Nos. 25-238, 25-556

In the Supreme Court of the United States

CUTBERTO VIRAMONTES, ET AL.,
Petitioners,
v.
COOK COUNTY, ILLINOIS, ET AL.,
Respondents.

EDDIE GRANT, JR., ET AL.,
Petitioners,
v.
RONNELL HIGGINS, IN HIS OFFICIAL CAPACITY AS COMMISSIONER OF THE CONNECTICUT DEPARTMENT OF EMERGENCY SERVICES AND PUBLIC TRANSPORTATION, ET AL.,
Respondents.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURTS OF APPEALS FOR THE SEVENTH AND SECOND CIRCUITS

BRIEF OF TENNESSEE, KANSAS, AND 25 OTHER STATES AS AMICI CURIAE IN SUPPORT OF PETITIONERS

KRIS W. KOBACH
Attorney General of Kansas

DWIGHT R. CARSWELL
Acting Solicitor General

OFFICE OF KANSAS
ATTORNEY GENERAL
120 SW 10th Ave., 2nd Floor
Topeka, KS 66612
(785) 253-0144
dwight.carswell@ag.ks.gov

JONATHAN SKRMETTI
Attorney General of Tennessee

MADELINE W. CLARK
Solicitor General
Counsel of Record

AARON L. BERNARD
JOSHUA DANIEL MINCHIN
Assistant Solicitors General

OFFICE OF TENNESSEE
ATTORNEY GENERAL
P.O. Box 20207
Nashville, TN 37202
(615) 253-0144
madeline.clark@ag.tn.gov

TABLE OF CONTENTS

INTERESTS OF AMICI CURIAE 1

INTRODUCTION AND SUMMARY OF ARGUMENT 3

ARGUMENT 4

I. The Second and Fourteenth Amendments Protect Arms Commonly Used for Lawful Purposes 4

II. Semiautomatic Rifles Are Commonly Used for Lawful Purposes 8

A. Millions of Americans own AR-15 platform and comparable semiautomatic rifles 8

B. The overwhelming majority of AR-15 platform and similar semiautomatic rifles are possessed and used lawfully 12

C. Relative to handguns and other weapons, rifles are less often criminally misused 18

CONCLUSION 22

TABLE OF AUTHORITIES

Page(s)

Cases

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577 U.S. 411 (2016) 7

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561 U.S. 742 (2010) 2-5, 7, 13, 18

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75 F.4th 563 (5th Cir. 2023).....9

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605 U.S. 280 (2025) 11

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145 S. Ct. 1534 (2025) 3, 7-8, 11, 22

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511 U.S. 600 (1994) 9

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602 U.S. 680 (2024) 5-6, 22

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U.S. Const. amend. II.....4

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2008 WL 136348 17

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INTERESTS OF AMICI CURIAE

If there is anything this Court's near century of Second Amendment jurisprudence teaches, it is that "the government cannot completely ban an arm in common use for lawful purposes." *Hanson v. District of Columbia*, 120 F.4th 223, 256 (D.C. Cir. 2024) (Walker, J., dissenting). Yet numerous lower courts have not heeded this lesson. They have held that legislators may ban outright weapons that they "determine[] [a]re *unusually dangerous* because of their characteristics"—regardless of whether those weapons are in common use for lawful purposes—so long as the legislature deigns to preserve "alternatives for self-defense and other lawful purposes." *Nat'l Ass'n for Gun Rights v. Lamont*, 153 F.4th 213, 222, 232-33 (2d Cir. 2025). And they have held unprotected those firearms that are, in the court's estimation, "ill-suited and disproportionate to the need for self-defense." *Bianchi v. Brown*, 111 F.4th 438, 441 (4th Cir. 2024) (en banc); *accord Bevis v. City of Naperville*, 85 F.4th 1175, 1193-95 (7th Cir. 2023). The result? A fundamental right that is subject to legislative caprice and judicial speculation about what the right-holder really "needs."

Tennessee and Kansas, along with Alabama, Alaska, Arkansas, Florida, Georgia, Idaho, Indiana, Iowa, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, New Hampshire, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Texas, Utah, West Virginia, and Wyoming, have a significant interest in ensuring that the Second Amendment receives the full protection this

Court's precedents require. Amici States' citizens are among the millions of Americans who own AR-15 platform and other similar semiautomatic rifles for numerous lawful purposes—including for hunting, for sport, and for defense of self and others. The AR-15 platform rifle is popular for many reasons, not the least of which are its reliability and relatively low recoil, which make it an excellent target gun. Amici States are also home to lawful businesses that manufacture and sell these semiautomatic rifles across the country. Decisions that narrow the scope of the Second Amendment—and affirm the outright ban of the AR-15 platform and similar semiautomatic rifles—leave constitutional rights dependent on geography and invite States (and the federal government) to enforce restrictions on the Second Amendment that this Court's precedents do not permit.

Amici States cherish the freedom our Nation's federalist structure provides States "to devise solutions to social problems that suit local needs and values." *McDonald v. City of Chicago*, 561 U.S. 742, 785 (2010) (plurality opinion). Amici States also, as a general matter, assiduously defend the rights of state legislatures to address policy issues as they see fit. "But the enshrinement of constitutional rights necessarily takes certain policy choices off the table," *District of Columbia v. Heller*, 554 U.S. 570, 636 (2008)—including a wholesale ban on semiautomatic rifles in common use for lawful purposes.

INTRODUCTION AND SUMMARY OF ARGUMENT

Respondents banned the AR-15 platform rifle—the most popular rifle in the country—and countless similar rifles. "Tens of millions of Americans" own at least one of the approximately twenty million AR-15 platform rifles in circulation in the United States. *Snope v. Brown*, 145 S. Ct. 1534, 1535 (2025) (Thomas, J., dissenting from the denial of certiorari). And the "overwhelming majority" of Americans who possess "them do so for lawful purposes, including self-defense and target shooting." *Id.* (internal quotation marks omitted). Indeed, the reported criminal use of *any* rifle is limited compared to other weapons, including handguns.

Those facts should have made these cases easy. This Court has already determined that the Second and Fourteenth Amendments protect the possession and use of "arms 'in common use'" "for lawful purposes like self-defense." *See Heller*, 554 U.S. at 624-25; *accord N.Y. State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1, 21 (2022); *McDonald*, 561 U.S. at 780 (plurality opinion). The banned semiautomatic rifles plainly fall within this category of protected arms.

The courts below concluded otherwise based on a cramped view of the Second Amendment that is inconsistent with this Court's precedent. This Court should honor the Second Amendment's guarantee and hold that it does not allow a categorical ban on AR-15 platform or other semiautomatic rifles in common use for lawful purposes.

ARGUMENT

I. The Second and Fourteenth Amendments Protect Arms Commonly Used for Lawful Purposes.

The Second Amendment commands that "the right of the people to keep and bear Arms, shall not be infringed." U.S. Const. amend. II. As its "very text" reveals, *Heller*, 554 U.S. at 592, "[t]he Amendment 'was not intended to lay down a novel principle but rather codified a right inherited from our English ancestors'"—the "individual right to keep and bear arms," *Bruen*, 597 U.S. at 20 (quoting *Heller*, 554 U.S. at 595, 599).

"[T]he founding generation cherished the Second Amendment." *Wolford v. Lopez*, 146 S. Ct. 2032, 2042 (2026). "Founding-era legal commentators confirmed the importance of the right to early Americans," with St. George Tucker "describ[ing] the right to keep and bear arms as 'the true palladium of liberty' and explain[ing] that prohibitions on the right would place liberty 'on the brink of destruction.'" *McDonald*, 561 U.S. at 769. As Justice Story later put it in his Commentaries, the right to keep and bear arms "offer[ed] a strong moral check against the usurpation and arbitrary power of rulers; and [would] generally, even if these are unsuccessful in the first instance, enable the people to resist and triumph over them." 3 J. Story, Commentaries on the Constitution of the United States § 1890 (1833).

The Second Amendment, of course, "originally applied only to the Federal Government." *McDonald*, 561 U.S. at 754. But "[t]he constitutional Amendments adopted in the aftermath of the Civil War fundamentally altered our country's federal system," including by rendering "the Second Amendment right . . . fully applicable to the States." *Id.* at 750, 754. Indeed, "Congress's desire to enable the newly freed slaves to defend themselves against former Confederates" in the aftermath of the Civil War "helped inspire the passage of the Fourteenth Amendment," which in turn "secured the right to bear arms against interference by the States." *United States v. Rahimi*, 602 U.S. 680, 690 (2024).

Despite this historical pedigree and the Second Amendment's textual command, "[f]or many years, the Second Amendment lay dormant as a sort of second son among constitutional rights." *Bianchi*, 111 F.4th at 493 (Richardson, J., dissenting). But then came *Heller* and *McDonald*. *Heller* revived the Second Amendment by holding that it "protects a personal right to keep and bear arms for lawful purposes, most notably for self-defense within the home." *McDonald*, 561 U.S. at 780 (plurality opinion). And *McDonald* confirmed that this "Second Amendment right is fully applicable to the States." *Id.* at 750.

Still, lower courts "resist[ed] this Court's decisions." *Silvester v. Becerra*, 583 U.S. 1139 (2018) (Thomas, J., dissenting from the denial of certiorari). They applied exceedingly "deferential" standards of review in challenges to firearms restrictions and

generally failed "to afford the Second Amendment the respect due an enumerated constitutional right." *Id.*

Enter *Bruen*. There, this Court clarified the two-part test courts must apply to determine whether a modern firearm law violates the Second Amendment. *Bruen*, 597 U.S. at 17.

At step one, a challenger must establish that "the Second Amendment's plain text covers [his] conduct." *Id.*[1] This initial "inquiry entails three subsidiary questions." *Wolford*, 146 S. Ct. at 2043. First, "does the law apply to 'the people'—which is to say, to 'all members of the political community'?" *Id.* (quoting *Heller*, 554 U.S. at 580). Second, does the law "concern any form of 'Arms,' *i.e.*, any weapon customarily used for offensive or defensive purposes?" *Id.* (citing *Heller*, 554 U.S. at 584). Third, does it "place any restrictions on either the 'keeping' (*i.e.,* possession) or the 'bearing' (*i.e.*, carrying) of arms?" *Id.* (citing *Bruen*, 597 U.S. at 32-33) (alterations adopted). If the answer to those questions is yes, then the Second Amendment's plain text covers the challenger's conduct, and the Constitution "presumptively protects" it. *Bruen*, 597 U.S. at 24.

At step two, the government must present evidence from the "Nation's historical tradition of firearm regulation" to "justify its regulation." *Id.* When evaluating these historical analogues, courts should

[1] If the plaintiff brings a facial constitutional challenge, the plaintiff must show that "no set of circumstances exists under which the Act would be valid." *Rahimi*, 602 U.S. at 693 (quoting *United States v. Salerno*, 481 U.S. 739, 745 (1987)).

consider: "(1) the number of jurisdictions in which the historical restrictions were adopted, (2) the extent to which the historical restrictions were well-accepted, whether expressly or tacitly, and (3) whether the historical restrictions are 'relevantly similar' to the modern challenged law." *Ass'n of N.J. Rifle & Pistol Clubs, Inc. v. Att'y Gen. N.J.*, 183 F.4th 211, 231 (3d Cir. 2026) (en banc) (citing *Wolford*, 146 S. Ct. at 2044).

The *Bruen* inquiry "can be difficult." *Bruen*, 597 U.S. at 25 (citation omitted). It "sometimes requires resolving threshold questions and making nuanced judgments about which evidence to consult and how to interpret it." *Id.* But as this Court's precedents explain, certain Second Amendment principles are pellucid.

One such principle governs here: the Second Amendment protects those weapons "typically possessed by law-abiding citizens for lawful purposes." *Heller*, 554 U.S. at 625; *accord Caetano v. Massachusetts*, 577 U.S. 411, 420 (2016) (Alito, J., concurring) (same). This protection of "the possession and use of weapons that are 'in common use at the time'" follows from the "historical tradition of prohibiting the carrying of 'dangerous and unusual weapons.'" *Bruen*, 597 U.S. at 21 (quoting *Heller*, 554 U.S. at 627). The takeaway is simple: "[W]eapons in common use today for self-defense and other lawful purposes remain fully protected." *Snope*, 145 S. Ct. at 1536 (Thomas, J., dissenting from the denial of certiorari) (internal quotation marks omitted); *see McDonald*, 561 U.S. at 780 (plurality opinion) ("[T]he Second Amendment protects a personal right to keep and bear arms for lawful

purposes, most notably for self-defense within the home."); *see also Heller*, 554 U.S. at 599 (explaining that "most" Americans at the founding "undoubtedly thought" the Second Amendment was "important for self-defense and hunting").

II. Semiautomatic Rifles Are Commonly Used for Lawful Purposes.

The semiautomatic rifles Respondents banned "fit neatly within th[is] category of protected arms." *Snope*, 145 S. Ct. at 1536 (Thomas, J., dissenting from the denial of certiorari). AR-15 platform rifles are undoubtedly in common use. And, along with other modern sporting rifles, they are "overwhelming[ly]" used "for lawful purposes" like target practice, hunting, and self-defense. *Id.* (internal quotation marks omitted); *see infra* at 12-13. In fact, rifles (semiautomatic and manual-action alike) appear in violent crime statistics dramatically less often than other commonly possessed weapons, including handguns.

A. Millions of Americans own AR-15 platform and comparable semiautomatic rifles.

Semiautomatic rifles have been a popular choice for firearm owners for more than a century. They were "first introduced in 1885," seven years before the creation of the first semiautomatic pistol. Nat'l Rifle Ass'n Inst. for Legis. Action, *"Assault Weapons" and "Large" Magazines*, https://perma.cc/A3A4-GYB6. Eighteen years later, semiautomatic rifles reached public markets and quickly became "a runaway commercial success." *Heller v. District of Columbia*, 670

F.3d 1244, 1287 (D.C. Cir. 2011) (Kavanaugh, J., dissenting) (*Heller II*). Manufacturers like Winchester, Remington, Standard Arms, and Browning Arms rushed to create their own versions with varying calibers, magazine sizes, and grips (including pistol grips). *Id.* These "rifles were designed and marketed primarily for use as hunting rifles," although there was "a small ancillary market among law enforcement officers." *Id.*

The AR-15 platform rifle is a semiautomatic rifle. It "was first developed as a military rifle in the 1950s by ArmaLite." *Bianchi*, 111 F.4th at 517 (Richardson, J., dissenting).[2] In the 1960s, Colt acquired the patent and "created a semiautomatic version" that it marketed and sold "to civilians and law enforcement." *Id.* "Colt's patent expired in 1977, and other companies began mass producing similar models for civilian use." *Id.* at 517-18.

Although "[t]he AR-15 semiautomatic rifle has the outward appearance of an M16 military service rifle," it "lacks the latter's critical feature of fully automatic fire." Stephen P. Halbrook, *America's Rifle: The Case for the AR-15* 14 (2022) (Halbrook); *see Staples v. United States*, 511 U.S. 600, 603 (1994) (describing the differences between the AR-15 and the military's M-16 rifle). "The AR-15-type semiautomatic has never been issued as a service rifle to U.S. soldiers," nor are semiautomatic rifles "issued as standard service rifles

[2] "AR" is a reference to the Armalite brand; it does not stand for "assault rifle." *See Mock v. Garland*, 75 F.4th 563, 569 n.7 (5th Cir. 2023).

to *any army in the world*." Halbrook 16. The superficial similarity in appearance between the AR-15 platform rifle and standard service rifles simply reflects that certain ergonomic and design features translate well to both military and civilian use.

Since the AR-15 platform rifle entered the market, the popularity of semiautomatic rifles among the American citizenry has only grown. Consider the sheer number of semiautomatic rifles in circulation. Since 1990, over 32 million modern sporting rifles (roughly 1 for every 11 Americans) have been produced in or imported into the United States. Nat'l Shooting Sports Found., *Firearms Production in the U.S.*, https://perma.cc/YAW8-EYTR. Some estimates suggest "around 24 million AR-[1]5s and similar sports weapons remain in circulation—a figure that is surpassed only by the number of registered handgun owners within the United States." *Ass'n of N.J. Rifle & Pistol Clubs, Inc.*, 183 F.4th at 241. And that may be a conservative estimate. "As of 2021," other sources suggest, "there are at least twenty-eight million AR-style semiautomatic rifles in circulation," with "[r]oughly 2.8 million of those weapons enter[ing] the market in 2020 alone." *Bianchi*, 111 F.4th at 518 (Richardson, J., dissenting). To put that into perspective, that means "there are more AR-style rifles in the civilian market than there are Ford F-Series pickup trucks on the road—the most popular truck in America." *Id.*

Ownership trends tell the same story. In 2021, approximately one third of adults in the United States, about 81.4 million people, reported owning a

firearm. William English, *2021 National Firearms Survey: Updated Analysis Including Types of Firearms Owned*, Georgetown McDonough Sch. of Bus. Rsch. Paper No. 4109494, at 1 (May 13, 2022), https://perma.cc/E8H9-N6RZ (English Survey). Of those gun owners, between 16 and 24.6 million own an AR-15 platform or similar rifle. *Id.* at 20 ("30.2% of gun owners, about 24.6 million people, have owned an AR-15 or similarly styled rifle"); *see also Poll of current gun owners*, at 1, Wash. Post-Ipsos (2022), https://perma.cc/YSJ5-STNS (Wash. Post-Ipsos Survey); Emily Guskin et al., *Why do Americans own AR-15s?*, Wash. Post (Mar. 27, 2023), https://perma.cc/U6M6-QRDG (indicating based on Wash. Post-Ipsos Survey that roughly 16 million Americans "own an AR-15-style rifle"). In 2022, the ATF determined that these "AR-15-type rifle[s]" are "one of the most popular firearms in the United States." *Definition of 'Frame or Receiver' and Identification of Firearms*, 87 Fed. Reg. 24652, 24652 (Apr. 26, 2022) (to be codified at 27 C.F.R. pts. 447, 478, and 479). And just last year, this Court unanimously recognized that "[t]he AR-15 is the most popular rifle in the country," "widely legal[,] and bought by many ordinary consumers." *Smith & Wesson Brands, Inc. v. Estados Unidos Mexicanos*, 605 U.S. 280, 297 (2025); *see Snope*, 145 S. Ct. at 1536 (Thomas, J., dissenting from the denial of certiorari) (noting that "[t]ens of millions of Americans own AR-15s").

Against that backdrop, it is "beyond debate" that AR-15s and similar rifles meet the requisite "common use" threshold. *Bianchi*, 111 F.4th at 519 (Richardson, J., dissenting) (citation omitted). "[T]he many

millions of [these] semi-automatic rifles in circulation . . . are plainly in common use." *Ass'n of N.J. Rifle & Pistol Clubs, Inc.*, 183 F.4th at 242. And they have been for decades. *See Heller II*, 670 F.3d at 1269 (Kavanaugh, J., dissenting) ("Semi-automatic rifles, like semi-automatic handguns, have not traditionally been banned and are in common use by law-abiding citizens for self-defense in the home, hunting, and other lawful uses"). Any conclusion to the contrary blinks reality.

B. The overwhelming majority of AR-15 platform and similar semiautomatic rifles are possessed and used lawfully.

Millions of Americans own AR-15 platform and similar rifles, and the overwhelming majority use their rifles for lawful purposes. Many, following a tradition as old as the Republic, take them to the field to hunt game. English Survey, at 33-34; Wash. Post-Ipsos Survey, at 1. Indeed, the smaller .223 caliber AR-15 platform rifle is recognized as a legal caliber for hunting North America's whitetail deer in many States, *see*, *e.g.*, Kan. Admin. Regs. § 115-4-4(c), while larger AR-platform rifles can be chambered in .308 Winchester—a longstanding choice for hunting larger game animals, *see* Craig Boddington, *The .308 Winchester*, Boone and Crockett Club (Spring 2014), https://perma.cc/BCC7-L7RG. Other Americans use their AR-15 platform rifles to dispatch predators and varmints. Responsive Mgmt. for Outdoor Stewards of Conservation Found., *Proliferation of Hunting With AR-Platform / Modern Sporting Rifles*, at 16 (2023), https://perma.cc/UL6S-WKGV. Still others simply enjoy "endless hours of fun on the rifle range." Philip

Schreier, *A Short History of the Semi-Automatic Firearm*, America's First Freedom (June 28, 2022), https://perma.cc/5CZV-3A8T. And many owners also keep their AR-15 platform semiautomatic rifles to defend what matters most: their families, their homes, and themselves.

The use of rifles for defense, especially home defense, is not new. For centuries, Americans have used the rifle as an instrument of self-defense. Colonists "habitua[lly]" carried rifles for that purpose. John Adams, *To the Inhabitants of the Colony of Massachusetts-Bay*, Nat'l Archives: Founders Online (Feb. 6, 1775), https://bit.ly/2SwaXi4. The rifle later became "the companion of the pioneer." *Heller*, 554 U.S. at 609 (citation omitted). And when the law failed to protect Americans from violence, rifles assumed an especially important role. During the struggle over slavery in "Bloody Kansas," efforts to disarm "Free-Soilers" prompted "Senator Charles Sumner, who later played a leading role in the adoption of the Fourteenth Amendment, [to] proclaim[] that '[n]ever was [the rifle] more needed in just self-defense than now in Kansas.'" *McDonald*, 561 U.S. at 770 (third and fourth alterations in original) (quoting *The Crime Against Kansas: The Apologies for the Crime: The True Remedy*, Speech of Hon. Charles Sumner in the Senate of the United States 64-65 (1856)). That tradition continued after the Civil War, when rifles became "particularly popular among marginalized groups" during the Jim Crow era. C.D. Michel & Konstadinos Moros, *Restrictions "Our Ancestors Would Never Have Accepted": The Historical Case Against Assault Weapon Bans*, 24 Wyo. L. Rev. 89, 110-11 (2024).

The tradition of using rifles for self-defense continues today among owners of semiautomatic rifles. In surveys, the majority of those who own AR-15 platform rifles have said that they keep their rifles for self-defense. In the 2022 Washington Post-Ipsos survey, 91% of respondents indicated that one of the reasons they owned an AR-15-style rifle was to "[p]rotect self, family and property," with 65% specifying that this was a "[m]ajor reason" motivating their ownership. Wash. Post-Ipsos Survey, at 1. Professor William English's 2022 National Firearms Survey is in accord, with 61.9% of respondents indicating that they owned an AR-15 platform or similar rifle for "home defense." English Survey, at 33-34.

As of 2021, 31.1% of firearm owners reported using a firearm in defense of themselves or their property, with rifles used in 13% of those incidents. English Survey, at 12, 14. Stated differently, "[a]ssuming that defensive uses of firearms are distributed roughly equally across the years, this suggests at least 1.67 million defensive uses of firearms per year"—with approximately 127,480 of those incidents involving rifles. *Id.* at 9, 12.

Tennesseans alone can tell stories about how they successfully used semiautomatic rifles to protect themselves and their families. A Memphis man used a semiautomatic rifle to shoot two armed robbers who were "ransack[ing]" his house. Action News 5, *Homeowner shoots, kills 2 burglars with AK-47* (June 1, 2018), https://perma.cc/J47A-PFUV. Another Memphis man used an AR-15 platform rifle to fend off two

robbers at his apartment complex. Ned Dannenberg, *Prosecutors drop charges against U of M student over apartment shooting*, Action News 5 (Mar. 21, 2019), https://perma.cc/2T8S-RQNN. A man in Roan Mountain was able to fend off an armed home-invader using a .22 caliber rifle after he had been shot and wounded by a bullet from the home-invader's gun. Elizabethton Star, *Man charged in Roan Mountain shooting arraigned in General Sessions Court Monday* (Mar. 9, 2022), https://perma.cc/4DLL-93HW.

Tennessee is not an outlier. A pregnant woman in Lithia, Florida, saved the lives of her husband and daughter by shooting a masked and armed home invader with the family's AR-15. CBS Miami, *Florida Woman Uses AR-15 To Defend Family During Home Invasion* (Nov. 5, 2019), https://perma.cc/G778-EWTV. A bystander in Oswego Township, Illinois, used an AR-15 platform rifle to stop an ongoing stabbing attack, requiring only the "threat of force" to do so. Shannon Antinori, *AR-15-Wielding Neighbor Speaks Out, 2 Charged In Stabbing*, Patch (Feb. 26, 2018), https://perma.cc/3RZG-U7NK. In many instances, simply brandishing the rifle is enough to scare away a home invader. A student in Rochester, New York, did exactly that, protecting himself and his roommate from armed intruders merely by brandishing his unloaded AR-15 platform rifle. *RIT Students Accosted by Gunmen in their Home*, WHAM (July 10, 2013), https://perma.cc/E8GC-ZBL7. A 23-year-old in Broken Arrow, Oklahoma, used an AR-15 platform rifle to shoot and kill three armed intruders during a home invasion. Associated Press, *No charges against Oklahoma man who killed 3 intruders* (Apr. 3, 2017),

https://perma.cc/N65S-ZTDB. And during the unrest of summer 2020, small-business owners used AR-15 platform rifles to deter would-be looters from raiding their storefronts. *See* CBS LA, *Santa Monica Owner Protects His Store With Guns Amid Looting* (June 1, 2020), https://perma.cc/4XSA-HGFS. The list goes on.

That AR-15 platform and other similar semiautomatic rifles are the weapons of choice for citizens seeking to protect themselves and their families is not surprising. They are widely recognized as an effective self-defense weapon. The U.S. Concealed Carry Association has recommended the use of rifles for home-defense, describing the rifle as having superior "handling, hit probability and accuracy" to other home-defense choices. Bob Campbell, *Best Home-Defense Rifles*, U.S. Concealed Carry Ass'n (Oct. 1, 2024), https://tinyurl.com/b82bddc6; *accord Ass'n of N.J. Rifle & Pistol Clubs, Inc.*, 183 F.4th at 241-42 (recounting district court finding that semiautomatic rifles' "build and design features, such as their mild recoil, ergonomics, and accuracy make them 'a good choice for self-defense.'"). And even gun control proponents agree that "in almost all situations 'shotguns and rifles are much more effective in stopping a [criminal]'" than other weapons. Brief for Violence Pol'y Center and the Police Chiefs from the Cities of L.A., Minneapolis, and Seattle as Amici Curiae Supporting Petitioners, *District of Columbia v. Heller*, 554 U.S. 570 (2008), 2008 WL 136348, at *30 (alteration in original).

Police departments across the country have reached the same conclusion. According to a 2023

report from the Department of Justice's Bureau of Justice Statistics, 94.5% of local police departments have authorized semiautomatic rifles for on-duty officers. Sean E. Goodison & Connor Brooks, Bureau of Just. Stats., U.S. Dep't of Just., *Local Police Departments, Procedures, Policies, and Technology, 2020 – Statistical Tables*, at 8 tbl. 3 (Nov. 2023), https://perma.cc/MY5W-3JF3. As the Chief of Police and Police Captain of the City of Lawrence, Kansas, Police Department put it, "patrol rifles are a necessity in today's environment where disaster can be averted or minimized when quick action with the right equipment is taken." Memorandum from Tarik Khatib, Chief of Police, & Anthony Brixius, Police Captain, Lawrence Police Dep't, to Tom Markus, City Manager, re: Campaign Zero (Aug. 10, 2016), https://tinyurl.com/mr3cew4f.

That millions of Americans choose "to keep and bear" semiautomatic rifles for lawful purposes is sufficient to confer Second Amendment protection. *Heller*, 554 U.S. at 625. That the majority of those Americans selected a semiautomatic rifle for self-defense makes the question even easier. "[I]ndividual self-defense is 'the *central component*' of the Second Amendment right." *McDonald*, 561 U.S. at 767 (quoting *Heller*, 554 U.S. at 599). And a weapon lawfully owned by tens of millions of Americans for that purpose cannot be banned categorically by States without violating the Constitution. *See id.*; *Heller*, 554 U.S. at 628-30.

In short, there is no historical analogue in the framing period or during the early American Republic for categorically banning a firearm that is *so*

commonly used for lawful purposes. Respondents' bans are the equivalent of banning the musket in 1789—the very firearm the American colonists in the colonial militias brought with them to battle during the American Revolutionary War. It would be absurd to suggest that the First Congress and the States that ratified the Second Amendment thought that the fundamental right to keep and bear arms would permit the banning of common muskets. It didn't—and it likewise does not permit the categorical prohibition of modern firearms in common use for lawful purposes.

C. Relative to handguns and other weapons, rifles are less often criminally misused.

Most people who own AR-15 platform and other similar semiautomatic rifles keep and bear them for lawful purposes. But not all people do. Amici States are no stranger to the criminal misuse of semiautomatic rifles and the tragedy of lives lost due to criminal violence. Acknowledging these heartbreaking tragedies, however, does not answer the constitutional question presented here. And although rifles of all kinds are capable of misuse, the available data belie any contention that they are a more prevalent instrument of criminal violence than other weapons.

Where FBI data identify firearm type, rifles (both semiautomatic and manual-action) are involved in a small share of violent offenses. In the past year, the FBI identified:

- 378 homicides involving rifles, compared to 3,817 involving handguns, 1,229 involving

knives or cutting instruments, and 506 involving "[p]ersonal [w]eapons"—that is, "[a] person's hands, arms, feet, fists, or teeth used as a weapon," Fed. Bureau of Investigation, *Law Enforcement Officers Killed and Assaulted (LEOKA) Data Collection: Definitions and Examples* (2019), https://ucr.fbi.gov/leoka/2019/resource-pages/definitions;

- 9,925 aggravated assaults involving rifles, compared to 112,987 involving handguns, 115,553 involving knives or cutting instruments, and 152,682 involving personal weapons;

- 20 rapes involving rifles, compared to 876 involving handguns, 948 involving knives or cutting instruments, and 52,876 involving personal weapons; and

- 1,151 robberies involving rifles, compared to 24,481 involving handguns, 11,660 involving knives or cutting instruments, and 55,401 involving personal weapons.

Fed. Bureau of Investigation, *Crime Data Explorer*, (last visited Sept. 1, 2026), https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/crime-trend (1-year statistics).[3]

[3] The FBI separately reports violent offenses involving an unidentified firearm. But where firearm type is identified, handguns overwhelmingly predominate.

The data show that this trend has held true over time. Over the last 10 years, the FBI has identified:

- 3,809 homicides involving rifles, compared to 43,342 involving handguns, 10,787 involving knives or cutting instruments, and 5,439 involving personal weapons;

- 91,927 aggravated assaults involving rifles, compared to 1,093,789 involving handguns, 897,505 involving knives or cutting instruments, and 1,110,679 involving personal weapons;

- 174 rapes involving rifles, compared to 9,285 involving handguns, 9,730 involving knives or cutting instruments, and 509,151 involving personal weapons; and

- 11,632 robberies involving rifles, compared to 344,040 involving handguns, 107,447 involving knives or cutting instruments, and 415,735 involving personal weapons.

Id. (10-year statistics).

Tennessee's and Kansas's experiences match the national data. In the last 10 years, the FBI has identified 2,270 Tennessee murders by handgun and 181 by rifle. Fed. Bureau of Investigation, *Crime Data Explorer: Expanded Homicide Data* (last visited Sept. 1, 2026), https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/shr (Tennessee statistics). And the FBI cataloged twice as many murders committed

by knives or cutting instruments as by rifles. *Id.* In the same time period in Kansas, the FBI identified 492 murders by handgun, 112 murders by knives or cutting instruments, and 32 murders by rifle. *Id.* (Kansas statistics). The data for Respondents' States are in accord. In the last 10 years in Illinois, the FBI has recorded 4,440 murders by handgun compared to 130 by rifle. *Id.* (Illinois statistics). And in the same time period in Connecticut, the FBI has recorded 178 murders by handgun and 6 by rifle. *Id.* (Connecticut statistics).

The relative paucity of violent crimes involving rifles does not diminish the pain that each of those crimes inflicts on the victims, their families, and their communities. The evidence of relatively limited criminal misuse of rifles of all kinds does, however, bolster the conclusion that AR-15 platform and similar rifles are in common use for overwhelmingly *lawful* purposes—and therefore cannot be banned outright. After all, this Court already rejected the proposition that "the problem of handgun violence" permitted "the absolute prohibition of handguns held and used for self-defense in the home." *Heller*, 554 U.S. at 636. And "*handguns*—not rifles—are used in the vast majority of murders and other violent crimes that individuals commit with guns in America." *See Snope*, 145 S. Ct. at 1534 (Kavanaugh, J., respecting the denial of certiorari) (emphasis added). If handguns are nevertheless protected from wholesale prohibition, so too are the most popular semiautomatic rifles in common use for lawful purposes.

To be sure, States are not powerless to address the criminal misuse of firearms within their borders.

States remain free to "legislate[] within the parameters of our historical tradition." *Barnett v. Raoul*, 180 F.4th 1035, 1081 (7th Cir. 2026) (Brennan, C.J., dissenting). To take just a few examples, States can impose objective shall-issue licensing regimes. *See Bruen*, 597 U.S. at 79-80 (Kavanaugh, J., concurring). They can prohibit the carrying of arms in "sensitive places such as schools and government buildings." *Id.* at 30 (quoting *Heller*, 554 U.S. at 626). And they can disarm individuals who "pose[] a clear threat of physical violence to another." *Rahimi*, 602 U.S. at 698. "The Constitution leaves [States] a variety of tools for combating" gun violence. *Heller*, 554 U.S. at 636. But it takes off the table a wholesale ban of a firearm commonly owned for lawful purposes.

CONCLUSION

The Court should reverse.

Respectfully submitted,

KRIS W. KOBACH
Attorney General of Kansas

DWIGHT R. CARSWELL
Acting Solicitor General

OFFICE OF KANSAS ATTORNEY GENERAL
120 SW 10th Ave.
Topeka, KS 66612
(785) 253-0144
dwight.carswell@ag.ks.gov

Counsel for Kansas

JONATHAN SKRMETTI
Attorney General of Tennessee

MADELINE W. CLARK
Solicitor General
Counsel of Record

AARON L. BERNARD
JOSHUA DANIEL MINCHIN
Assistant Solicitors General

OFFICE OF TENNESSEE ATTORNEY GENERAL
P.O. Box 20207
Nashville, TN 37202
(615) 253-0144
madeline.clark@ag.tn.gov

Counsel for Tennessee

SEPTEMBER 4, 2026

ADDITIONAL LEGAL REPRESENTATIVES OF THE STATES

STEVE MARSHALL
Attorney General of
Alabama

CORI MILLS
Acting Attorney General
of Alaska

TIM GRIFFIN
Attorney General of
Arkansas

JAMES UTHMEIER
Attorney General of
Florida

CHRIS CARR
Attorney General of
Georgia

RAÚL LABRADOR
Attorney General of
Idaho

THEODORE E. ROKITA
Attorney General of
Indiana

BRENNA BIRD
Attorney General of
Iowa

RUSSELL COLEMAN
Attorney General of
Kentucky

LIZ MURRILL
Attorney General of
Louisiana

LYNN FITCH
Attorney General of
Mississippi

CATHERINE HANAWAY
Attorney General of
Missouri

AUSTIN KNUDSEN
Attorney General of
Montana

MICHAEL T. HILGERS
Attorney General of
Nebraska

JOHN FORMELLA
Attorney General of
New Hampshire

DREW WRIGLEY
Attorney General of
North Dakota

ANDY WILSON
Attorney General of
Ohio

KEN PAXTON
Attorney General of
Texas

GENTNER DRUMMOND
Attorney General of
Oklahoma

DEREK BROWN
Attorney General of
Utah

DAVE SUNDAY
Attorney General of
Pennsylvania

JOHN B. MCCUSKEY
Attorney General of
West Virginia

ALAN WILSON
Attorney General of
South Carolina

KEITH G. KAUTZ
Attorney General of
Wyoming

MARTY JACKLEY
Attorney General of
South Dakota