



ISSUE BRIEF | Center for Law & Justice

AN ASSAULT WEAPONS BAN WILL NOT CURE AMERICA'S CRIME CRISIS

Andrew J. Whitaker

TOPLINE POINTS

- ★ Americans and policymakers face problems of lawlessness, rampant violent crime, and mass shooting incidents, much like Congress did before it passed the crime bill in 1994.
- ★ The current administration's proposed remedy is another assault weapons ban, but research suggests that this ban will not be the cure to America's crime crisis.
- ★ Instead, policies that fund the police, enforce the law, and hold criminals accountable are effective solutions for our Nation's current problems.

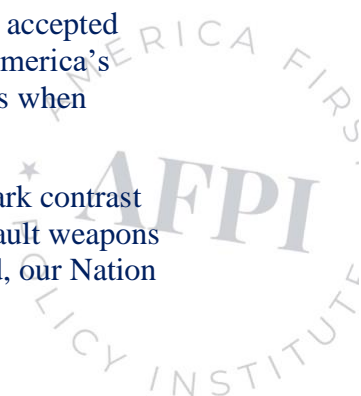
INTRODUCTION

Americans continue to face a mass shooting contagion and a historic crime crisis, reaching levels unseen since the late 1980s and early 1990s. In 2022, major cities across the Nation experienced crime on pace with the record highs set amid civil unrest in 2020. In response, the current administration has doubled down on its demand for an assault weapons ban—the same remedy it presented during last year's State of the Union address, following tragedies across the country last year and again last month.

With gun violence seemingly out of control, policymakers today are challenged with similar problems seen in the early 1990s, but with one notable difference: Policymakers have the privilege of understanding the impact, or lack thereof, of the first federal assault weapons ban.

The defining qualities of an assault weapons ban remain unclear, and the findings on the effectiveness of the original ban continue to be a topic of debate. The common misconception that an assault weapons ban will cure the crime epidemic and mass shooting contagion stems from a misunderstanding of what is classified as an “assault weapon.” No uniformly accepted definition of an “assault weapon” exists, and many policymakers incorrectly label America's most common firearms, such as semi-automatic pistols and rifles, as assault weapons when discussing these bans.

Overall, the weakness of the evidence for the effectiveness of such bans stands in stark contrast to the loudness of the rhetoric pushing them. Numerous studies have shown that assault weapons bans have not been effective in reducing crime. After the 1994 crime bill was passed, our Nation



experienced a total crime decrease, but this was largely due to numerous other elements of the bill and not solely due to the assault weapons ban that it included. However, by misinterpreting research conducted on the effects of the 1994 crime bill and its ban, some policymakers have wrongly concluded that a similar ban would have positive effects on the current crime epidemic.

DISCREPANCIES IN DEFINING “ASSAULT WEAPON”

In order to ban “assault weapons,” one must first define what constitutes an assault weapon. Unfortunately, no uniformly accepted definition exists because people with conflicting ideologies use this term very differently. For example, the National Rifle Association interprets it as “any weapon used in an assault” but defines “assault rifle” as “a selective-fire rifle chambered for a cartridge of intermediate power.” By contrast, the Giffords Law Center—a left-leaning gun control advocacy group—describes assault weapons as “semi-automatic versions of weapons created for deadly battlefield purposes” “with features that enable mass killing.” One CATO Institute commentary notes the inconsistency of Giffords’ definition being the inextricable link to firepower, which directly correlates to ammunition cartridge size and, subsequently, magazine capacity. However, the commentary explains that neither a gun, its ammo, nor its magazine correlates to how “deadly” it is. Instead, lethality is dependent solely on the user’s skillset and intent.

Capitol Hill commonly sees both sides of this contentious debate over the defining qualities of an assault weapon. During Senate Judiciary Committee hearings, two nominees for the long-vacant directorate position at the Department of Justice (DOJ) Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) also had trouble clarifying the term. Both David Chipman, a retired ATF special agent turned gun control advocate for Giffords, and Steve Dettelbach, a former U.S. attorney and career prosecutor, both struggled to define the term when questioned by Sen. Tom Cotton (R-AR). During his testimony, Chipman referred to the ATF Demand Letter 3 program, which defines “assault rifle” as “any semiautomatic rifle capable of accepting a detachable magazine above the caliber of .22 (including .223/5.56 caliber).” Sen. Cotton responded by noting that this description would include some of the most common guns in America. During Dettelbach’s confirmation hearing, the then-nominee, now ATF Director, explained the categorial characteristics of “assault weapons” and the difficulty of defining the term due to the balance of liberty and security. Sen. Cotton concluded by recalling that Congress previously defined “assault weapons” in a 1994 ban, which Dettelbach admitted he was unfamiliar with.

1994 CRIME BILL & FEDERAL ASSAULT WEAPONS BAN

On the federal level, Congress ultimately holds the authority to determine and define “assault weapons” and did so in 1994 with the passage of the Public Safety and Recreational Firearms Act. Commonly referred to as the federal assault weapons ban, it was enacted as part of the larger Violent Crime Control and Law Enforcement Act of 1994, known as the 1994 crime bill. Since its passing, many gun control advocates commonly attribute the decrease in violent crime, including gun crime, to the ban and not to the other measures included in the bill. However, research and a proper analysis suggest that other policies included in the legislation had a much more definitive impact.



The 1994 crime bill provided for 100,000 new police officers and allocated \$9.7 billion for prisons and \$6.1 billion for prevention programs. It also established both the Office on Violence Against Women and the Office of Community Oriented Policing Services at the DOJ. These measures were necessary at the time, as violent crime had been on the rise for decades, increasing 82.9% from 1973–1991, and homicide rates were peaking, ranging from 8–10 per 100,000 from 1980–1991, according to figures provided by the Federal Bureau of Investigation Unified Crime Report. However, the decision to include the assault weapons ban was unnecessary and did not accomplish its intended goals.

Incorporating the assault weapons ban in 1994 was championed in the Senate by Sen. Dianne Feinstein (D-CA), who became a gun control advocate after a series of shootings in Stockton and San Francisco. And in the House, then-Speaker Tom Foley, representing a district covering Spokane, Washington, was in favor of supporting a ban after a mentally unstable, forcibly discharged airman opened fire on the Fairchild Air Force Base hospital earlier that same year. Feinstein and Foley spearheaded enough support for the legislation to ban assault weapons amid a contentious midterm election in which one party controlled both chambers of Congress and the White House.

The ban “amend(ed) the Federal criminal code to prohibit the manufacture, transfer, or possession of a semiautomatic assault weapon as defined,” which mentioned semi-automatic firearms models by name (19 models and “copies or duplicates”) and included any others that had two or more features or modifications from a set list. Some of the set features included suppressors, bayonet mounts, and grenade launchers, or the more common threaded barrels and folding stocks. However, the most prominent aspect was the ban on large- or high-capacity magazines, which were defined as detachable magazines that hold more than 10 rounds of ammunition.

EFFECTS OF THE CRIME BILL & THE ASSAULT WEAPONS BAN

Immediately after the ban sunset in 2004, DOJ’s commissioned assessment found “the ban’s impact on gun violence is likely to be small at best, and perhaps too small for reliable measurement.” In fact, in the 28 years since the 1994 crime bill passed, several studies have examined the legislation package, including the effects of the assault weapons ban. Research conducted by Steve Levitt (2004) of the University of Chicago and funded by the National Science Foundation found that factors that did not contribute to the crime decline included gun control laws, concealed weapon laws, and increased use of the death penalty.

To support his research, Levitt (2004) used the Brady Handgun Violence Prevention Act of 1993 as an example, which instituted stricter requirements for background checks before a gun is sold. He also pointed to the Ludwig and Cook (2000) report, which found no difference in homicide trends under the Brady Act and similar state legislation. The Brady Campaign, which is a major proponent of gun control laws, called California’s 1989 “assault firearms” ban the “model for the nation.” However, California’s murder rate increased every year for five years after its ban, increasing 26% overall, as the rest of the country saw a decrease. Findings suggest that gun control laws are seemingly ineffective due to criminals acquiring guns on the black market (Cook et al., 1995), including before the Brady Act, in the late 1980s, only about one-fifth of prisoners admitted obtaining their guns legally or through a licensed gun dealer (Wright & Rossi,



1994). When California and New Jersey banned assault firearms in 1989 and 1990, respectively, both states allowed owners to register and keep banned guns already owned, but only about 10% of owners complied with the registration. Buy-back programs were also proven to be ineffective. (Levitt, 2004)

A separate study conducted by the [RAND Corporation](#) covered 13 classes of gun policies. The effects of 8 of the policies were deemed inconclusive. These policies included bans on the sale of assault weapons and high-capacity magazines, and the study found no conclusive evidence that a ban affected the number of mass shootings or violent crimes. RAND Corp.'s assessment was based on the premise that a ban on assault weapons would lead to a decrease in the number of shooting incidents, casualties in each shooting, and the case fatality rate. Additionally, it is based on the premise that such a ban is primarily intended to reduce violent crime and, more specifically, mass shooting incidents. The RAND study, as well as DOJ's assessment and the 1994 crime bill's [congressionally-mandated study](#) conducted by The Urban Institute (1997), found that the ban had no impact on crime, in part because "the banned guns were never used in more than a modest fraction of gun murders," somewhere between 1–7%. According to [FBI Supplementary Homicide Reports](#), crime reports and felon surveys showed that assault weapons were used in 1–2% of violent crimes, and in the 10 preceding years, murders committed without guns outnumbered those with assault weapons by about 37-to-1.

Since the assault weapons ban sunset in 2004, there were 45 shootings in the following 10 years and another 50 since 2014. According to [The Violence Project](#), the stark increase in recent mass shooting events has been attributed largely due to [mental health issues](#) stemming from early childhood trauma, sexual assault, and bullying, to media-driven social contagion, and ultimately violent suicide. In contrast, crime was already in decline leading to the passage of the 1994 crime bill and subsequently before the assault weapons ban went into effect. After rising 82.9% between 1973 and 1991, violent crimes decreased by 5%, and total crimes dropped 10% from 1991–1994, attributing to the overall 33.6% violent crime decrease from 1991–2001.

Although numerous [accrediting factors](#) led to this decrease in violent crime, banning assault weapons was not one of them. Instead, the bill's \$12.5 billion for prison construction enticed states to adopt "truth-in-sentencing" laws, which required inmates to serve at least 85% of their sentences. Nine states adopted new "truth-in-sentencing" laws while another 21 states adjusted legislation to comply with the law's requirements to receive funding, and by 1999, 42 states had such laws on the books. States also passed three-strike laws, enacted mandatory minimums, eliminated parole, and removed judicial discretion in sentencing. Most importantly, the bill's \$14 billion added nearly 200,000 police officers nationwide from 1990–1999, a 28% increase in America's police force. All of these factors combined produce positive effects and decrease crime.

Levitt's (2004) analysis also found that police funding was a contributing factor to the decrease in violent crime. It noted that the increase in police accounted for a crime reduction of 5–6% across the board, saving taxpayers approximately \$20–\$25 billion from the crimes reduced or prevented. Both the rising prison population and the waning crack epidemic also played a role, according to the study. The increase in the prison population was estimated to have reduced violent crime and homicide by over 30% and property crime by more than 20%.



GUN VIOLENCE AND MASS SHOOTINGS IN PERSPECTIVE

Although many people seem to believe that most violent crimes are committed with “assault weapons,” in reality, a small percentage of crimes committed with guns involve these weapons. From the perspective of today’s disparity between the perceived threat assault weapons have on society and the reality of gun violence, violent crime is disproportionately committed with guns and, more finitely, “assault weapons.” According to DOJ’s Bureau of Justice Statistics, 7.7% of violent crimes across the U.S. were committed with firearms in 2020 and 7.1% in 2021. Among those, handguns or pistols account for approximately 45.7%, and rifles only account for 2.6%, with assault rifles being an unknown subset of all rifles.

Still, the prevalence of violent crime continues to afflict cities such as Philadelphia, which has experienced back-to-back years of 500-plus homicides. However, this record high can be attributed to other factors besides the use of assault weapons. The district attorney’s commitment to end cash bail and reduce mass incarceration and the police department’s struggles with staffing recruitment and retention have both contributed to these concerning numbers. Both trends, recruiting and retention challenges in law enforcement and progressive prosecutors undermining safe and secure communities, are common amongst some of the Nation’s biggest cities.

For perspective, there were a total of 43,790 gun-related deaths in 2022, of which 24,090, or 54%, were due to suicide and 58 were due to mass public shootings. That’s approximately 0.02 per million Americans. Instead of focusing on another assault weapons ban, policymakers should be working to find solutions that will actually save more lives, such as passing permitless carry laws, which would allow law-abiding citizens to carry a firearm for self-defense. According to the FBI, from 1982–2022, 151 handguns were used in 103 mass shooting incidents, 63 rifles in 55 incidents, and 30 shotguns in 26 incidents. Of those, 94% occur in places where civilians are banned from having firearms, according to the Crime Prevention Research Center. In fact, 34.4% of active shooters were thwarted or deterred by armed citizens between 2014 and 2021. Permitless carry laws and more support for police officers are two effective policies that can help increase public safety.

CONCLUSION

Today, as lawlessness continues to plague major cities and mass shootings persist across the Nation, Americans are faced with similar conditions leading up to the passage of the 1994 crime bill, which included an assault weapons ban. However, this type of ban has been shown to have underwhelming effects on the prevalence of violent crime. Our country has an opportunity today to take a more effective approach than we saw in the 1994 legislation. Truly effective policies should focus on restoring law and order, which can be done by funding the police, enforcing the law, and holding those who commit crimes accountable through sure prosecution. These would be more effective approaches than instituting assault weapons bans, which would negatively affect law-abiding citizens by depleting their ability to defend themselves. Rather than banning assault weapons, lawmakers should instead provide safe and secure communities by implementing more effective policies and by upholding the right of law-abiding citizens to bear arms.



WORKS CITED

Chatterjee, R. (2023, Jan. 24). NPR. Mass shootings can be contagious, research shows. Retrieved Jan. 31, 2023, from <https://www.npr.org/sections/health-shots/2019/08/06/748767807/mass-shootings-can-be-contagious-research-shows>

Miller, A. M. (2022, Mar. 1). FOX News. Biden calls for ban on assault weapons and high capacity magazines in SOTU speech. Retrieved Jan. 31, 2023, from <https://www.foxnews.com/politics/biden-ban-assault-weapons-high-capacity-magazines-sotu-speech>

Bushard, B. (2022, Dec. 14). Forbes. 'We Should Have Societal Guilt': Biden Calls For Assault Weapons Ban On 10th Anniversary Of Sandy Hook Massacre. Retrieved Jan. 31, 2023, from <https://www.forbes.com/sites/brianbushard/2022/12/14/we-should-have-societal-guilt-biden-calls-for-assault-weapons-ban-on-10th-anniversary-of-sandy-hook-massacre/?sh=748ebb22f48f>

Greve, J. (2023, Jan. 24). The Guardian. Biden once again urges Congress to pass assault weapons ban. Retrieved Jan. 31, 2023, from <https://www.theguardian.com/us-news/2023/jan/24/joe-biden-congress-assault-weapons-ban-mass-shootings>

National Rifle Association – Institute for Legislative Action. Glossary. Retrieved Jan. 31, 2023, from <https://www.nraila.org/for-the-press/glossary/>

Giffords Law Center. Glossary. Retrieved Jan. 31, 2023, from <https://giffords.org/lawcenter/gun-laws/policy-areas/hardware-ammunition/assault-weapons/>

Larosiere, M. (2019, May 6). CATO Institute. A Defense of 'Assault Weapons.' Retrieved Jan. 31, 2023, from <https://www.cato.org/commentary/defense-assault-weapons>

Bureau of Alcohol, Tobacco, Firearms, and Explosives – Public Affairs Division. (Feb. 2015). Fact Sheet: National Tracing Center. Retrieved Jan. 31, 2023, from <https://www.atf.gov/file/11046/download>

Blitzer, R. (2022, May 25). FOX News. Biden ATF nominee says he called for assault weapons ban without defining what that means. Retrieved Jan. 31, 2023, from <https://www.foxnews.com/politics/biden-atf-nominee-assault-weapons-ban-definition>

H.R.4296 - 103rd Congress (1993-1994): Public Safety and Recreational Firearms Use Protection Act." Congress.gov, Library of Congress, 16 May 1994. Retrieved Jan. 31, 2023, from <https://www.congress.gov/bill/103rd-congress/house-bill/4296>

H.R.3355 - 103rd Congress (1993-1994): Violent Crime Control and Law Enforcement Act of 1994." Congress.gov, Library of Congress, 13 September 1994. Retrieved Jan. 31, 2023, from <https://www.congress.gov/bill/103rd-congress/house-bill/3355/text>

U.S. Department of Justice, Office of Justice Programs: 1994 Violent Crime Control and Law Enforcement Act. Retrieved Jan. 31, 2023, from <https://www.ojp.gov/ojp50/1994-violent-crime-control-and-law-enforcement-act>



Levitt, S. (2004). University of Chicago. Understanding Why Crime Fell in the 1990s: Four Factors that Explain the Decline and Six that Do Not. *Journal of Economic Perspectives*, Vol. 18, No. 1. Retrieved Jan. 31, 2023, from <https://pricetheory.uchicago.edu/levitt/Papers/LevittUnderstandingWhyCrime2004.pdf>

Ludwig, J., Cook, P. (2003) Brookings Institution. Evaluating Gun Policy: Effects on Crime and Violence. Ch. 4: Australia: A Massive Buyback of Low-Risk Guns, & Ch.7: Prison Sentence Enhancements: The Case of Project Exile.

Cook, P., Ludwig, J. (1996) *Guns in America: Results of a Comprehensive Survey of Gun Ownership and Use*. Washington: Police Foundation.

Cook, P., Molliconi, S., & Cole, T. (1995) "Regulating Gun Markets." *Journal of Criminal Law and Criminology*. 16:1, pp. 59 –92.

Wright, J., Rossi, P. (1994) *Armed and Considered Dangerous: A Survey of Felons and Their Firearms*. New York: Aldine de Gruyter.

Office of the Attorney General, California Department of Justice. (1989). Patrick Edgard Purdy and the Cleveland School Killings. Retrieved Jan. 31, 2023, from <https://schoolshooters.info/sites/default/files/Purdy%20-%20official%20report.pdf>

Swan, R. San Francisco Chronicle. Legacy of 1993 SF rampage. Retrieved Jan. 31, 2023, from <https://www.sfchronicle.com/nation/articleComments/legacy-of-93-SF-rampage-13038894.php>

McClary, D. (2008, Oct. 1). History Link. Gunman shoots and kills four people and wounds 22 at Fairchild Air Force Base hospital on June 20, 1994. Retrieved Jan. 31, 2023, from <https://historylink.org/File/8767>

Kimble, C. (2021, June 14). Law Commentary. The Assault Weapons Ban Sunset Clause: What It Is And Why It Happened. Retrieved Jan. 31, 2023, from <https://www.lawcommentary.com/articles/the-assault-weapons-ban-sunset-clause-what-it-is-and-why-it-happened>

Koper, C., Woods, D., Roth, J. (2004, June). University of Pennsylvania, Jerry Lee Center of Criminology. Report to the National Institute of Justice, U.S. Department of Justice. An Updated Assessment of the Federal Assault Weapons Ban: Impacts on Gun Markets and Gun Violence, 1994—2003. Retrieved Jan. 31, 2023, from <https://www.ojp.gov/pdffiles1/nij/grants/204431.pdf>

The Science of Gun Policy: A Critical Synthesis of Research Evidence on the Effects of Gun Policies in the United States. RAND Corporation, RR-2088-RC, 2018. Retrieved Jan. 31, 2023, from https://www.rand.org/pubs/research_reports/RR2088.html

Roth, J. Koper, C. (1997, Mar. 13). The Urban Institute. Impact Evaluation of the Public Safety and Recreational Firearms Use Protection Act of 1994. Retrieved Jan. 31, 2023, from <https://www.urban.org/sites/default/files/publication/67071/406797-Impact-Evaluation-of-the-Public-Safety-and-Recreational-Firearms-Use-Protection-Act-of--.PDF>



EZASHR Easy Access to the FBI's Supplementary Homicide Reports: 1980-2020. Retrieved Jan. 31, 2023, from <https://www.ojdp.gov/ojstatbb/ezashr/>

Dr. Peterson, J., Dr. Densley, J. The Violence Project. How to Stop a Mass Shooting Epidemic. Retrieved Jan. 31, 2023, from <https://www.theviolenceproject.org/>

Warner, M. (2022, May 27). POLITICO. Two Professors Found What Creates a Mass Shooter. Will Politicians Pay Attention? Retrieved Jan. 31, 2023, from <https://www.politico.com/news/magazine/2022/05/27/stopping-mass-shooters-q-a-00035762>

Elsen, L. (2016, Apr. 14). Brennan Center for Justice. The Complex History of the Controversial 1994 Crime Bill. Retrieved Jan. 31, 2023, from <https://www.brennancenter.org/our-work/analysis-opinion/complex-history-controversial-1994-crime-bill>

Dr. Morgan, R., Thompson, A. (Oct. 2021). U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. Criminal Victimization, 2020. Retrieved Jan. 31, 2023, from <https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/cv20.pdf>

Thompson, A., Dr. Tapp, S. (Sep. 2022). U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. Criminal Victimization, 2022. Retrieved Jan. 31, 2023, from <https://bjs.ojp.gov/content/pub/pdf/cv21.pdf>

Joslyn Law Firm. Criminal Attorney Columbus. Which Weapons Are Most Commonly Used for Homicides? Retrieved Jan. 31, 2023, from <https://www.criminalattorneycolumbus.com/which-weapons-are-most-commonly-used-for-homicides/>

Casiano, L. (2022, Dec. 20). FOX News. Philadelphia reached 500 homicides as gun violence continues to plague city streets. Retrieved Jan. 31, 2023, from <https://www.foxnews.com/us/philadelphia-homicides-gun-violence-streets>

Colton, E. (2022, Aug. 22). FOX News. Philadelphia police face staffing crisis that's projected to get even worse. Retrieved Jan. 31, 2023, from <https://www.foxnews.com/us/philadelphia-police-face-staffing-crisis-projected-get-worse>

Erickson, S. (2023, Jan. 6). America First Policy Institute, Center for Law & Justice. Addressing the Challenges of Recruiting and Retention in Law Enforcement. Retrieved Jan. 31, 2023, from <https://americafirstpolicy.com/latest/addressing-the-challenges-of-recruiting-and-retention-in-law-enforcement>

Erickson, S. (2022, Oct. 19). America First Policy Institute, Center for Law & Justice. Progressive Prosecutors Undermine Safe and Secure Communities. Retrieved Jan. 31, 2023, from <https://americafirstpolicy.com/latest/20221019-progressive-prosecutors-undermine-safe-and-secure-communities>

Gun Violence Archive. (2023, Jan. 31). Past Summary Ledgers. Retrieved Jan 31, 2023, from <https://www.gunviolencearchive.org/past-tolls>

Social Media Victims Law Center. Social Media & Suicide. Retrieved Jan. 31, 2023, from <https://socialmediavictims.org/mental-health/suicide/>



Whitaker, A. (2022, Nov. 29). America First Policy Institute, Center for Law & Justice. What is Constitutional Carry? State Legislation: Permitless Carry. Retrieved Jan. 31, 2023, from <https://americafirstpolicy.com/latest/20221129-what-is-constitutional-carry-state-legislation-permitless-carry>

Statista Research Department. (2023, Jan. 31). Statista. Guns used in mass shootings in the U.S. 1982-2023. Retrieved Jan. 31, 2023, from <https://www.statista.com/statistics/476409/mass-shootings-in-the-us-by-weapon-types-used/>

Lotte, J. (2018, Jun. 15). Crime Prevention Research Center. UPDATED: Mass Public Shootings Keep occurring in Gun-Free Zones: 94% of attacks since 1950. Retrieved Jan. 31, 2023, from <https://crimeresearch.org/2018/06/more-misleading-information-from-bloombergs-everytown-for-gun-safety-on-guns-analysis-of-recent-mass-shootings/>

Colton, E. (2022, Oct. 4). FOX News. FBI undercounts number of times armed citizens have thwarted active shooting incidents: report. Retrieved Jan. 31, 2023, from <https://www.foxnews.com/us/fbi-undercounts-number-times-armed-citizens-thwarted-active-shooting-incidents-report>

Erickson, S., Wiglocki, A., Whitaker, A. Zicarelli, K. (2022, Dec. 15). America First Policy Institute, Center for Law & Justice. Restoring Justice and Upholding the Second Amendment. Retrieved Jan. 31, 2023, from https://assets.americafirstpolicy.com/assets/uploads/files/Research_Report_-_Restoring_Justice_and_Upholding_the_Second_Amendment.pdf

