

CRIMINAL LAW — SECOND AMENDMENT — THIRD CIRCUIT
HOLDS THAT A NONVIOLENT OFFENDER MAY NOT BE STRIPPED
OF SECOND AMENDMENT RIGHTS. — *Range v. Attorney General*,
69 F.4th 96 (3d Cir. 2023) (en banc).

As gun rights have evolved in the United States, the Supreme Court has moved away from a means-end test and adopted a history-and-tradition framework for evaluating Second Amendment challenges.¹ This framework requires that any firearm regulation be “consistent with this Nation’s historical tradition of firearm regulation.”² Numerous federal courts have already used this test to swiftly strike down over a dozen state and federal laws cabining gun possession rights.³ Lower courts presented with challenges to felon-in-possession laws, however, have greatly differed over how to analogize firearm regulations of the Founding to the present.⁴ Recently, in *Range v. Attorney General*,⁵ the Third Circuit applied this test, as required under *New York State Rifle & Pistol Association v. Bruen*,⁶ and determined there were not historical analogues to stripping a nonviolent offender⁷ of his Second Amendment rights. The decision — the first of a federal circuit applying 18 U.S.C. § 922(g)(1) after *Bruen*⁸ — has raised questions about whether felon-in-possession laws are still “presumptively lawful.”⁹ *Range* narrowly decided that firearm disenfranchisement of convicted individuals “like Range” is unconstitutional.¹⁰ The Third Circuit’s inchoate “like Range” test underscores that the history-and-tradition test is difficult for evaluating challenges to felon-in-possession laws. By failing to directly grapple with the history-and-tradition test’s indeterminacy, the Third Circuit missed an opportunity to adopt a more definite standard of dangerousness as the “touchstone.”¹¹

¹ N.Y. State Rifle & Pistol Ass’n v. Bruen, 142 S. Ct. 2111, 2125–27 (2022).

² *Id.* at 2126. Before *Bruen*, circuit courts generally used a two-step framework for evaluating gun regulations. The first step was to determine whether the regulated conduct was protected by the Second Amendment. If it was, then the second step applied intermediate scrutiny to see if the regulation was related to a substantial government interest. *Id.* at 2125–27; *see also* *Range v. Att’y Gen.*, 69 F.4th 96, 100 (3d Cir. 2023) (en banc).

³ *See* Jacob D. Charles, *The Dead Hand of a Silent Past: Bruen, Gun Rights, and the Shackles of History*, 73 DUKE L.J. 67, 122–28 (2023).

⁴ Joseph Blocher & Eric Ruben, *Originalism-by-Analogy and Second Amendment Adjudication*, 133 YALE L.J. 99, 170 n.420 (2023).

⁵ 69 F.4th 96.

⁶ 142 S. Ct. 2111 (adopting a history-and-tradition test).

⁷ “Congress has deemed it ‘unlawful for any person . . . who has been convicted in any court, of a crime punishable by imprisonment for a term exceeding one year’ . . . to ‘possess in or affecting commerce, any firearm or ammunition.’” *Range v. Att’y Gen.*, 53 F.4th 262, 266 (3d Cir. 2022) (quoting 18 U.S.C. §§ 922(g)(1), 3156(a)(3)).

⁸ *Id.* at 268 n.6.

⁹ *Bruen*, 142 S. Ct. at 2162 (Kavanaugh, J., concurring); *see also* *Range*, 69 F.4th at 128 (Krause, J., dissenting).

¹⁰ *See* *Range*, 69 F.4th at 131 (Krause, J., dissenting).

¹¹ *Id.* at 104 n.9 (majority opinion).

In August of 1995, Bryan Range pleaded guilty to one count of making a false statement to obtain food stamp assistance, in violation of title 62, section 481(a) of the Pennsylvania Consolidated Statutes.¹² Mr. Range, around the time of the offense, earned about \$300 per week.¹³ Mr. Range's wife, Mrs. Range, filled out an application for food stamps, and on the application, Mr. Range's income was omitted.¹⁴ Mr. Range accepted responsibility for the omission on the application.¹⁵

At that time, Mr. Range's false statement was classified as a first-degree misdemeanor, punishable by a maximum of five years' imprisonment, under Pennsylvania law.¹⁶ Consequently, his conviction triggered the application of § 922(g)(1),¹⁷ but Mr. Range maintained that he was not informed by the prosecutor or judge that his pleading would result in a firearms possession ban.¹⁸ Unaware that he was barred, Mr. Range attempted to purchase a gun twice.¹⁹ He was unsuccessful both times, and upon further research, he realized his nonviolent conviction precluded him from possessing a gun.²⁰

Mr. Range, alleging that § 922(g)(1) violated his Second Amendment rights, filed suit in the District Court for the Eastern District of Pennsylvania.²¹ Judge Pratter looked to the Third Circuit's test in *Binderup v. Attorney General*²² to determine whether a crime is so serious as to warrant a ban on a felon's possession of firearms. Judge Pratter found one factor — cross-jurisdictional consensus about the seriousness of crime — weighed in favor of the government.²³ This was sufficient for the government to prevail at step one, so the court granted summary judgment for the government.²⁴ Mr. Range appealed.²⁵

The Third Circuit affirmed.²⁶ In a per curiam opinion, Judges Shwartz, Krause, and Roth held that § 922(g)(1), as applied to Mr. Range,

¹² *Range v. Lombardo*, 557 F. Supp. 3d 609, 611 (E.D. Pa. 2021).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *See supra* note 7.

¹⁸ *Range*, 557 F. Supp. 3d at 611.

¹⁹ *Id.* at 611–12.

²⁰ *Range v. Att'y Gen.*, 53 F.4th 262, 267 (3d Cir. 2022).

²¹ *Id.*

²² 836 F.3d 336 (3d Cir. 2016) (en banc). Step one of the *Binderup* test looks at whether the Second Amendment is implicated. *Id.* at 346–47. To make this determination, five factors determine seriousness: (1) whether the crime was a misdemeanor, (2) whether the offense involved violence or attempted violence, (3) the sentence imposed, (4) cross-jurisdictional consensus about the seriousness of the crime, and (5) the potential for physical harm to others. *Range*, 557 F. Supp. 3d at 613–14. Step two requires the government to prove that a regulation passes a heightened scrutiny test. *Id.*

²³ *Range*, 557 F. Supp. 3d at 614.

²⁴ *Id.* at 616.

²⁵ *Range*, 53 F.4th at 267.

²⁶ *Id.* at 266.

was constitutional.²⁷ Between Mr. Range’s appeal and the Third Circuit hearing the case, the Supreme Court decided *Bruen*. Establishing a history-and-tradition test, *Bruen* abrogated the Third Circuit’s seriousness test from *Binderup*.²⁸ The panel applied the *Bruen* history-and-tradition test — surveying the historical record of felon-in-possession laws in England and in the Founding era — which first looks at whether the Second Amendment covers the regulated conduct or individual and then second at whether there are historical analogues to the regulation.²⁹ The Third Circuit determined that “§ 922(g)(1) is consistent with the Nation’s history and tradition of firearm regulation.”³⁰ Mr. Range successfully petitioned for the case to be reheard en banc.³¹

The Third Circuit, sitting en banc, reversed and remanded.³² Writing for the majority, Judge Hardiman³³ applied the *Bruen* two-step test.

First, the majority determined that the Second Amendment applied to Mr. Range, notwithstanding his nonviolent misdemeanor conviction.³⁴ The majority acknowledged that *District of Columbia v. Heller*,³⁵ *McDonald v. City of Chicago*,³⁶ and *Bruen* in dicta stated that only “law-abiding citizens,” not “the people” writ large, are protected under the Second Amendment, but the majority discussed how “the people” is used not only in the Second Amendment but also throughout the Constitution.³⁷ If Mr. Range were not included as “the people” in the Second Amendment context, then he would be precluded from other rights as well.³⁸ The majority also found that limiting Second Amendment rights to only those who are “law-abiding, responsible citizens” would be too vague and broad.³⁹ The majority ultimately held that Mr. Range was one of “the people” whom the Second Amendment protects.⁴⁰ Next, the Third Circuit concluded its analysis of *Bruen*’s first step by ruling that § 922(g)(1) regulates Second Amendment conduct, and that Mr. Range’s desire to possess firearms to hunt and for self-defense fell within the scope of the Second Amendment right under *Heller*.⁴¹

²⁷ *Id.*

²⁸ *Id.* at 270.

²⁹ *See id.* at 269, 274–81.

³⁰ *Id.* at 285.

³¹ *Range v. Att’y Gen.*, 56 F.4th 992, 992 (3d Cir. 2023).

³² *Range*, 69 F.4th at 98.

³³ Judge Hardiman was joined by Chief Judge Chagares and Judges Jordan, Greenaway, Jr., Bibas, Porter, Matey, Phipps, and Freeman.

³⁴ *Range*, 69 F.4th at 101.

³⁵ 554 U.S. 570 (2008).

³⁶ 561 U.S. 742 (2010).

³⁷ *Range*, 69 F.4th at 101 (explaining “that ‘the people’ as used throughout the Constitution ‘unambiguously refers to all members of the political community, not an unspecified subset’” (quoting *Heller*, 554 U.S. at 580)).

³⁸ *Id.* at 101–02; *see also* *Kanter v. Barr*, 919 F.3d 437, 452 (7th Cir. 2019) (Barrett, J., dissenting).

³⁹ *Range*, 69 F.4th at 102.

⁴⁰ *Id.* at 102–03.

⁴¹ *Id.* at 103.

Second, the majority looked at whether § 922(g)(1) is a firearm regulation consistent with the nation's history and tradition.⁴² The government relied on the dicta in *Heller* saying that there is a "longstanding" history of felon-in-possession laws, Justice Kavanaugh's concurrence in *Bruen* stating that felon-in-possession laws are "presumptively lawful," and the 1961 amendments to the Federal Firearms Act⁴³ to support its contention that there is a history and tradition of felon-in-possession regulations.⁴⁴ The majority found this support unconvincing because the "longstanding" firearm regulation initially only applied to *violent* offenders, which Mr. Range was not, and because the "1961 iteration of § 922(g)(1)" was passed too recently (that is, 170 years after the ratification of the Second Amendment) to be "longstanding."⁴⁵ The government also pointed to historical firearm laws that disenfranchised those who were distrusted — Loyalists, Native Americans, Quakers, Catholics, and Blacks — but the majority determined that Mr. Range was not part of a similar group like those regulated in the Founding era.⁴⁶ The majority also concluded that the government's argument that even nonviolent offenses were considered serious and punishable by death was not related to the issue in front of them.⁴⁷ Lastly, the majority held that the government's citation to persuasive authorities was unconvincing because those opinions were handed down before *Bruen* abrogated prior tests.⁴⁸ Therefore, the court ruled that the government did not meet its burden of establishing that § 922(g)(1), as applied to Mr. Range, was consistent with the history and tradition of American firearms regulation.⁴⁹ The Third Circuit reversed the judgment of the district court and remanded so that the district court could grant declaratory judgment in favor of Mr. Range.⁵⁰

Judge Porter concurred.⁵¹ He wrote separately to offer reasoning as to why there were no historical laws like § 922(g)(1).⁵²

Judge Ambro, joined by Judges Greenaway, Jr., and Montgomery-Reeves, also concurred.⁵³ Judge Ambro emphasized that § 922(g)(1) remained "presumptively lawful" as a mechanism of regulating those who are a threat to society.⁵⁴

⁴² *Id.*

⁴³ Ch. 850, 52 Stat. 1250 (current version at 18 U.S.C. §§ 921–934).

⁴⁴ *Range*, 69 F.4th at 103–06.

⁴⁵ *Id.* at 103–04.

⁴⁶ *Id.* at 105.

⁴⁷ *Id.*

⁴⁸ *Id.* at 106.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.* (Porter, J., concurring).

⁵² *Id.* at 106–09.

⁵³ *Id.* at 109 (Ambro, J., concurring).

⁵⁴ *Id.* at 109–13 (noting that Mr. Range was not dangerous because he "committed a small-time offense," *id.* at 112).

Judge Shwartz, joined by Judge Restrepo, dissented.⁵⁵ She critiqued the majority's treatment of precedent and historical analogues to § 922(g)(1). She also argued there was a tradition of regulating those deemed to be disloyal or disrespectful of the law.⁵⁶

Judge Krause also dissented.⁵⁷ She underscored that the historical record supports disarming those who disrespect the law and posited that the majority could have made a narrower ruling.⁵⁸

Lastly, Judge Roth also dissented.⁵⁹ She argued that § 922(g)(1) is consistent with historical firearm regulations.⁶⁰

Range, unprecedentedly, held there is not a historical basis for disenfranchising a nonviolent offender, arguably “without articulating any principles mediating historical and modern laws.”⁶¹ The court reached the right conclusion that Mr. Range should not be barred from possessing firearms, but the majority's narrow “like Range” test neglected to provide any guidance about “[w]hat specifically is it about Range that exempts him — and going forward, those ‘like [him]’ — from § 922(g)(1)'s enforcement.”⁶² As Judge Krause identified, if the “like Range” test is about whether the underlying conviction was for a nonviolent offense or whether the convicted individual has exhibited law-abiding behavior, then this standard is severely flawed.⁶³ If, on the other hand, the “like Range” test is *really* about dangerousness, the court has punted on adopting this standard.

The majority notably did not rely on Mr. Range's argument “that because ‘there is no historical tradition of disarming nonviolent felons,’ dangerousness is the ‘touchstone.’”⁶⁴ The majority found that it “need not decide this dispute today because the Government did not carry its burden to provide a historical analogue to permanently disarm someone like Range, whether grounded in dangerousness or not.”⁶⁵ Rather than set forth an indeterminate “like Range” standard, the Court should have interpreted § 922(g)(1) as analogous to historical firearm regulations of those who were perceived to be “dangerous.” Adopting a “dangerousness” framework, which comports with *Bruen*, would provide courts with a clearer way to analogize § 922(g) challenges, which could allow for more individuals with criminal records to regain their Second Amendment rights.

⁵⁵ *Id.* at 113 (Shwartz, J., dissenting).

⁵⁶ *Id.*

⁵⁷ *Id.* at 116 (Krause, J., dissenting).

⁵⁸ *Id.* at 116–38.

⁵⁹ *Id.* at 138 (Roth, J., dissenting).

⁶⁰ *Id.* at 138–43.

⁶¹ Blocher & Ruben, *supra* note 4, at 148 n.283.

⁶² *Range*, 69 F.4th at 131 (Krause, J., dissenting).

⁶³ *Id.* at 132.

⁶⁴ *Id.* at 104 n.9 (majority opinion) (quoting Petition for Rehearing at 10, *Range v. Att’y Gen.*, 56 F.4th 992 (3d Cir. 2023) (No. 21-2835)).

⁶⁵ *Id.*

Bruen required the *Range* court to analogize Mr. Range's nonviolent offense to historical regulations of similar conduct.⁶⁶ According to scholars, there is a long tradition of regulating gun ownership of those who were deemed to be dangerous, disloyal, and untrustworthy.⁶⁷ Importantly, "there is no historical justification for completely and forever depriving peaceable citizens — even nonviolent felons — of the right to keep and bear arms."⁶⁸ The majority correctly held that there is no historical basis for disenfranchising Mr. Range. Mr. Range's conduct should certainly not be seen as being dangerous or disloyal, and his one-time criminal offense for food stamp fraud should not render him as permanently non-law-abiding. The fact that the opinions in *Range* drew upon the same history and reached different conclusions underscores the challenge of interpreting historical analogues.⁶⁹ While historical interpretation will often be debated, a dangerousness framework can provide clearer guidance on how judges *should* analogize modern Second Amendment regulations to those of the past. Judges, then, could more uniformly analyze the permissible scope of § 922(g)(1). Consequently, courts could rule that more individuals with criminal records, such as Mr. Range, should regain their Second Amendment rights.

The court's lack of unanimity on how to interpret historical analogues may speak to a definitional issue — in which case, solely relying upon concepts like "violent" and "law-abiding" may be misplaced. As Judge Krause already articulated, interpreting the "like Range" test to mean "law-abiding" or nonviolent is "confounding" and "unworkable."⁷⁰ For one, considering a convicted person to be law-abiding is indeed counterintuitive.⁷¹ Judge Krause also underscored the difficulty in classifying what a violent crime is.⁷² Judge Ambro's "threat to society"

⁶⁶ N.Y. State Rifle & Pistol Ass'n v. Bruen, 142 S. Ct. 2111, 2125–27 (2022).

⁶⁷ E.g., Joseph G.S. Greenlee, *The Historical Justification for Prohibiting Dangerous Persons from Possessing Arms*, 20 WYO. L. REV. 249, 285 (2020) ("Violent and other dangerous persons have historically been banned from keeping arms in several contexts — specifically, persons guilty of committing violent crimes, persons expected to take up arms against the government, persons with violent tendencies, distrusted groups of people, and those of presently unsound mind."); Joseph Blocher & Caitlan Carberry, *Historical Gun Laws Targeting "Dangerous" Groups and Outsiders*, in NEW HISTORIES OF GUN RIGHTS AND REGULATION 131, 146–47 (Joseph Blocher et al. eds., 2023) ("[T]he historical record shows an inclination to disarm those who were considered threats to public safety and the political order.")

⁶⁸ Greenlee, *supra* note 67; see also *Kanter v. Barr*, 919 F.3d 437, 458, 464 (7th Cir. 2019) (Barrett, J., dissenting) (noting that "founding-era legislatures categorically disarmed groups whom they judged to be a threat to the public safety," *id.* at 458).

⁶⁹ See Blocher & Ruben, *supra* note 4, at 148 (charting the uses of history in the opinions).

⁷⁰ *Range*, 69 F.4th at 132 (Krause, J., dissenting).

⁷¹ See *id.*

⁷² *Id.* For further critiques on defining violence, see, for example, DAVID ALAN SKLANSKY, A PATTERN OF VIOLENCE: HOW LAW CLASSIFIES CRIME AND WHAT THAT MEANS FOR JUSTICE 234–36 (2021); Alice Ristroph, *Criminal Law in the Shadow of Violence*, 62 ALA. L. REV. 571, 574–76 (2011); Micah Herskind, *Three Reasons Advocates Must Move Beyond Demanding*

framework⁷³ is similarly faulty because such a standard is seemingly arbitrary. For example, are “thieves,” as Judge Ambro posited,⁷⁴ really a threat to society? Is a shoplifter? If so, Mr. Range, who was convicted of fraud, could be a thief. In fact, under Judge Ambro’s formulation, most white-collar offenders⁷⁵ would be barred from firearm possession. However, there is no history before the 1960s that supports disenfranchising those who are “nonviolent.”⁷⁶ In contrast, focusing on dangerousness, rather than on the overinclusive and indeterminate concepts of “violence” and “law-abiding” to disenfranchise those who are threats to society, aligns more closely with the history of firearm regulations. Moreover, defining a violent offense is also a “political act” that is laden with racism and classism.⁷⁷ “Dangerousness” arguably can be determined through more standardized metrics.

By framing the history-and-tradition test as an inquiry into “dangerousness,” courts would not have to rely only on subjective⁷⁸ determinations. Furthermore, courts would not have to rely on an individual’s criminal record, which would be a welcome departure since a violent conviction is not a reliable predictor of future dangerousness.⁷⁹ Data reveal that individuals who were released from state prison for drug offenses were more likely to be rearrested for a violent offense than were individuals released for homicide or sexual assault.⁸⁰ The evidence shows that “people convicted of violent and sexual offenses are actually among the least likely to be rearrested.”⁸¹ A person who was convicted for a violent offense is not inherently “dangerous” once released back into society.⁸² Thus, a conviction is not a reliable predictor of future dangerousness.

Release for “Nonviolent Offenders,” MEDIUM (Apr. 14, 2020) <https://micaherskind.medium.com/three-reasons-advocates-must-move-beyond-demanding-release-for-nonviolent-offenders-2e76629e7d03> [<https://perma.cc/X6K4-ATXF>].

⁷³ See *Range*, 69 F.4th at 112 (Ambro, J., concurring).

⁷⁴ *Id.* at 110.

⁷⁵ See Alexander Guerrero, *Law and Violence*, 22 J. ETHICS & SOC. PHIL. 1, 15–20 (2022) (discussing how nonviolent crimes, such as fraud, bribery, and cybercrime, cause harm within society).

⁷⁶ See, e.g., C. Kevin Marshall, *Why Can’t Martha Stewart Have a Gun?*, 32 HARV. J.L. & PUB. POL’Y 695, 730–31 (2009).

⁷⁷ Benjamin Levin, *Guns and Drugs*, 84 FORDHAM L. REV. 2173, 2197–98 (2016); Guerrero, *supra* note 75, at 28–29; see also *supra* note 72 (citing sources illustrating the difficulty of defining violence).

⁷⁸ See *What Is Risk Assessment: Public Safety Risk Assessment Clearinghouse*, U.S. DEP’T JUST., <https://bja.ojp.gov/program/psrac/basics/what-is-risk-assessment> [<https://perma.cc/GH9R-VB2G>]; Sandra G. Mayson, *Bias In, Bias Out*, 128 YALE L.J. 2218, 2221, 2297 (2019).

⁷⁹ See JUST. POL’Y INST., *DEFINING VIOLENCE: REDUCING INCARCERATION BY RETHINKING AMERICA’S APPROACH TO VIOLENCE* 6 (2016).

⁸⁰ MATTHEW R. DUROSE & LEONARDO ANTENANGELI, BUREAU OF JUST. STAT., U.S. DEP’T. OF JUST., *NCJ 255947, RECIDIVISM OF PRISONERS RELEASED IN 34 STATES IN 2012: A 5-YEAR FOLLOW-UP PERIOD (2012–2017)*, at 10 tbl.11 (2021).

⁸¹ Wendy Sawyer & Peter Wagner, *Mass Incarceration: The Whole Pie 2023*, PRISON POL’Y INITIATIVE (Mar. 14, 2023), <https://www.prisonpolicy.org/reports/pie2023.html> [<https://perma.cc/UR9U-JEAR>].

⁸² *Cf. id.* (finding that rearrest rates for people convicted of violent offenses is significantly lower); see Herskind, *supra* note 72 (arguing that risk is not an inherent “identity” but a “trait” society produces).

Rather, there is a body of research that reveals what factors are and are not accurate predictors of future “dangerousness.”⁸³ Data-informed determinations of “dangerousness” can serve as guidelines for judges when ascertaining whether a specific individual with a criminal conviction or a class of individuals with the same criminal conviction has Second Amendment rights. Although far from perfect,⁸⁴ risk assessment tools can be used to provide a more objective (i.e., data-driven and consistent) evaluation of who may be dangerous.⁸⁵ Demographic factors like age, for example, have historically been reliable predictors of future violent convictions.⁸⁶ Courts, however, must be cognizant that risk assessment tools have been imbued with systemic racism.⁸⁷

These factors can also help distinguish why certain convicted offenders, such as domestic abusers, maybe should be treated differently. For example, there is some evidence that ties firearm possession and a history of domestic violence to future dangerousness.⁸⁸ Thus, notions of “dangerousness” can ease concerns held by those like Judges Krause and Shwartz, who worried that under the “like Range” test all felon-in-possession laws are essentially unlawful. Though flawed, data-informed notions of dangerousness can guide courts in determining which individuals with criminal records still have Second Amendment rights.

While the holding of *Range* comports with *Bruen*’s history-and-tradition test, the “like Range” standard provides little guidance for courts on how to analogize historical laws to § 922(g)(1).⁸⁹ Until the Supreme Court clarifies the extent to which felon-in-possession laws are lawful, or overturns the *Bruen* history-and-tradition test, courts can and should evaluate modern felon-in-possession laws through the framework of dangerousness. But even when considering “dangerousness” as part of a *Bruen* history-and-tradition analysis, courts should be careful to remain critical, ensuring that such assessments do not reflect race or class biases. If courts adopt and vigilantly apply a dangerousness framework, many individuals with criminal convictions can have their Second Amendment rights rightfully restored under *Bruen*.

⁸³ See generally Paul Gendreau et al., *A Meta-Analysis of the Predictors of Adult Offender Recidivism: What Works!*, 34 CRIMINOLOGY 575 (1996); Hannah S. Laqueur & Ryan W. Copus, *An Algorithmic Assessment of Parole Decisions*, J. QUANTITATIVE CRIMINOLOGY, 2023.

⁸⁴ See, e.g., Mayson, *supra* note 78, at 2251–96; Herskind, *supra* note 72.

⁸⁵ Mayson, *supra* note 78, at 2297 (“To reject algorithms in favor of subjective prediction is to discard the clear mirror for a cloudy one.”); Alex Chohlas-Wood, *Understanding Risk Assessment Instruments in Criminal Justice*, BROOKINGS INST. (June 19, 2020), <https://www.brookings.edu/articles/understanding-risk-assessment-instruments-in-criminal-justice> [https://perma.cc/N2SX-84HR].

⁸⁶ See Sawyer & Wagner, *supra* note 81.

⁸⁷ See Mayson, *supra* note 78, at 2251–54.

⁸⁸ Elizabeth Tobin-Tyler, *Intimate Partner Violence, Firearm Injuries and Homicides: A Health Justice Approach to Two Intersecting Public Health Crises*, 51 J.L. MED. & ETHICS 64, 65–66 (2023).

⁸⁹ See Blocher & Ruben, *supra* note 4, at 148 n.283.