

No. 15-1030

IN THE
Supreme Court of the United States

JUNE SHEW, *et al.*,

Petitioners,

v.

DANIEL P. MALLOY, GOVERNOR
OF CONNECTICUT, *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

**BRIEF OF *AMICUS CURIAE*
SECOND AMENDMENT COALITION
IN SUPPORT OF PETITIONERS**

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The *Amici* respectfully submit this Second Amendment Coalition Brief *Amicus Curiae* in support of the Petitioners in the appeal currently pending before this Court. All Parties have consented to the filing of this Brief.

INTERESTS OF *AMICUS CURIAE*¹

Set forth in “Appendix A” are the *Amici* signed on to this Brief *Amicus Curiae*, demonstrating their interest in this case because a similar law in New York violates the constitutional rights of the tens of thousands of members of these organizations across the State of New York, who wish to exercise their rights under the Second Amendment of the United States Constitution. All *Amici* are not-for-profit corporations, registered in the State of New York, unless otherwise specified by designations such as “LLC” or “membership organization.”

ARGUMENT

I. THE INTERVENTION OF THIS COURT IS NECESSARY TO QUELL THE MAELSTROM OF DECISIONS ERODING OUR CIVIL RIGHTS UNDER THE SECOND AMENDMENT TO THE UNITED STATES CONSTITUTION.

There are four lines of cases relating to government bans² on popular firearms which have resulted in a

1. The *Amici* state that no Party’s Counsel authored this Brief in whole or in part, no Party or Party’s Counsel contributed money that was intended to fund the preparation or submission of the brief, and no person other than the *Amici*, its members, or its counsel made such a monetary contribution.

2. “Government” herein refers to the 2012-2013 statutory creations of “assault weapons bans” in CT, NY, MD, and the City

scattered set of rulings that impel intervention by this Court. Sup.Ct.R. 10(a). The irregular outcomes below are a result of two factors that this Court can address and correct: (1.) Judges are not following the requirements of Fed.R.Civ.P. 56 by marginalizing findings in favor of the Plaintiffs consistent with the “common use” standard of *Heller*³ while crediting inadmissible and questionable claims by the Government; and, (2.) Judges are buckling to the pressure of a highly-charged political and media environment, thus losing track of their first responsibility the U.S. Constitution, including the Second Amendment. The intervention of this Court is necessary to quell the maelstrom of decisions threatening to erode all of our civil rights under Second Amendment. U.S. Const. amend. II.

I.A. THE SECOND AMENDMENT IS THE MODERN CIVIL RIGHTS MOVEMENT.

The Second Amendment is the modern civil rights movement. The problem we face is well articulated by Mr. Justice Thomas: “If a broad ban on firearms can be upheld based on conjecture that the public might *feel* safer (while being no safer at all), then the Second Amendment guarantees nothing.” *Friedman v. City of Highland Park, IL*, 577 U.S. _____, 136 S.Ct. 447, 449, 193 L.Ed.2d 483 (2015) (Thomas J., dissenting) (emphasis in original).

The problem created by emotions dominating the decisions of presiding judges goes even deeper than

of Highland Park. For a full listing of case citations, please refer to Section II, below.

3. *District of Columbia v. Heller*, 554 U.S. 570, 623-625, 128 S.Ct. 2783, 171 L.Ed.2d 637 (2008).

whether the public would “feel safer.” It goes to whether the justices who do rule in accordance with *Heller* and *McDonald*⁴ are being made to feel like villains when fulfilling their judicial responsibilities to the Constitution.

Justices Traxler and Agee poignantly expressed the emotional pressure under which they are operating:

“Our distinguished dissenting colleague asserts that we have imprudently and unnecessarily broken with our sister courts of appeal and infers that we will bear some responsibility for future mass shootings. In our view, inferences of this nature have no place in judicial opinions and we will not respond beyond noting this.”

Kolbe v. Hogan, [2016] U.S. App. LEXIS 1883, No. 14-1945, slip op. at 45 (4th Cir. Feb. 4, 2016), *reh’g granted* (4th Cir. March 4, 2016).

These cases should not be thought of as matters of youth safety. While governments can regulate matters of youth safety, today is not that day and this case is not that case. To do so, the government needed to reduce the sensationalism it equated with “Newtown” to bring forward the context of facts about children who die prematurely. In these four lines of cases, the Governments failed to do so. Where was the information from the Centers for Disease Control and Prevention that the leading cause of death in children from birth to age 14 is

4. *McDonald v. City of Chicago*, 561 U.S. 742, 130 S.Ct. 3020, 177 L.Ed.2d 894 (2010).

“unintentional injuries?”⁵ Equally, the Governments failed to mention that the second leading cause of death is health related, from chromosomal abnormalities to cancer. No one reflected upon the more than 1,500 children who were murdered in 2013 by a parent or primary caregiver.⁶ No one talked about the homicide risk to children in their first year of life being greater than in any other year of childhood before age 18, as a result of infanticide by children’s mothers during the first week of life.⁷ These facts were not part of a legislative process to which this Court could defer, nor part of the motions for summary judgment.

There must be a difference between the analysis conducted in the courts, as distinguished from public discourse, media portrayals, the floor of the legislature, and the bully pulpit of the governors and mayors. The motion for summary judgment must be a sober and disciplined process. *Celotex Corp. v. Catrett*, 477 U.S. 317, 321, 106 S.Ct. 2548, 91 L.Ed.2d 265 (1986).

The court is charged with a unique role. U.S. Const. art. III, §2. “[A] court, not the legislature,

5. U.S. Center for Disease Control, “Fast Stats: Child Health,” at <http://www.cdc.gov/nchs/fastats/child-health.htm>.

6. U.S. Department of Health and Human Services, “Child Maltreatment” (2013), pp. 14, 54-55; at: <http://www.acf.hhs.gov/sites/default/files/cb/cm2013.pdf>.

7. Overpeck, M. D., Brenner, R. A., Trumble, A. C., Trifilette, L. B., & Berendes, H. W. (1998). Risk factors for infant homicide in the United States. *New England Journal of Medicine*. 339(17). 1211-1216. See more at: http://www.childtrends.org/?indicators=infant-homicide#_edn2.

must make the ultimate constitutional conclusion, exercising its ‘independent judicial judgment’ in light of the whole record to determine whether a law exceeds constitutional boundaries.” *Heller, supra*, at 690. Indeed, former Chief Justice Marshall wrote the words taught to all first year law students: “the constitution, and not such ordinary act, must govern the case to which they both apply.” *Marbury v. Madison*, 5 U.S. 137, 178, 2 L.Ed. 60, 1 Cranch 137 (1803).

When judges go down any road other than one paved by the Constitution, they arrive in the land of discredited decisions. *See, e.g., Scott v. Sandford*, 60 U.S. 393, 453, 15 L.Ed. 691, 19 HOW 393 (1857) (that Mr. Dred Scott was not a “citizen” but was “property”); *Whitney v. Cal.*, 274 U.S. 357, 370, 47 S.Ct. 641, 71 L.Ed. 1095 (1927) (that Ms. Anita Whitney, a member of the Socialist Party, was guilty of participating in “an existing evil”); *Korematsu v. United States*, 323 U.S. 214, 219, 65 S.Ct. 193, 89 L.Ed. 194 (1944) (that “it was impossible to bring about an immediate segregation of the disloyal from the loyal”).

Instead, this Court should scrutinize all attorneys, litigants, witnesses, and exhibits in the spirit of *Brown v. Bd. of Educ.*, considering the Second Amendment “... in the light of its full development and its present place in American life throughout the Nation.” 347 U.S. 483, 492, 74 S.Ct. 686, 98 L.Ed. 873 (1954).

The current eight Justices of this Court are capable of reaching a majority decision in this case that will ascend to the great and lasting decisions of our nation’s high court. This assertion is supported by two recent decisions of this Court, both with interesting configurations of the Justices.

In *Henderson v. United States*, Justice Kagan delivered the opinion for a unanimous Court that a firearm lawfully owned may be transferred or sold as property if an owner becomes subsequently disqualified under 18 U.S.C. §922(g). No. 13-1487, slip op. (U.S. May 18, 2015), 135 S.Ct. 1780, 191 L.Ed.2d 874 (2015). Four of the Justices in the *Henderson* majority were in the *Heller* and *McDonald* minority.

One year earlier, in *Abramski v. United States*, Justice Kagan also delivered the majority opinion, including for Justices Kennedy, Ginsburg, Breyer, and Sotomayor, where the information provided upon the ATF Form 4473 at an FFL dealer was found to be false, resulting in a straw man purchase prohibited at federal law under 18 U.S.C. §921, *et seq.* 573 U.S. _____, 134 S.Ct. 2259, 189 L.Ed.2d 262 (2014). Dissenting were Justices Scalia, Roberts, C.J., Thomas, and Alito, three of whom were in the *Heller* and *McDonald* majorities.

These four decisions of *Heller*, *McDonald*, *Henderson*, and *Abramski*, taken together, evidence the ability of this Court to protect and preserve the civil liberties of the Second Amendment in the context of a unified Bill of Rights.

I.B. THE COURT IS NEEDED TO CONDUCT A CRITICAL EXAMINATION OF THE RECORD ON APPEAL AND TO ISSUE A RULING IN ACCORDANCE WITH FED.R.CIV.P. 56.

This Court is needed to conduct a critical examination of the record on appeal and to issue a ruling in accordance

with Fed.R.Civ.P. 56. Unlike the records on appeal from *Heller*, *McDonald*, *Henderson*, and *Abramski*, the record on appeal in this case contains outright misrepresentations by the State and its *Amici* that crept into the Second Circuit decision. Similar problems were experienced throughout the lower court decisions in this dataset.

Here is a partial list of what will be fully discussed in a Brief *Amicus Curiae* at the merits stage:

(a.) the misunderstanding that there were five years of Congressional hearings pertaining to the 1994 federal “assault weapons ban,”⁸ when, in fact, it consisted of only one half day of unsworn statements by those for and against the pending bill, made without questions from the 13 Members of Congress in attendance and after which no express findings were made⁹;

(b.) the misunderstanding that the former federal law banned firearms with “military-

8. Factual errors reflected in *New York State Rifle & Pistol Ass’n. v. Cuomo*, 804 F.3d 242 (2d Cir. 2015), [2015] U.S. App. LEXIS 18121 (2015); *appealed sub nom. Shew v. Malloy, petition for cert. filed* (U.S. Feb. 22, 2016) (No. 15-1030).

9. Capanna, Paloma A., “The State’s Case in NYSRPA vs. Cuomo: What the State Wants You to Believe About the [UN] SAFE Act,” Second Amendment Coalition White Paper Series – 2014 (New York), pp. 24-27. *N.B.*: references in the Second Circuit opinion are to the Governments’ Briefs, which will be fully transposed in our Brief *Amicus Curiae* at the merits stage. For simplicity, we reference our detailed White Papers, which walk through this translation.

style features,”¹⁰ which words were/are neither used in statutes, nor industry product design;

(c.) the lack of understanding of the methodology used by the 1989 ATF Working Group when it used the short-hand wording “military-style features,”¹¹ including such poor “analysis” as questionnaires sent out to persons such as magazine editors resulting in as few as two responses to support ATF “conclusions”¹²;

(d.) a Declaration from a researcher commissioned by Congress who published findings in 1998 but now wants his current feelings to override his earlier research findings;¹³

(e.) the “statistics” that are fiction because there is no such firearm as an “assault weapon” by any law enforcement measure or manufacturer federal reporting requirement;¹⁴ and,

10. Errors of the Court reflected in *sub nom. Shew, supra*, at 248, 249, 250, 251 ftnt. 23, 260, 262, 267 incl. ftnt. 157, and 268.

11. *Sub nom. Shew, id.*

12. Capanna, 2014, *supra* at pp. 28-30.

13. *Sub nom. Shew, supra*, at 263, 264 ftnt. 122, and 264; Capanna, 2014, *supra* at 31-32.

14. Capanna, Paloma A., “The NY Assault Weapons Registry: Another Failed Policy of Cuomo,” Second Amendment Coalition White Paper Series – 2015 (New York), pp. 22-27.

(f.) a blog filled with hearsay upon hearsay and no primary source materials, relied upon by “expert witnesses” and the Court below, as if it were in admissible form and credible.¹⁵

The intervention of this Court is critical to correct the mistakes of the lower courts. The resulting muddle has already incited further government efforts to thwart our Second Amendment freedoms. Bills starting to be numbered in NY, after the Second Circuit loss, include “safe storage” identical to that stricken in Washington, D.C. in *Heller* and restrictions on ammunition purchases for registered “assault weapons” to 20 rounds per 120 day period. N.Y.S. Sen. S-2291-A/A-53-A (Jan. 6, 2016) and Assm. A-9340 (Feb. 23, 2016). The risk to the Second Amendment is grave.

II. THE “COMMON USE” STANDARD FROM *HELLER* IS NOT PROTECTING OUR FUNDAMENTAL RIGHTS UNDER THE SECOND AMENDMENT.

An analysis of lower court decisions demonstrates that the “common use” standard of *Heller* is not protecting our fundamental civil rights under the Second Amendment. There have been seven (7) cases involving 13 judges¹⁶ since 2012 regarding “assault weapons bans.” The case lineages are *Friedman v. City of Highland Park* (herein “the IL

15. Capanna, 2014, *supra* at pp. 13-23.

16. To arrive at 13 judges, one counts the four District Court judges plus the three 3-Judge Circuit Court Panels. The Second Circuit Court of Appeals is counted only once because it issued one joint ruling for the CT plus NY cases.

case”), *Shew v. Malloy* (herein “the CT case”), *Kolbe v. Hogan* (herein “the MD case”), and *NYS Rifle and Pistol Ass’n. v. Cuomo* (herein “the NY case”). The results are highly irregular.

The *Friedman* case may recently have been denied *certiorari*, but Justice Thomas began his dissent with the *Heller* “common use” standard: “...the ordinance criminalizes modern sporting rifles (*e.g.*, AR-style semiautomatic rifles), which many Americans own for lawful purposes like self-defense, hunting, and target shooting.” *Friedman, id.* (Thomas, J., dissenting).

The support for Justice Thomas’ position even beyond the Record on Appeal is in the tens of thousands of gun owners from across the State of New York who joined this Second Amendment Coalition Brief *Amicus Curiae*. These *Amici* are the owners of such firearms, some of whom were divested of their property (overnight and without compensation or redress), any number of whom reconfigured the accessories of their firearms to attempt to comply with the statute, and others of whom became part of the 23,334 who registered their firearms in New York.¹⁷ These *Amici* include active and retired law

17. Correspondence, p. 3, to Paloma A. Capanna, Attorney for the Petitioner (dated June 22, 2015) from Defendant New York State Police in accordance with *Robinson v. Cuomo*, Index No. 5118-2014, slip op. (Sup.Ct., Albany Co., NY, April 30, 2015). Relative statistics in Connecticut were 25,640 individuals registered. Correspondence to Paloma A. Capanna, Attorney, in response to a Freedom of Information Request submitted for Mr. Bill Robinson, from Sgt. Alex Giannone, Esq., Legal Affairs Unit, State of CT, Dep’t. of Emergency Services and Public Protection (dated July 14, 2015).

enforcement officers, Veterans, and Federal Firearms Licensees. And we are chilled by the potential of felony and misdemeanor charges for what the day before these unjust laws ranged from self-defense to hunting to an afternoon at the range.

II.A. THE LOWER COURTS GRANTED SUMMARY JUDGMENT AGAINST THE PLAINTIFFS, CONTRARY TO THE *HELLER* STANDARD AND CONTRARY TO THEIR OWN FINDINGS, IMPELLING THE INVOLVEMENT OF THIS COURT.

Turning to the lower court decisions, five of the seven lower court opinions concluded that the banned firearms are “in common use.” Even so, four of these five courts granted summary judgment against the Plaintiffs, contrary to the evidence and contrary to the *Heller* common use standard.

- 2nd Circuit (NY/CT): “Even accepting the most conservative estimates cited by the parties and by amici, the assault weapons and large-capacity magazines at issue are ‘in common use’ as that term was used in *Heller*.” *New York State Rifle & Pistol Ass’n. v. Cuomo*, 804 F.3d 242, 255 (2d Cir. 2015), [2015] U.S. App. LEXIS 18121, *appealed sub nom. Shew v. Malloy, supra*. “In short, we proceed on the assumption that these laws ban weapons protected by the Second Amendment.” *Id.*, at 256.
- CT Dist.Ct.: “The Connecticut legislation here bans firearms in common use.” *Shew v. Malloy*,

994 F.Supp.2d 234, 245, [2014] U.S. Dist. LEXIS 11339 (D.Conn. 2014), *aff'd in part, rev'd in part*, *New York State Rifle & Pistol Ass'n. v. Cuomo*, 804 F.3d 242 (2d Cir. 2015), [2015] U.S. App. LEXIS 18121 (2015), *appealed sub nom. Shew, supra*. “The court concludes that the firearms and magazines at issue are ‘in common use’ within the meaning of Heller and, presumably, used for lawful purchases.” *Id.*, at 246.

- NY Dist.Ct.: “Despite the inherent ambiguities in making such a determination, for purposes of this Decision, this Court will assume that the weapons at issue are commonly used for lawful purposes.” *New York State Rifle & Pistol Ass'n. v. Cuomo*, 990 F.Supp.2d 349, 365 (WDNY 2013), [2013] U.S. Dist. LEXIS 182307, *aff'd in part, rev'd in part*, *New York State Rifle & Pistol Ass'n. v. Cuomo*, 804 F.3d 242 (2015), [2015] U.S. App. LEXIS 18121 (2d Cir. 2015), *appealed sub nom. Shew, supra*.
- 4th Cir.: “Like a number of courts that have previously considered this question, we have little difficulty in concluding that the banned semi-automatic rifles are in common use by law-abiding citizens.” *Kolbe*, 4th Cir., *supra* at 20. “We think it is beyond dispute from the record before us, which contains much of the same evidence cited in the aforementioned decisions, that law-abiding citizens commonly possess semi-automatic rifles such as the AR-15.” *Kolbe*, 4th Cir., *id.*, at 21.
- 7th Cir.: “By prohibiting a class of weapons commonly used throughout the country, Highland

Park’s ordinance infringes upon the rights of its citizens to keep weapon in their homes for the purpose of defending themselves, their families, and their property.” *Friedman v. City of Highland Park*, 784 F.3d 406, 412 (7th Cir. 2015) (Manion, J., dissenting), *cert. denied, supra*. “Here, the evidentiary record is unequivocal: a statistically significant amount of gun owners such as Friedman use semi-automatic weapons and high-capacity magazines for lawful purposes.” *Id.*, at 415.

Of the five courts, above, that found “common use,” only one court – the Fourth Circuit Court of Appeals – took any action in favor of the Plaintiffs. The other four courts ruled against the Plaintiffs.

The other two courts that also ruled against the Plaintiffs did so via two different routes:

- MD Dis’t.Ct.: “[We] need not resolve whether the banned assault weapons and LCMs are useful or commonly used for lawful purposes...” *Kolbe v. Hogan*, 42 F.Supp.3d 768, 781 (DMD 2014), [2014] U.S. Dist. LEXIS 110976, *aff’m in part, vacated in part and remanded*, [2016] U.S. App. LEXIS 1883 (4th Cir. 2015), *motion for reh’g granted* (4th Cir. March 4, 2016) (No. 14-1945).
- IL Dis’t.Ct.: “The evidence submitted by the parties does not resolve the question of whether Assault Weapons and LCMs are ‘commonly used for lawful purposes.’” *Friedman v. City of Highland Park*, No. 1:13-cv-9073, slip op. at 22,

[2014] U.S. Dist. LEXIS 131363 (NDIL 2014); *aff'd* 784 F.3d 406 (7th Cir. 2015); *cert. denied, supra*.

Under Fed.R.Civ.P. 56(a), because the governments failed to establish that there is “no genuine dispute as to any material fact,” the motions for summary judgment should have been denied. Instead, they were granted in favor of the government.

The “common use” standard of *Heller* is not being consistently applied in the lower courts and, even where it is the finding, the outcomes under Fed.R.Civ.P. 56 are upside-down. It is as if the lower courts “flout” this Court’s precedents of *Heller* and *McDonald. Friedman, supra*, at 6 (Thomas, J., dissenting).

II.B. THE FIREARM IS THE ONLY CONSUMER PRODUCT PROTECTED BY THE BILL OF RIGHTS. WELL-ESTABLISHED FEDERAL LAW AND THE FIREARMS INDUSTRY REPRESENT AN OPPORTUNITY TO FIX THE SNARL OF LOWER COURT DECISIONS CHILLING MILLIONS OF LAW-ABIDING FIREARMS OWNERS.

The firearm is the only consumer product protected by the Bill of Rights. And, yet, “[t]he evaluation of both the Second Amendment and the firearms industry since their inception has produced neither large-scale manufacturer plaintiffs, nor seasoned expert witnesses, nor clear trial strategies.”¹⁸ This deficiency has created a missed

18. Capanna, Paloma A., “With Judges Using the Second Amendment to Sport Gun-Control Policy, What is the Trial

opportunity to advance a simple solution to protect the Second Amendment.

The oral arguments from the *Heller* case allow us to contrast the world of firearms manufacturers to the world of constitutional law. Several Justices of this Court asked questions about machineguns, yet not one of the three attorneys knew the answer. *Heller*, oral arguments, *supra*, pp. 22, 24, 45, 46-47, 60, and 61-62. Turn those same questions to the firearms industry or its counsel, and it's part of a routine work day.

How many machineguns are owned by Americans? On any given day, approximately 500,000 machineguns are registered with BATFE by individuals, companies, and gun trusts from across the United States.¹⁹ Machineguns are not illegal *per se* under federal law; they are taxed and registered as one of several NFA Class II weapons. 26 U.S.C. §§5811, 5812.

The firearms industry has for nearly the 100 years since 1919 met legal requirements while keeping alive the spirit of the settlers of this nation that civilians should at all times have access to firearms through the typical channels of commerce. War Revenue Act, 40 Stat. 1057 (1919); National Firearms Act of 1934, Pub. L. No. 73-474, 48 Stat.1236 (1934), as amended by Int. Rev. Code of 1954

Lawyer to Do?" Regent Journal of Law & Public Policy (Spring 2014), Vol. 6, No. 2, p. 119.

19. U.S. Dep't. of Justice, BATFE, "Firearms Commerce in the United States: Annual Statistical Update 2015," at Exhibit 8, "National Firearms Act Registered Weapons by State (Feb 2015)," p. 15. Please refer to this Table at Appendix B to this Brief.

to 26 U.S.C. §§5801-5872; The Federal Firearms Act, Pub. L. No. 90-351, 82 Stat. 234 (1938) (repealed by Pub. L. No. 90-351, §906, 82 Stat. 234 (1968)); The Omnibus Crime Control and Safe Streets Act, Pub. L. No. 90-618, 82 Stat. 1213-2 (1968); The Gun Control Act, Pub. L. No. 90-351, 82 Stat. 197 (codified as 18 U.S.C. §§921-29 (1982)); The Firearm Owners' Protection Act, Pub. L. No. 99-308, 100 Stat. 449 (1986); The Crime Control Act, Pub. L. No. 101-647, 104 Stat. 4789 (1990); The Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993); The Violent Crime Control and Law Enforcement Act, Pub. L. No. 103-322, 108 Stat. 1796 (1994) (commonly referred to as the "Assault Weapons Ban") (repealed 2004).

Federal firearms compliance law does not depend upon the numbers of firearms manufactured of a particular type or the numbers as a ratio to the consumer market. Instead, it distinguishes lawful firearms from unlawful firearms on the basis of technical data, such as barrel length. 18 U.S.C. §921(a)(3), (5)-(8), (16); 26 U.S.C. §5845; 27 CFR §478.11.

The lower courts are struggling under the *Heller* "common use" standard because it departs from the well-established, fully-integrated, federal firearms definitions utilized by the firearms industry and law enforcement, alike, for nearly 100 years. The legislature through its use of "assault weapon"²⁰ and the courts through

20. *N.B.*: throughout *sub nom. Shew*, the Second Circuit Court of Appeals makes the error in construing the statutory ban as only applying to long guns; it applies also to handguns. See, e.g., "To be sure, as defendants note, these assault weapons and large-capacity magazines are not as commonly owned as the handguns at issue in *Heller*, which were "the most popular weapon

its “dangerous and unusual”²¹ are using words that are meaningless. There is no such thing as an “assault weapon” as a firearms product or by law enforcement statistic. There is equally no such thing as an “unusual and dangerous” firearm.

The Second Amendment became the new kid on the civil rights block in 2008. “For most of our history the question did not present itself.” *Heller, supra*, at 626. However, an entire industry, law enforcement, and gun owners have operated within the federal firearms compliance world for all of our respective lives. You simply do not know us because we are not the ones being arrested by BATFE for interstate trafficking of illegal firearms with sawed-off barrels and obliterated serial numbers. Our greatest concern is thus playing out before our eyes: judges do not have a face to put to the phrase “law-abiding gun owner.”

Our Brief *Amicus Curiae* is filed by tens of thousands of such law-abiding gun owners to introduce you to the organizations in which we are active, the culture in which we live, and the responsibilities we owe to our families, communities, and nation. We are concerned for self-defense against criminals. We hunt to feed our families. We steward thousands of acres of private and public lands, including game conservation, management, and restocking. We engage in the shooting sports for competition and recreation. And, we feel the history of our rights from the founding of this great nation as surely as we feel the firearm in our hands.

chosen by Americans for self-defense in the home.” *Supra*, at 254.

21. *Sub nom. Shew, supra*, at 256.

If this Court strikes down as unconstitutional the firearms bans at issue, it will achieve what Justices Kagan, Kennedy, Ginsburg, Breyer, and Sotomayor achieved in *Henderson* and *Abramski*, *supra*. To strike down state and municipal firearms bans does not result in a void; it clarifies the value of the well-established, national system.

This Court should grant *certiorari* in this case, affirm the *Heller* “common use” standard, and point to the near 100 year old federal system to distinguish legal firearms from illegal firearms. This would perpetuate the national approach among individuals, law enforcement, and the industry.

III. THE COURTS BELOW ARE CAVING IN TO EMOTIONAL PRESSURE AND NEGLECTING FED.R.CIV.P. 56 REQUIREMENTS.

III.A. NUMEROUS JUDGES ARE HIDING BEHIND QUESTIONS OF “BURDEN” TO AVOID PROTECTING OUR CIVIL LIBERTIES UNDER THE SECOND AMENDMENT.

The judges of the lower courts are struggling to integrate the Second Amendment with the rest of our civil liberties. This conflict is most evident in their question of whether a “burden” is being imposed by the statutes upon the exercise of our fundamental liberties under the Second Amendment. The language of the decisions clashes between a framework for civil liberties of the individual and the calculated repression of the opposition.

Six out of seven of the courts ruled against the

Plaintiffs, regardless the level of burden and regardless the approach to scrutiny. Some of the Judges found there was a “substantial burden” placed upon the Second Amendment by the statutes. Other Judges found a lesser burden. One Court found against the statute being a severe burden.

The wide range of language included:

- 2nd Cir. (NY/CT): “The laws at issue are both broad and burdensome. Unlike statutes that ‘merely regulate the *manner* in which persons may exercise their Second Amendment rights,’ these laws impose an outright ban statewide. The ‘absolute *prohibition*’ instituted in both states thus creates a ‘serious encroachment’ on the Second Amendment right. These statutes are not mere ‘marginal, incremental or even appreciable restraint[s] on the right to keep and bear arms.’ They impose a substantial burden on Second Amendment rights...” *New York State Rifle & Pistol Ass’n. v. Cuomo*, 2nd Cir., *supra*, at 259-260.
- CT Dist.Ct.: “The legislation here bans the purchase, sale, and possession of assault weapons and LCMs, subject to certain exceptions, which the court concludes more than minimally affect the plaintiffs’ ability to acquire and use the firearms, and therefore levies a substantial burden on the plaintiffs’ Second Amendment rights.” *Shew v. Malloy*, D.Conn., *supra*, at 246.
- NY Dist.Ct.: “Further, because the SAFE Act renders acquisition of these weapons illegal under most circumstances, this Court finds that the

restrictions at issue more than ‘minimally affect’ Plaintiffs’ ability to acquire and use the firearms, and they therefore impose a substantial burden on Plaintiffs’ Second Amendment rights.” *NYSRPA v. Cuomo*, WDNY, *supra*, at 365.

- 4th Cir.: “In sum, for a law-abiding citizen who, for whatever reason, chooses to protect his home with a semi-automatic rifle instead of a semi-automatic handgun, or possesses an LCM for use in the firearms kept in the home, the FSA significantly burdens the exercise of the right of arm oneself at home.” *Kolbe v. Hogan*, 4th Cir., *supra*, at 39.

As for the other Courts, they go off in skewed directions. The MD District Court “assumed” it was “some” burden on the Second Amendment right. *Kolbe*, DMD, *supra*, at 789. The Seventh Circuit didn’t reach the question in the majority opinion. *C.f.*, *Friedman*, 7th Cir., *supra*, at 789, Manion, J., dissenting, “The right to self-defense is largely meaningless if it does not include the right to choose the most effective means of defending oneself.” The IL District Court found against the statute being “a severe burden on the right to armed self-defense.” *Friedman*, NDIL, *supra*, at 27-28.

The Second Amendment protects the right of the “individual” and that right is “fundamental.” *Heller*, *supra*, at 580; *McDonald*, *supra*, at 778. Post 2008, governments have a regrettable history of asking this Court “to treat the right recognized in *Heller* as a second-class right, subject to an entirely different body of rules than the other Bill of Rights guarantees that we have held to be incorporated into the Due Process Cause.”

McDonald, supra, at 780. “But that ignores *Heller’s* fundamental premise: “The right to keep and bear arms is an independent, individual right. Its scope is defined not by what the militia needs, but by what private citizens commonly possess.” *Friedman, U.S., supra*, at 4 (Thomas, J., dissenting).

III.B. THE LOWER COURTS SHOULD HAVE REJECTED THE GOVERNMENT’S INADMISSIBLE AND INCORRECT SUBMISSIONS PURSUANT TO FED.R.CIV.P. 56.

Only one court, the Fourth Circuit Court of Appeals, issued a decision that was consistent with Fed.R.Civ.P. 56. These two Justices, out of the 13 Judges who have thus far ruled on this issue, recognized a distinction between what might be their personal opinions and those conclusions that must be drawn in order to protect our civil liberties under the Second Amendment.

The majority panel wrote:

“The meaning of the Constitution does not depend on a popular vote of the circuits and it is neither improper nor imprudent for us to disagree with the other circuits addressing this issue. We are not a rubber stamp. We require strict scrutiny here not because it aligns with our personal policy preferences but because we believe it is compelled by the law set out in *Heller* and *Chester*.”

Kolbe, 4th Cir., supra, at 45.

These words echo an earlier case of this Court, *Texas v. Johnson*, which protects the burning of the American flag under the Free Speech Clause of the First Amendment.

“The hard fact is that sometimes we must make decisions we do not like. We make them because they are right, right in the sense that the law and the Constitution, as we see them, compel the result. And so great is our commitment to the process that, except in the rare case, we do not pause to express distaste for the result, perhaps for fear of undermining a valued principle that dictates the decision. This is one of those rare cases.”

491 U.S. 397, 421, 109 S.Ct. 2533, 105 L.Ed.2d 342 (1989) (Kennedy, J., concurring). To be a member of our nation’s federal judiciary is not to express a personal opinion; it is to rise to the calling of the greatest document of our nation’s history and to serve her simple truths so that we may remain one nation at her side.

To keep it in perspective, the Second Amendment “... is not the only constitutional right that has controversial public safety implications. All of the constitutional provisions that impose restrictions on law enforcement and on the prosecution of crimes fall into the same category.” *McDonald, supra*, at 782. For example, “[t] here’s a lot of statistical disagreement on whether the Miranda rule saves lives or not, whether it results in the release of dangerous people who have confessed to their crime, but the confession can’t be used.” *Heller, supra*, oral argument, the Hon. Justice Scalia, p. 16.

For the more than 10,000 pages of records on appeal in these four lines of cases, there is no agreement on whether any firearms ban can and does decrease “mass shootings” – the specific crime to which the laws are claimed to relate. All of the Government cases failed to satisfy the evidentiary requirements under Fed.R.Civ.P. 56 and their motions should have been denied.

The government cannot simply say “gun” and “public safety” and satisfy the rigors of Fed.R.Civ.P. 56, particularly concerning a fundamental civil liberty. The statutes at issue represent an agenda designed to subvert the very essence of the freedoms upon which this country was founded, substituting “safety” for “tyranny” through its claims.

The government’s argument must be “exceedingly persuasive” and “not hypothesized or invented *post hoc* in response to litigation.” *U.S. v. VA*, 518 U.S. 515, 533, 116 S.Ct. 2264, 135 L.Ed.2d 735 (1996). One lower court made no disguise of failing to find uncontroverted facts, writing, “These types of restrictions are presumably justified because of the unique ability of firearms to upset and disrupt public order.” *NYSRPA*, *supra*, at 40 (emphasis added). A judicial presumption may not be taken where fundamental constitutional rights are at stake. “The burden of justification is demanding and it rests entirely on the State.” *U.S. v. VA*, *supra*.

CONCLUSION

Attorney Alan Gura, representing Mr. Dick Heller, was correct to say, “When a fundamental rights is at stake, there is a role for judicial review, Your Honor.” *Heller*, Oral Argument (Mar. 18, 2008), p. 74. Mr. Gura was, respectfully, incorrect, however, to continue with “We are not going to see a thousand judges review such laws because Washington, D.C.’s is the only example of it.” *Id.* Instead, it was Justice Breyer, who was correct that the *Heller* decision would carry this Court into the “political thicket.” *Heller, supra*, at 680, ftnt. 39 (Breyer, J., dissenting). *Heller* was simply the beginning.

This Brief *Amicus Curiae* represents a historic number of citizens coming together in a single coalition, tens of thousands strong. Since January 2013, even groups as old as 1860 have learned about the judiciary, found an on-ramp to raise their voice, and engaged in the three-year discussions that resulted in this submission.

We ask this Court to move forward with the next decision – the one necessitated by *Heller* as the debarkation point for the Second Amendment to join the ranks of our protected civil liberties. This case is the right opportunity for this Court to articulate a standard that will apply without “[the] sort of baggage that the First Amendment picked up.” *Heller*, Oral Argument, *supra*, Chief Justice Roberts, p. 44.

Let us not repeat the tumultuous period that ensued when hundreds of individuals fought and were imprisoned for the First Amendment rights to free political speech, political party affiliation, and assembly in the face of

such legislation as the Espionage Act and the Sedition Act,²² the Alien Registration Act,²³ and the California Syndicalism Act.²⁴ Let us instead celebrate the arrival at the courthouse of the “last” and arguably most important of our civil liberties.

For if we are arguing now, at this moment in history, then surely it is the signal that all of our civil liberties have been so eroded that the Second Amendment has been called into service.

Respectfully submitted,

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22. Espionage Act of 1917, Pub.L., 40 Stat. 217 (1917), amended by Sedition Act of 1918, Pub.L. 65-150, 40 Stat. 553 (1918), amended by 18 U.S.C. §792, *et seq.*

23. Alien Registration Act of 1940 (the “Smith Act”), Pub.L. 76-670, 54 Stat. 670 (1940), amended.

24. California Syndicalism Act of 1919, Cal. Penal Code §§1140, *et seq.*, repealed by Cal. Stats. 1991, c. 186 (A.B. 436).

APPENDIX

APPENDIX A — A LISTING OF THE *AMICI*

The **Shooters Committee on Political Education** is a statewide organization founded in 1965, by a group of firearms owners in western NY. SCOPE is a civil rights organization focused on the protection and preservation of the rights guaranteed by the Second Amendment. SCOPE is issues-oriented in its approach, reviewing all proposed firearms legislation for its impact on the legitimate firearms owner, its economic cost to the state, and its potential for achieving its stated objective. It accomplishes its goals through public education, advocacy with legislators and candidates, and participation as a litigant and as an *amicus* in lawsuits.

The **110 Rod and Gun Club, Inc.** is a not-for-profit corporation in Verbank, NY, Founded in 1946 on 110 acres, it has grown into a family-oriented facility on 215 acres. The Club sponsors firearms safety training, public clay shoots, and various other events.

The **Albion Fish & Game Club, Inc.** is a not-for-profit corporation in Albion, NY. Founded in 1955, the Club alerts and educates its members and the public, alike, on government action impacting their hunting and recreational shooting activities.

The **Albion Rod and Gun Club, Inc.** was established in 1972. The Club is used for recreational shooting that includes several league trap shoots, sporting clays, youth education, and hunter education.

The **Alden Rod & Gun Club Inc.** has 240 members, and offers air pistol, trap, suburban pistol league, rifle,

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and archery. Incorporated in 1948, the Club supports safe practices through education and also sponsors youth attendance to the NYS Department of Environmental Conservation Education Camp in Rushford.

The **Allegany Chapter of SCOPE** provides member and public political education, including at the Andover Fire Department Gun Show, the Allegany County Fair and Friendship Bicentennial Celebration, the Cuba Garlic Festival, and the Chapter-hosted Vets Spaghetti dinner.

The **Almond Rod and Gun Club, Inc.** is comprised of 250 men and women who sponsor and participate in a multitude of shooting sports. The Club hosts and supports activities on hunter safety and education, kids to camp programs, and multiple conservation efforts. It was incorporated as a not for profit corporation in 1947.

The **Association of Former New York State Troopers, Inc.** is comprised of more than 2,000 members, organized into 14 Chapters around the State. The purpose of this non-profit organization is to better all police officers and their families, whether active or non-active. In 2017, the New York State Troopers will have proudly served for 100 years. This is the only non-governmental organization in the State that can use the word “Troopers” in its name.

The **Avon Anglers Unlimited, Inc.** holds tournaments for Bass, Pike, and Walleye fish on the lakes and bays of Upstate New York. Various of their 50 members are also hunters and gun owners.

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The **Barre Sportsmen's Club, Inc.**, established in 1972, promotes the shooting sports. The Club hosts many league shoots, both traveling and local, hosts a youth shooting club, and has also held hunter education courses.

The **Bath Rod and Gun Club, Inc.** is a social club for members to engage in the shooting sports, including skeet, trap, sporting clays, cowboy action shoots, and bull's eye pistol. The Club was founded more than 125 years ago, when the Club asked legislators to limit the length of the fishing season at a time before "conservation" had become the norm.

The **Black North Rod & Gun Club, Inc.** promotes the hunting and fishing life to its members and youth. Club members have worked to protect these beliefs since 1953.

The **Broome County Sportsmen's Association, Inc.** was founded in 1917, currently has more than 700 members, and owns over 135 acres. It supports the firearm disciplines by providing indoor and outdoor range facilities, training, and competition. The Association has hosted shooting events during the New York Empire State Games.

Burns Family Farm, L.L.C. in Hornell, NY is a dairy and crop operation which has employees and neighbors who rely on hunting for food and who participate in conservation activities relative to the deer population.

The **Canandaigua Tea Party Patriots** is a community group of citizens who are concerned about the direction of

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our nation and our state. They aim to educate themselves and educate others to become informed citizens and voters.

Capitol District SCOPE is a grassroots organization that currently covers six counties, Albany, Columbia, Greene, Saratoga, Schenectady, and Rensselaer. The Chapter educates politicians and the populace of the region about their Second Amendment and other civil rights.

The **Cattaraugus County Chapter of SCOPE** is organized to educate the public on issues pertinent to the shooting sports throughout NY. It also fights for the repeal of the “(Un)SAFE Act” in NY, as well as any judicial decisions necessary to ensure that Second Amendment freedoms are not taken away.

The **Cattaraugus County Tea Party Patriots** is a group of politically active citizens that meet twice a month to discuss and educate others about current events. They stand for the Constitution as the Founders intended, smaller government, and fiscal responsibility.

Cayuga County Chapter of SCOPE is a group of individuals that saw a need to educate and inform our communities about the Second Amendment in NY. This will allow concerned citizens to make intelligent, cultivated decisions and policies in the future.

Central New York Chapter of SCOPE works hard to create dialogue between members, area rod and gun clubs,

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environmental conservation groups, elected officials, candidates, and the public, through participation in “lobby days,” gun shows, and community events.

Chautauqua County Chapter of SCOPE provides education for members, elected officials, and the public on issues surrounding the Second Amendment and Constitutional principals to which it relates, including self-defense, lawful use of firearms, and the shooting sports.

The **Chemung County Chapter of SCOPE** was started in April 2014 and rapidly drew in membership across this rural county. The group participates in activities with members, the public, and state and local officials designed to increase awareness of the Second Amendment in politics and law.

Chestnut Ridge Rod and Gun Club, Inc. is a member-owned, not-for-profit corporation, founded in 1932. The Club has more than 300 members, who enjoy more than 2,000 acres of hunting, fishing, camping, and other outdoor recreation.

Conesus Lake Sportsmen’s Club, Inc. is an all-volunteer club that hosts local and registered shooting events for its members and guests. The Club was founded in 1938 and has more than 400 members.

Incorporated in 1898, the **Corning Fish and Game Club** provides trap, skeet, archery, pistol and rifle activities for its 280 members. The rifle range at the Club is also home to members who enjoy shooting Black Powder rifles.

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Cortland County Committee of SCOPE, although a new member of the SCOPE family, is rapidly growing and raising their voices through advertising, social media, and letters to the editor that the battle is waging for the defense of the Second Amendment in the courts, the legislature, and the executive.

Crosby Creek, LLC is a federally-licensed firearms dealer, selling rifles, pistols, and shotguns, as well as firearms and sporting accessories. Founded in 1992, it employs seven and is located in Hornell, NY.

Crum Elbow Sportsmen's Association, Inc. is a not-for-profit corporation founded in 1940, located in Hyde Park. Its near 200 members include Federal Firearms Licensees and individuals, engaged in range safety, hunter education, brass reloading and lead casting, competitive shoots including with West Point, and children's fishing events.

Dansville Fish & Game Protective Association is a sporting club founded in 1875 in Dansville with near 500 members, enjoying more than 90 acres on the Southern Tier of NY. One of its buildings is a Franklin Roosevelt era civilian conservation camp. The Club offers skeet and trap leagues, 3D archery, and shooting facilities for pistol and rifle, as well as hunter safety classes taught by NYS DEC-certified instructors.

Delchenego Rod and Gun Club, Inc. was created to work for the preservation of game and fish, a proper respect for and the enforcement of game laws, the

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enactment of new laws for such purposes, and the repeal of laws not in conformity with true sport.

Depew Rod & Gun Club Inc. is a group of 75 members who have like interests in hunting and fishing. The Club owns 500 acres.

The **Dorie Miller Rifle & Pistol Club, Inc.** is dedicated to the Second Amendment and its preservation. It is a community-based organization that works to improve the quality of life in the African-American community.

Dutchess County Chapter of SCOPE rallies its members and the public to become educated and active in support of civil rights, including the Second Amendment, through modern social media, traditional print, live speakers, and identifying and participating in speaking opportunities in other forums.

Dutchess County Pistol Association, Inc. nestled in the heart of the Hudson Valley, was founded in 1937 and comprises approximately 500 members. The Association is dedicated to handgun safety, and it provides safety classes and shooting matches for residents from NY, NJ, PA, CT, and other nearby states. Charter members included Secret Service agents in the Roosevelt Administration, state police officers, local law enforcement officers, and civilians.

Dutchess County Sportsmen's Association, Inc. is the oldest sportsmen's association in the county, incorporated in 1921. The club sponsors an annual game dinner and annually sponsors children to the DEC Camp.

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The **Eden-North Collins Gun Club, Inc.** features skeet and trap fields, 100-yard rifle ranges, and four positions electric-operated 75-foot pistol and small bore rifle targets. Founded in 1931, it is a not-for-profit corporation.

Erie County Chapter of SCOPE is the home Chapter of the President and the Chairman of the Board of SCOPE, with many members involved with the birth and growth of the organization throughout its fifty years.

The **Erie County Conservation Society, Inc.** was founded in 1896, and among the results of its efforts was the creation of NY's largest state park, the 65,000 acre Allegany State Park. The Society, itself, owns 97 acres, including a 14-acre pond. Its public education outreach spans from muzzleloading to the hunting of small and large game.

The **Erie County Sheriff's Police Benevolent Association Inc.** is the union that represents the 140 Deputy Sheriffs of the Erie County Sheriff's Office Criminal Division. The Office of the Sheriff is the oldest office under the system of common law in the United States and is an integral part of government in the State of New York.

The Essex County Fish and Game League, Inc. is a federation of the county fish and game clubs. The League works together for conservation, access to state lands, sportsmen's rights, Second Amendment rights, and wildlife management.

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Evans Rod and Gun Club, Inc. hosts many shooting events for guns and archery. The club was founded in 1953 and has over 400 members.

The **Federated Sportsmen's Clubs of Cattaraugus County, Inc.** represents 13 sportsmen's clubs and sportsmen. Recent activities include trout stocking in more than 35 local waterways in conjunction with NYS Department of Environmental Conservation and public education on deer herd, deer harvest, and proposed regulation.

The **Federated Sportsmen's Clubs of Chenango County, New York, Inc.** represents the sporting people of Chenango County, NY. Founded in 1940, the federation has had a strong presence in supporting the rights of the people through the Second Amendment in a land of rolling hills and rivers.

The **Federated Sportsmens Clubs of Oneida County, Inc.** was formed in 1934 as an organization that furthers causes for sportsmen and environment, including mentored you and women hunts and Conservation Education days.

The **Federation of Dutchess County Fish and Game Clubs, Inc.** is a membership organization dedicated to representing the interests of the local outdoor sporting community. The federation works closely with sportsmen's clubs, NYS Department of Environmental Conservation, elected representatives, and all others interested in conserving wildlife and our natural resources.

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Finger Lakes Resource Conservation and Development Council, Inc. brings together ten county federations to fully utilize the human and natural resources of the region in order to enhance the economic, social, and environmental conditions for the more than 350,000 people of Chemung, Ontario, Schuyler, Seneca, Steuben, and Yates Counties, a region with more than 1 million acres of forest, or, near 50% of the area's total land use.

Five Point Rod & Gun Club is a membership organization which promotes shooting sports within the community through education and hosting sport shooting activities.

The Frederick Douglass Foundation of New York is part of a national grassroots public policy and educational organization. The Foundation's primary mission is education on the United States Constitution and Conservative principles (Christ-based) from both a social and economic framework. The Foundation has over 700 members.

Genesee County Chapter of SCOPE honors Veterans for their service and sacrifice through public events like ice cream socials, inviting them to speak, and taking up collections for Honor Flight of Rochester and Operation Injured Soldier. It also hosts public education forums for candidates and on topics like "Faith, Family, and Freedom," as well as marching in local parades. The Chapter is 425 members proud with more than 100 turning out at monthly meetings.

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Glenville Fish and Game Club, Inc. was formed in 1949 to promote an interest in hunting, trapshooting, fishing, conservation, and to promote friendship and sociability among its members.

Grand Island Rod & Gun Club, Inc. hosts various shooting leagues. Founded in the early 1940s, the club has more than 800 members, including individuals and Federal Firearms Licensees.

Hamburg Rod & Gun Club, Inc. was founded in 1938 and has more than 350 members. The club offers a full range of shotgun sports, including American Trap Association regulation trap, National Skeet Shooting Sports skeet shooting, and a sporting clays range on over 15 acres of hardwoods.

Helderberg Rod and Gun Club, Inc. was founded in 1948. The club defends and supports the United States Constitution, in particular, the rights guaranteed by the Second Amendment. The club encourages participation in shooting, angling and trapping sports, education in the safe use of firearm and archery equipment, protection of natural resources, and mentoring young people in stewardship of water, air, land, and wildlife.

Hidden Lake Conservation Association, Inc. is an organization of sportsmen and conservationists who strive to teach ethical sportsmanship and conservation values to our young, upcoming, future sportsmen and women.

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The Holland Rod & Gun Club, Inc. is a group of over 200 members, interested in preserving the interests of sportsmen and women, gun owners, and shooting sports enthusiasts since 1937.

Horton Hill Sportsman is a group of outdoor enthusiasts, concerned with improving wildlife habitat and youth involvement in the outdoors.

Hudson Fish and Game Club, Inc., founded in 1948, is a sportsmen's club, comprised of over 200 members.

Hudson Valley Sportsmen's Assn., Inc. is a shooting and sportsmen's club. Founded in 1936, it holds many shooting and training/educational courses per year.

Interlaken Guns and Ammo has been a licensed firearms dealer since 2004, providing sales of firearms, ammunition, and accessories. It also provides gunsmith services, consignment, and firearms receiving services.

Interlaken Sportsman's Club, Inc. was founded in 1948 and is now 180 members strong, working hand-in-hand with the Seneca County community to share knowledge of wildlife, including events open to the public and to its youth members.

Jefferson-Lewis Chapter of SCOPE advocates for the protection and preservation of the Second Amendment. Advocates within the group work to educate our legislators, members, and the public at large on issues associated with legal gun ownership, including legislation, litigation, and law enforcement.

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Junior Wilson Sportsmen's Club, Inc. was founded in 1954. The Club has more than 600 members, including many pistol and long gun owners.

Leatherstocking Club of Oswego County can trace its origins to 1860 and is the oldest rod and gun club in America. It wasn't until 1869 that the State of New York took to game laws, prior to which there was one act, passed in 1705, which set deer hunting season. The Club was founded and continues to advocate wildlife conservation and management, through law and through land management.

Livingston County Chapter of SCOPE participates in Amateur Trap Association events and hosts a booth at the Hemlock Fair. It engages in GOTV, including voter registration. And it hosts guest speakers such as elected officials, judges, and the County Sheriff at meetings for members that are also open to the public.

Livingston County Federation of Sportsmen's Clubs, Inc. is a collection of conservation clubs that work to improve outdoor activities for adults and youth, such as fishing, hunting, and boating, as well as habitat improvement and land conservation.

Lodi Rifle & Gun Club, Inc. promotes sportsmen's education and the Second Amendment rights of legal gun owners.

The Mad River Club, Inc. was formed in 1894 as a hunting club, and is the second oldest club in NY. The Club

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offers courses for the general public in hunter and bow safety, trapping, and waterfowl. Located in rural Oswego County, the club has more than 350 members.

The Malone Fish and Game Club, Inc. offers courses for sports advocates, such as hunter safety. It provides miles of maintained cross country and snowshoe trails, and hosts an annual fishing derby event for children. The Club has more than 500 members.

Manchester Hunt Club, Inc. supports safe hunting for small game and big game. Club members also mentor youth in gun safety and safe hunting practices.

Medina Conservation Club, Inc. is primarily a shooting sports club for skeet, trap, and outdoor pistol. The Club also hosts events such as hunter safety courses.

The 350 members of the **Middleburgh Rod & Gun Club, Inc.** are involved with over forty community organizations from Scouts to youth archery to youth fishing derby to hunter safety for firearm and bow.

Mike's Guns and Ammo is a federally-licensed dealer that advances the sports of target shooting and hunting through conservation and preservation of animal resources. The owner and staff believe and promote the shooting sports as a means to build character, good sportsmanship, and respect.

Millbrook Rod & Gun Club, Inc. offers hunter safety courses several times per year, as well as skeet, 5 stand, and trap shooting to its members and to the public.

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The **Monroe County Chapter of SCOPE** sees its mission to educate members, elected officials, and the general public about gun ownership, self-defense, and Constitutional rights as they pertain to the ownership and use of firearms.

Montgomery County Committee of SCOPE operates in the heart of the Mohawk Valley, home of battles during the French & Indian Wars and the Revolutionary War, through a newly-formed Committee that brings together those with a passion for the Second Amendment, politics, and the shooting sports, alike.

The **Mount Morris Sportsman's Club, Inc.** offers trap, skeet, rifle, and pistol shooting in a friendly range environment, providing support to new and experienced sportsmen, alike.

Mumford Sportsmen's Club Inc. was organized to conserve, restore, and manage game, fish, and other wildlife and their habitats. The Club promotes and maintains friendly relations with landowners and sportsmen. It promotes the safe handling of firearms.

NCA Sports Club is a private gun club that supports hunters' safety courses and archery, encouraging new and experienced hunters to come together in support of the shooting sports.

The **New York City Chapter of SCOPE** fights to reach the general public in an environment overwhelmed by NYC and NYS restrictions that have all but eviscerated

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civil liberties under the Second Amendment, including working with remaining ranges and dealers, offering open meetings, and providing the facts that support the continuation of our enduring freedoms.

New York Oath Keepers LLC is a statewide organization of more than 1,100 active duty and retired military members and Veterans, police officers, and firefighters, who have taken an oath to protect and defend the rights of the people as enumerated in the United States Constitution.

New York State Conservation Council Incorporated was founded in 1933 to aid in the formulation and establishment of sound policies and practices designed to conserve, protect, restore, and perpetuate forests, wildlife, and scenic and recreational areas, so that present and succeeding generations may continue to enjoy and use these great natural resources. The NYSCC represents the sportsmen and conservationists of New York State.

N.Y.S. Sporterifle Inc. has over 700 members, participating in 56 teams across NYS and northern PA. For more than 60 years, it has sponsored weekly light rifle postal competitions.

Niagara County Chapter of SCOPE conducts meetings that are standing-room only, bringing in guest speakers such as David Bellavia, Iraqi war hero, and a panel of six women blazing trails in the shooting sports, politics, and the court. Members participate in public education, including television shows, and voter education activities.

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North County Chapter of SCOPE is a civil rights group, restoring and preserving the Second Amendment to the U.S. Constitution. The group serves the interests of members throughout Essex, Clinton, and Franklin Counties in NY.

North Syracuse Rod & Gun Club, Inc. offers trap shooting, rifle and pistol shooting, and archery. The Club offers hunter safety courses, hosts youth groups, RSO training, scholarship money for conservation students from Central Square High School, and the use of its grounds for CNY Observers Club.

Northern Dutchess Rod and Gun Club, Inc. embraces principles of ethical management and harvest of wildlife and other natural resources, providing members with hunting, fishing, target shooting, hiking, and a quality outdoor experience on 342 acres.

The **Oneida-Herkimer Committee of SCOPE** was formed in February 2016 by 36 members at the organizational meeting, bringing to life the spirit of those who support the full exercise our rights under the Second Amendment. The Committee educates the public regarding anti-constitutional laws and actions, fostered by elected officials and outside organizations, alike.

Onondaga County Federation of Sportsmen's Clubs, Inc. provides legislative representation, conservation education, public relations, and recreational information of particular interest to the sportsmen and women of 38 groups from Onondaga County.

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Ontario County Chapter of SCOPE is a civil rights organization, focused on the preservation of the right of firearms ownership as guaranteed by the Second Amendment of the U.S. Constitution. Its members constitute concerned gun owners and conservation clubs.

Orange County Constitutionalist's Coalition is a coalition membership organization for advocates of the Second Amendment, such as local Oath Keepers and Tea Party activists.

Orange County Chapter of SCOPE educates members and voters on the impact of proposed legislation regarding their constitutional rights as prescribed in the Bill of Rights, using education as a tool to revitalize a discouraged electorate.

The membership of the **Orleans County Chapter of SCOPE** includes everyday men and women, law enforcement officers, public officials, farmers, and volunteer first responders. It brings people together from all walks of life to be heard as one voice for the Second Amendment.

Orleans County Clay Crushers, Inc. is an all-volunteer organization devoted to teaching youth the safe and responsible use of firearms in a competitive team atmosphere, including through the Scholastic Clay Target Program and the Scholastic Pistol Program.

Orleans County Federation of Sportsman's Clubs, Inc. represents approximately 1,600 sportsmen in all matters of NYS conservation law.

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Oswego County Federation of Sportsmen's Clubs, Inc. deals with sportsmen's issues and supports many youth activities. Incorporated in 1947, it has 23 member sportsmen's clubs with a total membership in excess of 3,000 sportsmen.

Oswego County Trappers Association was established in 1972 to promote the sport of trapping through public awareness and legislation. It also hosts an annual trappers' convention.

Painted Post Field and Stream Club, Inc. was founded in 1948 to promote a place for constructive recreation for its members and to promote good sportsmanship in the community, whether by membership or educational programs, shooting or outdoor recreation.

The Pawling Fish and Game Association, Inc. for more than 85 years has promoted hunting and fishing opportunities for local children and residents.

Perkinsville Rod and Gun Club was incorporated as a non-profit in 1907 to promote sound conservation practices and is involved with the local community.

Pleasant Valley Trout & Game Club, Inc. was founded in 1946, when a small group of citizens joined together to share the fellowship and responsibilities of being outdoor enthusiasts. The Club now owns more than 90 acres, where it hosts member and public activities, including the "Huck Finn Weekend" for youth trout fishing.

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Putnam County Chapter of SCOPE brings forward timely information on the issues and candidates that shape the Second Amendment, encouraging debate in person and through modern electronic tools, striving towards political activism, including speaking at government meetings, running for public office, and voting.

Putnam County Federation of Sportsmen's Clubs is a coalition of 14 member organizations, each of which contributes time and resources to promote local conservation efforts, including environmental education camps, youth hunting, fishing clinics, resource cleanups, habitat improvements, fish and pheasant stockings.

Putnam County Firearm Owners Association, Inc. was formed in 2014 to safeguard the Second Amendment rights of all Americans, and to promote the safe and responsible ownership and use of firearms.

Randolph Rod and Gun Club, Inc. offers more than 300 members trap ranges, skeet ranges, rifle/pistol ranges, 3-D archery, and 125 acres of hunting. The Club also sponsors two youth trap teams, and offers trap and skeet leagues.

Red Creek Conservation Club, Inc. is focused on the preservation and conservation of natural resources, as well as the promotion of the shooting sports and the education of shooters.

Redfield Fish and Game Club, Inc. was founded in 1933 and has been active ever since. It is an AKC-sanctioned

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Coonhound club, hosting UKC Coonhound Championship, Great Northern Hound Hunters Championship, and NYS Youth Championship.

Rochester Personal Defense, LLC provides firearms safety and education to civilians, law enforcement and other professional people. The company has over 16 nationally licensed and experienced instructors. Founded in 2009, their goal is to provide realistic and safe firearms education.

Rochester Rifle Club, Inc. is a civilian shooting organization, affiliated with the NRA since 1914. The Club provides opportunities for education, training, and competition to its more than 1,100 members.

The mission of the **Safari Club International, Western and Central New York Chapter**, is to protect hunters' rights and promote wildlife conservation as two of more than 190 membership chapters found across the globe. The SCI organization is engaged in federal, state, and international lobbying efforts, litigation, humanitarian services, and conservation projects.

Saranac Lake Fish and Game Club, Inc. was founded more than 100 years ago when the first year of dues were just 10 cents. The Club has since grown to more than 350 members strong. Hosted events include the Colby Classic Ice Fishing Derby and a 10 gun raffle and picnic. It also offers community meeting space for groups such as Homeward Bound and local Veterans.

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The Schenectady County Conservation Council, Inc. is the umbrella organization for all sporting and outdoor clubs in the county, representing over 4,000 individuals engaged in hunting, fishing, and the shooting sports.

Schoharie County Chapter of SCOPE actively engages its membership and the public in education and political activism, including lobbying elected officials at the Capitol and in District, hosting speakers like the County Sheriff, and sharing literature and answering questions at events like the County Fair.

The Schroon Lake Fish and Game Club, Inc. supports all fishing, hunting, trapping, and snowmobile activities. The Club sponsors local Boy Scout and Cub Scout troops and hosts many community activities.

Schultheis Sporting Goods, Inc. is an FFL-01, federally-licensed dealer in firearms, selling supplies to hunters and gun collectors for more than 38 years.

Seneca County Federation of Sportsmen's Club, Inc. represents approximately 3,000 sportsmen and women in a county of about 30,000 people at the county and state levels.

The **Schuyler County Chapter of SCOPE** strives to educate members and the public on current laws and pending bills that could impact their Second Amendment rights. The Chapter also brings forth the voting records of elected officials.

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The **Seneca County Committee of SCOPE** is on top of the political issues of the day that could infringe our Second Amendment rights, engaging in consistent outreach to elected officials and the general public to provide personal narratives and the uncontroverted facts.

Smith's Stock Farms, Inc. is a 7th generation dairy comprising five family owners and several employees, all of whom are gun owners who hunt and target shoot. Everyone affiliated with this family-owned business supports the Second Amendment.

South Bristol Fish and Game Association, Inc. is a non-profit organization of like-minded individuals who support conservation, hunting, and fishing in the Ontario and Livingston County area. Of its more than 200 members, more than half are life members.

South Seneca Sportsmens Club, Inc. has hosted many NRA, National Wild Turkey Federation, and Ducks Unlimited banquets since 1954. The Club offers trap, skeet, rifle, and pistol ranges, where more than 350 members teach and promote the importance of the Second Amendment and shooting rights.

South Shore Association of Oneida Lake, Inc. promotes safe firearms use, offering rifle, pistol, trap, and bow ranges. It sponsors four scholarships at \$1,500/year per student, and donates to various charities in the area.

Southern Dutchess & Putnam Sportsmen's Association, Inc. was founded in 1934 to promote

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sportsmen's activities and to advance and guard the conservation of the outdoors, and by 1937 it boasted a membership of over 900. The Association owns wood acreage, leases hunting lands, and has private access to state lands.

Southern Tier Region Chapter of SCOPE embraces members in the counties of Chenango, Madison, and Broome. Chapter activities include regular meetings, annual rallies with guest speakers that include elected officials, drafting and advancing proposed legislation, and public education.

Sportsmen's Archery Club of St. Mary's Inc. is involved with conservation, education, and good sportsmanship. Club members promote fishing on Oak Orchard Creek, and support youth-oriented activities like the NYS Environmental Conservation Camp.

Sportsmen's Coon Hunters Association of Batavia, New York, Inc., founded in 1945, hosts multiple events throughout the year to support and encourage the sports of hunting, trap shooting, and archery.

Springwater Rod & Gun Club, Inc. has provided ranges for rifle, pistol, and shotgun for its more than 300 members since 1962. It offers archery and firearm courses to adults and children ages 11 and older.

Members of the **Steuben County Chapter of SCOPE** are dedicated to educating friends and neighbors in the business of the Second Amendment, including hosting an

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annual range event for first time shooters aimed at elected officials, government and local attorneys, and their staff, distributing pocket copies of the Constitution and Bill of Rights, and sponsoring radio and print “Founding Father Quotes.”

Steuben County Federation of Conservation Clubs, Inc. is a coalition of conservation-minded clubs, promoting hunting, fishing, and trapping in the county, as well as youth-related activities. It is comprised of 13 area clubs.

Suffolk County Chapter of SCOPE is dedicated to preserving the Second Amendment rights of law-abiding citizens by advancing the conversation on the meaning of “law-abiding” in a state as heavily regulated as NY through public education forums, participation at gun shows, and collaboration with federally-licensed manufacturers and dealers.

The focus of the more than 800 members of **TEA New York** is to reign in the enormous, inefficient, and unaccountable NYS government by identifying corruption and abuse, proactively addressing constitutional violations and reforming the government.

Tell Them Where You Got It is a small business, licensed by the ATF as an FFL-01 dealer in firearms, selling long guns, rifles, and ammunition.

Ten X Shooting Club, Inc. was incorporated in 1956. It encourages improved marksmanship and development in the shooting sports by promoting organized rifle and pistol competitions throughout the Western NY region.

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Tioga County Committee of SCOPE was only recently launched with 15 members dedicated to educating citizens on their Second Amendment rights, with an emphasis on the original intent of the Founding Fathers.

The Tonawandas Sportsmen's Club, Inc. is a hunting and shooting club that hosts American Trap Association Registered Shoots and is also open to the public. Founded in 1947 its current membership exceeds 500 persons from the Buffalo, NY area.

Torpy's Pond Outdoor Club, Inc. was founded in 1940, and remains a hunting and fishing club. Its membership believes 100% in the Second Amendment.

Trumansburg Rifle & Pistol Club, Inc. was organized in 1961 to provide organized rifle and pistol shooting for its members and to promote education in safe handling and proper care and use of firearms.

Tupper Lake Rod and Gun Club, Inc. is a 200 member club that supports the sporting traditions of New York through hunter safety programs and events such as the Mountain Challenge 3-D Archery Tournament boasting a record high of 400 shooters.

Twin Lakes Sportsmen's Association, Inc. was established in 1974 as a hunting and fishing club. It organizes land purchases and leases, including of water rights, to foster, protect, and preserve game and fish, and to stock game birds and fish.

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Ulster County Committee of SCOPE, recently formed, is underway with education of elected officials and members standing up to run for public office, taking to the Capitol in Albany to support and oppose legislation, and gaining recognition for SCOPE as a statewide, grassroots organization on the floor of the NYS Assembly.

Waterloo Rifle & Pistol Club, Inc. is dedicated to promoting firearms safety and education. Founded in 1934, the Club comprises nearly 250 members, including Federal Firearms Licensees and individuals, as well as members of local and state law enforcement.

Watertown Sportsman, Inc., founded in 1908, is actively engaged in the conservation of natural resources and the education of citizens in matters relating to firearm safety and the shooting sports. It has approximately 650 members.

Wayland Rod and Gun Club, Inc. provides hunter safety training for the surrounding community, while promoting legal and safe gun ownership.

The **Wayne County Chapter of SCOPE** routinely hosts more than 100 members and guests people from the community at its monthly meetings, offering firearms demonstrations by certified instructors and competition shooters, information about laws, pending bills, and lawsuits from lawyers and judges, pistol license process presented by the County Sheriff, and opportunities for activism.

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West Mountain Rod & Gun Club, Inc. is primarily a fishing and bird hunting club, engaging in bird release programs from Septembers through March, and assisting the Dutchess County Federation with their annual youth pheasant hunt.

White-Otter Fish & Game Club, Inc. was incorporated in 1990 and has approximately 500 members. Its Constitution includes advising and assisting state and local governments and agencies in matters relating to natural resources.

Whortlekill Rod and Gun Club, Inc. was founded in 1935 to promote fishing and hunting. It is an active club with over 250 members at the forefront of environmental conservation, education, safety, and legislative concerns.

Williamson Conservation and Sporting Club, founded in 1936, provides a safe environment to enjoy the shooting sports. The Club occupies 50 acres and has a membership of more than 640 people.

Wilson Conservation Club, Inc. was founded in 1951 to assist, interest, and educate the general public on the vital necessity of conservation, defense, and propagation of our natural resources. Club members attempt to secure the enactment of such legislation as is fair and equitable to both sportsmen and wildlife.

Wood & Brook Sportsman's Club, Incorporated was founded in 1956 to facilitate both avid and new sportsmen with a place to share their love of the outdoors, promote

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the shooting sports, gun ownership, and conservation. Its 100 members engage in trap, skeet, and other shooting sports.

The **Wyoming County Chapter of SCOPE** unites its membership and other county groups to extend the voice and reach of citizens engaged in political activism, including the introduction of the Second Amendment and other civil rights to the young people who will become the future voters and political leaders of our nation.

Yates Carlton Lakeshore Sportsman's Club is a conservation hunt club. Founded in 1955, the Club's main objectives are education, safety, and conservation. It alerts and encourages members to share their knowledge and respond to proposed rule changes with legislators, the state DEC, and the federal ATF.

Yates County Chapter of SCOPE provides public education, candidate forums, and fundraising to support community and state activities that enhance the safe handling of firearms, youth shooting sports, and the Second Amendment. Its membership includes elected officials, candidates, and voters fulfilling their civic duties.

York Sportsman's Club, Inc. was founded in 1946. Its membership consists of citizens who share a common interest in hunting, fishing, and trap shooting.

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**APPENDIX B — NATIONAL FIREARMS ACT
REGISTERED WEAPONS BY STATE, DATED
FEBRUARY 2015**

FOLDOUT

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Exhibit 8. National Firearms Act Registered Weapons by State (Feb 2015)

State	Any Other Weapon ¹	Destructive Device ²	Machinegun ³	Silencer ⁴	Short Barreled Rifle ⁵	Short Barreled Shotgun ⁶	Total
Alabama	1,154	74,778	18,212	15,501	2,550	2,224	114,419
Alaska	320	4,499	1,674	3,527	1,162	1,242	12,424
Arkansas	602	44,239	5,140	12,218	2,159	1,067	65,425
Arizona	1,165	82,271	15,987	25,642	8,996	2,054	136,115
California	3,856	245,524	29,550	11,091	9,058	13,185	312,264
Colorado	953	43,200	6,629	15,050	4,094	1,526	71,452
Connecticut	708	11,603	26,741	7,432	2,406	987	49,877
District of Columbia	69	38,427	4,466	285	787	1,091	45,125
Delaware	32	2,454	591	294	174	542	4,087
Florida	3,436	144,313	33,435	50,422	14,872	7,913	254,391
Georgia	1,856	59,799	28,046	59,942	7,500	11,019	168,162
Hawaii	34	6,701	410	139	58	61	7,403
Iowa	877	24,563	3,455	793	470	959	31,117
Idaho	637	18,016	4,053	19,167	2,231	456	44,560
Illinois	980	88,946	26,086	1,641	2,066	1,702	121,421
Indiana	1,579	40,044	18,754	27,329	3,984	8,696	100,386
Kansas	701	21,522	3,660	6,080	1,964	899	34,826
Kentucky	1,080	25,166	12,605	20,650	2,388	1,739	63,628
Louisiana	538	49,929	6,623	18,855	2,981	1,679	80,605
Massachusetts	838	14,473	6,985	9,156	1,975	1,006	34,433
Maryland	987	49,531	25,548	10,822	3,489	4,242	94,619
Maine	570	3,134	4,698	2,061	1,640	442	12,545
Michigan	1,122	23,865	12,247	7,898	1,478	1,181	47,791
Minnesota	2,646	41,948	9,307	1,270	1,969	1,099	58,239
Missouri	1,369	29,468	9,389	12,366	3,423	2,460	58,475
Mississippi	419	9,064	4,137	8,289	1,416	756	24,081
Montana	435	3,506	2,299	5,220	912	426	12,798
North Carolina	894	83,200	11,461	18,432	5,443	2,858	122,288
North Dakota	202	1,817	1,568	3,745	532	258	8,122
Nebraska	734	6,190	2,190	4,880	1,156	806	15,956
New Hampshire	437	4,033	8,034	7,271	2,822	464	23,061
New Jersey	427	41,823	7,621	1,081	1,105	2,555	54,612
New Mexico	302	77,700	3,819	4,943	1,803	653	89,220
Nevada	786	34,306	8,904	14,310	4,886	898	64,090
New York	1,831	39,744	12,366	3,383	4,435	7,921	69,680
Ohio	1,858	76,872	19,641	25,383	5,603	5,910	135,267
Oklahoma	1,158	15,408	8,908	27,870	3,230	1,639	58,213
Oregon	1,540	20,088	6,436	15,589	3,698	1,400	48,751
Pennsylvania	2,104	159,048	17,928	27,021	6,561	12,715	225,377
Rhode Island	41	3,118	647	28	108	112	4,054
South Carolina	692	32,245	8,113	20,298	3,078	3,886	68,312
South Dakota	350	3,693	1,634	5,649	474	189	11,989
Tennessee	1,582	38,172	13,415	16,860	4,759	5,913	80,701
Texas	6,740	200,870	33,548	130,767	23,840	7,420	403,185
Utah	458	15,410	6,533	50,291	3,214	1,287	77,193
Virginia	2,834	187,526	32,685	26,881	11,023	7,285	268,234
Vermont	226	2,429	1,116	72	221	135	4,199
Washington	1,848	40,925	4,191	18,027	2,632	804	68,427
Wisconsin	762	29,197	6,762	9,100	2,712	1,189	49,722
West Virginia	446	13,705	2,863	4,199	1,194	1,008	23,415
Wyoming	302	118,123	1,748	3,044	571	388	124,176
Other US Territories	6	359	215	18	12	47	657
Total	57,523	2,446,984	543,073	792,282	181,314	138,393	4,159,569

Source: ATF National Firearms Registration and Transfer Record (NFRTR).

¹ The term "any other weapon" means any weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive, a pistol or revolver having a barrel with a smooth bore designed or redesigned to fire a fixed shotgun shell, weapons with combination shotgun and rifle barrels 12 inches or more, less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, and shall include any such weapon which may be readily restored to fire. Such term shall not include a pistol or a revolver having a rifled bore, or rifled bores, or weapons designed, made, or intended to be fired from the shoulder and not capable of firing fixed ammunition.

² Destructive device generally is defined as (a) Any explosive, incendiary, or poison gas (1) bomb, (2) grenade, (3) rocket having a propellant charge of more than 4 ounces, (4) missile having an explosive or incendiary charge of more than one-quarter ounce, (5) mine, or (6) device similar to any of the devices described in the preceding paragraphs of this definition; (b) any type of weapon (other than a shotgun or a shotgun shell which the Director finds is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and (c) any combination of parts either designed or intended for use in converting any device into any destructive device described in paragraph (a) or (b) of this section and from which a destructive device may be readily assembled. The term shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10, United States Code; or any other device which the Director finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting, recreational, or cultural purposes.

³ Machinegun is defined as any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person.

⁴ Silencer is defined as any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for the use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication.

⁵ Short-barreled rifle is defined as a rifle having one or more barrels less than 16 inches in length, and any weapon made from a rifle, whether by alteration, modification, or otherwise, if such weapon, as modified, has an overall length of less than 26 inches.

⁶ Short-barreled shotgun is defined as a shotgun having one or more barrels less than 18 inches in length, and any weapon made from a shotgun, whether by alteration, modification, or otherwise, if such weapon as modified has an overall length of less than 26 inches.