

Testimony before the Vermont State Senate Judiciary Committee on SB 4

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I would like to thank Chairman Dick Sears, Robert Norris who invited me to testify, and the other distinguished members of the committee for the opportunity to speak to you about Senate Bill 4 on Juvenile and Criminal Procedures.

The bill proposes to ban the sale of “assault weapons” to those under age 21 and also a number of other provisions such as “defacing of firearm’s serial numbers.” I will first start with a general discussion about assault weapon bans, then about the ban for those under age 21, and then the issue of serial numbers.

Assault weapon bans

Most mass public shootings aren’t carried out with semi-automatic rifles. Over the last 25 years, 58% involve only handguns, and only 15% solely involve rifles of any variety.¹ **The most deadly mass public shootings are the attacks where multiple guns are used.**

Over the last five years in Vermont that data is available from 2017 to 2021 there have been a total of two murders committed with any type of rifle. Nationally, the FBI data shows that only 2 percent of murders involve any type of rifle.²

The proposed Vermont law for banning assault weapons for those under 21 defines these weapons in a similar way to the original federal ban. Many academic studies have examined the

original federal assault weapons ban. They consistently found no statistically significant impact on mass public shootings or any other type of crime. The largest survey of American academics who have published peer-reviewed research on gun control showed little support for these bans.³ On a 1 to 10 scale, from ineffective to extremely effective, criminologists rated the ban at 1.71 and economists at 1.57. Public Health people gave it the highest rating at 4.06, but even that didn't reach the midpoint in terms of effectiveness.

Even Clinton administration-funded research by criminology professors Chris Koper and Jeff Roth confirmed as much in a 1997 report for the National Institute of Justice.⁴ "The evidence is not strong enough for us to conclude that there was any meaningful effect (i.e., that the effect was different from zero)," they wrote. Koper and Roth suggested at the time that it might be possible to find a benefit after the ban had been in effect for more years. In 2004, they published a follow-up NIJ study with fellow criminologist Dan Woods.⁵ "We cannot clearly credit the ban with any of the nation's recent drop in gun violence," they concluded. "And, indeed, there has been no discernible reduction in the lethality and injuriousness of gun violence."

Similarly, a report from the National Research Council was unable to find evidence that the federal assault weapon ban reduced violent crime.⁶

In 2021, when federal Judge Roger Benitez struck down California's "assault weapons" ban, he concluded that the state's experts, who summarized the existing research, could not provide any evidence that the prohibition reduced any type of violent crime. Some states define assault weapons in the same way as the proposed Vermont law.

Under the 1994-2004 ban, there was no drop in the number of attacks with "assault weapons," and virtually no change in total mass shootings.

But some believe otherwise. "When we passed the assault weapons ban, mass shootings went down. When the law expired, mass shootings tripled," President Biden frequently claims. The claim that mass shootings changed with the ban relies on one researcher's unique definition – a definition that inconsistently includes fights between drug gangs over turf. But even with that definition, there is no statistically significant change in the number of attacks with assault weapons. Instead, it's the increase in non-assault weapon shootings that drives the growth in attacks. The percentage of attacks with assault weapons increased during the ban and fell once the ban sunset – just the opposite of what proponents of the ban would expect.⁷

These results are not surprising given that the term "assault weapon" is nonsensical. Finally, even the Associated Press's highly influential Stylebook followed by the news media recognizes that fact.⁸ As the AP now acknowledges, the term conveys "little meaning" and is "highly politicized." They recognize that "AR- or AK-style rifles designed for the civilian market" are fundamentally different than military weapons.

“The preferred term for a rifle that fires one bullet each time the trigger is pulled, and automatically reloads for a subsequent shot, is a *semi-automatic rifle*,” according to the AP Stylebook.⁹ “An *automatic rifle* continuously fires rounds if the trigger is depressed and until its ammunition is exhausted. Avoid *assault rifle* and *assault weapon*, which are highly politicized terms that generally refer to AR- or AK-style rifles designed for the civilian market, but convey little meaning about the actual functions of the weapon.”

While the term “military-style” is not useful to distinguish guns based on their looks rather than their function, some such as President Biden frequently talks about banning all semi-automatic guns.¹⁰ That is at least logically a more consistent approach.

Semi-automatic weapons are needed to protect people and save lives. If you were to ban semi-automatic rifles, what is the alternative? Single-shot rifles that require manual reloading after every round. People may need to fire more than one round if they are facing multiple criminals or their first shot misses or they wound but don’t incapacitate an attacker. In those circumstances, a person may not have the luxury of time to manually reload their gun.

The civilian AR-15 uses essentially the same bullets as small game-hunting rifles. It also fires at the same rapidity (one bullet per pull of the trigger), and does the same damage. Military weapons have machine gun modes where the gun will continue firing bullets as long as the trigger is pressed. The civilian version of the AK-47 is similar, though it fires a much larger bullet – .30 inches in diameter, as opposed to the .223-inch rounds used by the Bushmaster. Still, no self-respecting military in the world would use the civilian versions of either of these guns.

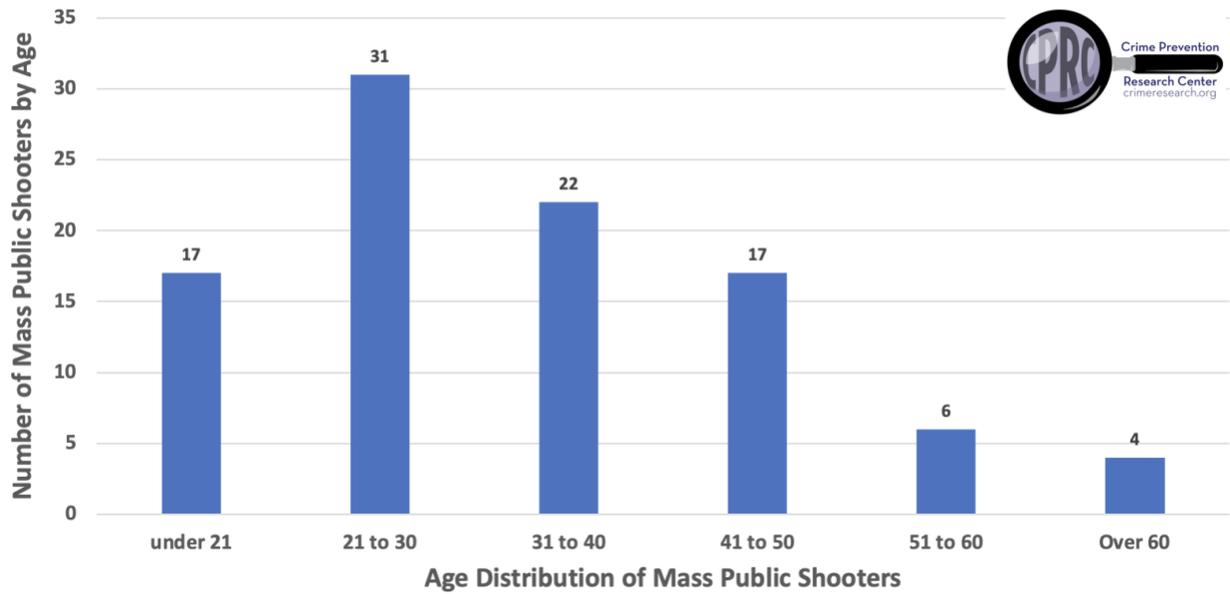
Many still ask, “Why do people need an AR-15 to kill deer?” “What do you think – deer are wearing Kevlar vests?” The answer is simple: It is a hunting rifle. It has just been made to look like a military weapon.

The .223-inch rounds used by the AR-15 are actually small compared with what is usually used to hunt deer. Many states prohibit using .223-inch bullets out of concern that the animal will suffer from its wounds rather than experiencing a quick death.

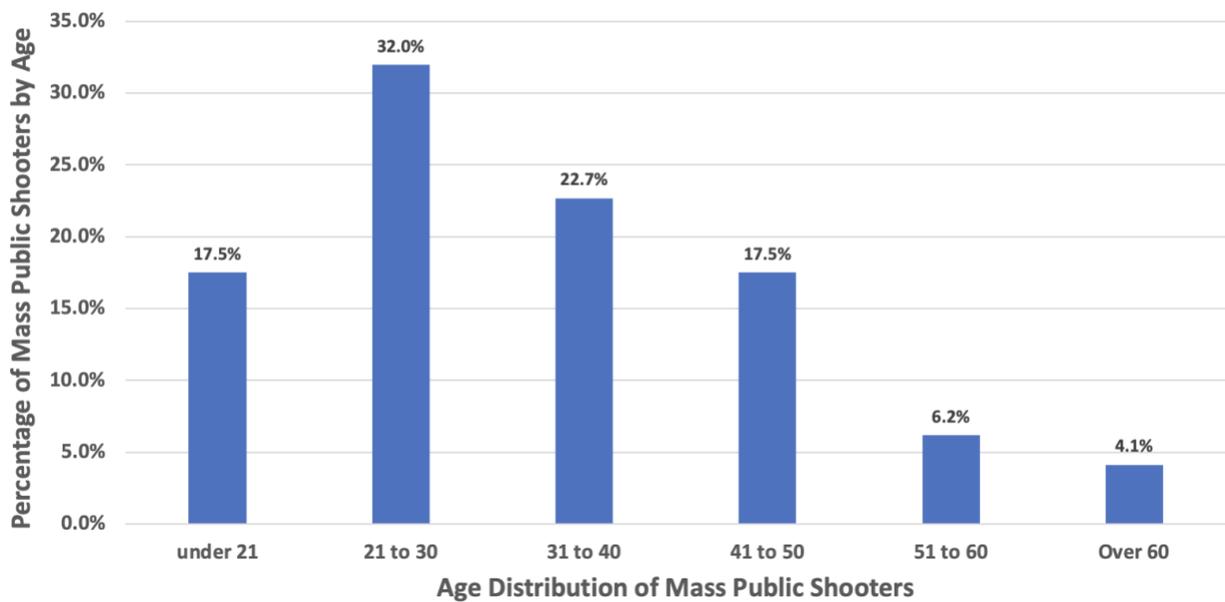
Assault weapon ban for those under 21

The notion behind banning those under 21 from obtaining assault weapons is presumably that such guns in the hands of those under that age is a greater danger than for those who are older than that. But if that is the standard and the concern is with regard to mass public shootings, everyone from 21 to 50 years old would also have to be banned from buying guns because they have at least as high a rate of committing such crimes. Because the bill asks about banning assault weapons for those under 21, the graph here shows the number of such mass murderers by ten-year age groups.¹¹

Age Distribution of Mass Public Shooters: 1998 to January 2023

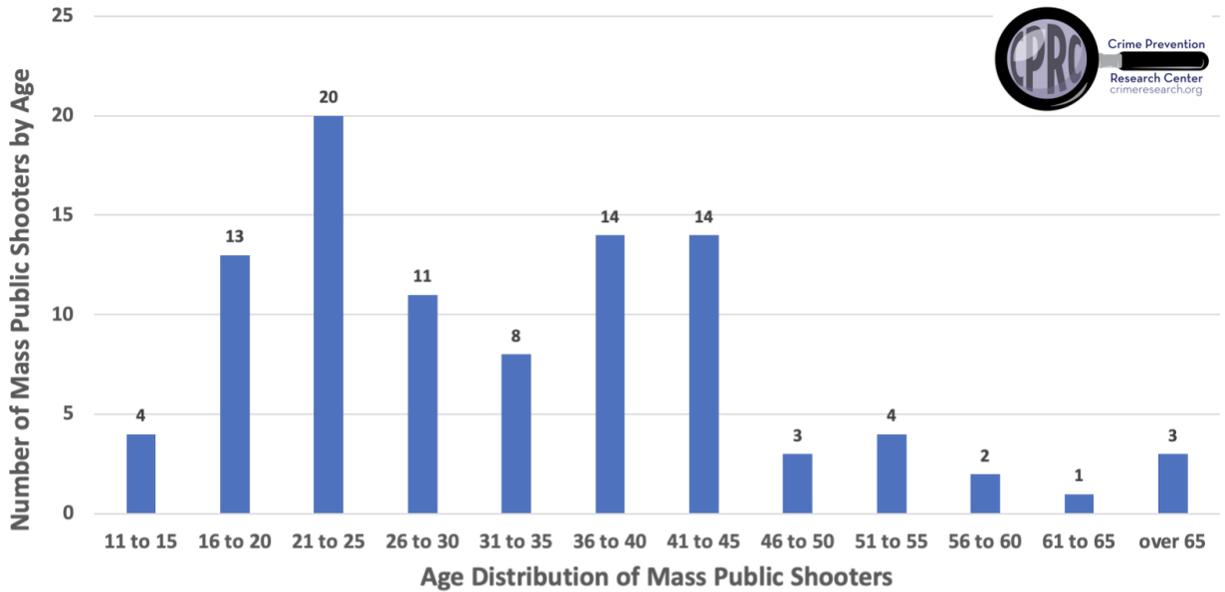


Age Distribution of Mass Public Shooters: 1998 to January 2023

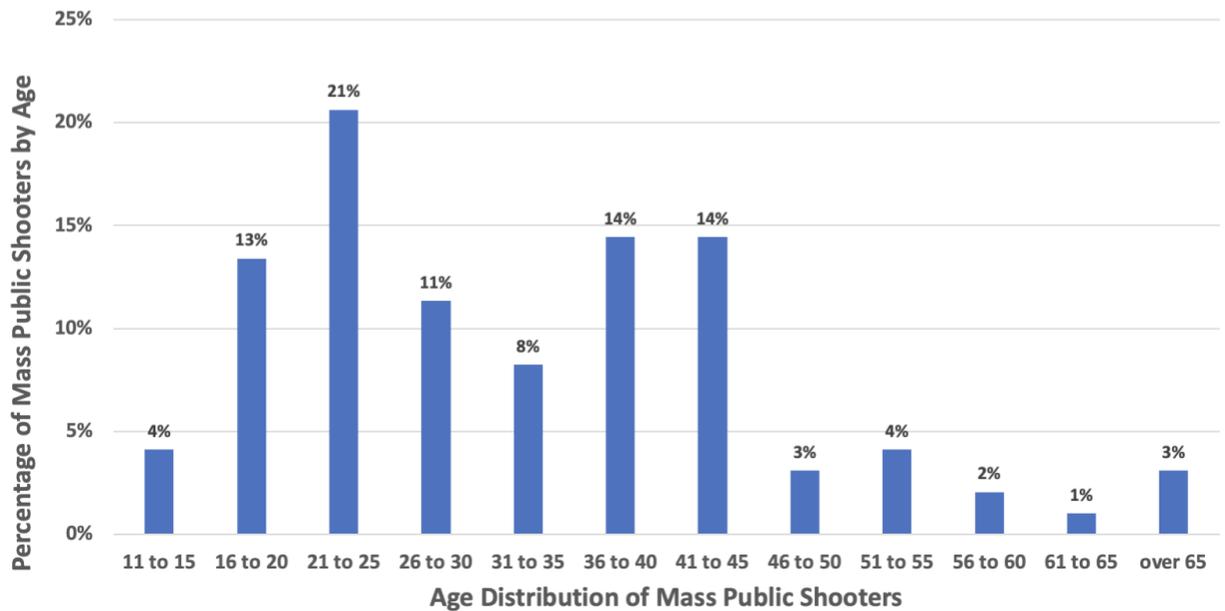


But breaking this down by five-year age groups shows a similar pattern.

Age Distribution of Mass Public Shooters: 1998 to January 2023



Age Distribution of Mass Public Shooters: 1998 to January 2023



Early states actually mandated 18- to 20-year-olds own guns so that they could participate in the state militias

Given the Supreme Court’s historical emphasis on laws in effect in 1791 and 1868, most early states mandated that younger people possess guns to serve in the militia. For example, Connecticut’s militia law made that requirement starting at 16 years old.¹² Pennsylvania required that those 17 to 55 years old “shall be sufficiently armed with one good musket, fuzee

or other firelock well fixed.”¹³ Historian Clayton Cramer collected the laws for other states that required similar gun ownership regulations.¹⁴

Defacing Serial Numbers on Guns

Federal law already prohibits defacing a serial number on guns punishable by up to five years in prison and at \$5,000 fine. Simply possessing a gun with an altered or missing serial number is a first-degree misdemeanor and punishable by up to one year in prison and a \$1,000 fine. It is essentially impossible to effectively remove a serial number from a gun as the stamping of the number into the metal

Serial numbers on guns are thought to be a way to protect public safety and prevent violent crime. Indeed, that has been the logic behind a recent push to put serial numbers on many different parts of a gun. “This rule will make it harder for criminals and other prohibited persons to obtain untraceable guns,” U.S. Attorney General Merrick Garland claimed last August.¹⁵ “It will help to ensure that law enforcement officers can retrieve the information they need to solve crimes. And it will help reduce the number of untraceable firearms flooding our communities.”

The expanded use of serial numbers is aimed at stopping the production of homemade guns, now called “ghost guns” by gun control advocates. Homemade guns have been around since even before the United States became a country, and it was never terribly difficult to make a gun with simple machine tools. But now their production has become nearly impossible to regulate. With 3-D metal printers, people can now make weapons that are indistinguishable from those purchased in stores.¹⁶

But, in any case, despite what people see on TV shows such as “Law & Order,” serial numbers on guns don’t help law enforcement solve crimes.

In theory, if criminals leave registered guns at a crime scene, the serial numbers can be used to trace the weapons back to the perpetrators. Similarly, Biden claims ghost guns have “no serial numbers, so when they show up at a crime scene, they can’t be traced.”

But in real life, guns are only left at the scene of a crime when the gunmen have been seriously injured or killed. With both the criminal and weapon present at the scene, police can solve these crimes without registration. In the exceedingly unusual instances where registered guns are left at the scene, they aren’t registered to the person who committed the crime.

Police in jurisdictions across the country with registration for decades can’t point to any crimes they have been able to solve with it. In a 2001 lawsuit, the Pennsylvania state police could not identify any crimes solved by their registration system from 1901 to 2001, however they did claim that it had “assisted” in a total of four cases, for which they could provide no details.

In a 2013 deposition for *District of Columbia vs. Heller II*, the plaintiffs recorded that the Washington, D.C. police chief could not “recall any specific instance where registration records were used to determine who committed a crime, except for possession offenses.”¹⁷

During testimony before the Hawaii State Senate in 2000, Honolulu’s police chief stated that he couldn’t find any crimes that had been solved due to registration and licensing. The chief also said that his officers devoted about 50,000 hours to registering and licensing guns each year. This is time that could have been spent on traditional, time-tested law enforcement activities.

New York and Maryland spent tens of millions of dollars compiling a computer database that contained the unique ballistic “fingerprints” of each new gun sold over 15 years.¹⁸ But even these states, which strongly favor gun control, eventually abolished their systems because they never solved a single crime.

Other countries have had similar experiences. In 2010, Canada conducted a detailed examination of its program. It found that, from 2003 to 2009, 1,314 out of 4,257 Canadian homicides involved firearms. Of the identified weapons, about three-quarters were not registered. Among registered weapons, the registered owner was rarely the person accused of the homicide. In just 62 cases — only 4.7 percent of all firearm homicides — was the gun registered to the accused, and an unknown number of these homicide cases involve instances of self-defense. But the Royal Canadian Mounted Police failed to identify any cases where registration was integral to solving the crime.

Despite Biden’s claims, his new ghost gun regulations are no more useful. Combined with Biden’s zero-tolerance policy for any paperwork mistakes by gun dealers, his new rule is quite nefarious. Biden wants to put gun dealers out of business if they make any paperwork mistake, no matter how trivial or inconsequential. With each part of a gun having a different serial number, just transferring a barrel from one gun to another requires redoing all the paperwork on both guns. He is adding significant costs to gun dealers and manufacturers and increasing the likelihood of mistakes that would put them out of business.

There is a possible argument for using serial numbers for tax purposes, to allow for easier proof of whether a gun has been taxed. The 1934 National Firearms Act imposed taxes on certain weapons such as machine guns. But licensed dealers can still make sure guns are properly taxed when sold, just as sales taxes are imposed on items at any other store.

Conclusion.

Murders rarely involve rifles, and relatively few mass public shootings use only a rifle. The academic research from the National Research Council to studies funded by the Clinton and Bush administrations have found no evidence that federal or state assault weapon bans reduce violent crime. A law aimed only at those under 21 years of age seems even less likely to reduce violent crime.

Defacing serial numbers on guns is already a federal crime, and even if serial numbers are defaced, the effort is futile as it is fairly easy to recover them. Unfortunately, serial numbers, even when combined with a registration system, are ineffective in solving crimes.

Endnotes

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⁵ Christopher Koper, Daniel Woods, and Jeffrey Roth, “Updated Assessment of the Federal Assault Weapons Ban: Impacts on Gun Markets and Gun Violence, 1994-2003,” Office of Justice Programs, U.S. Department of Justice, June 2004 (<https://www.ojp.gov/pdffiles1/nij/grants/204431.pdf>).

⁶ Charles F. Wellford, John V. Pepper, and Carol V. Petrie, Editors, “Firearms and Violence: A Critical Review,” National Academies, 2005, pp. 96-97 (<https://nap.nationalacademies.org/catalog/10881/firearms-and-violence-a-critical-review>).

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⁸ <https://twitter.com/APStylebook/status/1547309549488640000>

⁹ Ibid.

¹⁰ John R. Lott, Jr. and Thomas Massie, “Biden's Rhetoric on Guns is Far From 'Reasonable',” Newsweek, February 14, 2022 (<https://www.newsweek.com/bidens-rhetoric-guns-far-reasonable-opinion-1678088>).

¹¹ The data here can be seen in this Excel file https://crimeresearch.org/wp-content/uploads/2023/01/Mass-Public-Shootings_Jan.-1-1998-to-Jan.26-2023-1.xlsx

¹² J. H. Trumbull, editor, The public records of the Colony of Connecticut, Hartford, Brown & Parsons Publishers, 1850 (<https://archive.org/details/publicrecordsofc001conn/page/n1/mode/1up>).

¹³ James T. Mitchell and Henry Flanders, ed., Statutes at Large of Pennsylvania from 1682 to 1801 (Harrisburg, Penn.: William Stanley Ray, 1898), 5:609-634 (<http://claytoncramer.com/primary/militia/PA1757MilitiaLaw.pdf>).

¹⁴ Clayton Cramer, Primary Historical Sources (<http://claytoncramer.com/primary/primary.html>).

¹⁵ Mark Berman, “‘Ghost guns’ now must be traceable, as Biden rule takes effect,” Washington Post, August 24, 2022 (<https://www.washingtonpost.com/national-security/2022/08/24/ghost-guns-biden/>).

¹⁶ Adam Clark Estes, “3D-Printed Guns Are Only Getting Better, and Scarier,” Gizmodo, January 6, 2015 (<https://gizmodo.com/3d-printed-guns-are-only-getting-better-and-scarier-1677747439>).

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¹⁸ John R. Lott, Jr., “Maryland’s long-overdue goodbye to ballistic fingerprinting,” Washington Post, November 13, 2015 (https://www.washingtonpost.com/opinions/marylands-long-overdue-goodbye-to-ballistic-fingerprinting/2015/11/13/a277d02a-87db-11e5-be39-0034bb576eee_story.html).