

If You Can't Beat 'Em, Lie About 'Em: How Gun Control Advocates Twist Heritage's Defensive Gun Use Database in the "Large-Capacity" Magazine Debate

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KEY TAKEAWAYS

Magazines with a capacity of more than 10 rounds are a centuries-old technology, while attempts to limit civilian magazine capacity are a very modern phenomenon.

Standard-capacity magazines are incredibly useful for law-abiding civilians who find themselves at a disadvantage against armed criminals.

Advocates of magazine capacity limits overstate their potential public safety benefits and underestimate the myriad ways criminals can circumvent such limits.

In recent decades, gun control advocates have been fixated increasingly on passing laws that would prohibit the civilian possession of so-called large-capacity magazines. While the definition is entirely arbitrary and varies even across the handful of states in which they are regulated, "large-capacity" magazines are most often defined as magazines capable of holding more than 10 rounds of ammunition.¹

Gun control advocates routinely decry these devices as being used largely for criminal purposes, cynically questioning why law-abiding citizens would ever be in a situation requiring them to fire more than 10 rounds without reloading. In reality, magazines with a capacity of more than 10 rounds are the factory standard for many of the most popular guns on the civilian market and have been for more than a century. Countless Americans own them for precisely the same reasons that police departments commonly

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issue them to peace officers: While the circumstances in which they are strictly “necessary” for self-defense may not be everyday occurrences, their presence in those situations is important. Moreover, advocates of magazine capacity limits routinely overstate the potential public safety benefits of such laws and underestimate the myriad ways in which criminals can (and already do) circumvent them.

The willingness of gun control advocates to stretch the truth about magazine capacity recently reached new heights. On November 30, 2022, a conglomerate of gun control groups filed a brief of *amici curiae* before a federal district court in *Hanson v. District of Columbia*, a case in which the plaintiffs are challenging the District of Columbia’s “large-capacity” magazine ban for civilians.² In this brief (hereinafter the Brady Brief), the gun control groups argued in part that the District’s limitation on magazine capacity for civilians is constitutionally sound because civilians simply do not need more than 10 rounds to defend themselves. To support this argument, the brief referenced two articles on defensive gun use published by The Daily Signal, the multi-media arm of The Heritage Foundation, as part of a monthly series dating back to 2019. Based on these two articles alone the brief argued that:

Even advocates of the permissive use of firearms have acknowledged that the ability to fire more than ten rounds of ammunition without reloading is not necessary for defensive purposes. For example, recent compilations by The Heritage Foundation’s *The Daily Signal* of national reports on defensive gun use cases reflect that **none** involved the use of anywhere close to ten rounds of ammunition.³

At best, the Brady Brief’s characterization of these monthly articles on defensive gun use is recklessly lazy and wrongly attributes to the authors (and The Heritage Foundation more broadly) a policy position that neither holds. At worst, it constitutes an intentional effort to deceive a federal court with blatantly misleading claims about The Heritage Foundation’s research and scholarship on defensive gun uses and Second Amendment policy. Far from “acknowledging” that magazine capacity laws have no harmful impact on civilian self-defense, Heritage’s scholarship unambiguously supports the position that peaceable Americans have a constitutional right to possess magazines with a capacity of 11 or more rounds and that the possession of such magazines during a defensive gun use, as demonstrated below, can sometimes be the difference between life and death or serious bodily injury.

Magazine Capacity, the Constitution, and Public Policy

Irrespective of whatever information can be gleaned from Heritage's Defensive Gun Use Database⁴ on the importance or prevalence of standard-capacity magazines during civilian defensive gun uses, laws prohibiting their sale to (or possession by) law-abiding citizens suffer from a host of constitutional and public policy concerns. These concerns are nothing new and have been raised for many years by Second Amendment advocates both affiliated and unaffiliated with The Heritage Foundation.⁵

From a purely constitutional perspective, the prevalence of defensive gun uses involving more than 10 rounds being fired is irrelevant to the question of whether the Second Amendment protects a right to possess magazines with a capacity of 11 or more rounds. The Supreme Court of the United States has not so far reviewed a challenge to laws limiting magazine capacity for civilians. This includes the 1994 Federal Assault Weapons Ban, which before it sunset without renewal in 2004 prohibited the sale of magazines holding 10 or more rounds to civilians.⁶ However, given the Court's subsequent holdings in foundational Second Amendment cases like *District of Columbia v. Heller*⁷ and *New York Rifle & Pistol Association v. Bruen*,⁸ it is difficult to see how any court could uphold magazine capacity limits while remaining faithful to the existing jurisprudential framework.

In *Heller*, the Supreme Court affirmed that the Second Amendment protects an individual right to keep and bear arms centered on self-defense and struck down a District of Columbia law banning the civilian possession of operable handguns inside the home.⁹ In so doing, it reasoned that the Second Amendment's protections are not limited only to those arms in existence at the time of ratification but "extend[], prima facie, to all instruments that constitute bearable arms."¹⁰ While "dangerous and unusual" arms may fall outside of the Amendment's scope, it certainly covers small arms (in this case, handguns) that are "typically possessed by law-abiding citizens for lawful purposes" like self-defense.¹¹ The Court re-emphasized this "common lawful purpose" concept two years later in *McDonald v. City of Chicago*, in which it also determined that the Fourteenth Amendment's Due Process Clause extended the Second Amendment's protections against state infringement as well.¹² Most recently, under *Bruen*, the Court explained that, to be constitutional, any challenge restriction on the right to keep and bear arms must be consistent with the nation's historical tradition of firearms regulation.¹³

However accurate they may be, the assertions by gun control advocates that law-abiding citizens rarely need to fire more than 10 rounds without

reloading during a defensive gun use are premised on addressing the wrong question. The relevant question under *Heller* is not whether an arm is strictly or commonly necessary for purposes of self-defense, but whether it is commonly possessed by law-abiding citizens for lawful purposes. There can be little doubt that magazines are “arms” or at least so critical to the functioning of arms that they receive the same constitutional protections as the “arms” that require them. Guns require ammunition to function as intended, and many of the most commonly possessed firearms rely on magazines to feed ammunition into the chamber. Those magazines are therefore unquestionably necessary components for one to be able to exercise his or her right to keep and bear arms.

It is also unquestionably true that law-abiding Americans commonly own magazines capable of holding more than 10 rounds as well as firearms capable of accepting those magazines. Data collected by the 2021 National Firearms Survey, which is the most comprehensive survey of American gun owners ever conducted, suggest that nearly half of American gun owners have owned a magazine with a capacity of 11 or more rounds.¹⁴ Most of these approximately 39 million gun owners with standard-capacity magazines possess several of them, suggesting that more than 500 million such magazines may currently be in civilian circulation.¹⁵ The most common reasons that gun owners cite for possessing magazines that hold more than 10 rounds are recreational target shooting (64.3 percent); home defense (62.4 percent); hunting (47 percent); defense outside the home (41.7 percent); and competitive shooting sports (27.2 percent).¹⁶ All are traditionally considered to be lawful activities.

While the Second Amendment’s protections are not limited to the technology that existed in 1792, multi-shot firearms were well-known to the Founding generation.¹⁷ The trend in firearm manufacturing toward increased ammunition capacity was already well underway by the time the Second Amendment was ratified.¹⁸ Rifles with magazines capable of holding more than 10 rounds of ammunition first achieved mass-market success in the late 1860s, and handguns with such magazines first became popular in the 1930s.¹⁹ By the 1960s and 1970s, advancements in magazine technology had made magazines capable of holding more than 10 rounds the factory standard for many of the most popular firearms on the civilian market, and millions of such firearms were sold.²⁰

As one might guess from the long-standing popularity of larger-capacity magazines among civilians, attempts to limit magazine capacity for civilian gun owners are a modern phenomenon. Far from being rooted in some historical tradition of regulation, the first three laws even remotely

resembling modern bans on large-capacity magazines did not arise until the 1930s—and two of the three were repealed within decades.²¹ Even today, limits on magazine capacity exist in only a minority of states, most of which did not impose those limitations until the 21st century.²²

Constitutional concerns aside, laws that restrict magazine capacity for civilians are just poor public policy. First, even if compliance is widespread and coupled with proactive enforcement, the potential benefits to public safety are limited at best. Suicides, not homicides, account for the bulk of annual gun deaths, and in such circumstances, magazine capacity is almost entirely irrelevant.²³ Most gun crimes are not targeted shootings with an underlying intent to kill, but rather robberies and aggravated assaults in which the perpetrator brandishes—but does not fire—the gun.²⁴ Even with respect to the minority of gun crimes in which perpetrators fire their weapons, it is not at all clear that magazine capacity limits offer meaningful benefits. Only a small percentage of homicides involve two or more victims, which are the types of crimes most likely to require an offender to fire more than 10 rounds to accomplish his or her criminal purpose.²⁵ Moreover, the official analysis of the 1994 federal law prohibiting the sale of magazines with a capacity of more than 10 rounds concluded that there was “no evidence of reductions in multiple-victim gun homicides or multiple-gunshot wound victimizations” as a result of the prohibition.²⁶ This is hardly surprising, given that the “banned...magazines were used in only a minority of gun crimes before the law.”²⁷

Importantly, there is no reason whatsoever to assume either that compliance with magazine capacity laws would be widespread or that the laws would be effectively and vigorously enforced. In fact, it appears that Americans are widely and openly noncompliant with laws prohibiting the possession of standard-capacity magazines in states that have already imposed them.²⁸ If the mass of peaceable Americans are notoriously unwilling even to register “grandfathered” guns and magazines under less confiscatory frameworks, what reason is there to believe that the more criminally bent sectors of society would simply turn in their banned magazines and never again buy, steal, or 3D-print new ones?²⁹

It is little wonder, then, that proponents of magazine capacity limitations have increasingly turned away from arguments that these laws will lower crime rates generally and instead focus on their alleged impact on the least common type of gun violence: mass public shootings.³⁰ One of the most popular arguments raised in favor of limiting magazine capacity for civilians is that standard-capacity magazines may enable mass public shooters to

inflict higher numbers of casualties by decreasing the number of times they need to reload. Again, even assuming widespread compliance and effective enforcement, limiting magazine capacity is unlikely to lower casualty rates in mass public shootings to any meaningful degree.

First, mass public shooters can (and routinely do) work around these limitations by bringing several firearms and extra loaded magazines, easily replacing expended magazines within seconds.³¹ Moreover, analysis of data from mass public shootings shows that most perpetrators do not actually use magazines capable of holding more than 10 rounds and that, in any event, mass public shooters typically do not fire at a rate that is fast enough for casualty counts to be attributed to magazine capacity.³² This conclusion is supported by the findings of various panels analyzing the effect of magazine capacity for individual mass shootings as well as by the reality that high casualty counts have occurred during shootings where only “limited-capacity” magazines were used.³³

Finally, the reality is that mass public shooters throughout American history have been more than capable of killing large numbers of people even with far more “rustic” and “limited-capacity” guns than today’s modern rifles with “large-capacity” magazines. For example:

- In 1915, an aggrieved man armed with a double-barrel shotgun walked into a law office in downtown Brunswick, Georgia, and fatally shot a judge.³⁴ He then continued shooting random people in the crowded business district, ultimately killing seven and wounding 30 in just 10 minutes, having apparently considered how to reload his firearm most efficiently and effectively for maximum carnage.³⁵ He would in fact kill more people than a different aggrieved man who, more than a century later, walked into a downtown Louisville, Kentucky, bank with an “assault weapon” and “high-capacity” magazines and began indiscriminately shooting his colleagues.³⁶
- In 1949, a man with nothing more than a single 9mm pistol with an eight-round magazine killed 13 and wounded three more in just 12 minutes during a mass public shooting in Camden, New Jersey.³⁷ His actions stopped not because of his “limited” magazine capacity, but because he simply ran out of bullets and surrendered.³⁸ He would nonetheless kill and injure more people than would a gunman with “high-capacity magazines” at a Buffalo, New York, supermarket more than eight decades later.³⁹

These are far from the only examples of historical mass public shootings with high casualty counts that tend to disprove an assertion that such atrocities are a modern phenomenon or meaningfully facilitated by a gunman's use of modern, standard-capacity magazines.⁴⁰

It is clear that laws limiting magazine capacity for civilians are both constitutionally problematic and unlikely to have a significant impact on public safety even if perfectly enforced. It is not just that these laws have little practical effect on criminal actions—they would at the same time undermine the practical ability of peaceable citizens to defend themselves in those scenarios where the need for armed self-defense is most acute, such as when they are outnumbered, outgunned, or otherwise placed at a tactical disadvantage.

These scenarios of tactical disadvantage are almost certainly more common for peaceable citizens than for criminals, who have the upper hand in planning and executing their crimes. Unlike law-abiding citizens, who must reactively defend themselves whenever and under whatever circumstances they are victimized, criminals can (and often do) wait for (or even create) the most advantageous circumstances. For example, a significant percentage of homicides, robberies, and other violent crimes involve multiple offenders.⁴¹ Multiple-offender homicides in particular are becoming increasingly common: In 2008, roughly one of every five homicides involved multiple offenders.⁴²

Gun control advocates arguably concede this point on the potential importance of being able to fire more than 10 rounds without reloading when they support magazine capacity laws that universally exempt law enforcement officers, often including in their off-duty capacities and with their personal firearms.⁴³ Law enforcement officers in the United States are peace officers acting in a civilian context and generally speaking respond to the same criminal threats first faced by the peaceable citizens who called them for assistance in the first place. The circumstances under which they may use deadly force largely parallel the laws of self-defense for civilians. While off duty, their powers of arrest and investigation in many cases are based solely on the rights of citizens' arrest possessed by all other members of society. And while most civilian defensive gun uses do not involve any rounds being fired, much less more than 10 rounds being fired, the same is true of police-involved shootings.⁴⁴ To whatever extent, then, that standard-capacity magazines are useful for law enforcement officers, they are equally useful for civilians who face those same threats.

What Heritage Defensive Gun Use Database Actually Shows About Magazine Capacity in Defensive Shootings

What, then, do the Heritage Defensive Gun Use Database and corresponding monthly Daily Signal series actually show about the importance of standard-capacity magazines for civilian defensive gun use? While such cases likely do not constitute a majority of defensive gun uses, either by civilians or by law enforcement officers, in those cases where more than 10 rounds are needed, the ability to fire those rounds without the need to reload can be the difference between life and death or serious bodily injury. Those cases often involve a defensive gun user who is outnumbered by multiple armed assailants or who is engaged in a sustained gun battle with an assailant who is heavily armed.

Incidents of civilian defensive gun use are inherently difficult to analyze, and it would be impossible to determine the exact number that occur every year, much less to gauge the exact number that involve the firing of more than 10 defensive rounds. It is clear, however, that civilian defensive gun uses are common occurrences. Studies consistently conclude that in any given year, Americans use their guns defensively between 500,000 and several million times, with the best available evidence indicating that the real average is probably somewhere between 1 million and 2 million times a year.⁴⁵ Most of these defensive gun uses do not involve a gun being fired, will not receive the slightest bit of media attention, and may not even be reported to police.⁴⁶ In general, media reports on a defensive gun use rarely include specific information on the number of rounds fired by either the offender or the defensive gun user. Sometimes, contextual information—like the number of gunshot wounds sustained by an offender—can provide insight into a potential minimum number of defensive rounds fired, but not an upper limit.

The Heritage Defensive Gun Use Database was not designed to track specific case features like the number of rounds fired defensively and does not purport to maintain an exhaustive record of cases in which more than 10 defensive rounds were fired. Moreover, the monthly article series published by The Daily Signal does not provide an exhaustive list of defensive gun use cases compiled in the database in any given month. As the articles themselves clearly explain, the series covers at most only a fraction of the media-verified cases compiled in any given month and is intended to be more of a highlight reel than a comprehensive resource. Cases for these monthly articles are chosen to a large extent based on aesthetic factors like ensuring that featured cases are somewhat evenly spaced throughout a given month and maintain a reasonable amount of both geographic and contextual diversity.

It is in no way reasonable to conclude, as the Brady Brief does, that if one of the monthly Daily Signal articles does not include an example in which a defensive gun user fired more than 10 rounds, then no such cases occurred. Ironically, the September 2022 article cited by the Brady Brief illustrates this point perfectly.⁴⁷ Missing from that article (which covers cases from August 2022) is an August 19, 2022, defensive gun use in Williamsport, Pennsylvania, by a concealed carry permit holder who fired “approximately 18 rounds” at an armed robber.⁴⁸ This defensive gun use was not highlighted in the monthly roundup, but it was included in The Heritage Foundation’s interactive database and featured on the database’s official Twitter account.⁴⁹

Even a cursory review of the more than 3,000 media-verified defensive gun uses compiled in the database shows that the Williamsport case is far from the only instance involving a defensive gun user who clearly fired more than 10 rounds that was not featured in the monthly highlight article. For example, the March 2022 article did not cover a February 22, 2022, defensive gun use that occurred in Richmond, Kentucky, in which a man fired at least 19 rounds during a shootout with an intruder who had just killed his daughter.⁵⁰ Nor did the March 2021 article feature a February 5, 2021, case in Summerville, South Carolina, in which an armed resident fired 13 rounds at multiple armed assailants who shot at him from his apartment complex’s parking lot.⁵¹

The authors of the Brady Brief also apparently assume that if a media report (or a summary of the media report featured in the monthly Daily Signal highlight article) does not explicitly state that a defensive gun user fired more than 10 rounds, then it could not have occurred. True, it is sometimes evident from the broader context that fewer than 10 rounds were fired or at least that such an event was unlikely. Other times, however, this assumption is entirely unwarranted. This includes two cases featured in the articles cited by the Brady Brief and far too easily dismissed as involving “nowhere close” to the firing of 10 rounds in self-defense.

- In the August 16, 2022, case in Lexington, South Carolina, that was featured in the cited September 2022 Daily Signal article, both the assailant and the defensive gun user sustained multiple gunshot wounds during an exchange of gunfire inside the defensive gun user’s home.⁵² As far as can currently be discerned, law enforcement officers did not release details to the public concerning the number of rounds fired during the shootout. The broader context of this defensive gun use, however, is one in which it is certainly plausible that the defensive

gun user fired more than 10 rounds. Much like the defensive gun user in the Richmond, Kentucky, case mentioned above, the defensive gun user here was involved in what appears to have been an intense gun battle with a heavily armed opponent in which both parties would have had ample opportunity for defensive cover.

- Similarly, a June 16 incident in Hopkinsville, Kentucky, that was featured in the July 2022 article cited by the Brady Brief includes language and circumstances making it entirely plausible for the defensive gun user to have fired more than 10 rounds. That elderly homeowner was involved in a shootout with three armed intruders who fired at him first, and the most detailed articles available say merely that the homeowner “returned shots.”⁵³ Unless the authors of the gun control brief have information to which the original journalists were not privy, there is no reasonable basis for concluding that the homeowner could not have fired or in fact did not fire more than 10 rounds in self-defense in a gunfight with multiple assailants.

This type of scenario, like any other scenario in which it is almost certain that the defensive gun user fired more than 10 rounds, is so commonly featured in the monthly articles that the authors of the Brady Brief must have gone out of their way to ignore any articles that did not fit the misleading narrative they wished to convey. For example:

- The May 2022 highlight article featured a Florida gun owner who used three different firearms to defend himself during an April shootout.⁵⁴ While his first firearm appears to have jammed, it is reasonable to assume that he moved to his third firearm because he expended all of the ammunition in his second firearm—an AR-15 rifle that commonly utilizes 30-round magazines. The odds are therefore very high that this defensive gun user cumulatively fired more than 10 rounds from those three firearms.
- During a September 2022 defensive gun use from Chicago featured in the October 2022 highlight article, a concealed carry permit holder in Chicago shot back at gunmen who opened fire on a birthday celebration.⁵⁵ Although reports do not say for certain how many rounds were fired by either the gunmen or the defensive gun user, so many were fired in total that one witness described initially thinking that the gunshots were fireworks.⁵⁶

As with cases explicitly involving more than 10 rounds fired in self-defense, the monthly articles have also omitted plenty of cases from the database in which it was statistically probable that the defensive gun users fired more than 10 rounds. For example:

- In February 2022, a civilian gun owner in Maple Falls, Washington, fired an entire magazine's worth of ammunition at a gunman while providing covering fire for two wounded sheriff's deputies who were pinned down, allowing them to move to safety and likely saving their lives.⁵⁷ While the few readily available media reports on this shootout do not appear to include any information on the defensive gun user's magazine capacity, both the prevalence of semi-automatic handguns that use magazines capable of holding more than 10 rounds and the lawful nature of their possession in Washington State make it entirely unreasonable to conclude that the defensive gun user could not have fired or did not in fact fire more than 10 rounds.
- A July 2022 Philadelphia, Pennsylvania, case involved at least 40 rounds fired between the victim and his three assailants, only one of whom was clearly portrayed in media reports as being armed.⁵⁸ It is statistically reasonable, if not highly probable, for the victim to have fired more than 10 of those rounds under the circumstances.

Finally, the monthly articles sometimes include summaries of defensive gun uses that unintentionally omit relevant information on the number of rounds fired in self-defense. This happened, for example, in the very first article of the series, which was published in January 2019. The summary for a January 20 incident simply noted that a homeowner killed three of four intruders but, likely for purposes of brevity, left out the detail that he fired dozens of rounds during that gun battle.⁵⁹ Similarly, the December 2021 article featured a November 20, 2021, shooting in Philadelphia in which an Uber driver shot and wounded two of three armed robbers, but did not note that video of the shootout indicates that he probably fired more than 10 rounds.⁶⁰

As the primary purpose of this monthly article series never has been to compile and showcase every single time a defensive gun user fires more than 10 rounds, it is likely that other articles in this series also contain case summaries inadvertently glossing over such information.

Along those same lines, neither the Daily Signal article series nor the Defensive Gun Use Database provides insight into the number of times defensive gun uses prove unsuccessful—or are rendered significantly less

successful—precisely because a gun owner is killed or sustains serious injury because he or she was limited to fewer than 10 rounds. Such cases would be as difficult to research using available media reports as are cases involving more than 10 rounds fired defensively, but they do clearly occur and would be equally relevant to the policy conversation.

As just one example, during a May 2022 incident in Haines City, Florida, a defensive gun user was fatally shot while reloading his firearm during a gunfight with his assailant.⁶¹ The victim’s firearm was a revolver, a type of gun that almost always has a capacity of less than 10 rounds.⁶² And, of course, there are cases that predate the current scope of the Defensive Gun Use Database, which currently includes only cases that occurred on or after January 1, 2019.⁶³

Conclusion

Any assertion that The Heritage Foundation’s scholarship on defensive gun use implicitly supports magazine capacity limitations for civilians should be categorically rejected. On the contrary, it shows that bans on the civilian possession of standard-capacity magazines threaten to have devastating effects on law-abiding gun owners who find themselves outnumbered, outgunned, or otherwise at a disadvantage against criminal actors. It is neither constitutional nor prudent for the government to tie one hand behind the backs of peaceable gun owners, especially when it exempts itself from that same prohibition in a tacit acknowledgement that standard-capacity magazines can be incredibly useful and necessary tools when facing criminal threats in a civilian context.

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APPENDIX TABLE 1

Non-Exhaustive Review of Defensive Gun Uses Likely Involving More than 10 Defensive Rounds (Page 1 of 4)

| Date | Location | Context |
|-------------------|------------------|---|
| March 18, 2023 | Ambler, PA | A gunman with an illegally possessed and illegally modified weapon opened fire on a group of people who gathered at a cemetery to celebrate the birthday of a deceased friend. A concealed carry permit holder fired back in self-defense, fatally shooting the gunman. In all, 30 rounds were exchanged between the gunman and the permit holder, although the exact breakdown of who shot how many rounds was not disclosed. ^a |
| February 23, 2023 | Bakersfield, CA | A concealed carry permit holder engaged in a shootout with multiple armed robbers whom he stumbled upon in his driveway when returning home from dinner with friends. He emptied at least one magazine, reloaded, and “continued firing until the [suspects’] car sped away.” ^b Even accounting for California’s ban on standard-capacity magazines, the fact that the defensive gun user reloaded a presumably compliant magazine and continued firing makes it statistically likely that he fired more than 10 rounds. |
| January 20, 2023 | Chicago, IL | A concealed carry permit holder fired 18 rounds during a shootout with an armed robber at a train station. Despite the rush hour crowd of bystanders, no one except the robber was hit by the permit holder’s gunfire. ^c |
| November 25, 2022 | Chickasha, OK | Based on the number of shell casings found inside the home, an armed resident appears to have fired at least 12 rounds at an intruder. ^d |
| August 19, 2022 | Williamsport, PA | A concealed carry permit holder fired “approximately 18 rounds” in self-defense during an armed robbery. ^e |
| July 11, 2022 | Jonesboro, GA | A homeowner investigating suspected prowlers outside of his home engaged in a brief gunfight with armed assailants. It is difficult to tell from the video exactly how many rounds the homeowner fired based on sound alone, but he fired one warning shot, then fired rapidly an unknown number of times as he backed away before clearly firing four additional rounds. Based on the video evidence of recoil during the rapid burst, it is likely that the homeowner fired a total of more than 10 rounds. ^f |
| April 27, 2022 | Philadelphia, PA | An off-duty security guard exchanged fire with three would-be robbers, only one of whom was clearly identified as armed. More than 40 shell casings were found at the scene. ^g |
| April 8, 2022 | Melbourne, FL | A gun owner used three different firearms—including two AR-15 rifles, which presumptively had standard-capacity magazines—to defend himself during a shootout with an assailant. While the defensive gun user’s handgun jammed, it is likely that he switched to his third firearm because his second firearm ran out of ammunition and that he fired more than 10 rounds in his own defense. ^h |
| February 22, 2022 | Richmond, KY | A man fired at least 19 rounds from two different handguns (and specifically 11 rounds from the first handgun) during a gunfight with a heavily armed intruder who had just killed his daughter. ⁱ |
| February 10, 2022 | Maple Falls, WA | An armed civilian fired an entire magazine of ammunition at a gunman while laying down covering fire for two wounded sheriff’s deputies, enabling them to get to safety and likely saving their lives. ^j Given the prevalence of handguns with standard-capacity magazines and their lawful status in Washington State, it is likely that the civilian fired more than 10 rounds. |

APPENDIX TABLE 1

Non-Exhaustive Review of Defensive Gun Uses Likely Involving More than 10 Defensive Rounds (Page 2 of 4)

| Date | Location | Context |
|-------------------|------------------|--|
| November 20, 2021 | Philadelphia, PA | An armed Uber driver defended himself against three armed carjackers, shooting two of the suspects “several times” each. A surveillance camera captured the incident, and while it is difficult to determine from the audio exactly how many shots the defensive gun user fired (the audio does not appear to match up with the muzzle flashes), a reasonable listener could discern more than 10 rounds, which is consistent with the number of gunshot wounds suffered by the suspects. ^k |
| November 21, 2021 | Des Moines, IA | An armed homeowner exchanged gunfire with two intruders, and audio from nearby security cameras indicates that at least 15 rounds were fired. Given that the two suspects were injured and fled while the homeowner was unharmed, it is reasonable to conclude that most of those rounds may have been fired by the homeowner. ^m |
| June 22, 2021 | Decatur, GA | When a gunman fatally shot a man in a targeted attack, some of the victim’s friends engaged the gunman in a shootout, killing him in what police deemed lawful self-defense. According to reports, more than 50 rounds were fired from four guns, making it likely that at least one defensive gun user fired more than 10 rounds. ⁿ |
| May 1, 2021 | St. Paul, MN | Two concealed carry permit holders defended themselves against three armed assailants in a gunfight from which police recovered “dozens of shell casings,” indicating a high likelihood that at least one of the defensive gun users fired more than 10 rounds. ^p |
| February 20, 2021 | Metairie, LA | Nearly 100 rounds were exchanged between an active shooter and seven gun store employees before the gunman was fatally shot. Investigators said the gunman fired 32 rounds, meaning that defensive gun users cumulatively fired more than 60 rounds. The timeline is not entirely clear, but the best available information seems to indicate that the largest portion of those rounds was fired by only three or four employees. ^q |
| February 5, 2021 | Summerville, SC | An armed resident of an apartment complex fired 13 rounds at multiple armed suspects who shot at him from the parking lot. ^r |
| January 18, 2021 | Hesperia, CA | A homeowner engaged an armed would-be intruder in a sustained gunfight for 45 seconds. While it is unclear exactly how many rounds were fired, the video evidence and sheer length of the engagement indicate a high probability that more than 10 defensive rounds were fired. ^s Importantly, the possession of standard-capacity magazines was still perfectly lawful on this date as long as they qualified under a then-existing grandfathering provision. |
| April 29, 2020 | Yoder, CO | A hemp farmer engaged in a gun battle with four armed assailants who likely mistook the farmer’s lawful business for an illegal (and often cash-heavy) marijuana operation. Hundreds of shell casings reportedly were found around the home, and while it is unclear exactly how many of these rounds were fired by the hemp farmer in self-defense, the single media report on the incident states that at the very least, he “emptied an entire magazine” from his handgun. ^t |
| April 22, 2020 | Las Vegas, NV | A concealed carry permit holder fired 11 rounds at an assailant who, seemingly at random, opened fire on the permit holder and another person as they sat eating fast food in a shopping center parking lot. ^u |

APPENDIX TABLE 1

Non-Exhaustive Review of Defensive Gun Uses Likely Involving More than 10 Defensive Rounds (Page 3 of 4)

| Date | Location | Context |
|-------------------|-----------------|--|
| November 25, 2019 | Miami, FL | A concealed carry permit holder living in a van with his girlfriend and son fired “at least 14 rounds” at a man who threatened the family with an AK-47 rifle. ^y |
| May 14, 2019 | Tallahassee, FL | An armed homeowner engaged in a shootout with four armed intruders who broke into his home after having earlier stolen his keys. The homeowner fired at least 25 rounds from an AR-15 rifle in self-defense. ^w |
| January 20, 2019 | Houston, TX | A homeowner armed with a “fully loaded AK-47” almost certainly fired more than 10 rounds in self-defense when he fatally shot three of four intruders who broke into his home. Dozens of rounds were exchanged, and only two of the intruders were clearly armed. ^x At least one media report explicitly states that the homeowner fired “dozens” of those rounds himself. ^y |

SOURCES AND FOOTNOTES:

- a Fox 29 Philadelphia, “DA Says Deadly Shooting at Montgomery County Cemetery Was Self-Defense: ‘No Criminal Charges Warranted,’” April 7, 2023, <https://www.fox29.com/news/montgomery-county-deadly-shooting-cemetery-ruled-self-defense> (accessed May 10, 2023).
- b While California prohibits standard-capacity magazines and the defensive gun user was technically able to fire more than 10 rounds in his defense, the mere fact of having to reload while under fire from multiple assailants drastically increased the danger he faced—danger that would have been mitigated had he not needed to reload in the first place. Source: Robert Price, “Home Invasion Victim Recalls Night of Alleged Robbery,” KGET News, updated March 12, 2023, <https://web.archive.org/web/20230314094617/https://www.kget.com/news/local-news/home-invasion-victim-recalls-night-of-alleged-robbery/> (accessed May 10, 2023).
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APPENDIX TABLE 1

Non-Exhaustive Review of Defensive Gun Uses Likely Involving More than 10 Defensive Rounds (Page 4 of 4)

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- y Travis Fedschun, “Texas Homeowner Shoots, Kills 3 Men and Injures 2 During Home Invasion, Officials Say,” Fox News, January 21, 2019, <https://www.foxnews.com/us/Texas-homeowner-shoots-kills-3-men-and-injures-2-during-home-invasion-officials-say> (accessed May 12, 2023).

Endnotes

1. The most common limit set by states that currently define the term or some variation of the term is a capacity of 10 rounds, which is consistent with the definition employed by the 1994 Federal Assault Weapons Ban. There are nonetheless significant variations between states with respect to the upper capacity limits set, the types of firearms for which those limits apply, and whether the prohibition applies to current possession or only to future sales or transfers. Colorado, for example, defines “large-capacity magazine” as any fixed or detachable magazine capable of accepting more than 15 rounds of ammunition or eight shotgun shells or a fixed tubular shotgun magazine that holds more than “twenty-eight inches of shotgun shells.” COLO. REV. STAT. § 18-12-301(2). Vermont’s definition distinguishes between long guns, for which magazines may not be capable of holding more than 10 rounds, and handguns, for which magazines may not be capable of holding more than 15 rounds, but excludes magazines that are transported into the state by non-residents for the exclusive purpose of use in an organized shooting competition. 13 VT. STAT. ANN. §§ 4021(e)(1), (c)(2). Hawaii does not define “large-capacity” magazines per se but prohibits the civilian possession of handgun (but not long gun) magazines capable of holding more than 10 rounds of ammunition. HAW. REV. STAT. § 134-8(c). New York defines “large capacity magazine” to mean any device capable of holding more than 10 rounds of ammunition or that in fact contains more than seven rounds, but this does not apply to magazines “only capable of being used exclusively in a firearm that was manufactured” before January 15, 1963. N.Y. PEN. LAW § 265.00(23). The prohibition on loading more than seven rounds into a magazine has been permanently enjoined by a federal court and is not currently enforced, but it is nonetheless the statutory definition under state law. See *New York State Rifle & Pistol Ass’n v. Cuomo*, 804 F.3d 242, 264 (2d Cir. 2015). Finally, Maryland prohibits a person from manufacturing, selling, offering to sell, purchasing, receiving, or transferring a detachable magazine with a capacity of more than 10 rounds and makes magazine capacity relevant for purposes of determining whether a person has a prohibited “assault weapon” but does not explicitly prohibit the mere possession of such a detachable magazine—meaning that a person can lawfully purchase the magazine in another state and lawfully transport it back into Maryland. MD CODE §§ 4-305(b), 4-301(g).
2. Brief of Amici Curiae Brady et al., In Support of Defendants’ Opposition to Plaintiffs’ Application for a Preliminary Injunction, *Hanson v. District of Columbia*, Civil Action No. 22-cv-2256 (D. D.C. filed Nov. 30, 2022).
3. *Id.* at 21 (emphasis in original).
4. The Heritage Foundation’s Defensive Gun Use Database was launched on April 13, 2020, and its interactive map includes thousands of media-verified defensive gun uses by lawful gun owners dating back to January 1, 2019. See *Defensive Gun Uses in the U.S.*, HERITAGE FOUNDATION (updated April 19, 2023), <https://datavisualizations.heritage.org/firearms/defensive-gun-uses-in-the-us/>.
5. See, e.g., Amy Swearer, *We Have Effective Gun Violence Solutions. You Just Won’t Listen*, HERITAGE FOUNDATION (June 8, 2022), <https://www.heritage.org/testimony/we-have-effective-gun-violence-solutions-you-just-wont-listen>; Matthew Larosiere, *Losing Count: The Empty Case for “High-Capacity” Magazine Restrictions*, CATO INST. LEGAL POLICY BULLETIN NO. 3 (July 17, 2018), <https://www.cato.org/legal-policy-bulletin/losing-count-empty-case-high-capacity-magazine-restrictions>; Michael P. O’Shea, *The Right to Defensive Arms After District of Columbia v. Heller*, 111 W. VA. L. REV. 349 (2009); Stephen P. Halbrook, *Reality Check: The “Assault Weapon” Fantasy and Second Amendment Jurisprudence*, 14 GEORGETOWN J. L. & PUB. POL’Y 47 (2016).
6. Violent Crime Control and Law Enforcement Act of 1994, Pub. Law 103-322 (Sept. 13, 1994), § 110103(a), (b).
7. 554 U.S. 570 (2008).
8. 142 S.Ct. 2111 (2022).
9. *Heller*, 554 U.S. at 570.
10. *Id.* at 582.
11. *Id.* at 624–27.
12. 561 U.S. 742 (2010). See also *Caetano v. Massachusetts*, 577 U.S. 411 (2016) (vacating and remanding a state court judgment that upheld Massachusetts’ ban on stun gun possession based in large part on reasoning, contrary to *Heller*, that stun guns did not exist at the time of the Founding and therefore were not contemplated by Congress in 1789 as being protected by the Second Amendment).
13. *N.Y. Rifle & Pistol Ass’n v. Bruen*, 142 S.Ct. 2111, 2126 (2022).
14. William English, *2021 National Firearms Survey: Updated Analysis Including Types of Firearms Owned*, GEORGETOWN McDONOUGH SCHOOL OF BUSINESS RESEARCH PAPER No. 4109494 at 22–33 (last revised Sept. 28, 2022), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4109494.
15. *Id.*
16. *Id.* at 23.
17. See David B. Kopel, *The History of Firearm Magazines and Magazine Prohibitions*, 78 ALBANY L. REV. 849, 852–53 (2015); Clayton E. Cramer & Joseph Edward Olson, *Pistols, Crime, and Public Safety in Early America*, 44 WILLAMETTE L. REV. 699, 716–21 (2008).
18. Kopel, *supra* note 17 at 852; Cramer & Olson, *supra* note 17 at 716–21.
19. Kopel, *supra* note 17 at 854–57.
20. *Id.* at 864–66.
21. *Id.* at 866–68.

22. *Id.* At the time of publication, 13 states and the District of Columbia imposed some form of restriction regarding magazine capacity for civilians. Only California, the District of Columbia, New Jersey, New York, and Rhode Island impose a complete ban on the possession of magazines with a capacity of 11 or more rounds for both rifles and handguns, with no grandfathering provision. With the exception of the District of Columbia, none of these complete possession bans reached their final restrictive forms until the past two decades. *Id.* The District of Columbia's ban may be more long-standing but is rooted in a complete ban on handgun possession that was later struck down as unconstitutional in *D.C. v. Heller*, 554 U.S. 750 (2008).
23. See John Gramlich, *What the Data Says About Gun Deaths in the U.S.*, PEW RESEARCH CTR. (Feb. 3, 2022), <https://www.pewresearch.org/fact-tank/2022/02/03/what-the-data-says-about-gun-deaths-in-the-u-s/>. Until the unprecedented nationwide spike in homicides in 2020, suicides routinely accounted for close to two-thirds of annual gun deaths. Since 2020, they have still accounted for more than half of gun deaths.
24. Grace Kena & Jennifer L. Truman, *Trends and Patterns in Firearm Violence, 1993–2018*, BUREAU OF JUSTICE STATISTICS SPECIAL REPORT NCJ 251663 (Apr. 2022), <https://bjs.ojp.gov/content/pub/pdf/tpfv9318.pdf>. There are far more non-fatal firearm victimizations than firearm homicides every year. *Compare id.* with CRIME IN THE UNITED STATES: 2019, FED. BUREAU OF INVESTIGATION, EXPANDED HOMICIDE DATA TABLE 8 (last accessed Apr. 18, 2023), <https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/tables/expanded-homicide-data-table-8.xls>. Between 2014 and 2018, only 9 percent of all non-fatal firearm victimizations involved an offender who actually fired a weapon, and only 2 percent resulted in a victim being shot. Kena & Truman, *supra* at Table 10.
25. Alexia Cooper & Erica L. Smith, *Homicide Trends in the United States, 1980–2008*, BUREAU OF JUSTICE STATISTICS NCJ 236018 (Nov. 2011), at 24, <https://bjs.ojp.gov/content/pub/pdf/htus8008.pdf>.
26. Christopher S. Koper & Jeffery A. Roth, *The Impact of the Federal Assault Weapon Ban on Gun Violence Outcomes: An Assessment of Multiple Outcome Measures and Some Lessons for Policy Evaluation*, 17 J. QUANT. CRIM. 33 (2001).
27. *Id.* at 67.
28. See Jacob Sullum, *Gun Owners Don't Seem Eager to Comply with New Jersey's New Magazine Ban*, REASON (Dec. 20, 2018), <https://reason.com/2018/12/20/new-jerseys-gun-owners-do-not-seem-eager/>; English, *supra* note 14 at Table 4 (indicating that rates of possession of magazines that can hold 11 or more rounds are very high even among gun owners in places like Washington, D.C., and states like California and New York that prohibit the civilian sale or possession of such magazines.).
29. See J.D. Tuccille, *What Will Gun Controllers Do When Americans Ignore An "Assault Weapons" Ban?*, REASON (June 21, 2016), <https://reason.com/2016/06/21/what-will-gun-controllers-do-when-america/>; Amy Swearer, *Don't Count on American Compliance with Gun Confiscation*, HERITAGE FOUNDATION (July 29, 2020), <https://www.heritage.org/firearms/commentary/dont-count-american-compliance-gun-confiscation>.
30. *Compare* annual mass public shooting deaths in Mark Follman et al., *US Mass Shootings, 1982–2022: Data from Mother Jones' Investigation*, MOTHER JONES (updated Nov. 23, 2022), <https://www.motherjones.com/politics/2012/12/mass-shootings-mother-jones-full-data/>, with annual homicide and gun homicide deaths in *Homicide Offense Characteristics*, FBI CRIME DATA EXPLORER (last accessed Jan. 18, 2023), <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/crime-trend>.
31. Roughly half of mass public shootings between 2012 and 2022 involved perpetrators who possessed more than one firearm while carrying out their crimes. See Follman et al., *supra* note 30. Even if magazine capacity laws were taken to the most extreme and entirely prohibited the use of detachable magazines, mass public shooters or other criminals could still quickly reload a fixed magazine by using preloaded stripper or *en bloc* clips. Also, as was the case in the 2022 mass public shooting at a supermarket in Buffalo, New York, “compliant” non-detachable low-capacity magazines can be illegally modified easily and quickly by would-be mass shooters with access to the Internet and a screwdriver. Joshua Eaton, *YouTube Videos That Taught Buffalo Suspect to Modify His Gun Are Still Online*, NBC NEWS (updated May 20, 2022), <https://www.nbcnews.com/tech/internet/buffalo-shooting-shooter-payton-gendron-video-youtube-gun-rcna29709>.
32. Gary Kleck, *Large-Capacity Magazines and the Casualty Counts in Mass Shootings: The Plausibility of Linkages*, 17 JUSTICE RESEARCH & POL'Y 28 (2016).
33. VA. TECH. REVIEW PANEL, MASS SHOOTINGS AT VIRGINIA TECH: ADDENDUM TO THE REPORT OF THE REVIEW PANEL 30–A (Nov. 2009), <https://scholar.lib.vt.edu/prevail/docs/April16ReportRev20091204.pdf>. The worst school shooting in U.S. history—at Virginia Tech in 2009—was carried out by an individual using two handguns and 19 extra magazines with capacities of 10 and 15 rounds. *Id.* In 1967, a gunman perched in a clock tower killed 17 at the University of Texas while primarily shooting a bolt-action 6mm hunting rifle that had, at a maximum, a five-round magazine. See Gary M. Lavergne, *University of Texas Tower Shooting (1966)*, TEXAS STATE HISTORICAL SOCIETY (updated June 29, 2017), <https://www.tshaonline.org/handbook/entries/university-of-texas-tower-shooting-1966>; Jim Phillips, *Victim Tries to Buy Gun Sniper Used*, AUSTIN AMERICAN-STATESMAN (updated Sept. 25, 2018), <https://www.statesman.com/story/news/2016/09/03/victim-tries-to-buy-gun-sniper-used/10051466007/>. While the shooter appears to have switched to an M1 carbine (which has factory standard 15-round magazines) to confront responding officers at close range, this is ironically the same gun procured by at least one of the many armed civilians who shot back at the gunman that day. Pamela Colloff, *96 Minutes*, TEXAS MONTHLY (Aug. 2006), <https://www.texasmonthly.com/true-crime/96-minutes/>. In 2018, a gunman at Santa Fe High School in Texas killed 10 people in under four minutes with only a “low-capacity” pump-action shotgun and six-shot revolver—a rate of fatalities per minute greater than that of the far more well-known school shooting in Parkland, Florida, just weeks earlier where a gunman with “high-capacity” magazines killed 17 in seven minutes. *Compare* police response in Jack Healy & Manny Fernandez, *Police Confronted Texas School Gunman Within 4 Minutes, Sheriff Says*, N.Y. TIMES (May 21, 2018), <https://www.nytimes.com/2018/05/21/us/santa-fe-officer-wounded-john-barnes.html>, with MARJORY STONEMAN DOUGLAS HIGH SCHOOL PUBLIC SAFETY COMMISSION, INITIAL REPORT SUBMITTED TO THE GOVERNOR, at Ch. 2: Incident Timeline (Jan. 2, 2019), <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>. The number of fatalities in Santa Fe would have been far higher but for the quick interventions of armed school resource officers. *Compare sources supra.*

34. Larry Hobbs, *Nothing Nostalgic About Brunswick's 1915 Mass Shooting Downtown*, THE BRUNSWICK NEWS (Aug. 4, 2018), https://thebrunswicknews.com/news/local_news/nothing-nostalgic-about-brunswick-s-mass-shooting-downtown/article_e0555c59-66a0-5585-8b48-4bfebcd81374.html; Amy Hendrick, *Monroe Phillips & the Brunswick Massacre*, COASTAL GEORGIA GENEALOGY & HISTORY (accessed Apr. 19, 2023), <http://www.glynngen.com/history/bwkmassacre.htm>.
35. Massad Ayoob, *The Brunswick Massacre*, AMERICAN HANDGUNNER (Sept./Oct. 2015), https://thebrunswicknews.com/news/local_news/nothing-nostalgic-about-brunswick-s-mass-shooting-downtown/article_e0555c59-66a0-5585-8b48-4bfebcd81374.html.
36. Joe Hernandez, *Louisville Authorities Release Body Camera Footage from the Shooting*, NPR (Apr. 11, 2023), <https://www.npr.org/2023/04/11/1169257146/ar-15-rifle-louisville-shooting-bought-legally>.
37. Patrick Sauer, *The Story of the First Mass Shooting in U.S. History*, SMITHSONIAN MAGAZINE (Oct. 14, 2015), <https://www.smithsonianmag.com/history/story-first-mass-murder-us-history-180956927/>; Melanie Burney, *Survivor Looks Back in Anger on 1949 Massacre*, L.A. TIMES (Oct. 3, 1999), <https://www.latimes.com/archives/la-xpm-1999-oct-03-mn-18198-story.html>.
38. Sauer, *supra* note 37.
39. Craig Whitlock et al., *Massacre Suspect Said He Modified Bushmaster Rifle to Hold More Ammunition*, WASH. POST (May 15, 2022), <https://www.washingtonpost.com/investigations/2022/05/15/buffalo-shooting-gun-bought-bushmaster/>.
40. Perhaps the first recorded mass public shooting of the 20th century occurred in Winfield, Kansas, in 1903, when a man with a double-barrel shotgun opened fire at a weekly outdoor music concert attended by thousands of people. Sarah Weinman, *The Winfield Massacre*, CT NEWS ONLINE (Aug. 24, 2016), https://www.ctnewsonline.com/news/article_d24d95f4-6a58-11e6-8d7a-dbf907ee9f00.html. He killed nine people and injured dozens more before either killing himself or being fatally shot by a night watchman. *The Camon Band Massacre*, COWLEY COUNTY HISTORICAL SOC'Y MUSEUM (last accessed May 1, 2023), http://www.cchsm.com/resources/misc/murder_mayhem/1903_camen_band.html. In 1928, a mentally unstable Chinese immigrant living in Fairfield, California, used a rifle and a hatchet to kill 10 people during a drug-fueled rampage. *Dope Was Cause of Sad Deed*, SAN JOSE NEWS (Aug. 23, 1928), <https://news.google.com/news/papers?id=IQgvAAAAIABJ&sjid=HaQFAAAAIBA&pg=2144,4717944&dq=>; *Ten Killed by Ranch Cook*, THE DAILY TIMES (Aug. 23, 1928), <https://news.google.com/newspapers?id=O6kiAAAAIABJ&sjid=ma8FAAAAIBA&pg=4098,1441744&dq=>. In noting that this was at the time the state's deadliest mass killing by a single murderer in one day, one newspaper recalled a similar instance two years earlier in which a man fatally shot six people in Stockton. *Dope Was Cause of Sad Deed*, *supra*. Two decades later, a gunman with a lengthy criminal history began to shoot at passersby from the window of a Chester, Pennsylvania, apartment with a .22-caliber rifle, ultimately killing seven victims before killing himself. *CRIME: The End of Bad Boy Collings*, TIME (Nov. 15, 1948), <https://content.time.com/time/subscriber/article/0,33009,853406,00.html>; *Beserk Gunman Kills Seven and Then Ends His Life*, ST. PETERSBURG TIMES (Nov. 7, 1948), <https://web.archive.org/web/20220218202814/https://news.google.com/newspapers?id=ZLEKAAAIBA&sjid=LE4DAAAIBA&pg=4107,2674818&dq=>.
41. Cooper & Smith, *supra* note 25 at 24; Erika Harrell, *Violent Victimization Committed by Strangers, 1993–2010*, BUREAU OF JUSTICE STATISTICS SPECIAL REPORT NCJ 239424, at 8 (Dec. 2012), <https://bjs.ojp.gov/content/pub/pdf/vvcs9310.pdf>; Grace Kena & Alexandra Thompson, *Hate Crime Victimization, 2005–2019*, BUREAU OF JUSTICE STATISTICS SPECIAL REPORT NCJ 300954 (Sept. 2021), https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/hcv0519_1.pdf.
42. Cooper & Smith, *supra* note 25 at 24. As the report itself acknowledges, this is likely an underestimation because the number of offenders was assumed to be the only one for the 30.8 percent of homicides involving an unknown number of offenders. *Id.* at 35.
43. No state with a general restriction on magazine capacity has ever applied that restriction to active-duty law enforcement officers acting within the scope of their jobs. Many exempt any active or retired law enforcement officer, including while off duty and in his or her personal capacity. See, e.g., CT GEN. STAT. § 53-202w(d)(2) (authorizing the possession, purchase, and importation of otherwise banned magazines by a variety of peace officers, including “when off duty”); 720 ILCS 5/24-1.10(d)(1) (exempting peace officers, including retired peace officers, from general restrictions on “large capacity ammunition feeding devices”); R.I. GEN. LAWS § 11-471-3(b) (requiring civilians to permanently modify, surrender, or otherwise dispose of any magazine capable of holding more than 10 rounds of ammunition but exempting “any law enforcement officer,” including those who have retired); 13 V.S.A. § 4021(d)(1)(B), (D) (authorizing the transfer to and possession of otherwise prohibited magazines by law enforcement officers, “whether the officer is on or off duty,” as well as authorizing their possession by retired officers if the magazine is transferred to the officers by the relevant agency upon retirement); *Firearms Information*, NEW JERSEY STATE POLICE (accessed Apr. 19, 2023), <https://nj.gov/njsp/firearms/firearms-faqs.shtml#:~:text=A%20semiautomatic%20rifle%20with%20a,and%20active%20duty%20military%20personnel> (explaining that active but off-duty officers—including those from other states—may carry up to 17 rounds of ammunition, regardless of other state restrictions).
44. Darrell W. Stephens, *Officer Involved Shootings: Incident Executive Summary*, NAT'L POLICE FOUND. (2019), https://www.policinginstitute.org/wp-content/uploads/2019/05/1.-OIS_incident_exec_summary_8.28.19.pdf.
45. CTRS. FOR DISEASE CONTROL & PREVENTION, PRIORITIES FOR RESEARCH TO REDUCE THE THREAT OF FIREARM-RELATED VIOLENCE 15 (2013), <https://www.nap.edu/read/18319/chapter/3#15>; William English, *2021 National Firearms Survey*, GEORGETOWN McDONOUGH SCHOOL OF BUSINESS RESEARCH PAPER No. 3887145 (July 14, 2021), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3887145.
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61. *Id.* While one might argue that defensive gun uses involving revolvers have little relationship to laws limiting magazine capacity for semi-automatic firearms, the reality is that “speed loaders” or “moon clips”—pre-loaded devices are carried on a gun owner’s person in much the same way that a spare magazine is carried—allow for relatively similar reloading times between revolvers and semi-automatic handguns. To the extent that this defensive gun user was shot because he was rendered defenseless while needing to reload his revolver, he would have been more or less equally defenseless while reloading a semi-automatic handgun.
62. Most revolvers have a five-round or six-round cylinder, and even rare outlier models, for purely geometrical and practical reasons, are limited to 12 rounds. See *Which Revolver Holds the Most Rounds?*, Neckbone Armory (accessed Apr. 19, 2023), <https://neckbonearmory.com/which-revolver-holds-the-most-rounds/>. These “high capacity” revolvers generally fire small-caliber rounds like the .22lr and .32 Auto.
63. See, e.g., Garrett Pelican, *Deputies: 30 Rounds Fired from AR-15 in Deadly Florida Home Invasion*, NEWS 4 JACKSONVILLE (Apr. 17, 2018), <https://www.news4jax.com/news/2018/04/17/deputies-30-rounds-fired-from-ar-15-in-deadly-florida-home-invasion/>; Hailey Winslow & Harrison Barras, *Dozens of Shots Fired at Westchase Apartments*, NEWS 4 JACKSONVILLE (Mar. 13, 2015), <https://www.news4jax.com/news/2015/03/13/dozens-of-shots-fired-at-westchase-apartments/>.