosecutors have recognized the harm these policies have caused and have rebuked and removed from office several of the most high-profile adherents of the movement.<sup>18</sup> And have been supportive of policies that would hold offenders accountable when they break the law.<sup>19</sup>

positions); see also Zack Smith, George Floyd Justice in Policing Act Would Make Cops' Jobs More Difficult and Dangerous, *The Daily Signal* (Mar. 5, 2021), <https://www.dailysignal.com/2021/03/05/george-floyd-justice-in-policing-act-would-make-cops-jobs-more-difficult-dangerous/>.

<sup>16</sup> Zack Smith, Biden's Executive Order on Policing Misses the Mark, *The Daily Signal* (May 27, 2022), <https://www.dailysignal.com/2022/05/27/bidens-executive-order-on-policing-misses-mark/>.

<sup>17</sup> See Zack Smith & Cully Stimson, *Rogue Prosecutors: How Radical Soros Lawyers Are Destroying America's Communities* (2023) (providing an overview of the ideological underpinnings of the movement, its funding, and the real-world consequences of its policies).

<sup>18</sup> See, e.g., Cully Stimson & Zack Smith, Rogue Prosecutor George Gascon Loses Reelection as LA County District Attorney, *The Daily Signal* (Nov. 6, 2024), <https://www.dailysignal.com/2024/11/06/rogue-prosecutor-george-gascon-loses-reelection-as-la-county-district-attorney/>; Cully Stimson & Zack Smith, Recall of Chesa Boudin in San Francisco Shows Rogue Prosecutor Movement for Failure It Is, *The Daily Signal* (Jun. 8, 2022), <https://www.dailysignal.com/2022/06/08/recall-of-chesa-boudin-in-san-francisco-shows-rogue-prosecutor-movement-for-failure-it-is/>.

<sup>19</sup> Zack Smith, Should States Raise the Felony Theft Thresholds? No., *CQ Researcher* (Nov. 1, 2024) (part of a report on criminal justice reforms and discussing specifically the popularity in California of Proposition 36, which increases penalties for certain repeat offenders among other actions), <https://cqpress.sagepub.com/cqresearcher/report/criminal->

Other rogue prosecutors, though, have been forced to resign in disgrace. Former Biden-appointed U.S. Attorney for Massachusetts Rachael Rollins is a prime example.<sup>20</sup> While serving as the Suffolk County District Attorney in Boston Massachusetts, Rollins put out a list of fifteen crimes someone could commit for which they would not be prosecuted. Under her list, someone could break into your home, possess cocaine, and resist arrest when police arrived, and she would not charge the person with any of those crimes so long as the person said they were seeking shelter or food or something to that effect. Knowing her radical policies, President Biden nominated her to be the U.S. Attorney for Massachusetts. As the members of this committee are aware, when her confirmation stalled, Vice President Harris cast the tie-breaking vote to confirm Rollins. The result? A Justice Department Inspector General report found a number of ethical violations and even referred her for criminal prosecution to the Biden-Harris Justice Department, which it declined to pursue. Ultimately, Rollins had to resign from office.<sup>21</sup>

One simple action that any Justice Department should pursue is an emphasis on felon-in-possession prosecutions—§922(g) cases as they’re colloquially known after the relevant U.S. Code section.<sup>22</sup> This provision makes it illegal for those who have been convicted of a felony (and those who meet certain other qualifying conditions) to possess a firearm. By definition, if someone is convicted of this offense, they already have a felony conviction. They’re disregarding relevant law by illegally possessing a firearm. And from a resource perspective, these cases tend to be straightforward to prosecute and are very effective in targeting individuals who are often drivers of violent crime in their communities. The Justice Department under the Trump Administration prioritized prosecuting these cases—particularly in jurisdictions burdened with rogue prosecutors at the local level—and hopefully will prioritize them again.

#### **D.C. as an Example Where Congress Can Act**

The District of Columbia, with its unique status, provides insight into what happens when local leaders defund the police and prosecutors refuse to prosecute crimes. Because of the District’s unique status subject to Congress’s control, reforming these problem policies should be a top priority.<sup>23</sup>

As I have noted elsewhere, “Two of the most egregious examples include a recent effort to rewrite the District’s criminal code—an effort so radical that bipartisan majorities of both houses of Congress disapproved it and President Biden signed the disapproval into law—and their recent effort to hamstring the District’s local police force by passing a George Floyd Justice in Policing-

[justice-reform-backlash-cqresre20241101?token=7b6a55bc-14b1-4037-9652-9341eda7d4927c64caeb4d1c665a08f6c2f0d1bbd8ae6b172b082cbe57279924971b2ac7456a](https://www.dailysignal.com/2023/05/19/soros-backed-federal-prosecutor-rachael-rollins-resigns-disgrace/).

<sup>20</sup> Cully Stimson & Zack Smith, Soros-backed Federal Prosecutor Rachael Rollins Resigns in Disgrace, *The Daily Signal* (May 19, 2023), <https://www.dailysignal.com/2023/05/19/soros-backed-federal-prosecutor-rachael-rollins-resigns-disgrace/>.

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

<sup>22</sup> 18 U.S.C. §922(g).

<sup>23</sup> Smith & Stimson, *The D.C. City Counsel Failed at Criminal Justice Reform—Congress Must Fix It*, *supra* note 15.

style ‘reform’ bill.”<sup>24</sup> But there are other issues too, including with the D.C. U.S. Attorney’s office (which is unique among U.S. Attorney offices because it also functions as the local prosecutor) refusing to prosecute many crimes appropriately and the D.C. Attorney General refusing to prosecute many juvenile offenders.<sup>25</sup> As more fully outlined and explained elsewhere, Congress should take action to make sure D.C.’s Metropolitan Police Department is adequately funded and staffed, take action to ensure the U.S. Attorney is appropriately prosecuting criminals—especially by encouraging the office to focus on §922(g) prosecution, take action to remove authority from the D.C. Attorney General to prosecute juvenile offenders and give that authority to the U.S. Attorney’s Office, take action to comprehensively overhaul D.C.’s criminal code in a responsible manner that would hold offenders accountable and provide justice to victims, and overhaul how the District’s local judges are currently appointed—specifically by abolishing the constitutionally questionable judicial nominating commission that plays an all-too-central role in the process and reigning in sitting local judges who misapply the law or overstep their proper bounds.<sup>26</sup>

### **Two Positive Perspectives on Today’s Hearing**

Despite today’s hearing focusing on the wrong solution to the wrong problem, the Committee does deserve praise for holding today’s hearing for at least two reasons: First, today’s hearing focuses—albeit indirectly—on victims. Too often today, criminals are treated as victims, and the true victims are the forgotten component when discussing crime, violence, and criminal justice reforms.

Second, the Committee deserves praise for considering the problem rather than passing the buck to unelected, unaccountable individuals in administrative agencies to make policy decisions on important issues such as these. In fact, just last term, the United States Supreme Court ruled in the *Garland v. Cargill* case that the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) exceeded the authority Congress had given it by trying to ban bumpstocks through a flawed regulatory process.<sup>27</sup> Another case involving potential ATF regulatory overreach is back at the Court this term too.<sup>28</sup> So while this Committee’s time and efforts would be better spent focused on the violent crime epidemic taking place across our country, at least the conversation is taking place here with the American people’s elected representatives.

I appreciate the Committee’s invitation to testify today, and I welcome the Committee’s questions.

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<sup>24</sup> *Id.*

<sup>25</sup> See, e.g., Zack Smith, *Juvenile Crime Is Out of Control in Too Many Cities*, MSN (Jul. 26, 2024), [available at https://www.heritage.org/crime-and-justice/commentary/juvenile-crime-out-control-too-many-cities](https://www.heritage.org/crime-and-justice/commentary/juvenile-crime-out-control-too-many-cities).

<sup>26</sup> See, e.g., Zack Smith, *Chief Judges of DC’s Local Courts Must Answer for Questionable Conduct*, The Daily Signal (Oct. 8, 2023), <https://www.dailysignal.com/2023/10/08/chief-judges-d-c-s-local-courts-must-be-made-answer-questionable-conduct/>.

<sup>27</sup> *Garland v. Cargill*, 602 U.S. 406 (2024).

<sup>28</sup> Zack Smith & Jack Fitzhenry, *Ghost Guns at SCOTUS: The ATF Once Again seeks an Expansive View of Its Own Authority*, The Daily Signal (Oct. 9, 2024), <https://www.dailysignal.com/2024/10/09/how-garland-v-vanderstok-oral-argument-supreme-court-went/> (discussing the pending *Garland v. VanDerStok* case where the U.S. Supreme Court is considering whether the ATF has the power to ban so-called “ghost guns”).



To: Senate Committee on the Judiciary  
From: Esther Sanchez-Gomez  
Date: December 4, 2024  
Re: Questions for the record

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**Senator Sheldon Whitehouse**  
**Senate Committee on the Judiciary Hearing**  
**“How Bump Stocks and Other Conversion Devices are Amplifying the**  
**Gun Violence Epidemic”**  
**Questions for the Record**

- 1. Donald Trump has vowed to oppose any regulations on firearms, and Republicans in Congress have repeatedly attempted to roll back new regulations intended to keep the deadliest firearms and firearm conversion-devices off the streets and out of the hands of criminals. Earlier this year, Senate Republicans blocked a bipartisan bill to ban bump stocks. In your view, what would the legal and policy implications be of a federal law intended to preempt state and local gun-safety laws, such as state bans on bump stocks and similar devices?**

Seventeen states<sup>1</sup>, from Rhode Island to Iowa and the District of Columbia, have instituted regulations on bump stocks and trigger activator devices. As with any issue where states have taken the primary regulatory burden, there is variation in the scope of regulation between the states. Without specific language to analyze, the constitutionality and consequences of any federal preemption law are difficult to predict.

Any federal bill that seeks to reduce the authority of states or localities to pass laws to address gun violence would be inconsistent with the traditional police power of the states, and risks running afoul of the 10th Amendment’s protections. In the past, with very narrow exceptions, Congress has not expressly preempted state and local laws regulating firearms and ammunition. Historically, state governments generally have had the authority to enact firearm regulations in the interest of protecting public safety, and current federal law specifically preserves the authority of the states to enact such laws. (18 USC § 927.)

Gun violence is a [public health crisis](#). Regulation at the state level serves the important purpose of addressing this grave problem in a manner tailored to the unique issues and

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<sup>1</sup> California, Connecticut, Delaware, Florida, Hawaii, Iowa, Illinois, Maryland, Massachusetts, Minnesota, Nevada, New Jersey, New York, Rhode Island, Vermont, Virginia, Washington.



dangers facing each community. A federal firearm preemption statute would ignore the importance of state law to address local issues, separate from or as a supplement to federal law. Importantly, it would also hinder enforcement of existing gun laws, because the Bureau of Alcohol, Tobacco, Firearms & Explosives (ATF) and other federal law enforcement agencies generally lack the resources or authority to properly address the breadth of every instance of gun violence plaguing communities across the country.

Assuming that the legislation Congress passes is constitutionally sound, the combination of preventing state and local regulation while deregulating at the federal level, would create a dangerous vacuum with deadly consequences.

**2. Republicans have also proposed dismantling and defunding the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), which plays a central role in the federal government’s fight against gun violence. How would cuts to ATF funding or similar actions by Congress or the executive branch affect that work?**

ATF is the primary law enforcement agency for federal gun laws and regulations. As a subagency of the Department of Justice, ATF answers to the Attorney General in carrying out its mission to partner with state and local law enforcement to solve gun crimes. It oversees federal firearms licensees (FFLs)—the businesses authorized to sell firearms. FFLs conduct background checks on prospective buyers and maintain records on all firearm sales. ATF’s oversight of FFLs is critical to preventing firearms trafficking. In addition, as part of its work to combat gun crime, ATF traces guns used in the commission of crimes. In fiscal year 2022 alone, ATF processed over 600,000 trace requests from law enforcement agencies across the country. These are just a few examples of the important work ATF undertakes—with Congressional authorization—to address gun violence.

If Congress decides to dismantle ATF outright, or through a substantial reduction in annual appropriations, there would be devastating consequences to the safety of communities across the country.

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## ABOUT GIFFORDS LAW CENTER

For 30 years, the legal experts at Giffords Law Center to Prevent Gun Violence have been fighting for a safer America. Led by former Congresswoman Gabrielle Giffords, Giffords Law Center researches, drafts, and defends the laws, policies, and programs proven to save lives from gun violence.