



February 15, 2023

President Joseph R. Biden, Jr.
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear President Biden:

We write to address your irresponsible and unconstitutional demand that Congress ban firearms commonly used by law-abiding Americans for self-defense. With every tool at our disposal, we will oppose your attempt to trample on Americans' fundamental right to defend themselves with guns.

Last week, you called on Congress to ban so-called "assault weapons." While you fail to define the very epithet you propose to ban, we know that is by design. Anti-gun politicians like yourself use the misleading label of "assault weapon" to scare Americans—expecting us to endorse your efforts to criminalize law-abiding gun owners. We also know that your *personal* definition of "assault weapons" is staggeringly broad—encompassing all semiautomatic weapons—which are the most common and effective self-defense weapons in use today, employed by over 100 million Americans to defend their homes and families. Last November, in a moment of unscripted candor, you stated to reporters that "[t]he idea we still allow semiautomatic weapons to be purchased is sick. It's just sick. It has no, no social redeeming value. Zero. None. Not a single, solitary rationale for it except profit for the gun manufacturers."¹

This statement is astonishing. According to estimates by the National Shooting Sports Foundation, there are at least 100 million semiautomatic handguns in the United States, the vast majority of which are lawfully possessed by law-abiding Americans exercising their God-given right of self-defense. A semi-automatic pistol is the self-defense weapon of choice for the overwhelming majority of law-abiding gun owners. Moreover, Americans possess an estimated 45 million lawfully owned semi-automatic rifles in the United States. Thus, when Americans hear that you plan to come after our so-called "assault weapons," we brace ourselves for an attack on

¹ Victor Nava, *Biden Vows to Push Ban on Semiautomatic Guns: 'It's Just Sick,'* N.Y. Post (Nov. 24, 2022), at <https://nypost.com/2022/11/24/biden-vows-to-push-ban-on-semiautomatic-guns/>.

ordinary, safe, and highly effective weapons commonly used for self and home defense by over 100 million Americans.

Knowing how radical your proposed policy is, you attempted to assuage Americans' legitimate concerns about self-defense by invoking the example of Brandon Tsay, a heroic young man who wrestled a firearm away from an active shooter in Monterey Park, California. Your reliance on Mr. Tsay's heroics, however, is both cynical and self-defeating. His example directly undermines your case, in at least two ways.

First, Mr. Tsay had the great misfortune of facing an active shooter while unarmed himself. That's not a fair fight. Most Americans would understandably prefer a firearm of their own when facing an active shooter—which you would deny them.² While Mr. Tsay's actions were heroic, the events of that day were also uncommon. Unarmed bystanders almost always fall victim to homicidal shooters and, absent unique circumstances, Mr. Tsay would likely have been no different. Far from empowering heroes like Mr. Tsay, your policies would disarm them, turning everyday heroes into additional victims of deranged killers.

A crime victim armed with a gun is much safer than a victim without one. Statistics support the effectiveness of law-abiding Americans' use of firearms in self-defense. The oft-cited \$10 million CDC-sponsored study commissioned by the Obama Administration—when you were Vice President—reported that “[d]efensive use of guns by crime victims is a common occurrence.”³ In fact, the successful use of guns in self-defense dwarfs the number of injuries and deaths from guns under any circumstance—including crimes, accidents, and self-inflicted injuries. According to the same CDC-sponsored study, “[i]n 2010, incidents in the United States involving firearms injured or killed more than 105,000 individuals; there were twice as many non-fatal firearm-related injuries (73,505) than deaths.”⁴ By contrast, there were 500,000 to 3 million defensive uses of guns by Americans: “Almost all national survey estimates indicate that defensive gun uses by victims are at least as common as offensive uses by criminals, with estimates of annual uses ranging from about 500,000 to more

² If you doubt this, perhaps you should ask your Secret Service agents to disarm first. Their use of automatic weapons highlights the absurdity of your “safety for me but not for thee” proposal. *See also* Statute of Northampton, 2 Edw. 3, c. 3 (1328) (Eng) (disarming the King's subjects but not the King's men).

³ National Academies of Sciences, Engineering, and Medicine, *Priorities for Research to Reduce the Threat of Firearm-Related Violence* (2013), at <https://doi.org/10.17226/18319>.

⁴ *Id.* at 1.

than 3 million”⁵ Moreover, uses of guns for self-defense also outnumber the uses of guns in crimes themselves.⁶

And there is good reason to believe that these numbers are vastly underreported: “According to the Centers for Disease Control and Prevention, almost every major study on defensive gun use has found that Americans use their firearms defensively between 500,000 and 3 million times each year. There’s good reason to believe that most defensive gun uses are never reported to law enforcement, much less picked up by local or national media outlets.”⁷ According to your own CDC, Americans use guns to protect themselves and their families up to 3 million times per year, if not more—far more often than guns are used in crimes, and far, far more often than guns injure people.

Statistics also show that a crime victim who uses a gun in self-defense is much safer than an unarmed crime victim (like Mr. Tsay) who resists by other means. Again, your own CDC report demonstrates this conclusion: “Studies that directly assessed the effect of actual defensive uses of guns (*i.e.*, incidents in which a gun was ‘used’ by the crime victim in the sense of attacking or threatening an offender) have found consistently lower injury rates among gun-using crime victims compared with victims who used other self-protective strategies.”⁸ In other words, having a gun to defend yourself against an armed criminal is the safest form of self-defense. In your speech, you correctly praised Brandon Tsay for having “found the courage to act and wrestle the semiautomatic pistol away from the gunman,” but then you immediately called for policies that will disarm law-abiding citizens—making it harder, and much more dangerous, for them to engage in lawful self-defense in the future.

Second, your reliance on Mr. Tsay’s case suffers from another glaring problem. You invoked the Monterey Park shooting to demand a ban on “assault weapons.” But the home-modified Cobray pistol used by the Monterey shooter was *already illegal* under California’s “assault weapon” ban—and thus an “assault weapon” ban was obviously *ineffective in preventing the shooting*. As the New York Times reported: “The Cobray model firearm was manufactured in the 1970s and 1980s. It has several features that *make it an illegal assault weapon in California*, including the combination of a threaded barrel and the ability to accept a detachable magazine.”⁹ In other

⁵ *Id.* at 15.

⁶ *See id.* (comparing the 500,000 to 3 million uses of guns for self-defense to “about 300,000 violent crimes involving firearms in 2008”).

⁷ The Heritage Foundation, *Data Visualizations: Defensive Gun Uses in the U.S.*, at <https://datavisualizations.heritage.org/firearms/defensive-gun-uses-in-the-us/>.

⁸ *Id.* at 15–16.

⁹ Jeremy White, et al., *What We Know About the Gun Used in the Monterey Park Shooting*, N.Y. Times (Jan. 26, 2023), at <https://www.nytimes.com/interactive/2023/01/26/us/monterey-park-shooting-gun.html> (emphasis added).

words, you politicized the Monterey Park tragedy to demand that Congress pass one policy (a federal “assault weapons” ban) that California’s identical policy (a state “assault weapons” ban) had already failed to prevent.

Your claim that the 1994 federal “assault weapon” ban, which you supported in Congress, reduced mass shootings is also unsupportable. Two different studies commissioned by the U.S. Department of Justice—during the Clinton and Bush Administrations—found no discernible effect on violent crime from that legislation.¹⁰

The right to keep and bear arms in self-defense guards and protects the right to life, the first and most fundamental God-given right recognized in the Declaration of Independence. The right to keep and bear arms exists for the purpose of allowing citizens to resist tyranny—both the petty tyranny of an armed criminal and the systematic tyranny of oppressive government. Our Nation has a proud history of protecting and defending this fundamental right, and the times when we have failed to do so represent some of the darkest hours of our collective history.”¹¹

And, needless to say, your repeated attempts to deprive law-abiding Americans of guns that are in common and widespread use for self-defense are patently unconstitutional. Just last term, “[d]rawing from this historical tradition,” the Supreme Court reaffirmed that the Second Amendment protects “the carrying of weapons that are ... ‘in common use at the time.’”¹² Semiautomatic pistols and rifles “are indisputably in ‘common use’ for self-defense today.”¹³ Indeed, semiautomatic handguns are “the quintessential self-defense weapon.”¹⁴ There is “no justification for laws restricting the public carry of weapons that are unquestionably in common use today.”¹⁵

¹⁰ See Jeffrey Roth et al., U.S. Department of Justice, Office of Justice Programs, *Impacts of the 1994 Assault Weapons Ban: 1994–96* p.10 (March 1999), at <https://www.ojp.gov/pdffiles1/173405.pdf> (“The public safety benefits of the 1994 ban have not yet been demonstrated.”); Christopher S. Koper, et al., 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* p.97 (July 2004), at <https://www.ojp.gov/pdffiles1/nij/grants/204431.pdf> (finding that the banned “assault weapons” “were used in only a minority of gun crimes prior to the 1994 federal ban, and ... were used in a particularly small percentage of gun crimes,” so “the ban’s impact on gun violence is likely to be small at best, and perhaps too small for reliable measurement”).

¹¹ *Id.*

¹² *New York Pistol & Rifle Club v. Bruen*, 597 U.S. ____ (2022), Slip op. at 38.

¹³ *Id.* at 39.

¹⁴ *Id.*

¹⁵ *Id.*

In sum, the right to keep and bear arms is one of the most fundamental and deeply rooted liberties in our constitutional tradition. It guards and protects the most basic of all rights, the right to life, and it stands as a constant bulwark against tyranny. We stand ready to oppose any attempt by your Administration to trample on this fundamental constitutional right.

Sincerely,



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ATTORNEY GENERAL OF ALABAMA



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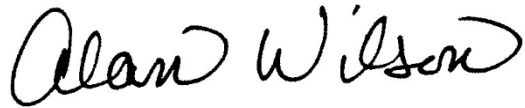
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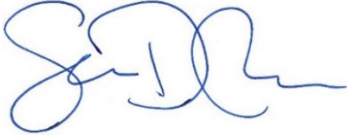
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