



**BE A FORCE**

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Written Testimony of Milwaukee Chief of Police Edward A. Flynn  
Hearing before the Senate Committee on the Judiciary  
on S. 150 regulating assault weapons

Chairman Leahy, Ranking Member Grassley, and Members of the Committee, thank you for the opportunity to testify today regarding the use of firearms in our nation's cities. We have a collective responsibility to reasonably regulate both the people and the weaponry that inflict unconscionable violence here in the United States.

The Police Executive Research Forum and the International Association of Chiefs of Police, along with its Major City Chiefs Association, has well-founded legislative packages regarding firearms violence generally and assault weapons specifically. I am not here to rehash those positions, but as an active member of each of these organizations, I want to take the opportunity to enforce the collective wisdom of the most prominent chief law enforcement executives in the country.

I have been a police officer in this country for more than forty years, starting as a patrolman in Jersey City. I have had the opportunity to lead law enforcement agencies small and large for the past twenty-five years, including a cabinet position as the Secretary of Public Safety for Governor Romney. Among the most difficult challenges I continue to face is identifying and implementing control measures that positively affect the firearms violence that occurs in our neighborhoods.

It is time for Congress to pick a side and I am hopeful that it can be the side of law enforcement.

**Assault weapons are not akin to sporting weapons.**

Assault weapons are not built for sportsmen. Assault weapons are not built to hunt deer or elk or bear or other large game. Assault weapons are built to inflict violence against humans. Their military characteristics are not simply cosmetic in nature. These weapons are designed for combat. They are designed to quickly, easily and efficiently cause lethal wounds to human beings.

That is not to say that there is no place for assault weapons in our country. Aside from the understood military use of these weapons, police agencies throughout the United States have begun to purchase and deploy assault weapons in response to the reality that

violent criminals are arming themselves with high-capacity, rapid-fire, easy-to-shoot firearms.

I spent the first twenty-five years of my policing career carrying a six-shot revolver. Police agencies throughout the country began to arm their members with semi-automatic pistols fundamentally because the criminals they were engaging on the streets were outgunning the traditional six-shooter. The next evolution of this national arms race was, of course, the deployment of high-capacity semi-automatic pistols and assault rifles among police agencies.

**Assault weapons and high-capacity magazines are commonly used by criminals, not by innocent citizens defending themselves.**

In 2012, my officers recovered evidence of gunfire (i.e., fired casings) 1,081 times and investigated 435 non-fatal shootings. Rifles are becoming more common in the commission of crime in Milwaukee: we confirmed that rifles were used in 185 crime incidents in the past year and we have arrested 157 individuals so far in connection to those incidents, twenty of whom were under the age of 17 at the time of their arrest. Since 2010, we have recovered 159 assault rifles from the streets of Milwaukee.

In 2011, firearms were the number one cause of death for police officers killed in the line of duty. In less than three years, seven of my police officers were shot with assault rifles and semi-automatic weapons.

In November 2007, Officers Lopez, Arce and Pajot attempted to stop two known gang members following a shots-fired complaint in which several occupied houses and a citizen had been struck by gunfire. The suspects opened fire on the officers' squad car, striking Officer Lopez in the shoulder and Officer Arce in the groin. Officer Arce returned fire, ending the confrontation. The suspects were carrying two semi-automatic pistols: one with a 10-round magazine and one with a 30-round magazine.

In June 2010, two Milwaukee Police officers responded to a call for a man with a gun. As they arrived, the suspect began to drive away and the officers attempted a traffic stop. As the suspect stopped, he exited his vehicle with an assault rifle – a Romanian version of the AK47 – and shot at the officers. One round struck Officer Chad Boyack. Officer Boyack's partner, Officer Nathan Fager, immediately returned fire, neutralizing the suspect and saving both officers' lives. The suspect is a convicted felon and a habitual offender. The assault rifle had a 30-round magazine and the firearm's stock had been sawed off.

In addition to law enforcement officers, numerous innocent Milwaukee citizens were injured or killed by assault weapons and high-capacity firearms. While the mass murders we hear about are horrifying to be sure, we must recognize that our nation's cities are enduring a slow-motion mass murder. Here are just a few stories:

On July 4, 2008, three suspects fired from gangways into a crowd of 100 people. Two of the suspects fired from 7.62x39 caliber assault rifles and a third from a .45 caliber semiautomatic pistol. Twenty-seven (27) 7.62x39 casings and nine (9) .45 casings were left on the sidewalk with four innocent people dead in the street.

On July 7, 2010, a 12-year-old child was playing in front of her house when a masked gunman approached and fired ten (10) shots from a semi-automatic pistol at the residence, striking the child three times. Despite being struck in the left chest, left arm and right arm, the child survived.

On New Year's Eve, just a few weeks ago, at 9:36pm, unknown criminals fired five 7.62 caliber rifle rounds into a duplex on the north side of our city. The rounds penetrated interior walls, furniture, and a seven-year-old child. Five children between the ages of three months and nine years were in the building.

The notion that innocent, law-abiding citizens will use an assault weapon or high-capacity firearm to protect themselves is generally disproved. We know that the victims and suspects of non-fatal shootings and homicides are typically career criminals: 97% of our suspects and 82% of our victims have criminal histories. Furthermore, two-thirds of our home invasion victims are known drug dealers, and the majority of the remaining one-third are likely drug- or gang-involved.

These people should not have access to assault weapons or high-capacity firearms. A targeted background check will help restrict their access. A ban on future civilian sales of assault weapons will help more. There is no singular solution, but we need to be cognizant of the long-term and unintended consequences of our continued civilianized proliferation of military-grade weapons.

### **I believe in, support, and defend the Second Amendment.**

The Second Amendment – like every Constitutional right – is subject to reasonable restrictions and regulation. We already place restrictions on the types of weapons Americans can own. We already place restrictions on the types of Americans who can own weapons. In 2008, the United States Supreme Court ruled that the Second Amendment protects an individual's right to possess a firearm but noted that "like most rights, the right secured by the Second Amendment is not unlimited." The Court went on to give several categories of restrictions that are presumptively constitutional: prohibiting the mentally ill or convicted felons from possessing firearms; prohibiting the carrying of firearms in certain places or buildings; and prohibiting possession of "dangerous and unusual" weapons. *District of Columbia v. Heller*, 554 US 570 (2008).

Our system of rights is designed to protect and preserve both individual rights and the rights of a free society. This is not an impossible feat; these are not mutually exclusive rights. Indeed, we can protect both.

When we talk about political *positions*, we are open to new facts and are therefore able to negotiate and discuss and make progress. When we talk about political *beliefs*, however, we are in the realm of deep-seated certainties that are generally resistant to change. Instead of drawing ideological lines in the sand, we would do well to recognize the complexity of firearms violence, realize the variety of responses we as a society are able to employ, and admit that there is no singular solution to this issue. We need to address the accessibility of firearms designed solely to quickly kill human beings. We need to address the access to firearms by individuals who should not be permitted such access. To assume that we can do one without doing the other is imprudent. To assert that doing either is an infringement on the Second Amendment is *moreso*.

### **Conclusion**

As our experience grows – including Columbine, Virginia Tech, Fort Hood, Tucson, Aurora, Newtown, to name a few – we cannot be blinded by ideology. We need to be adaptive and nimble and evidence-based and specific. We need to recognize that we can protect our Second Amendment rights without unnecessarily and unreasonably infringing on our free society's right to public safety.

This bill does not take guns out of the hands of Americans. It does not strip Americans of their Second Amendment rights. In fact, if we want to be intellectually honest, the issues being raised here have more to do with commerce than they do with the Second Amendment to our Constitution. A lot of people make a lot of money selling firearms and ammunition. This is not inherently a bad thing, but it can force us to search for – and grasp onto – false logic.

The bill being discussed today places reasonable restrictions on future sales of certain types of firearms and magazines. It recognizes the distinction between hunting weapons and assault weapons. It allows for the sale or transfer of grandfathered firearms after a common-sense background check is completed. It promotes public safety. It protects the Second Amendment rights of our citizens. It prevents the preventable.