

Exhibit 46

To Defendants' Memorandum in Support of Motion for
Summary Judgment

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MARYLAND
3 (Northern Division)
4

5 SHAWN J. TARDY, et al.

6 Plaintiffs

Case No.

7 vs.

1:13-cv-02841-CCB

8 MARTIN J. O'MALLEY, et al.

9 Defendants
10 _____ /
11
12

13 The deposition of JOHN JOSSELYN was held on
14 Tuesday, December 3, 2013, commencing at 2:10 p.m., at
15 the Office of the Attorney General, Civil Litigation
16 Division, 200 Saint Paul Place, 19th Floor, Baltimore,
17 Maryland 21202, before Susan M. Wootton, RPR, CLR,
18 Notary Public.
19
20

21 REPORTED BY: Susan M. Wootton, RPR, CLR

Page 14	Page 16
<p>1 I interrupted you. Yes. Yes.</p> <p>2 Q. And what was your role in responding to the</p> <p>3 request for production of documents?</p> <p>4 A. I provided all the documents that I could</p> <p>5 locate that were germane and applicable to the request.</p> <p>6 Q. Who else, to your knowledge, was involved</p> <p>7 in that effort?</p> <p>8 A. Within my organization?</p> <p>9 Q. Yes.</p> <p>10 A. Just myself.</p> <p>11 Q. The next document, Nolte Exhibit 4, is a</p> <p>12 response by a number of organizations, including the</p> <p>13 Associated Gun Clubs of Baltimore, to Defendant's First</p> <p>14 Set of Interrogatories.</p> <p>15 Do you have that in front of you?</p> <p>16 A. Yes, I do.</p> <p>17 Q. All right. Are you familiar with this</p> <p>18 document?</p> <p>19 A. Yes, I am.</p> <p>20 Q. Is that in fact your signature on the</p> <p>21 signature block at the back of the document?</p>	<p>1 A. As I recall the details, it was about 2006,</p> <p>2 late winter, early spring.</p> <p>3 A gentleman was accosted by three and</p> <p>4 perhaps as many as four persons who approached him when</p> <p>5 he was exiting his vehicle to make a bank deposit of</p> <p>6 his corporate funds. He owned several gas stations in</p> <p>7 Baltimore City.</p> <p>8 A car pulled up, a number of persons jumped</p> <p>9 out. I'm not sure whether it was two or three. It was</p> <p>10 at least two, perhaps three, who then I attacked him.</p> <p>11 He retreated to his vehicle. He was unable</p> <p>12 to make an exit.</p> <p>13 He did have a carry permit, and he drew his</p> <p>14 legally owned 9-millimeter pistol and defended himself</p> <p>15 as justifiable and appropriate.</p> <p>16 Q. Go ahead.</p> <p>17 A. He expended the entire magazine in the</p> <p>18 encounter, which was approximately 16 rounds.</p> <p>19 And subsequent to that, as he covered the</p> <p>20 situation, he then reloaded to make sure that there</p> <p>21 were no more assailants in the area that he hadn't yet</p>
Page 15	Page 17
<p>1 A. Yes.</p> <p>2 Q. Is all of the information provided in the</p> <p>3 responses to the interrogatories still accurate?</p> <p>4 A. To the best of my knowledge and belief,</p> <p>5 yes.</p> <p>6 Q. And are you aware of any supplementation or</p> <p>7 additional information that would be called for if you</p> <p>8 were answering these today?</p> <p>9 A. If you'll bear with me while I flip through</p> <p>10 to refresh my memory.</p> <p>11 Q. Please do.</p> <p>12 A. On interrogatory number 3, I do have</p> <p>13 additional information that I've been able to verify.</p> <p>14 Q. What is that?</p> <p>15 A. An incident that occurred, it requests,</p> <p>16 identify any incidents since October 1, 2003 in which</p> <p>17 an individual discharged more than 10 rounds from a</p> <p>18 single firearm in a home defense.</p> <p>19 I know of an incident that was not home</p> <p>20 defense, per se, but it was self-defense.</p> <p>21 Q. Could you please describe that for me?</p>	<p>1 identified.</p> <p>2 During this period of time, those surviving</p> <p>3 assailants left in a vehicle at a high rate of speed.</p> <p>4 They were subsequently arrested and charged and</p> <p>5 convicted.</p> <p>6 Q. Where did this occur?</p> <p>7 A. Baltimore City.</p> <p>8 Q. What was the individual's name?</p> <p>9 A. I believe it was Mark Beckwith, but it</p> <p>10 might have been Beckworth.</p> <p>11 Q. What is your source of information about</p> <p>12 the incident?</p> <p>13 A. News accounts at the time that it happened,</p> <p>14 both on the television and radio media, as well as the</p> <p>15 print media, and a conversation with him that I had</p> <p>16 long since forgotten that suddenly popped into my mind</p> <p>17 when I was prepping for today, that I started to recall</p> <p>18 the details of the incident.</p> <p>19 Q. When did you have that conversation?</p> <p>20 A. With the gentleman?</p> <p>21 Q. Yes.</p>

Page 18	Page 20
<p>1 A. Oh, at least a year ago.</p> <p>2 Q. Okay.</p> <p>3 A. It was, it was a casual conversation. It</p> <p>4 wasn't a fact-finding mission.</p> <p>5 It was, are you okay, can we do anything to</p> <p>6 help? He was not one of our members.</p> <p>7 Q. Did you learn any information about the</p> <p>8 incident from any source, other than your conversation</p> <p>9 with him?</p> <p>10 A. Just what I saw in the media and heard, you</p> <p>11 know, in the news.</p> <p>12 Q. And was that information that you heard or</p> <p>13 saw back in 2006?</p> <p>14 A. It would have been, yes.</p> <p>15 Q. And did you review any of that information</p> <p>16 in the last year?</p> <p>17 A. I, I went back. Once I recalled the</p> <p>18 incident, I went back to the Internet and did a Google</p> <p>19 search and, just to get an idea when it occurred</p> <p>20 because I couldn't recall the year any more.</p> <p>21 Q. Do you know if any police report was filed?</p>	<p>1 more persons invaded their home.</p> <p>2 She was a competitive target shooter who</p> <p>3 routinely used the firearms that had been banned.</p> <p>4 When she heard the break-in, she gathered</p> <p>5 her children in a safe room, and she proceeded to load</p> <p>6 her rifle and perform the operation we usually call</p> <p>7 dropping the bullet, which is to hit the bullet release</p> <p>8 so it will chamber a round.</p> <p>9 That's usually a fairly loud affair in a</p> <p>10 quiet house. Immediately upon that sound, the person</p> <p>11 or persons exited the home and she never did see them.</p> <p>12 Q. Do you know what kind of firearm that was?</p> <p>13 A. It was an AR-15.</p> <p>14 Q. Does chambering a round in an AR-15 sound</p> <p>15 much different than chambering a round in say an AR-10?</p> <p>16 A. I've never heard a round chambered in an</p> <p>17 AR-10, so I can't say.</p> <p>18 But I would say they're probably similar,</p> <p>19 but they're going to be distinct because the AR-15 is a</p> <p>20 much lighter round and it would chamber faster. It</p> <p>21 would make a sharper rap.</p>
Page 19	Page 21
<p>1 A. Oh, I'm sure it was. The case was</p> <p>2 prosecuted.</p> <p>3 Q. Were any of the assailants hit with the</p> <p>4 rounds?</p> <p>5 A. Two were struck.</p> <p>6 Q. And did both survive?</p> <p>7 A. One survived. I believe he was apprehended</p> <p>8 in the hospital when he sought medical aid.</p> <p>9 The other one was left at the scene by his</p> <p>10 colleagues and subsequently died of his wounds.</p> <p>11 Q. Other than that incident that you've just</p> <p>12 described, are there any other additions or changes</p> <p>13 that you would make to any of the interrogatory</p> <p>14 responses, if you were responding today?</p> <p>15 A. I'm not sure it's exactly aligned with it,</p> <p>16 but on number 5, and it may not be number 5, it was an</p> <p>17 incident that I heard in testimony in the 1990s, I</p> <p>18 think.</p> <p>19 I don't recall the name of the person</p> <p>20 testifying. It was, it was a young lady, a young</p> <p>21 mother, and after her husband had gone to work, one or</p>	<p>1 Q. Sharper but quieter?</p> <p>2 A. I can't speak to that. I don't know.</p> <p>3 Q. And have you ever heard a round, I guess</p> <p>4 the sound it makes when you're preparing to shoot a</p> <p>5 shotgun?</p> <p>6 A. Yes.</p> <p>7 Q. How does that sound compare to chambering a</p> <p>8 round in an AR-15?</p> <p>9 A. It's distinctly different.</p> <p>10 Q. In what way?</p> <p>11 A. It's a heavier sound because the components</p> <p>12 are heavier.</p> <p>13 Q. So that's a sound that would be even louder</p> <p>14 than an AR-15?</p> <p>15 A. It would depend on whether it was a pump</p> <p>16 shotgun or a semi-automatic. A semi-automatic closes</p> <p>17 at a given rate, but a pump is how fast you move it.</p> <p>18 There's no comparison. It's an apples and</p> <p>19 oranges.</p> <p>20 Q. But both fairly distinctive sounds</p> <p>21 indicating preparing to shoot a firearm?</p>

Page 22	Page 24
<p>1 A. I would think so.</p> <p>2 Q. So, in the incident you're describing with</p> <p>3 respect to interrogatory number 5, no shots were</p> <p>4 actually fired, is that right?</p> <p>5 A. That is correct.</p> <p>6 Q. Any other additional information that you</p> <p>7 would add to the interrogatory responses?</p> <p>8 A. Not at this time, no.</p> <p>9 Q. You mentioned the AR-15 and the response</p> <p>10 that you just provided.</p> <p>11 What is an AR-15?</p> <p>12 A. An AR-15 is a semi-automatic firearm that</p> <p>13 was designed in the late 1950s, became fairly common to</p> <p>14 the, the citizens, the general public, if you will, in</p> <p>15 I would say the first half of the 1960s, probably</p> <p>16 subsequent to 1963.</p> <p>17 It's probably the most common</p> <p>18 semi-automatic firearm in the country.</p> <p>19 Q. What is your firearms background,</p> <p>20 generally?</p> <p>21 A. I'm an NRA certified instructor in rifle,</p>	<p>1 then designated as the M16, and the AR-15 ceased to</p> <p>2 exist as a selected fire device, and Colt then</p> <p>3 manufactured it for the general public as a</p> <p>4 semi-automatic only firearm that is not readily</p> <p>5 convertible to the fully automatic mode in compliance</p> <p>6 with ATF regs.</p> <p>7 Q. And other than the facts that the AR-15 is</p> <p>8 semi-automatic, whereas the M16 is selective fire with</p> <p>9 an automatic option, are there differences between the</p> <p>10 AR-15 and the M16?</p> <p>11 A. Yes and no. Functionally they're</p> <p>12 relatively similar, depending on which model you're</p> <p>13 looking at.</p> <p>14 As it evolved and weaknesses were</p> <p>15 identified, the manufacturer then upgraded the model,</p> <p>16 the chrome-lined barrel, forward bolt assist, that sort</p> <p>17 of thing.</p> <p>18 But the general operation remained the</p> <p>19 same.</p> <p>20 Q. With the exception of the automatic versus</p> <p>21 semi-automatic?</p>
Page 23	Page 25
<p>1 pistol, shotgun, home firearm safety, and I'm also a</p> <p>2 range safety officer.</p> <p>3 I also am certified in personal protection</p> <p>4 in the home. I'm also a State certified handgun</p> <p>5 instructor.</p> <p>6 Q. Have you undertaken any sort, any form of</p> <p>7 education in firearms?</p> <p>8 A. Formal in the sense of the instructor</p> <p>9 courses I've taken from the NRA, yes.</p> <p>10 Q. Anything beyond that?</p> <p>11 A. No.</p> <p>12 Q. Getting back to the AR-15, you said it was</p> <p>13 designed in the late 1950s. Was it designed for</p> <p>14 military use?</p> <p>15 A. It was originally designed as a line of a</p> <p>16 number of prototypes that were being developed in the</p> <p>17 hope that the military would buy them.</p> <p>18 But they were being designed as fully</p> <p>19 automatic firearms.</p> <p>20 Q. So the --</p> <p>21 A. Once it was adopted by the military, it was</p>	<p>1 A. That is correct.</p> <p>2 Q. How many manufacturers are there that</p> <p>3 manufacture AR-15s?</p> <p>4 A. AR-15, only one, that is a Colt trademark,</p> <p>5 but the AR-15 family, there are dozens.</p> <p>6 Q. And so does Bushmaster have an AR-15?</p> <p>7 A. They had an AR-15 looking firearm.</p> <p>8 Q. And was that firearm one that had</p> <p>9 essentially interchangeable parts with the Colt AR-15?</p> <p>10 A. I'm not certain. I've heard rumor that</p> <p>11 some parts don't interchange well, but I don't know</p> <p>12 that is true, so I can't speak to that as being a fact.</p> <p>13 Q. What about DPMS, do they have an AR-15</p> <p>14 equivalent?</p> <p>15 A. It's my understanding that they do.</p> <p>16 Q. And are you aware of any differences</p> <p>17 between the DPMS and the Colt AR-15?</p> <p>18 A. No, I'm not, I'm not that familiar with the</p> <p>19 DPMS model.</p> <p>20 Q. Are you aware of the rate of fire from a</p> <p>21 Colt AR-15?</p>

Page 26	Page 28
<p>1 A. Define rate of fire?</p> <p>2 Q. The rate at which you can fire a round from</p> <p>3 the Colt AR-15.</p> <p>4 A. Since it's semi-automatic, it will fire at</p> <p>5 whatever rate you can pull the trigger, so it's germane</p> <p>6 to the user rather than the firearm.</p> <p>7 Q. So, as quickly as a user can pull the</p> <p>8 trigger, the AR-15 can fire off a round?</p> <p>9 A. That is true of any semi-automatic.</p> <p>10 Q. Was there a time that you're aware of that</p> <p>11 the AR-15 took off in popularity in the civilian</p> <p>12 market?</p> <p>13 A. Are we speaking before the legislation was</p> <p>14 offered or throughout its history?</p> <p>15 Q. Say through its history, before January 1st</p> <p>16 of 2013.</p> <p>17 A. I would say prior to that the bumps</p> <p>18 occurred whenever either the State or Federal</p> <p>19 government wanted to ban them.</p> <p>20 Q. And by bumps, do you mean increases in</p> <p>21 popularity?</p>	<p>1 A. I don't know that we've taken any formal</p> <p>2 position, but it's been my experience, when I'm out on</p> <p>3 the line visiting the range, that 60 or more percent of</p> <p>4 the firearms on the range are either AR-15s or AR-15</p> <p>5 clones.</p> <p>6 Q. When you say AR-15 clones, what are you</p> <p>7 referring to?</p> <p>8 A. If you're standing back 20 yards, you don't</p> <p>9 know whether it's an AR-15 or a Bushmaster or a DPMS.</p> <p>10 Q. That is based on the fact that you --</p> <p>11 A. The cosmetic appearance, it's that type of</p> <p>12 firearm.</p> <p>13 Q. And that is, and when you're referring to</p> <p>14 AR-15, again, you're referring only to ones</p> <p>15 manufactured by Colt because they own the trademark on</p> <p>16 that, is that correct?</p> <p>17 A. That is correct. Ownership is not limited</p> <p>18 to the AR-15s.</p> <p>19 There's a wide spectrum, as you've already</p> <p>20 noted, of manufacturers who produce these firearms that</p> <p>21 it's, since they're all so very, very similar, it's</p>
Page 27	Page 29
<p>1 A. People who were putting off the purchase</p> <p>2 for reasons of economics, or whatever their motivation</p> <p>3 would be for delaying, would see that, if they didn't</p> <p>4 buy it while it was still available, they'd never be</p> <p>5 able to own one.</p> <p>6 Essentially we saw the same thing that</p> <p>7 happened with prohibition. When something is banned,</p> <p>8 the American people historically will try to obtain it</p> <p>9 because they're freedom loving people.</p> <p>10 Q. Do you have, have you ever heard the term</p> <p>11 modern sporting rifle?</p> <p>12 A. I probably have but never attributed any</p> <p>13 significance to the term.</p> <p>14 Q. So, do you have an understanding of what it</p> <p>15 refers to?</p> <p>16 A. I couldn't say that I've ever seen a real</p> <p>17 definition, unless it has something to do with what is</p> <p>18 in the curio and relic.</p> <p>19 Q. For the AR-15s, does the Associated Gun</p> <p>20 Clubs of Baltimore take the position that ownership of</p> <p>21 AR-15s is common in Maryland?</p>	<p>1 personal preference as to manufacturer.</p> <p>2 Q. That 60 percent figure, is that based on</p> <p>3 your own personal observations?</p> <p>4 A. That is based on my observations on the</p> <p>5 range, looking at the number of shooting positions that</p> <p>6 are occupied, firearms in the racks and, yes, compared</p> <p>7 to the non-AR-15 types.</p> <p>8 Q. Is that just your own sort of guesstimate,</p> <p>9 or have you actually recorded any figures to, to work</p> <p>10 out that percentage?</p> <p>11 A. Just knowing the number of shooting</p> <p>12 positions we have on the line and seeing the number of</p> <p>13 positions filled by these types of firearms, it's a</p> <p>14 pretty accurate guesstimate, yes, and I think</p> <p>15 60 percent would be the bottom line.</p> <p>16 It's probably higher because some of them</p> <p>17 were in the racks, they weren't actively being used on</p> <p>18 the line because the shooter was using something else,</p> <p>19 so 60, I would say, is a good minimum.</p> <p>20 Q. And have you, have you recorded that</p> <p>21 information anywhere?</p>

Page 30

1 A. No.
 2 Q. Or is that just based on your own recall
 3 from your observations?
 4 A. It's based on my observations, and it
 5 wasn't recorded because I never anticipated being asked
 6 that question.
 7 Q. Other than your observations at the
 8 shooting range, do you have any other basis for the
 9 claim that ownership of AR-15s is common in Maryland?
 10 A. I think, if you visited a gun show and you
 11 looked at the depth of the lines in front of the
 12 dealers who are selling that type of firearm, it's
 13 pretty clear that they're the most popular choice.
 14 Q. Any other basis for that?
 15 A. None that come to mind.
 16 Q. Is it the position of the Associated Gun
 17 Clubs of Baltimore that AR-15s are commonly used in
 18 self-defense in Maryland?
 19 A. Yes.
 20 Q. And what's the basis for that?
 21 A. Because they are so common, ownership is so

Page 31

1 widespread, that the probability statistically is that
 2 they would be used.
 3 Q. Is there any other basis for the claim that
 4 they're commonly used in self-defense, other than
 5 probability?
 6 A. It's an excellent firearm for that purpose.
 7 Q. What's the basis for that statement?
 8 A. Their gestation period has been so long,
 9 they've been in use for so long that all the mechanical
 10 bugs that could be in it have been worked out.
 11 That makes it a very reliable, durable
 12 firearm that you can have faith in, that it will work
 13 when you need it.
 14 Q. Okay.
 15 A. It's a versatile firearm, so you have a
 16 chance to practice with it at the range, and
 17 competition and sporting use are just good practice for
 18 self-defense.
 19 What you're familiar with is what you will
 20 normally pick, so what you've trained on is what you're
 21 familiar with, and under a time of stress, you're going

Page 32

1 to want something that you can instinctively use
 2 without having to think about it, that you know what to
 3 do and you don't have to stop and say, I have to do
 4 this, I have to do that.
 5 Q. So, you think it's reliable because the
 6 bugs have all been worked out and because it's used for
 7 sporting purposes, people are familiar with it, and
 8 that they'll reach for it in self-defense?
 9 A. I don't, I don't know if that makes it
 10 reliable, but I believe that they will reach for it in
 11 self-defense because it's something they've used so
 12 often that it's all second nature to them.
 13 Q. Other than those two factors, is there any
 14 other basis for the claim that they are an excellent
 15 firearm for self-defense?
 16 A. I think the historical record that we've
 17 spoken of, how common they are and how people use them,
 18 that they're reliable, they're effective.
 19 I think that is all that needs to be said
 20 about a firearm, is that it does all things well within
 21 the capabilities of its cartridge.

Page 33

1 Q. Are handguns also useful in self-defense?
 2 A. Any firearm is useful in self-defense.
 3 Q. Is it the position of the Associated Gun
 4 Clubs of Baltimore that AR-15s are better self-defense
 5 weapons than handguns?
 6 A. That would depend on the person. If, if
 7 they have never used an AR-15 but they own a handgun,
 8 then the handgun is the better choice.
 9 It goes back to, what are you familiar
 10 with.
 11 Q. What about a shotgun, could that also be an
 12 effective weapon for self-defense?
 13 A. I repeat, any firearm is an effective
 14 device for self-defense.
 15 [REDACTED]
 16 [REDACTED]
 17 [REDACTED]
 18 [REDACTED]
 19 [REDACTED]
 20 [REDACTED]
 21 [REDACTED]

Page 34

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

14 Q. I don't think we, I don't think you talked
15 about it before.

16 What is your business?

17 A. I design fire suppression systems.

18 Q. Is that your own business?

19 A. Yes.

[REDACTED]

[REDACTED]

Page 35

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

13 Q. And are you, in fact, familiar with the
14 list that is on pages 3 to 5 of Nolte Exhibit 1 as the
15 list of banned firearms from Senate Bill 281?

16 A. The list, as I understand it, that you've
17 described was based upon previous legislation.
18 As modified by SB 281 and the language of
19 281, I'm honestly no longer sure what's banned and what
20 isn't.

21 Q. What about the language of Senate Bill 281

Page 37

1 has made you uncertain?

2 A. The references to clones and copies and how
3 they will be defined by law enforcement agencies that
4 historically take certain poetic license with what they
5 do.

6 Q. Now, there is no reference to clones in
7 the --

8 A. I believe they term it copycat.

9 Q. Okay. And let's just clarify what you mean
10 there.

11 There is a term copycat, and then there's a
12 term copies, right?

13 And if you could look at page 3 where it
14 introduces the list that you've just been looking at,
15 in R2, it says, a firearm that is any of the following
16 specific assault weapons or their copies.

17 Now, is that one of the references to
18 copies that you were talking about?

19 A. There's also a term that appeared in the
20 legislation where they used the term copycat.

21 Q. Right, okay. I'll talk about that

Page 54	Page 56
<p>1 Q. So, is it the case then, the AK-47 now has 2 been used to refer to both selective fire as well as 3 purely semi-automatic weapons? 4 A. It's my impression that, when the term 5 AK-47 is used, the non-shooting public presumes that 6 the firearm that the civilian owns is identical to what 7 the Soviet Union issued to its troops, but they don't 8 understand. 9 Q. Without respect to what the general public 10 may or may not understand, is it your understanding 11 that the AK-47 has, is used to refer both to the 12 selective fire weapon used in the Russian military as 13 well as semi-automatic versions that have been marketed 14 to the civilian public? 15 A. I would say that is probably a true 16 statement because those of us in, in the shooting 17 community, we know what we mean. 18 We know that it's not going to be fully 19 automatic. We know they haven't been allowed in the 20 country since about 1968. I've only seen one real AK 21 in my life.</p>	<p>1 Do you have a similar figure for the AK-47? 2 A. I would say at least 25 percent. 3 Q. So you believe that 85 percent of the long 4 guns that you see used on the range are either AR-15s 5 or AK-47s? 6 A. I think that is reasonable. 7 Q. What makes up the remaining 15 percent? 8 A. But we, we need to clarify that, because 9 persons who collect firearms that resemble what the 10 military used will probably own both, so it won't 11 necessarily be on the line at the same time, though it 12 may be one on the line, one in the rack, you know, 13 behind the line. 14 Q. Okay. 15 A. And as far as the remaining firearms, it's 16 a little of everything. 17 You see people shooting bolt action Mosin 18 Nagants, Mosin, M-O-S-I-N, N-A-G-A-N-T, it's Russian, 19 M1 Garands, M1 Carbines, all manner of lever action 20 deer rifles. 21 It's whatever the person likes.</p>
Page 55	Page 57
<p>1 Q. The semi-automatic versions of the AK that 2 are in, in this country, in the civilian market, are 3 you aware of any differences between those and the 4 selective fire AK-47s, other than that the civilian 5 ones are only semi-automatic as opposed to fully 6 automatic? 7 A. I'm not aware of any differences, but I'm 8 not a big fan of the AK. Even though I respect it for 9 the quality of its mechanism and the reliability, it, 10 it doesn't fit my body. 11 Q. Is it the position of the Associated Gun 12 Clubs of Baltimore that the AK-47 is commonly possessed 13 in Maryland? 14 A. I would say yes. 15 Q. And what is the basis for that? 16 A. Observations on the range. 17 Q. And are you talking about your personal 18 observations? 19 A. Yes. 20 Q. And you gave a 60 percent figure earlier 21 for the AR-15 usage on the range.</p>	<p>1 Q. Other than the AR-15 and the AK-47, are 2 there any other of the firearms that are listed on 3 Nolte Exhibit 1 that Associated Gun Clubs of Baltimore 4 believes to be in common use in Maryland? 5 A. I would say there's at least a half a dozen 6 of these that are fairly common. 7 Q. What are those? 8 A. The auto-ordinance Thompson M1, page, page 9 3 of 5, that would be item 8. Of course, we've already 10 discussed the AK-47. 11 The Barrett Light 50, of course all of the 12 Colts, Dragunov, the FN series, the FN and FAL, all of 13 the Heckler and Koch family. 14 The Avtomat Kalashnikova, which is actually 15 a duplication, because that is what AK stands for. 16 The Ruger Mini-14 with a folding stock, the 17 SIG 550 and 551, all of the Springfield Armory family, 18 the Uzi 9-millimeter Carbine rifle. 19 They're the ones that are frequently seen 20 there. 21 Q. And is that all based on your personal</p>

Page 70

1 A. They're the only three that appear on this
2 document, yes, but I can't speak to whether or not it
3 was the only three.
4 Q. When did you do this?
5 A. There was no mandate that we find
6 everything.
7 It was to go out and look and see what our
8 research can uncover that is responsive to the
9 questions we were being asked.
10 So I didn't try to get every possible
11 instance.
12 Q. When did you do this research?
13 A. Within the past two, two months I would
14 guess, three months.
15 Q. And did you do it for the purpose of
16 responding to discovery in this lawsuit?
17 A. Yes.
18 Q. If you could please turn to Nolte Exhibit 8
19 now, which has Bates numbers ACG000010 to 11 --
20 A. Uh-huh.
21 Q. -- and has the title, information on ratios

Page 71

1 of rounds fired to hits obtained for law enforcement.
2 Is this another document that you put
3 together?
4 A. Yes, it is.
5 Q. What was the purpose of putting this
6 together?
7 A. It was to establish the fact that we don't
8 live in a perfect world, and while many people would
9 think that every time you fire at an assailant in
10 self-defense it ends with the first shot, that it isn't
11 true, that under stress, the rounds aren't always
12 exactly where you would like to put them and they
13 aren't always effective.
14 So, therefore, having a magazine of
15 sufficient capacity to let you survive that encounter
16 is an advantage, can be a lifesaving advantage.
17 And this was to demonstrate what the
18 so-called professionals achieved with their training
19 and their street smarts.
20 Q. Did you do any research into whether you
21 could find any incidents in which, with non-law

Page 72

1 enforcement officers, individuals attempting to attack
2 them had not been sent away by the first shots that
3 were fired?
4 MR. PORTER: Objection to the form. You
5 can answer, though, if you can.
6 THE WITNESS: The incident that occurred in
7 Baltimore City, on Falls Road that we spoke of, that
8 magazine held at least 16 rounds.
9 He emptied the magazine. One assailant was
10 down, one assailant fled, and he took that moment,
11 because the attack had paused, to reload.
12 He did the proper thing. When he had the
13 opportunity, he reloaded as soon as possible while
14 covering the situation, which is to look for additional
15 assailants.
16 These things aren't preplanned by the
17 victim, they're preplanned by the perpetrator, and the
18 victim doesn't know how many assailants there really
19 are.
20 Q. As I understand or understood your account
21 of it, the other victim, or the other assailant fled as

Page 73

1 soon as he stopped to reload, is that right?
2 A. No, the other assailant fled after his
3 colleague went down, to my understanding that the
4 assailant that fled was struck in the hand.
5 Q. Was there any pause in the firing at all
6 before he stopped to reload?
7 A. I can't speak to that. I wasn't there.
8 Q. Are you aware of any situation, in the
9 research that you've done, in which assailants have not
10 fled as a result of the first round being fired?
11 A. This was an example right here.
12 Q. Well, I thought that you said that you
13 weren't aware at all of whether the assailant fled
14 before there was the first break in the fire?
15 A. The first, it's my understanding that the
16 assailant who perished was hit multiple times, so
17 clearly the citizen defending himself continued firing
18 until the threat was over, and he had multiple people
19 that he was facing.
20 So, I would have to say, logic would
21 dictate that after the first round they didn't flee.

Page 74

1 Q. Well, you said that he continued shooting
2 until he was out of rounds, not until he was out of
3 danger.
4 Do you recognize any difference there?
5 A. He -- you have to understand that under
6 stress, you're not counting one, two, three, four.
7 It's not uncommon to have the police arrive
8 on a scene and see someone there still pulling the
9 trigger, even though the gun is long empty, that they
10 are so stressed they are still in a defense mode and
11 pulling the trigger, and it's going click, click,
12 click.
13 So these events happen in such a short
14 period of time it's very difficult to microimage which
15 round was fired when.
16 When someone is coming at you and they are
17 literally in your face, and they were closer to him
18 than we are to each other, it isn't something that you
19 say, oh, time, I'm going to reload.
20 One went down. One started to flee. He
21 realized he was empty and reloaded, cover the area and

Page 75

1 see if anyone else there is.
2 Q. So, if he had had a 30-round clip, would
3 you have expected him to empty that one as well?
4 A. No.
5 Q. Why not?
6 A. Because a 30-round clip wouldn't have fit
7 under his coat in his holster. It would hang out of
8 the pistol by about 6 inches.
9 Q. So it's not that you think that he wouldn't
10 have run through it, if he had had it, you just think
11 that he wouldn't have had it?
12 A. I can't speak to what he might or might not
13 have done. I wasn't there. I wasn't in his shoes.
14 Q. Well, the phenomenon that you just
15 described of people still sitting there clicking the
16 firearm, even after it's empty, would suggest that
17 somebody is going to empty whatever clip they have, no
18 matter how many rounds are in there, isn't that right?
19 A. I think that is true in so many scenarios,
20 and you can't limit it just to civilians.
21 I would point out to you that police carry

Page 76

1 two spare magazines, minimum. When you're fighting for
2 your life, you don't count.
3 Q. Turning now from the magazine size to the
4 banned firearms in Senate Bill 281, as I understand it,
5 the position of the Associated Gun Clubs of Maryland is
6 that, at least certain of the weapons on the list are
7 very well suited for self-defense, is that true?
8 A. To go back to my original statement, any
9 firearm is suitable for self-defense.
10 Q. Does the Associated Gun Clubs of Baltimore
11 have a view on what might make a particular firearm
12 more or less suitable for self-defense?
13 A. It's dependent upon the person.
14 Q. As a general matter, -- well, let me step
15 back a minute.
16 Would an M16 be useful for self-defense?
17 A. Our police defend themselves with them all
18 the time.
19 Q. Do you believe an M16 would be an
20 appropriate weapon for civilian self-defense?
21 A. You're going to have to define

Page 77

1 inappropriate.
2 Q. I asked you if you thought it would be an
3 appropriate weapon for self-defense?
4 MR. PORTER: Could you repeat the question
5 for him? I want to make sure that we're clear.
6 MR. FADER: Sure. As the representative of
7 the Associated Gun Clubs of Baltimore here at this
8 deposition, is it your position that an M16 fully
9 automatic would be an appropriate weapon for
10 self-defense?
11 THE WITNESS: If it's all that you have,
12 absolutely, but if you have an AR-15, use that.
13 Q. What if you have a handgun?
14 A. If that is all you have.
15 Q. If you have a handgun and an M16, would the
16 M16 be an appropriate weapon to use for self-defense?
17 A. It's an unfair question, and I say it for
18 this reason.
19 Quite often the firearm that you use in
20 self-defense, even when you're exonerated, will not be
21 returned.