

The Honorable Robert J. Bryan

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

LAWRENCE HARTFORD; DOUGLAS MITCHELL; BRETT BASS; SPORTING SYSTEMS VANCOUVER, INC.; SECOND AMENDMENT FOUNDATION, INC.; AND FIREARMS POLICY COALITION, INC.,

Plaintiffs,

v.

BOB FERGUSON, in his official capacity as Washington State Attorney General, et al.,

Defendants.

NO. 3:23-cv-05364-RJB

DECLARATION OF RYAN BUSSE IN SUPPORT OF STATE DEFENDANTS' OPPOSITION TO MOTION FOR PRELIMINARY INJUNCTION

I, Ryan Busse, declare as follows:

1. I am over the age of 18, competent to testify as to the matters herein, and make this declaration based on my personal knowledge. I am a former senior executive in the firearms industry and the author of *Gunfight: My Battle Against the Industry that Radicalized America* (New York: PublicAffairs, 2021).

1 2. This declaration is based on my own personal knowledge and experience, and if
2 I am called to testify as a witness, I could and would testify competently to the truth of the matters
3 discussed in this declaration.

4 **I. BACKGROUND AND QUALIFICATIONS**

5 3. I was raised with firearms as an integral part of my life. I began shooting with
6 various guns as a young boy and continued to regularly use and study guns throughout my life
7 (I am now 53). After graduating college, I entered the firearms industry in 1992. I became a sales
8 executive in the firearms industry in 1995, and I spent more than 25 years in this role. While in
9 the industry, I developed innovative sales teams, maintained relationships with the largest
10 national retailers, and was responsible for worldwide sales of millions of firearms. I built a
11 dealer-direct sales network that included more than 2500 firearms dealers including locations in
12 all 50 states, and I regularly visited these dealers. In my job, I also studied and built sales
13 programs that relied on understanding the technical nature of most firearms available in the U.S.
14 market, including AR platform guns and other types of rifles. During my career, I played an
15 integral role in building one of the largest firearms companies in the United States, Kimber, and
16 I was nominated by shooting industry leadership many times for the SHOT Business “Shooting
17 Industry Person of the Year” Award. I served in an executive sales capacity as Vice President of
18 Sales until August 2020. While in the industry I served as an advisor to the United States Senate
19 Sportsmen’s Caucus, and as the North American board chairman for Backcountry Hunters &
20 Anglers, a national wildlife conservation and hunting organization.

21 4. I left the firearms industry because I was concerned about what I believed to be
22 irresponsible and dangerous marketing and sales practices. Since I left, I have served as an
23

1 advisor to the 2020 Biden presidential campaign, I have testified twice before the U.S. Congress
2 about the firearms industry and gun policy (before the House Committee on Oversight and
3 Reform and the Joint Economic Committee, respectively), I have been called to testify in closed
4 door briefings at the U.S. Senate, and I currently serve as a Senior Advisor to Giffords. I remain
5 a proud and active gun owner, outdoorsman, and advocate for responsible gun ownership. I have
6 provided expert witness testimony in *Miller v. Bonta*, No. 3:19-cv-01536-BEN-JLB (S.D. Cal.);
7 *Duncan v. Bonta*, No. 3:17-cv-1017-BEN-JLB (S.D. Cal.); *Oregon Firearms Federation Inc. v.*
8 *Oregon*, Case No, 2:22-cv-01815-IM (D. Or.); *National Association for Gun Rights v. City of*
9 *Highland Par, Illinois*, No. 1:22-cv-04774 (N.D. Ill.); *Brumback v. Ferguson*, No. 1:22-cv-
10 03093-MKD (E.D. Wash.), and *Sullivan v. Ferguson*, No. 3:22-cv-05403-DGE (W.D. Wash.).

11 II. OPINIONS

12 5. I have reviewed the pertinent Washington law which defines and governs the sale
13 of "Assault Weapons" and I am familiar with the history, features, and function of these guns.

14 6. With regard to the opinions I offer below pertaining to the features and
15 characteristics of assault weapons or assault rifles, I focus on several prominent defining features
16 generally found on most such weapons regardless of platform. However, I pay particular
17 attention to AR-15 platform firearms and all such copies, duplicates or derivatives, because
18 firearms based on this particular platform are now by far the most prevalent assault weapons in
19 the United States and are therefore particularly illustrative of the issues in this case.

20 7. Semiautomatic rifles, including AR and AK-platform rifles, as well as
21 semiautomatic pistols and shotguns, are capable of firing one shot per each pull of the trigger.
22 Each firearm is chambered for specific ammunition cartridges. Centerfire firearms are
23

1 chambered for specific centerfire cartridges, which have the primer (the component that ignites
2 the propellant) located in the center of the base of the cartridge case (as opposed to the rim of
3 the cartridge). Today's modern rimfire ammunition is almost always confined to small and less
4 powerful cartridges, such as the .22LR. Bullets fired from these cartridges are small and light
5 and move slower than almost all centerfire rifle ammunition. Rimfire chamberings are common
6 in youth and "beginner" hunting rifles because they are relatively quiet and inexpensive and have
7 low recoil. Conversely, modern centerfire ammunition requires a detonation of a primer in the
8 center of the cartridge (CENTERfire) and these cartridges are generally much more powerful
9 than rimfire cartridges. As an example, the .223, which is the most common AR-15 cartridge,
10 fires bullets at more than 3000 feet/second, whereas a rimfire cartridge typically propels bullets
11 at around 1100 feet/second. This increased centerfire velocity greatly increases the range and
12 lethality of centerfire cartridges.

13 8. Most handgun cartridges are also now centerfire, and these cartridges generally
14 fire bullets much larger than rimfire cartridges, usually at velocities of between 800 and 1500
15 feet/second. Generally all AR-15 firearms are derivatives of the Armalite Rifle (AR) model 15,
16 which was originally designed for the United States Military in the late 1950s. The AR-15 was
17 specifically designed to satisfy clearly stated military requirements for an assault rifle. The AR-
18 15 incorporated features that achieved these requirements, which included: being lightweight,
19 easily portable, accurate, high-capacity-capable, low recoil, and fast-firing as these are the
20 features of an effective offensive weapon.

21 9. The AR-15 was therefore adopted by the U.S. military in the early 1960s. The
22 standard cartridge for the AR-15 is a .223Rem (5.56 is NATO equivalent) which was selected
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1 by the military for very specific reasons. While it is commonly reported that the AR-15 is a “high
2 power” weapon, a singular .223 cartridge is not in fact “high power” compared to almost all
3 other hunting rifles that have been sold for more than a century in the United States. However,
4 it was the small size of the .223 and 5.56 cartridge that was particularly important to the military
5 because it allowed soldiers to greatly increase capacity in their rifles and magazines. Moreover,
6 smaller rounds weigh less, meaning that this also increased the number of extra rounds soldiers
7 could carry around.

8 10. The bullets from these smaller and faster cartridges are very deadly at short and
9 medium ranges. These cartridge characteristics were selected because they result in a rifle that
10 can be high-capacity, accept loaded magazines which are easy to transport, and also be very easy
11 to fire repeatedly while staying on target. The reasoning for the military decision on this
12 chambering is summed up in this article from Business Insider: “The smaller rounds weighed
13 less, allowing troops to carry more ammunition into the fight. They also created less recoil,
14 making it easier to level the weapon back onto the target between rounds and making automatic
15 fire easier to manage. Tests showed that troops equipped with smaller 5.56 mm rounds could
16 engage targets more efficiently and effectively than those firing larger, heavier bullets.”¹ This
17 is why AR-15 and AK-47 platform weapons remain the assault weapon of choice for military
18 operations in short and medium range scenarios where repeated, high volume and accurate
19 offensive shooting is desired.

20 11. While most assault rifles today are designed to fire .223 or 5.56 cartridges for
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22 ¹ Alex Hollings, *The US military has been using the 5.56 mm round for nearly 60 years – here’s how it all*
23 *got started*, Business Insider, June 29, 2022, <https://www.businessinsider.com/why-did-us-military-switch-from-762mm-round-to-556mm-2019-9> (last visited Jan. 27, 2023) (Story on background of AR-15 and chambering history).

1 reasons discussed above. Some are designed to fire more powerful rifle cartridges such as
2 .300Win., .277Fury, 6.5CM, .308Win., and many others. Chamberings such as these are
3 generally selected for longer-range engagements where low recoil and quick target engagement
4 are not as important. Rifles using these more powerful cartridges are much more difficult to
5 control during short and medium range rapid fire but are far more effective at penetrating helmets
6 and bulletproof vests, especially at longer ranges (up to 1000 yards).

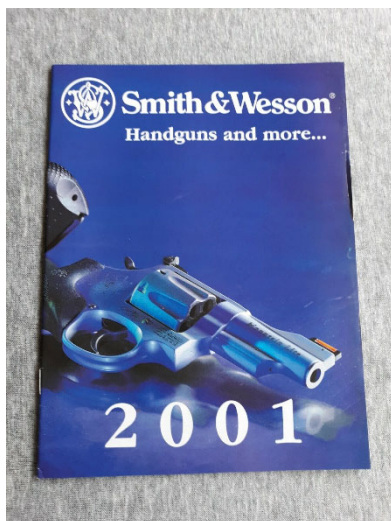
7 12. The AR-platform, in particular, is the civilian version of the military's select-fire
8 M-16 and M-4 rifles, which are capable of fully automatic or burst firing. Based on my
9 familiarity with the firearms industry, AR-platform rifles and similar semiautomatic rifles did
10 not begin to sell in significant numbers until the late 2000s and particularly after the 2012
11 shooting at Sandy Hook Elementary in Newtown, Connecticut.

12 13. During the mid-2000s, and especially after Sandy Hook, the firearms industry
13 shifted towards marketing efforts specifically focused on developing the "tactical market." In
14 the industry, the term "tactical" generally refers to weapons and accessories that are meant for
15 offensive military or law enforcement operations. This market now generally includes AR-15s,
16 battle pistols and other handguns from various manufacturers and accessories such as bullet
17 proof vests and a wide variety of large capacity magazines.

18 14. Here are two images which illustrate the dramatic transition in the gun industry
19 from the time when tactical guns were not accepted or normalized to the current when they are
20 a central business focus. The first is an image of the 2001 Smith and Wesson annual product
21 catalog cover in which a traditional revolver is featured, the second is the 2019 Smith and
22 Wesson catalog cover on which the Smith and Wesson M&P15 pistol and rifle are also featured

1 prominently. Neither of those additional “tactical” firearms existed in 2001:

2 15. The AR-platform, in particular, is the civilian version of the military’s select-fire
 3 M-16 and M-4 rifles, which are capable of fully automatic or burst firing. Based on my
 4 familiarity with the firearms industry, AR-platform rifles and similar semiautomatic rifles did
 5 not begin to sell in significant numbers until the late 2000s and particularly after the 2012
 6 shooting at Sandy Hook Elementary in Newtown, Connecticut.



15 16. While the AR-15 and its derivatives are by far the most common assault-style
 16 rifles in the United States, there are many other firearms that share the same purpose and
 17 generally have the same defining features, including the ability to accept large capacity
 18 magazines. Those firearms include firearms utilizing all or part of the AK-47 platform as well
 19 as many others. The original patent for the gas operating system central to the AR-15 being
 20 rapidly fired with minimal recoil expired in 1977,² which subsequently allowed the engineering

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² Gas Operated Bolt and Carrier System, U.S. Patent No. 2,951,424 (accessible at <https://patents.google.com/patent/US2951424A/en>)

1 prints for the AR-15 to be publicly available to all firearms companies.

2 17. From that point forward, there could have been a large-scale, immediate, and
3 legal proliferation of direct copies of these rifles and other high capacity semi-automatic guns
4 into the United States commercial market. But that did not happen, at least not until nearly two
5 decades later. In fact, when I first started my work in the gun industry in the 1990s, assault
6 weapons such as AR-15s and the 30-round magazines we see in advertising and mass shootings
7 today, were not common, and within the gun industry the acceptance or promotion of this product
8 category was thought to be irresponsible and potentially dangerous.

9 18. This former self-imposed industry “regulation” about assault rifles and large
10 capacity magazines was publicly voiced by William B. Ruger, the widely revered founder of
11 Sturm Ruger, which is now one of the largest companies in the industry. During an interview
12 with Tom Brokaw, he stated what was common industry consensus: “No honest man needs more
13 than 10 rounds in any gun.” Ruger went on to clarify what most industry executives believed to
14 be wise policy: “I never meant for simple civilians to have my 20 or 30 round magazines.”³ For
15 decades, opinions like that of William Ruger were reinforced throughout the industry in
16 hundreds of large and small ways and this sentiment was still very prevalent when I entered the
17 industry in 1995. Almost everyone I encountered believed that AR-15s were military assault
18 weapons and the large capacity magazines which often accompanied these weapons were
19 dangerous and were not to be sold or displayed to the civilians.

20 19. During the period between 1964 and 1994, first for Colt, and then also for all
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22 ³ *Magazine limits were first proposed by Connecticut gun maker*, Connecticut Magazine (April 1, 2013),
23 <https://www.nhregister.com/connecticut/article/Magazine-limits-were-first-proposed-by-11435654.php>
(Last Viewed Feb 1 2023) (Article on William Ruger’s position on LCMs).

1 companies who produced the guns after Colt’s patent sunset, commercial AR-15 sales averaged
 2 fewer than 27,000 units per year for a total of about 787,000 units in the 30-year period 1964
 3 1994.⁴ As an example of the rarity of assault weapons in the firearms industry during those years,
 4 consider that in 1990, there were about 4.4 million guns sold in the United States. (total reported
 5 U.S. production + total imports - total exports)^{5,6,7} According to the NSSF, 74,000 of those were
 6 assault weapons, which means that assault weapons were only 1.6% of 1990 domestic gun sales.

7 20. Even after the federal legislation expired, the gun industry did not immediately
 8 begin producing or selling these guns in large numbers. That is because there was a continued
 9 general agreement by the vast majority of industry leaders that these guns, which were very
 10 clearly designed for military-style, offensive (i.e., attacking) use, and related gun

11 paraphernalia—including virtually all large capacity magazines, which were generally
 12 also considered to be for military-style, offensive use—would not be displayed at trade shows
 13 or used at industry-sponsored shooting events.

14 21. This is why until well into the mid-2000s, the industry would not allow any
 15 company to display any “tactical” gear in the main section of the largest industry trade shows
 16 like S.H.O.T. (the Shooting Hunting Outdoor Trade show which is governed by NSSF). At that

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 19 ⁴ Estimating AR-15 Production, 1964-2017 (Nov. 9, 2019),
http://www.generalstaff.org/Firearms/Count/AR15_Production.htm (last visited Jan. 12, 2023) (compiling data
 from the Bureau of Alcohol Tobacco, *Firearms & Explosives’ Annual Firearms Manufacturing and Export Reports*,
 among other sources).

20 ⁵ Bureau of Alcohol, Tobacco, Firearms and Explosives, *Firearms Commerce in the United States: Annual*
Statistical Update 2021 at 1–2, [https://www.atf.gov/firearms/docs/report/2021-firearms-commerce-](https://www.atf.gov/firearms/docs/report/2021-firearms-commerce-report/download)
 21 [report/download](https://www.atf.gov/firearms/docs/report/2021-firearms-commerce-report/download) (Exhibits 1–1a).

22 ⁶ Total firearms imported by year, Statista, [https://www.statista.com/statistics/215569/number-of-](https://www.statista.com/statistics/215569/number-of-imported-firearms-to-the-us/)
[imported-firearms-to-the-us/](https://www.statista.com/statistics/215569/number-of-imported-firearms-to-the-us/)

23 ⁷ Total firearms exported by year, Statista, [https://www.statista.com/statistics/215569/number-of-](https://www.statista.com/statistics/215569/number-of-imported-firearms-to-the-us/)
[imported-firearms-to-the-us/](https://www.statista.com/statistics/215569/number-of-imported-firearms-to-the-us/)

1 time, in order to enter the special Military and Law Enforcement section of the S.H.O.T show,
2 where this tactical gear was displayed, an attendee was required to present verified military or
3 law enforcement identification credentials. These rules were enforced by the industry because it
4 was universally accepted that firearms designed for tactical or “assault” purposes deserved this
5 special regulation or voluntary responsibility.

6 22. This formerly understood voluntary prohibition also extended to the many gun
7 stores and all of the largest sporting goods retailers in the country. Almost none of which would
8 sell or display assault weapons or AR-15s or AK-47s in their stores until the mid-2000s. This
9 remained true as late as 2006. It was not until very recently that the gun industry began to push
10 AR-15s, LCMs, and other assault-style guns, leading to the more prominent marketing we see
11 today.

12 23. The below table of data compiled by the National Shooting Sports Foundation
13 (NSSF), the firearms industry trade group, clearly illustrates that sales of such guns (MSR, AR
14 15 and AK-47) have increased dramatically. In 2020, assault weapons comprised 12.2% of total
15 gun sales, seven times higher than the 1990 percentage. In numeric terms sales have increased
16 by nearly 4000% from 1990 until now, despite the fact that no federal, and few state restrictions
17 on such guns existed in 1990. (74,000 units in 1990 versus 2,798,000 in 2020):⁸

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⁸ ATF AMER, US ITC, *Industry Estimates*, National Shooting Sports Foundation,
https://www.nssf.org/wp-content/uploads/2022/07/EstMSR1990_2020.pdf (last visited Jan. 12, 2023).

Estimated Modern Sporting Rifles in the United States 1990 – 2020

Year	US Production less exports of MSR/AR platform	US Import less exports of MSR/AR, AK platform	ANNUAL TOTAL
1990	43,000	31,000	74,000
1991	46,000	69,000	115,000
1992	33,000	72,000	105,000
1993	62,000	226,000	288,000
1994	103,000	171,000	274,000
1995	54,000	77,000	131,000
1996	27,000	43,000	70,000
1997	44,000	81,000	125,000
1998	70,000	75,000	145,000
1999	113,000	119,000	232,000
2000	86,000	130,000	216,000
2001	60,000	119,000	179,000
2002	97,000	145,000	242,000
2003	118,000	262,000	380,000
2004	107,000	207,000	314,000
2005	141,000	170,000	311,000
2006	196,000	202,000	398,000
2007	269,000	229,000	498,000
2008	444,000	189,000	633,000
2009	692,000	314,000	1,006,000
2010	444,000	140,000	584,000
2011	653,000	163,000	816,000
2012	1,308,000	322,000	1,630,000
2013	1,882,000	393,000	2,275,000
2014	950,000	237,000	1,187,000
2015	1,360,000	245,000	1,605,000
2016	2,217,000	230,000	2,447,000
2017	1,406,000	158,000	1,564,000
2018	1,731,000	225,000	1,956,000
2019	1,679,000	169,000	1,848,000
2020	2,466,000	332,000	2,798,000
TOTALS	18,901,000	5,545,000	24,446,000

Source: ATF AFMER, US ITC, Industry estimates

24. It is my experience that this proliferation is the result of a direct and purposeful industry marketing effort to assert that these guns are “common.” In 2009, as part of this effort, the firearms industry through the NSSF, facilitated a public re-branding of assault rifles in an effort to make them more socially acceptable. As such, the NSSF broadly encouraged an industry-wide effort to rename such guns “Modern Sporting Rifles” or MSRs. This is not unlike the effort of Colt to market a “Sporting rifle” in previous decades, but unlike the failed marketing of Colt in the 1980s, beginning in the late 2000s the AR-15s were increasingly sold with LCMs

1 and steadily “improved” in many functional areas that increase the lethality of a military assault
2 rifle.

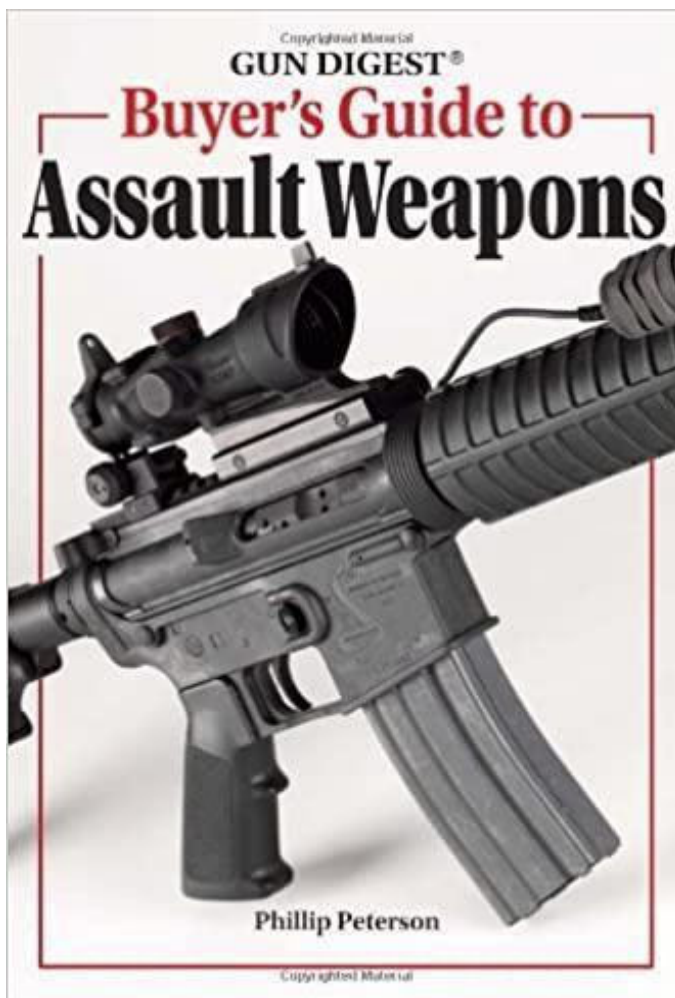
3 25. At the same time the NSSF was softening the public image of these weapons with
4 the MSR campaign, many individual assault rifle companies began to market the guns in ways
5 that dispensed with any attempt to pretend the guns were “sporting” firearms. Despite the fact
6 that the rifles and LCMs were not sporting guns, all industry members, including me, were
7 strongly encouraged to stop using the term “assault rifle” or even “tactical weapon” because
8 those terms were thought a too-transparent label that referenced offensive military assaults which
9 would therefore harm the public perception of such guns and decrease the sales of companies
10 that build them.

11 26. The terms “Assault Rifle” and “Assault Weapon” were first used to describe the
12 German WW2 “Sturmgewehr”-44 rifle, which roughly translates to “Storm” or “Assault” rifle.⁹
13 The name was subsequently applied to many similar rifles in the coming decades including
14 dozens of models sold in the United States. Well into the 2000s, almost everyone I knew in the
15 industry used the terms “assault weapon” and “assault rifle.” During my career, I personally
16 experienced the overt NSSF effort which sought to deflect away from that moniker by reframing
17 the origin of this terminology. This effort is still ongoing today and commonly referenced
18 industry instructions remain on the NSSF website: “If someone calls an AR-15 or other semi-
19 automatic rifle an “assault weapon,” he or she either supports banning these firearms or does not
20 understand their function and sporting use, or both. Please correct them. “Assault weapon” is a
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22 ⁹ Aaron Smith, *The Nazis’ assault rifle now made in America*, CNN Business
23 (June 29, 2016) <https://money.cnn.com/2016/06/29/smallbusiness/german-sturmgewehr-assault-rifle/index.html>
(last viewed May 5, 2023) (CNN article on the derivation of the term “assault rifle”).

1 political term created by California anti-gun legislators to ban some semi-automatic rifles there
2 in the 1980s.”¹⁰

3 27. The firearms industry openly referred to these and all similar weapons as “assault
4 weapons” and “assault rifles” as late as 2008, as evidenced by this 2008 issue of Gun Digest, a
5 publication which is commonly accepted in the industry as a prominent authority and advertising
6 venue:¹¹



22 ¹⁰ NSSF MSR marketing webpage <https://www.nssf.org/msr/> (last visited Jan 20, 2023)

23 ¹¹ One of many listing for archived issues of Gun Digest for sale from various resellers:
<https://www.amazon.com/Digest-Book-Assault-Weapons-Fifth/dp/087341778X> (last visited Jan 30, 2023)

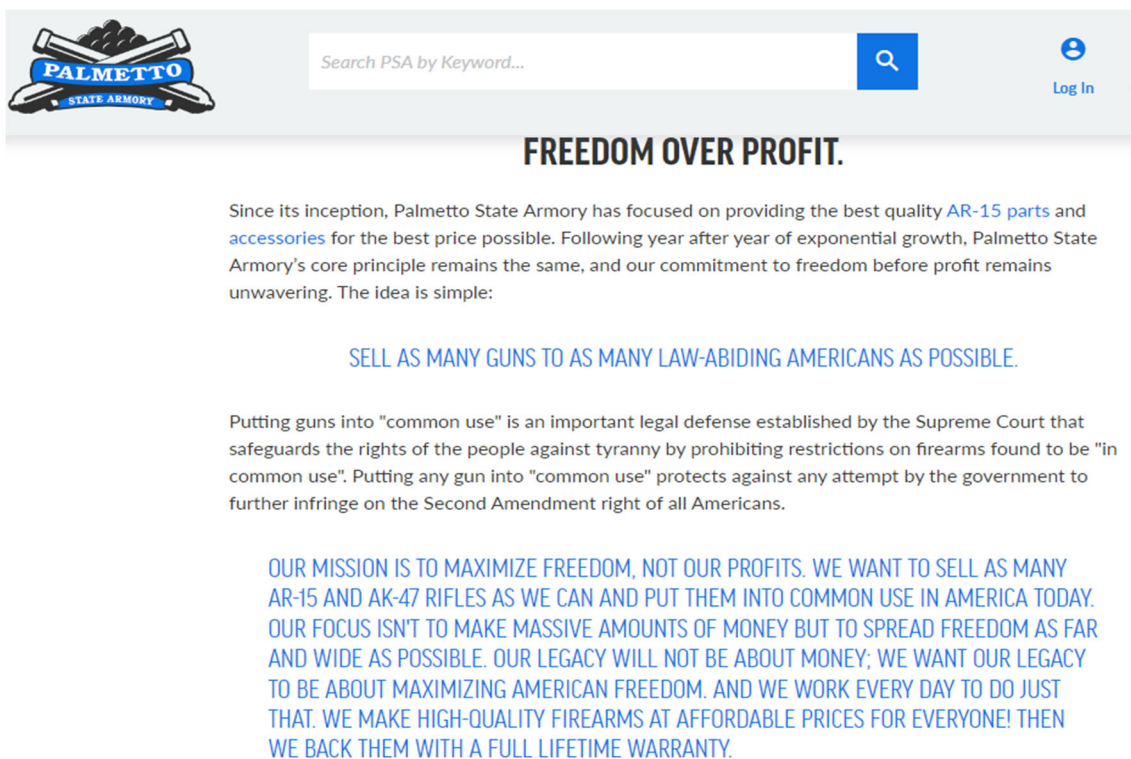
1 28. Since the late-2000s there has been a rapid increase in the number of companies
2 that manufacture and market versions of AR-15s, other similar assault weapons which are now
3 increasingly sold and marketed with LCMs. This has resulted in a transformation of the
4 marketplace from only a few AR-15 manufacturers in 2000, to several hundred AR-15/assault
5 rifle companies today. The list of AR-15 manufacturers now includes small, medium, and the
6 largest firearms companies in the United States, all of whom are striving to obtain market share
7 with derivatives of what is effectively the same product.

8 29. This crowded marketplace has created a highly competitive environment
9 resulting in thousands of “continuous improvements” in AR-15-style firearms sold to the general
10 public as a way to encourage consumers to buy one rifle over another. Over time, these
11 improvements developed by various individual companies have generally been incorporated on
12 most rifles across the marketplace and the result are firearms that are almost universally more
13 accurate, more portable, and more specifically tailored to produce lethal outcomes.

14 30. In my experience, most industry members commonly discuss the Heller decision
15 and openly discuss how to utilize the right to self-defense as established in that decision even if
16 many of the firearms being marketed are designed for offensive or tactical operations.

17 31. Finally, because most industry members are aware of Heller and subsequent legal
18 decisions, they are savvy to the impact they can have on the marketplace. An illustrative example
19 of this industry-wide effort can be found in the mission statement of Palmetto Armory, which is
20 one of the largest retailers in the United States. Palmetto publicly partners with most of the
21 largest manufacturers and even hosts a large annual “gathering” which is supported and attended
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1 by leading industry companies.¹² Palmetto’s prominence is important because their well-known
 2 and openly-advertised mission, found in the image below, is not focused on self-defense or even
 3 profit, rather it is specifically focused on quickly establishing that certain guns and LCMs are
 4 “common” as mentioned in the Heller decision; “we want to sell as many AR-15 and AK-47
 5 rifles as we can and put them into common use in America today.”¹³



17 **A. Features of AR15s and Other Assault Weapons and Their Necessity to Self Defense**

18 32. While there is no universally accepted definition of “assault rifle,” the term
 19 generally refers to a firearm that incorporates a set of physical features that increase the
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21 _____
 22 ¹² See <https://palmettostatearmory.com/thegathering.html> (last viewed March 21, 2023) (Website advertising Palmetto State Armory Industry “Gathering”).

23 ¹³ Mission Statement, Palmetto State Armory, <https://palmettostatearmory.com/about-psa.html> (last viewed March, 22, 2023).

1 effectiveness of killing enemy combatants in offensive battlefield situations, usually in close and
2 medium-range warfare. This list of features generally includes, but is not limited to, the features
3 enumerated pertinent Washington law and includes pistol grips, semi-automatic or fully
4 automatic fire control systems, the capability to accept detachable magazines, folding or
5 telescoping stocks, and barrel shrouds.

6 33. The AR-platform is highly modular, enabling owners to customize their rifles
7 with a variety of interchangeable components. Some components of a firearm are integral to its
8 operation, such as a trigger mechanism or barrel, and the firearm will not function properly
9 without them. But the particular components which qualify a weapon as an “assault weapon” if
10 it is equipped with them, are not integral to the basic operation of any firearm and are not
11 necessary to use a firearm effectively for self-defense or sporting purposes, such as hunting. I
12 address some of these features in the following points.

13 34. **Pistol grip.** Pistol grips beneath the action of a rifle or shotgun are not necessary
14 to operate those weapons as designed. A pistol grip is a feature incorporated into some firearm
15 stocks or as a piece separate from the stock, that allows the shooter to control and aim the rifle
16 during periods of rapid fire. For many decades, non-pistol grip stock designs have been standard
17 on firearms such as Remington 870 shotguns which are widely accepted to be among the most
18 effective home defense guns ever built and which have been leading sellers in the firearms
19 market. Even on AR-15s and similar rifles, stocks that do not incorporate this feature are
20 currently sold in states such as California, and prominent, widely referenced firearms authorities
21 on these topics, such as www.caligunner.com, assess those options and the function of these
22 “compliant” (non-pistol grip) rifles in this manner: “Everyone has a preference on what looks
23

1 the ‘best’ but the top picks below are all *great functioning options*.¹⁴ As also noted on that
 2 website, while “[s]ome people that are critical of the featureless option complain of the aesthetics
 3 of the available options,” “the overall function of the rifle is mostly maintained,” and “several
 4 companies continue to innovate and provide new products that look decent and perform well
 5 considering the constraints of the law.” While a pistol grip beneath the action of a rifle may be
 6 useful during military operations because it helps the shooter stabilize the weapon and reduce
 7 muzzle rise during rapid fire, a pistol grip is not necessary to operate a firearm safely in lawful
 8 self-defense situations.

9 **35. Forward Grip, Foregrip, or Second Handgrip.** This feature is designed to aid
 10 in firearm stabilization during the rapid firing of assault rifles and assault pistols. The feature
 11 first gained prominence inside special operations military units where “cluttering” from
 12 accessories and extreme heat generated from the rapid firing of rifles were problems for troops
 13 in wartime situations. A concise description of the feature’s first official origin is found in this
 14 firearms industry review from Lucky Gunner: “One of the items issued in this kit was a Knight’s
 15 Armament vertical forward grip, and it was included in order to deal with the problem of the
 16 forward rails becoming too cluttered to hold correctly when the other accessories were mounted.
 17 It also retained the benefits of recoil control and heat mitigation that made it a popular feature
 18 on submachine guns.”¹⁵ As this article details, forward grips can be an effective feature for
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 22 ¹⁴ 2021 *Featureless AR-15 Rifles: All You Need to Know!*, CaliGunner.com,
<https://caligunner.com/california-compliant-featureless-rifle/> (last visited Dec. 30, 2022)

23 ¹⁵ Kyle Eggimann, *Stop Holding Your AR Like That*, Lucky Gunner (Aug. 7, 2014),
<https://www.luckygunner.com/lounge/how-to-hold-an-ar15-foregrip/> (last visited Jan. 10, 2023).

1 troops charged with fast and efficient killing of enemy combatants in warfare, but in my opinion,
2 they are not a necessary feature for self-defense.

3 **36. Folding, telescoping, or thumbhole stock.** The stock is the part of a firearm that
4 allows it to be held at the shoulder for firing. A folding or telescoping stock can be collapsed to
5 shorten the length of the rifle (or extended to increase its length). A firearm does not need an
6 adjustable stock to operate as designed and can be equipped with fixed-length stocks instead.
7 Original rifles on which the currently existing and newly manufactured AR-15s are based, and
8 that were accepted by hundreds of thousands of military officers as their weapon of choice for
9 decades, did not incorporate a folding stock and no credible firearms authority I am aware of has
10 ever claimed that those firearms did not function effectively due to the lack of a folding stock.
11 Further, there are still non-folding stock options available today and all are sold and advertised
12 as fully functioning options for semiautomatic and bolt action rifles.

13 **37. Barrel Shroud.** A barrel shroud wraps around the barrel of a rifle or pistol,
14 enabling the shooter to grasp the barrel during firing without burning the non-trigger hand as the
15 rifle heats up in rapid-fire and continuous-fire situations. A barrel shroud is not necessary to
16 operate a rifle or pistol as designed in self-defense situations.

17 **38. Flash Suppressors, muzzle brakes, and muzzle compensators.** Muzzle brakes,
18 and compensators are devices added to the end of a firearm barrel that are designed to direct the
19 gas produced from firing in directions that result in reduced “felt recoil” and “muzzle rise.”
20 These devices are therefore designed to aid the shooter in staying on target in extended rapid-
21 fire situations. Some of these devices are also commonly referred to as flash suppressors, which
22 are devices that are attached to the muzzle of a firearm to also reduce or redirect the flash when
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1 shooting. This feature is affixed to military rifles to redirect the light (muzzle flash) generated
2 from the burning of gasses while firing which reduces the prevalence of “night blindness” that
3 can develop during low-light firefights. A flash suppressor also disguises the origin of fire and
4 avoids detection by enemy forces but has marginal benefit in civilian self-defense situations,
5 even in low-light conditions. As evidence for the lack of self-defense necessity for this feature,
6 it is widely accepted that the most effective self-defense guns are handguns and home-defense
7 shotguns. These firearms also produce muzzle rise and muzzle flash just like an AR-15 (or other
8 assault rifles) and yet none require a “flash suppressor,” “muzzle brake,” or “compensator”
9 device to operate effectively in self-defense situations and I am not aware of any industry
10 authority or advertisement that has ever claimed that such a firearm will not function as designed
11 without such a device.

12 39. **Detachable magazines.** Magazines are containers which hold ammunition in
13 spring-loaded preparation for feeding into the receiver of a firearm. Clips, while sometimes
14 confused with magazines, are different and can generally be described as small holding devices
15 that retain cartridges in preparation for faster loading into magazines. Magazines can either be
16 “fixed,” meaning they are integral within the gun, or “detachable,” meaning they are not
17 internally or permanently attached to the firearm. Many firearms, including some of the most
18 revered self defense firearms ever built, incorporate “fixed” magazines which means that these
19 containers are permanently affixed to or inside the firearm. Examples include most pump and
20 semiautomatic shotguns where a tubular magazine is affixed under the barrel. Magazines of this
21 sort can be temporarily or permanently “plugged” or shortened to regulate capacity. Many
22 rimfire rifles, including many semiautomatic designs, incorporate the same general fixed tubular
23

1 magazine design. Most lever-action rifles use the same sort of tubular magazine. Many bolt
2 action hunting rifles utilize a fixed “box magazine” design in which ammunition must be loaded
3 into the permanent “box” below the bolt, and then fed into the receiver from that magazine with
4 each cycle of the bolt. For “fixed magazine” firearms, in order to reload, the shooter must stop
5 shooting and reload the magazine one cartridge at a time before resuming shooting. Conversely,
6 detachable magazines enable a shooter to replace an empty or depleted magazine with a fresh
7 magazine to resume firing in a manner that is much faster than stopping to reload fixed
8 magazines. Unlike fixed magazines, detachable magazines can be preloaded and transported at
9 the ready with the gun, effectively greatly increasing the potential number of rounds fired in any
10 given period of time. For example, a component shooter with a common fixed-magazine bolt
11 action rifle may be able to accurately fire 15-20 rounds per minute with long pauses to reload
12 whereas a component shooter with an AR-15 and preloaded large capacity magazines can
13 accurately fire more than 100 rounds per minute with very short pauses to change magazines.
14 Detachable magazines may hold as many as 100 or more ammunition rounds but will also
15 function with a single round.

16 40. It is my experience that magazines which limit capacity to as few as five rounds
17 are commonly available and are often legally mandated for hunting in many states. It is my
18 experience that even if large capacity magazines are available or sold with firearms today, all
19 firearms companies offer lower capacity options (often 10 round versions to comply with laws
20 in various states).

21 41. Despite the recent proliferation of large capacity magazines, it is important to
22 note that there is no known firearm that requires a large-capacity magazine to function as
23

1 designed. By this I mean that all firearms that can accept a large-capacity magazine can also
2 accept a magazine that holds fewer rounds and still function precisely as intended. This is true
3 even of AR and AK platform rifles. Although many of these rifles are sold with a 30 round
4 magazine, the manufacturers all offer the optional purchase of 10 round or even lower capacity
5 magazines and could easily offer magazines limited to almost any given round count. There are
6 many pistols (such as the very popular Model 1911—which was the accepted defensive sidearm
7 of the U.S. Military for decades and is still one of the most widely owned guns in the United
8 States) that are built for magazines of eight rounds or less. Other widely popular guns such as
9 the Sig P938 are also designed to function with seven or eight round magazines and these guns
10 have been widely acclaimed by dozens of notable firearms industry experts as among the most
11 effective concealed carry/self-defense firearms on the market.¹⁶ While larger 10-plus round
12 magazines exist for these pistols, a smaller magazine (standard seven or eight round) is
13 considered preferable by almost all consumers because the physical size/profile of the shorter
14 magazine is easier to carry, shoot and conceal.

15 **42. Accessories to increase rate of fire.** It is also important to note that there are
16 accessories that are designed to modify a semi-automatic firearm in a manner that allows it to
17 fire at a rate that is nearly equal to that of a fully automatic firearm. These include bump stocks
18 (which are illegal in Washington), forced reset triggers, and binary triggers. Forced reset triggers
19 are aftermarket accessories which replace the standard trigger group and allow firearms to be
20 fired at a rate nearly equal to fully automatic firearms. They are easy to install and generally sell

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23 ¹⁶ Ben Findley, *Sig Sauer P938 Subcompact 9mm [FIREARM REVIEW]*, USA Carry (Dec. 29, 2021)
<https://www.usacarry.com/sig-sauer-p938-subcompact-9mm-review/> (last visited Jan. 10, 2023).

1 for between \$300 and \$500. Because of the debates as to the legality of these triggers, the
2 availability of these devices has been inconsistent. Binary Triggers are also aftermarket devices
3 that increase the potential rate of fire for many models of firearms including AR-15s and similar
4 rifles. Like forced reset triggers, these accessories replace the standard trigger group, are easy to
5 install and generally retail for between \$300 and \$500. Among the three devices discussed in
6 this section, binary triggers are the least controversial and therefore the most widely available.
7 These triggers essentially allow firing when the trigger finger of the shooter moves either
8 forward or backward and this results in a firearm that is capable of very high rates of fire.
9 According to United States Concealed Carry Association, “a 30-round magazine can be emptied
10 in about three seconds.” This means a competent shooter could fire between 400 and 600 rounds
11 per minute depending on magazine size. These triggers are widely available. Several models can
12 be found for sale at many retailers and on many websites. In my opinion none of these accessories
13 are applicable or desirable for self-defense.

14 **B. Marketing of AR-15s and Similar “Assault Weapons”**

15 43. Many of my opinions on these firearms and their histories are based directly on,
16 or reinforced by, the industry’s own publicly available marketing. In other words, my opinions
17 are also the opinions of the industry itself. In the section that follows, I offer many pertinent
18 examples.

19 44. The trend towards increased capacity and lethality is easy to see in AR-15s
20 especially when current rifles are compared to the assault rifles requested and then adopted by
21 the U.S. military or those sold by Colt 30 years ago. The commercially available AR-15s of
22 today are more reliable, more accurate, more ergonomic, and therefore more effective. This
23

1 trend of tactical “improvement” continues and is aggressively advertised each day by dozens of
 2 firearms companies. For example, this is a typical marketing page¹⁷ for an AR-15 manufacturer
 3 in which a prominent company advertises the various ways in which its features “improve”
 4 upon the basic AR-15 (additionally notice the large capacity magazine protruding in front of
 5 the pistol grip):



¹⁷ <https://danieldefense.com/daniel-dna> (last visited Jan. 10, 2023).

1 45. The increase in the AR-15 market has also facilitated an increase in accessories
2 availability for the AR-15 and similar firearms. These accessories are commonly referred to as
3 “furniture” because they are items a rifle owner can add to the gun, just as a person would add
4 furniture to personalize an apartment.

5 46. Most AR-15s and similar firearms now incorporate features designed to accept
6 one or more of dozens of accessories (furniture), all of which are designed and marketed to
7 increase the effectiveness of the rifle in tactical battlefield situations.

8 47. The list of accessories includes hundreds of LCM options, highly-effective
9 electronic optics, more sensitive triggers, devices such as bump stocks and modified trigger
10 systems that convert guns to near-fully-automatic rates of fire, forward and pistol grip options,
11 tactical lights, laser-pointing devices, and many others. Almost none of these accessories were
12 available to the United States military at the time of the rifle’s adoption in the early 1960s, and
13 in many cases, U.S. civilians can now outfit rifles in a manner more lethal than the rifles carried
14 by the military. There are now hundreds of companies and retailers who encourage customers to
15 make their rifles more effective by accessorizing. The following are examples of industry
16 marketing efforts that illustrate this trend (*see next page*):¹⁸

17 ///

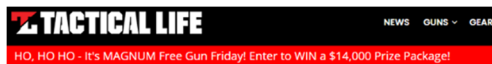
22 ¹⁸ *Top 10 Black Guns AR Accessories*, Tactical Life (Dec. 5, 2013) <https://www.tactical-life.com/gear/top-10-black-guns-ar-accessories/> (last visited Jan. 10, 2023); Eric Hung, *Best AR-15 Furniture & Accessories*, Pew
23 Pew Tactical (Aug. 21, 2022), <https://www.pewpewtactical.com/best-ar-15-furniture-accessories/> (last visited Jan. 10, 2023).



6 Best AR-15 Upgrades: Triggers, Brakes, Handguards, BCGs & More - Pew Pew Tactical

7 [Visit](#)

8 Images may be subject to copyright. [Learn More](#)



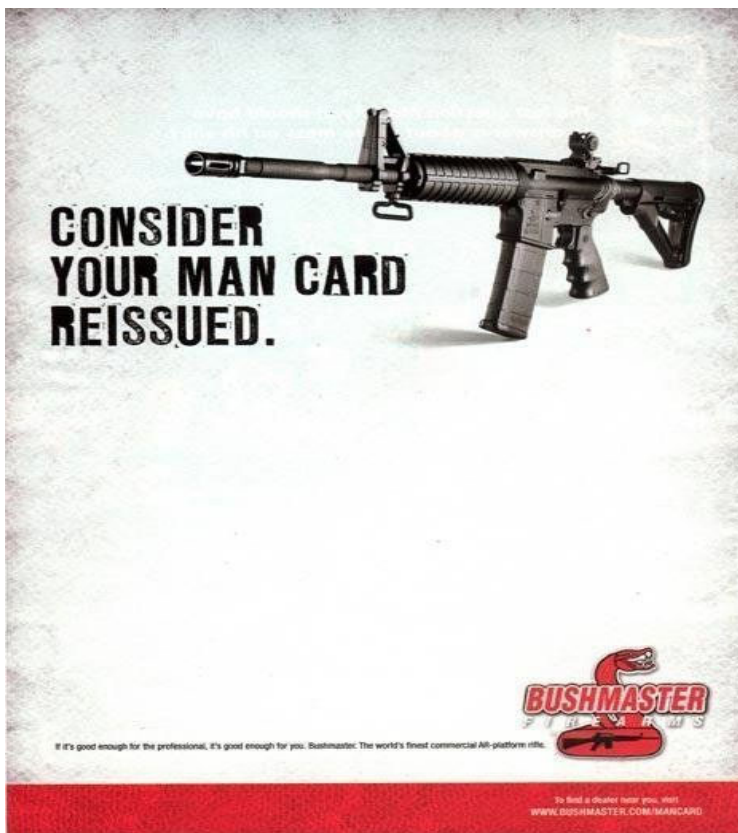
10 **Top 10 Black Guns AR Accessories**

11 by TacticalLife — January 4, 2015



13 Top 10 Black Gun AR Accessories

14 48. The competitive AR-15/assault rifle marketplace has also resulted in
15 manufacturers seeking to create new customers through professional, targeted marketing
16 campaigns. Most of these campaigns overtly target young American males, such as this example
17 from 2010:



1 49. The gun and LCMs advertised in this campaign (Bushmaster XM15 rifle) has
2 been used by young men in notable mass shootings, including those in Sandy Hook, Connecticut,
3 and Buffalo, New York.¹⁹

4 50. It is sometimes argued that commercially available assault weapons are not
5 offensive weapons of war. But this is regularly and directly contradicted by prevalent firearms
6 industry AR-15 marketing that encourages potential customers to buy and deploy the same
7 weaponry as elite Special Forces units of the U.S. military. It is my experience that most of these
8 customers are young men. In other words, despite the “modern sporting rifle” claims, marketing
9 within the firearms industry admits to, and capitalizes on, the AR-15-style weapons and large
10 capacity magazines as offensive military weaponry sold to young men. Here is a notable example
11 (*see next page*):

12 ///

22 ¹⁹ F. Riehl, *Proof of Your Manhood – The Man Card from Bushmaster*, Ammoland (May 7, 2010),
23 <https://www.ammoland.com/2010/05/bushmaster-man-card/#axzz7q0HQao58> (last visited Jan. 10, 2023).

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51. A version of the Daniel Defense rifle in this advertisement was the weapon used in the Uvalde, Texas, shooting.²⁰

52. Smith and Wesson's AR-15 variant is now widely reported to be the best-selling AR-15 in the United States. These rifles and their accompanying large capacity magazines have been used in notable mass shootings including in the Parkland, Florida, school shooting and in the Highland Park, Illinois, July 4th parade shooting. Smith and Wesson's primary customers

²⁰ Michael Daly, *Uvalde Shooter's Gunmaker Hypes 'Revolutionary' New Killing Machine*, The Daily Beast (Jun. 8, 2022, 5:18 AM) <https://www.thedailybeast.com/uvalde-shooter-salvador-ramos-gunmaker-daniel-defense-hypes-revolutionary-new-killing-machine> (last visited Jan. 10, 2023) (showing Daniel Defense advertisement).

1 for this rifle are U.S. civilians who are generally not trained in military or police tactics nor
 2 monitored by military safety protocols, but the company's chosen name for this rifle—the
 3 M&P15, which means "Military and Police AR-15"—very directly trades on the concept that
 4 buyers of this rifle will be equipped with the same offensive rifles as trained military and police
 5 units.²¹ Here is an image of the rifle along with the conspicuous large-capacity magazine:



14

15 53. An increasing number of smaller AR-15 manufacturers now regularly seek to
 16 grow their market by advertising in ways that depict young men with AR-15s inciting or
 17 engaging in armed urban warfare, such as in the below recent example from AR-15 maker
 18 Spike's Tactical, which encourages men to deploy their AR-15s (each one equipped with large

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22 ²¹ *Spec Sheet, M&P 15 Sport II Series, Smith & Wesson,*
 23 <https://assets.contentstack.io/v3/assets/bltb61dcb3c40854cd9/blt1d654c3b1f9c4ce4/63b1d9077760ab1f00b00a3a/10202.pdf> (last visited Jan. 10, 2023).

1 capacity magazine) in armed conflict across the United States:²²



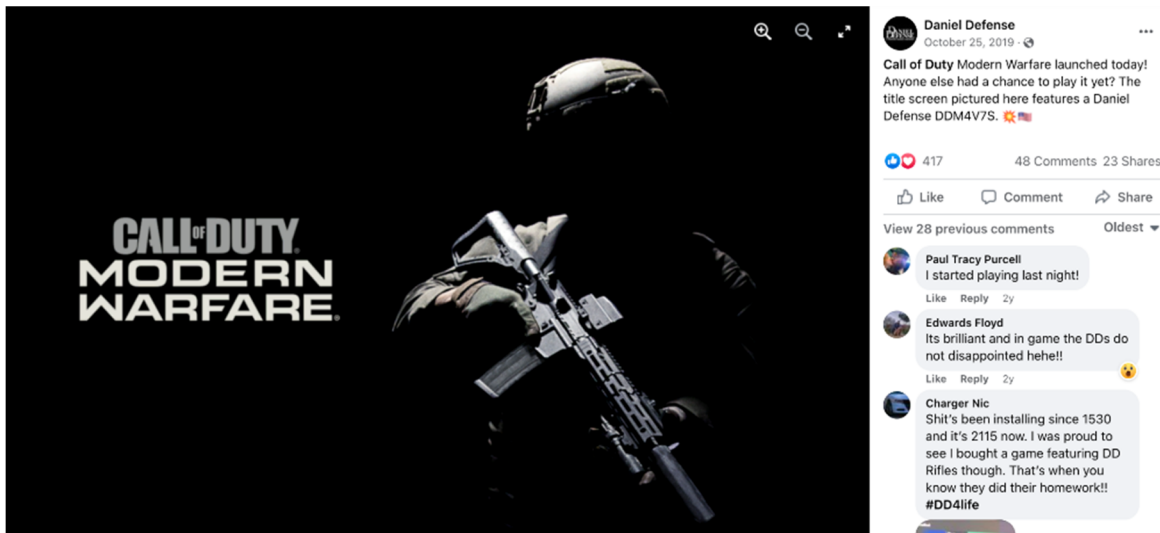
9 54. Some AR-15 manufacturers now often seek to spur sales by depicting men
10 deploying their personal AR-15s and large capacity magazines in self-appointed armed offensive
11 vigilante actions, such as this advertising image supplied by the AR-15 maker Patriot Ordnance
12 Factory:²³



21
22 ²² *Left-wing media outlets lose minds over gun ad, disregard basic rules of journalism*, Spikes Tactical
(Jan. 11, 2018): [https://www.spikestactical.com/press/left-wing-media-outlets-lose-minds-over-gun-ad-disregard-
basic-rules-of-journalism/](https://www.spikestactical.com/press/left-wing-media-outlets-lose-minds-over-gun-ad-disregard-basic-rules-of-journalism/) (last visited Jan. 10, 2023).

23 ²³ <https://pof-usa.com/wallpapers/> (last visited Jan. 10, 2023).

1 55. Many firearms companies now seek out, and celebrate placement of assault
 2 weapons in popular video games that are commonly played by children. The following is a
 3 notable example of an AR-15 company celebrating the placement of their gun into the Call of
 4 Duty Modern Warfare video game:²⁴



13 56. Some prominent AR-15 companies design and market their rifle models with
 14 specific suggested uses that bear obvious similarities to mass shooting events that have happened
 15 in U.S. urban environments such as the Pulse Nightclub, Las Vegas Concert Shooting, and the
 16 El Paso Walmart shooting. These campaigns typically do not reference self-defense and instead
 17 rely upon marketing assault rifles in offensive or “tactical” actions. Below is one relevant
 18 example from AR-15 maker Wilson Combat (*see next page*):²⁵

19 ///

22 ²⁴ Ryan Busse, *The Gun Industry Created a New Consumer. Now It's Killing Us.*, The Atlantic (July 5, 2022) <https://www.theatlantic.com/ideas/archive/2022/07/firearms-industry-marketing-mass-shooter/670621/> (last viewed Feb 1 2023)

23 ²⁵ <https://www.wilsoncombat.com/ar-calibers/224-valkyrie/super-sniper/> (last visited Jan. 10, 2023).



57. There are many AR-15 companies that combine the trends of continuous improvement, accessorization, and modern digital marketing to encourage potential customers to optimize their rifles through an online ordering process. Below is one such example.²⁶ The official corporate name of this manufacturer further suggests the preferred use of their AR-15s is in offensive action from “rooftops,” which is precisely how the shooter during the July 4th Highland Park, Illinois, parade deployed his AR-15 rifle and LCMs.



²⁶ <https://rooftoparms.com/> (last visited Jan. 10, 2023).

III. SUMMARY

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58. There may be arguments presented in this case that suggest that the assault weapons regulated by the Washington law have widespread and long-held sporting or self defense histories or that they have always been accepted and promoted by the firearms industry.

59. It is my personal experience that these assertions are directly contradicted by both historical facts and industry marketing, both of which I experienced personally. These firearms were designed for and are often deployed as offensive or tactical weapons by police and military units.

60. It is also my experience and opinion that the firearms regulated by this law are not necessary for self-defense.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 22nd day of May, 2023, at Kalispell, Montana



RYAN BUSSE

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1. DECLARATION OF SERVICE

I hereby declare that on this day I caused the foregoing document to be electronically filed with the Clerk of the Court using the Court’s CM/ECF System which will serve a copy of this document upon all counsel of record.

DATED this 22nd day of May, 2023, at Seattle, Washington.

s/ Andrew R.W. Hughes

ANDREW R.W. HUGHES, WSBA #49515
Assistant Attorney General