

Exhibit 46

to

Plaintiffs' Reply to Defendants'
Opposition to Plaintiffs' Cross-Motion
for Summary Judgment

In The Matter Of:

*Shawn J. Tardy, et al. vs.
Martin J. O'Malley, et al.*

Christopher S. Koper, Ph.D.

Vol. 1

February 3, 2014

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1 they very heavily regulate them and restrict them.

2 Q Understood. We wouldn't want them falling
3 into criminal hands, would we?

4 A No.

5 Q Are you an expert in ballistics?

6 A I have some general knowledge. I -- I
7 should hesitate to call myself an expert, per se.

8 Q All right. And while you're an expert in
9 firearms policy, are you an expert in firearms?

10 A How do you mean?

11 Q Technical aspects of firearms, for
12 instance.

13 A I have a limited basic working knowledge.
14 Of course in doing the assault weapons work, I had to
15 learn a lot about different makes and models and their
16 features. I'm not the sort of person who could take
17 apart a firearm for you and put it back together.

18 Q You are not?

19 A No.

20 Q Do you own any firearms?

21 A No.

1 Q "There is not a clear rationale for
2 expecting the ban to reduce assaults and robberies with
3 guns." Am I reading that correctly?

4 A Yes.

5 Q And that correctly and accurately state
6 your conclusion with respect to the impact on
7 firearm-related crime of the federal ban on assault
8 weapons and large capacity magazines; correct?

9 A That's a partial statement of it.

10 Q All right. But -- but accurate in and of
11 itself?

12 A Yes.

13 Q Okay. And when you say you would not
14 expect the assault weapon or large capacity magazine
15 ban to reduce assaults with guns, that would include
16 assaults leading to homicides; correct?

17 A Not exactly. What I'm saying here is I
18 don't expect the overall level of assaultive violence
19 with guns to change whether or not these guns and
20 magazines are available, but what I am hypothesizing is
21 that changes in the use of these guns and magazines

1 could affect the share of attacks that involve -- that
2 result in injuries or deaths.

3 Q But -- but they -- you would not expect a
4 ban on assault weapons or large capacity magazines to
5 actually reduce the number of firearm-related assaults
6 or robberies; correct?

7 A Correct.

8 Q And you would not expect a ban on assault
9 weapons or large capacity magazines to reduce
10 firearm-related home invasions; correct?

11 A No. Correct, I mean.

12 Q And you wouldn't expect a ban on assault
13 weapons or large capacity magazines to reduce the
14 number of firearms assaults on police officers;
15 correct?

16 A Correct. That's fair enough.

17 Q On note 95 on that page, you address I
18 believe state bans on assault weapons in which you say,
19 "A few studies suggest that state-level assault weapon
20 bans have not reduced crime." Am I reading that
21 correct?

1 A Yes.

2 Q And is that still your view today?

3 A I've not seen any further studies of this
4 yet, but yes, I mean, essentially that's the
5 conclusion.

6 Q All right.

7 A With the qualifiers that are stated in the
8 rest of the footnote.

9 Q Let's mark this as Exhibit 6, please. Let
10 me show you what I've marked as Exhibit 6, which is an
11 article authored by Mark Gius, G-I-U-S, on an
12 examination of the effects of concealed weapon laws and
13 assault weapons bans on state-level murder rates.

14 (Koper Exhibit 6 was marked for
15 identification.)

16 A Okay.

17 Q And I first ask you are you familiar with
18 this article?

19 A No. I've not read this.

20 Q And has anyone mentioned this to you?

21 A Defense counsel did mention the existence

1 crimes resulting in death. I think the percentage of
2 gunshot victimizations resulting in death. I also
3 summarized in chapter nine of this report some of the
4 other findings that we had had in the '97 report when
5 we had looked at some different similar types of
6 outcome measures.

7 Q On page 96 of your 2004 report marked as
8 Exhibit 5, that's your summary of your conclusions;
9 correct?

10 A Yes.

11 Q And in the third sentence you state, "There
12 has been no discernable reduction in the lethality and
13 injuriousness of gun violence," is that correct?

14 A Yes.

15 Q And is that still your view today based
16 upon your study and analysis of the impact of the
17 federal ban on assault weapons and large capacity
18 magazines?

19 A Yes. Based on the data that I analyzed,
20 it's still my view of it. Again, subject to the
21 qualifications that I noted earlier.

1 Q All right. And are you aware of anyone
2 else's data with respect to studying the impact of the
3 federal ban on assault weapons and large capacity
4 magazines that reached a conclusion different from the
5 conclusion that you state here?

6 A No.

7 Q Would you agree with me that the government
8 interest to be served by the federal assault weapon ban
9 and large capacity magazine ban was the reduction of
10 firearm-related violence; correct?

11 A You could view it that way or you could
12 view it more specifically as trying to get a reduction
13 in shootings in incidents with high numbers of shots
14 fired. And so, you know, again, I tended to view --
15 judge this more specifically in terms of effects on gun
16 injuries and gun deaths. As I noted in the report,
17 given the trends in use of assault weapons and large
18 capacity magazines that had been observed to that
19 point, I felt it was actually premature to make any
20 definitive conclusions about the ban's effects on gun
21 deaths and injuries. I felt that the effects of the

1 ban were still unfolding at that time and might still
2 take a while to fully unfold.

3 Q Isn't it true that as you sit here today,
4 you cannot conclude with a reasonable degree of
5 scientific probability that the federal ban on assault
6 weapons and large capacity magazines reduced crimes
7 related to guns?

8 A Correct.

9 Q And it didn't reduce the number of deaths
10 or injuries caused by guns either; correct?

11 A Correct.

12 Q Returning to your report for a moment,
13 Professor. I lost my copy of.

14 On paragraph five at the top of page two
15 you say, "Based on my research, I found, among other
16 things, that assault pistols" --

17 A I'm sorry. Could you clarify for me?

18 Q I'm sorry. Page two.

19 A Page two. Got you.

20 Q Paragraph five.

21 A Uh-huh.

1 which one might try to infer that, but the case, yeah,
2 it's not as clear. It's fair to say.

3 BY MR. SWEENEY:

4 Q Now, in paragraph eight of your report, you
5 state in the second sentence that Maryland's
6 recently-enacted ban on assault weapons and large
7 capacity magazines has the quote "potential" close
8 quote to accomplish a couple of things; correct?

9 A Yes. Okay.

10 Q Now, when you say potential, I'm trying to
11 understand what you mean here. Would you agree with me
12 that any law would have the potential to produce a
13 benefit?

14 MR. FADER: Objection.

15 THE WITNESS: Might depend on -- on what it
16 is. In this case, you know, I'm saying potential based
17 largely on my studies of the federal assault weapons
18 ban and what -- what we found there.

19 BY MR. SWEENEY:

20 Q Can you state with a reasonable degree of
21 scientific probability that the ban on assault weapons

1 and large capacity magazines in Maryland will reduce
2 the number of crimes committed with assault weapons and
3 other firearms with large capacity magazines?

4 A I can't put a probability on that. You
5 know, all I can say is based on the experience with the
6 federal assault weapons ban, that there are grounds for
7 believing that the Maryland law could achieve that in
8 extrapolating from the results of the federal study.
9 Otherwise, one has to actually study the implementation
10 of the Maryland law to begin putting, you know,
11 probabilities on it and measuring those effects.

12 Q All right. Can you say to a reasonable
13 degree of scientific probability that the ban on
14 assault weapons and large capacity magazines in
15 Maryland will reduce the number of shots fired in gun
16 crimes?

17 A Not sure what you mean by a reasonable
18 probability 'cause I just I can't put a probability on
19 it and tell you how likely it is to occur.

20 Q Can you say to a reasonable degree of
21 scientific probability that the Maryland ban on assault

1 weapons and large capacity magazines will reduce the
2 number of gunshot victims in such crimes?

3 A Again, same answer. I can't state it with
4 an exact probability at this time.

5 Q And if I ask you the same question with
6 respect to number four, reduce the number of wounds per
7 gunshot victim, and five, reduce the lethality of
8 gunshot injuries when they do occur, and six, reduce
9 the substantial societal costs that flow from
10 shootings, would your answer be the same?

11 A Yes.

12 Q Okay. Now, the Maryland law does not
13 prohibit all semi-automatic firearms; correct?

14 A Correct.

15 Q And criminals can substitute semi-automatic
16 firearms that aren't banned; correct?

17 A Those and other guns.

18 Q Right. And isn't that variable something
19 that you can't control and one of the reasons why you
20 can't say to any probability whether or not the ban
21 will accomplish the six items that you state in