

**Questions for the Record from Senator Charles E. Grassley
Hearing on “After the Highland Park Attack: Protecting Our Communities from Mass
Shootings”
July 20, 2022**

The Honorable Nancy R. Rotering
Mayor
Highland Park, IL

- 1. During your testimony, you stated on several occasions that assault weapons need to be out of civilian hands. On the same day of your testimony, the National Shooting Sports Foundation released updated numbers estimating approximately 24.5 million modern sporting rifles have been sold since 1990. Is it your testimony that these rifles should no longer be privately possessed and should be transferred to the government or a third party for destruction?**

As I testified on July 20, 2022, I urge the U.S. Congress to make legislative changes at the federal level to reduce or eliminate the possibility of another horrific mass shooting like the one we experienced in Highland Park on the Fourth of July. I support the federal legislation that reinstates the Assault Weapons Ban that was accepted law from 1994-2004. I urge the U.S. Senate to pass the Assault Weapons Ban of 2022 (HR 1808), the legislation recently passed by the U.S. House of Representatives.

- 2. Does your police department utilize the AR15 or any other type of semiautomatic centerfire rifle?**

The Highland Park Police Department is equipped with Sig Sauer 516 Patrol rifles which are based on the AR-15 platform. These firearms are deployed as our officers are trained to immediately address an armed threat rather than delay a response waiting for special teams to arrive. Our law enforcement officers are highly trained, held accountable to safe storage requirements, and undergo background checks as a condition of employment. We know that the majority of states do not have these requirements in place for similar weapons in civilian hands, thus placing the public’s safety at significant risk.

- 3. In your testimony you referenced the number of mass shootings that have occurred in the United States. The Violence Project data indicates that assault weapons are utilized in less than one third of mass shootings and extended magazines were utilized in less than 15%; however, your testimony focused on the AR15s and**

semiautomatic centerfire rifles. Is your testimony that only the AR15s and semi-automatic centerfire rifles should be banned and not the types of firearms most commonly used in mass shootings? How do you propose reducing the most common mass shootings committed with firearms other than semiautomatic centerfire rifles? Are there further gun control measures you would support in an effort to prevent mass shootings? Can you please list every gun control measure you support?

As I mention in my testimony, while not every mass shooting is committed with assault weapons, these weapons are particularly deadly as they are designed for combat conditions with the intent to kill or maim as many people as possible as quickly as possible. For example, in Highland Park's mass shooting, 83 rounds were shot in under 60 seconds. To reduce or eliminate mass shootings, there are several legislative actions that Congress can take:

- **Ban assault weapons and large-capacity magazines**

- We need to reinstate a Federal Assault Weapon and Large-Capacity Magazine Ban. Combat weapons have no place on our streets, in our markets, in our houses of worship, in our schools, or at our parades.

On June 24, 2013, six months after 20 children and six staff members were murdered in Newtown, Connecticut, at the Sandy Hook Elementary School, the City Council of Highland Park, Illinois, under my leadership as Mayor, exercised an extraordinarily narrow option afforded to local governments by the State of Illinois and passed a local ban on assault weapons and large-capacity magazines. Regrettably, the Illinois State legislature declined to adopt a statewide ban on assault weapons and large-capacity magazines, and they significantly limited the ability of local governments to do so. In Highland Park, we knew that a federal ban or at least a statewide ban would be far more effective, but a local ban was our only option. The State gave us a 10-day window within which to consider and adopt an assault weapon and large-capacity magazine regulation. At that time, I made the statement that failing to take this immediate action would cancel any future opportunities to limit access to these military-style firearms because our ordinance was all that was permitted under the law. This action reflected the values of our community.

Our ban was challenged under the Second Amendment and upheld. Judge Frank Easterbrook commented in a ruling issued by the United States Court of Appeals for the Seventh Circuit “...assault weapons with large-capacity magazines can fire more shots, faster, and thus can be more dangerous in aggregate. Why else are they the weapons of choice in mass shootings? A ban on assault weapons and large-capacity magazines might not prevent shootings in Highland Park (where they are already rare), but it may reduce the carnage if a mass shooting occurs.”

“Plaintiffs nonetheless contend that the ordinance will have no effect on gun violence because the sort of firearms banned in Highland Park are available elsewhere in Illinois and in adjacent states. But data show that most criminals commit crimes close to home.” These prescient comments by Judge Easterbrook explain exactly why assault weapons are unique in their threat level and why despite our best intentions, only a federal ban will be effective in reducing these violent attacks.

Judge Easterbrook continued, *“The best way to evaluate the relation among assault weapons, crime, and self-defense is through the political process and scholarly debate, not by parsing ambiguous passages in the Supreme Court’s opinions. The central role of representative democracy is no less part of the Constitution than is the Second Amendment: when there is no definitive constitutional rule, matters are left to the legislative process. See McCulloch v. Maryland, 17 U.S. 316, 407 (1819).”*¹ As Judge Easterbrook states, it is up to legislators to take necessary action on assault weapons and large-capacity magazines.

On December 7, 2017, the United States Supreme Court declined a writ of certiorari and allowed the Seventh Circuit opinion to stand. Since then, I have urged Illinois legislators to allow all municipalities the ability to ban assault weapons and large-capacity magazines. And since Uvalde, I have been speaking with Illinois legislators about a state-wide ban. But let’s be clear, Illinois is surrounded by states with far more lenient gun laws. A quick trip to Indiana or Missouri provides easy access to banned weapons in Illinois. We are only as safe as the weakest gun laws in our nation.

As you know, in 1994, the U.S. Congress passed the Federal Assault Weapons Ban (“AWB”), a United States federal law that prohibited the possession and sale of assault weapons and large-capacity magazines (limited magazines to 10 rounds). During the ten years it was in effect, the likelihood of mass shooting deaths dropped by 70%.² Several constitutional challenges were filed against provisions of the ban, but all were rejected by the courts. The AWB expired in 2004, in accordance with its sunset provision and, until recently, attempts to renew or replace the AWB have been unsuccessful.

Currently, eight states and Washington, D.C. prohibit assault weapons. Federal appellate courts have decided four cases concerning the Second Amendment and assault weapons, each time reaching the same conclusion: assault weapon bans are constitutional (the D.C. Circuit upheld the District of Columbia’s ban in 2011, and the Second Circuit upheld New York and Connecticut laws in 2015, the Seventh Circuit upheld Highland Park’s local ordinance in 2015, and the Fourth Circuit upheld Maryland’s ban in 2017).

¹ *Friedman v. City of Highland Park*, 784 F.3d 406, (7th Cir. 2015).

² Charles DiMaggio et al., “Changes in US Mass Shooting Deaths Associated with the 1994–2004 Federal Assault Weapons Ban: Analysis of Open–source Data,” *Journal of Trauma and Acute Care Surgery* 86, no. 1 (2019): 11– 19.

- **Ban purchase of assault weapons by persons under 21**

- Implement an age restriction to purchase an assault weapon. A person should be at least 21 years of age to purchase these firearms with narrow exceptions to this restriction (e.g., 18-year-olds with valid hunting licenses are able to purchase certain long guns that are not considered assault weapons).

- **Strengthen red flag laws**

- Red flag laws allow law enforcement, family members, employers, coworkers, and school employees to file a Gun Violence Restraining Order (GVRO) against an individual suspected of being a danger to themselves or others. The GVRO temporarily prohibits a person at risk of harming themselves or others from possessing firearms. Strengthening these laws puts the power to save lives in the hands of the American public.

- **Reduce or eliminate immunity for gun dealers**

- Repeal the Protection of Lawful Commerce in Arms Act. Hold the gun industry accountable for the harm caused and incentivize the gun industry to ensure consumer safety.

For example, California Governor Gavin Newsom signed a bill this month ensuring that individuals - as well as the state and local governments - can pursue civil claims against gun industry members for their dangerous, irresponsible, or negligent actions. California's measure creates a code of conduct that features various safeguards intended to reduce gun violence, authorizing lawsuits for violations by the state attorney general, city attorneys, and individual citizens. California now joins NY, NJ and DE that have also passed similar laws to ensure that the gun industry is not above the law.

- **Require safe storage**

- All gun owners should be required to make their homes and communities safer by storing their guns securely. Responsible gun owners know this means storing guns locked, unloaded, and separate from ammunition.

Guns are the number one killer of children in the United States. More children than military and police personnel are killed by guns annually.³ Research shows secure storage practices play a vital role in reducing the risk of gun violence. Storing firearms securely protects children and adults by preventing unintentional shootings and gun suicides.⁴ Safe storage needs to be required.

³ <https://www.statesman.com/story/news/politics/politifact/2022/06/07/fact-check-firearms-leading-cause-death-children/7529783001/>

⁴ <https://www.everytown.org/solutions/responsible-gun-storage/>

- **National background checks**

- Background checks are the foundation of any comprehensive gun violence prevention strategy. Current federal law requires that background checks be conducted whenever a person attempts to buy a gun from a licensed gun dealer. This is to ensure that the buyer is not legally prohibited from having the gun.

While federal law requires background checks for all gun sales by licensed gun dealers, it does not require background checks for guns sold by unlicensed sellers, like non-dealers who sell guns online or at gun shows. This loophole enables people with felony convictions, domestic abuse restraining orders, and other people with prohibiting histories to buy guns with no questions asked. The loophole should be closed, requiring background checks on all gun sales—not just on the sale of firearms from licensed gun dealers.

Second Amendment rights conversations need to return to a point where common sense prevails, where public safety is prioritized, and where Americans can go to school, to the store, and to a hometown Fourth of July parade without fear of dying in a mass shooting. The safety and security of the American people cannot wait. While we cannot eliminate every threat, we do have the ability to take action and eliminate combat weapons from our neighborhoods.

4. What types and classes of firearms and activities do you believe are protected by the Second Amendment?

In 2015, the U.S. Court of Appeals for the Seventh Circuit held that the Second Amendment did not prevent a municipality from adopting an ordinance banning assault weapons and large capacity magazines. *Friedman v. City of Highland Park*, 784 F.3d 406 (7th Cir. 2015), *cert. denied*, 577 U.S. 1039 (2015). The Seventh Circuit thus established that state or municipal bans on the following weapons were constitutionally permissible:

1. A semiautomatic rifle that has the capacity to accept a Large Capacity Magazine detachable or otherwise and one or more of the following:
 - (a) Only a pistol grip without a stock attached;
 - (b) Any feature capable of functioning as a protruding grip that can be held by the non-trigger hand;
 - (c) A folding, telescoping or thumbhole stock;
 - (d) A shroud attached to the barrel, or that partially or completely encircles the barrel, allowing the bearer to hold the Firearm with the non-trigger hand without being burned, but excluding a slide that encloses the barrel; or
 - (e) A Muzzle Brake or Muzzle Compensator;
2. A semiautomatic pistol or any semi-automatic rifle that has a fixed magazine, that has the capacity to accept more than ten rounds of Ammunition;

3. A semiautomatic pistol that has the capacity to accept a Detachable Magazine and has one or more of the following:
 - (a) Any feature capable of functioning as a protruding grip that can be held by the non-trigger hand;
 - (b) A folding, telescoping or thumbhole stock;
 - (c) A shroud attached to the barrel, or that partially or completely encircles the barrel, allowing the bearer to hold the Firearm with the non-trigger hand without being burned, but excluding a slide that encloses the barrel;
 - (d) A Muzzle Brake or Muzzle Compensator; or
 - (e) The capacity to accept a Detachable Magazine at some location outside of the pistol grip;

4. A semiautomatic shotgun that has one or more of the following:
 - (a) Only a pistol grip without a stock attached;
 - (b) Any feature capable of functioning as a protruding grip that can be held by the non-trigger hand;
 - (c) A folding, telescoping or thumbhole stock;
 - (d) A fixed magazine capacity in excess of five rounds; or
 - (e) An ability to accept a Detachable Magazine;

5. Any shotgun with a revolving cylinder; [or]

6. Conversion kit, part or combination of parts, from which an Assault Weapon can be assembled if those parts are in the possession or under the control of the same person....

Friedman v. City of Highland Park, 68 F. Supp. 3d 895, 898–99 (N.D. Ill. 2014), *aff'd sub nom. Friedman v. City of Highland Park, Illinois*, 784 F.3d 406 (7th Cir. 2015). The Seventh Circuit’s decision further recognized in *Friedman*, the definition of “large capacity magazines” as:

any Ammunition feeding device with the capacity to accept more than ten rounds, but shall not be construed to include the following:
(1) A feeding device that has been permanently altered so that it cannot accommodate more than ten rounds. (2) A 22 caliber tube Ammunition feeding device. (3) A tubular magazine that is contained in a lever-action Firearm.

Friedman v. City of Highland Park, 68 F. Supp. 3d at 899 citing Highland Park Ordinance § 136.001(G).

In 2019, the Seventh Circuit affirmed its holding in *Friedman* and upheld a nearly identical municipal ordinance in *Wilson v. Cook County*, 937 F.3d 1028 (7th Cir. 2019), *cert. denied* ___ U.S. ___, 141 S. Ct. 110 (2010).