

No. 22-1823

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT**

ESTADOS UNIDOS MEXICANOS,
Plaintiff-Appellant,

v.

SMITH & WESSON BRANDS, INC.; BARRETT FIREARMS
MANUFACTURING, INC.; BERETTA U.S.A. CORP.; GLOCK, INC.; STURM,
RUGER & COMPANY, INC.; WITMER PUBLIC SAFETY GROUP, INC.,
d/b/a Interstate Arms; CENTURY INTERNATIONAL ARMS, INC.; BARETTA
HOLDINGS SPA; GLOCK GES.M.B.H.; COLT'S MANUFACTURING
COMPANY, LLC,
Defendants-Appellees.

On Appeal from the United States District Court for the District of Massachusetts
No. 1:21-cv-11269-FDS (Hon. F. Dennis Saylor, IV)

**BRIEF OF AMICI CURIAE MEXICAN ACTIVISTS, SCHOLARS, AND
VICTIMS IN SUPPORT OF PLAINTIFF-APPELLANT AND REVERSAL**

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Comisión Nacional de Búsqueda, *Estadística del Registro Nacional de Personas Desaparecidas y No Localizadas (RNPDNO)* [Statistics of the National Registry of Missing and Not Located Persons], Gobierno de México7, 13

David Pérez Esparza et al., eds., *Gun Trafficking and Violence: From the Global Network to the Local Security Challenge*, St. Antony’s Series (2021)15

Defunciones por homicidio de enero a junio de 2022 (Preliminar) [Deaths due to homicide from January to June 2022 (Preliminary)], INEGI, Comunicado de Prensa Núm. 27/23 (Jan. 23, 2023) (Mex.).....5

Derechos de infancia y adolescencia en México, *Violencia por arma de fuego contra infancia y adolescencia en México (Datos a septiembre de 2022)* [Firearm violence against children and adolescents in Mexico (Data as of September 2022)], REDIM, (Oct. 26, 2022) (Mex.).....9

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Eugenio Weigend Vargas & Carlos A. Pérez Ricart, *Non-fatal gunshot injuries during criminal acts in Mexico, 2013-2019*, Injury Prevention (2021)16, 17

Firearms Trace Data: Mexico – 2016-2021, Bureau of Alcohol, Tobacco, Firearms and Explosives (Mar. 10, 2022), <https://www.atf.gov/resource-center/firearms-trace-data-mexico-2016-2021>4

Guadalupe Vallejo, *Arranca en Morelos la Brigada Nacional de Búsqueda de Personas Desaparecidas* [The National Brigade to Search for Missing Persons Starts in Morelos], *Expansión Política* (Nov. 26, 2022) (Mex.)21

Halla una osamenta en Huitzuc la Brigada de Búsqueda en su primer día de excavaciones [The Search Brigade finds a skeleton in Huitzuc on its first day of excavations], *El Sur* (Jan. 22, 2019) (Mex.)14

Intersecta Organización para la Igualdad et al., *Violencia de género con armas de fuego en México* [Gender violence with firearms in Mexico], (Oct. 2021) (Mex.), <https://www.intersecta.org/presentacion-del-informe-violencia-de-genero-con-armas-de-fuego-en-mexico/>10

Josh Campbell et. al., *Cartel suspected of American kidnapping issues apology letter*, CNN (Mar. 10, 2023).....7

Mexican Democracy Center for U.S.-Mexican Studies, *Survey of the Quality of Democracy in Mexico – ENCADE 2021*18

Morelos: Brigada Nacional de Búsqueda de Personas Desaparecidas encuentra en Mixtlalcingo 75 restos óseos cubiertos con yeso [Morelos: National Search Brigade for the Disappeared finds 75 skeletal remains covered with plaster in Mixtlalcingo], Aristegui Noticias (Nov. 23, 2012) (Mex.)15

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National Firearms Commerce and Trafficking Assessment (NFCTA): Crime Guns – Volume Two, Part IV Crime Guns Recovered Outside the United States and Traced by Law Enforcement, Bureau of Alcohol, Tobacco, Firearms and Explosives (Jan. 11, 2023), <https://www.atf.gov/firearms/national-firearms-commerce-and-trafficking-assessment-nfcta-crime-guns-volume-two>4

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Secretaría de Relaciones Exteriores, *Mexico has a gun pandemic: Ebrard*, Gobierno de México (Nov. 3, 2022)5

U.S. Government Accountability Office, *Firearms Trafficking: U.S. Efforts to Disrupt Gun Smuggling into Mexico Would Benefit from Additional Data and Analysis*, GAO-21-322 (Feb. 2021)6

Wilma G. Vázquez, *Mexico’s Bold Move Against Gun Companies*, Arms Control Association (Sep. 2022), <https://www.armscontrol.org/act/2022-09/features/mexicos-bold-move-against-gun-companies>3

INTEREST OF AMICI CURIAE¹

Amici curiae include activists and scholars who have in-depth knowledge about the deadly results of gun violence in Mexico, including the high number of homicides, the displacement of people, and the “disappearance” of Mexican citizens (Sara San Martín Romero, Dr. Cecilia Farfán Méndez, and Paulina Vega González), as well as the societal and economic costs of gun violence (Dr. Carlos A. Pérez Ricart). As illustrative examples, *Amici* also encompass individuals who represent victims of gun violence (Santiago Aguirre Espinosa), have personally experienced gun violence (Marcos Vizcarra), or whose families were impacted by gun violence (Adrian LeBarón, María Isabel Cruz Bernal, María Herrera, and Lorena Reza Garduño).

These *Amici* have perspectives on the devastating effects of illegal firearm use in Mexico that neither of the parties to the lawsuit have expressed. Through their unique views, *Amici* demonstrate the urgent need to stem the tide of unlawful weapons crossing the border from the United States into Mexico.

¹ All parties have consented to the filing of this brief. No party’s counsel authored this brief in whole or in part, and no person, other than *Amici* or their counsel, contributed money intended to fund the preparation or submission of this brief. A full listing of *Amici* is attached. *See infra* p. 25.

INTRODUCTION

The Government of Mexico has sued U.S.-based manufacturers, distributors and designers of firearms unlawfully trafficked into Mexico. The Government charges Defendants with multiple violations of U.S. federal and state law. The district court dismissed this action, relying on the Protection of Lawful Commerce in Arms Act, 15 U.S.C. § 7901 (2011), which (with some exceptions) shields gun manufacturers from liability resulting from crimes committed with the guns they make. The Government of Mexico is appealing this decision. Rather than focusing on the merits of the legal issues disputed in the appeal, this brief documents the injuries suffered in Mexico due to the illegal flow of guns into the country from the United States.

SUMMARY OF ARGUMENT

Amici submit this brief to demonstrate how the unlawful trafficking of guns to criminal groups in Mexico has taken a staggering toll on Mexican lives, property, and the societal fabric of the country. It has fueled increased violence and homicides in Mexico; claimed hundreds of thousands of lives; displaced tens of thousands of residents; and cost the Mexican government hundreds of billions of dollars in police and military expenditures, lost employment and wages, and lost tax revenue. The facts, figures and personal stories that *Amici* recite illustrate the

plight that Mexico has suffered as a result of the unlawful flow of firearms from the United States into that country.

But for the influx of illegal firearms from the United States into Mexico, a problem on this massive scale would not exist. Indeed, Mexico has some of the most restrictive gun laws in the world which makes it virtually impossible for criminals to obtain guns lawfully. The Mexican army runs the country's only gun store. To receive a one-year gun permit, individuals must pass a background check. This means that almost all unregistered firearms in circulation in Mexico enter through illicit trafficking. In addition, Mexican law prohibits semi-automatic pistols higher than .380 caliber.²

The United States is the leading source for guns in Mexico. According to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), in 2021 49.8% of guns recovered in Mexico and submitted to ATF for tracing³ originated in the

² Wilma G. Vázquez, *Mexico's Bold Move Against Gun Companies*, Arms Control Association (Sep. 2022), <https://www.armscontrol.org/act/2022-09/features/mexicos-bold-move-against-gun-companies>.

³ Tracing is a systematic process of tracking the movement of a firearm from its manufacture, or from its introduction into U.S. commerce by the importer, through the distribution chain (wholesalers and retailers), to identify an unlicensed purchaser. *National Tracing Center*, Bureau of Alcohol Tobacco, Firearms and Explosives (Jun. 15, 2020), <https://www.atf.gov/firearms/national-tracing-center>.

United States.⁴ An additional 17.7% of guns recovered in Mexico and submitted to ATF for tracing originated in other countries but passed through the United States before entering Mexico; this means that in 2021, fully 67.5% of firearms recovered in Mexico and submitted to ATF for tracing came from the United States.⁵

Between 2009 and 2019, around two million firearms were trafficked from the United States into Mexico—more than 200,000 each year, of which 1.7 million are in circulation.⁶ ATF examined crime guns recovered outside the United States and traced by law enforcement and found that between 2017 and 2021, Mexico generated 59% of all international trace requests.⁷

⁴ *Firearms Trace Data: Mexico – 2016-2021*, Bureau of Alcohol, Tobacco, Firearms and Explosives (Mar. 10, 2022), <https://www.atf.gov/resource-center/firearms-trace-data-mexico-2016-2021>.

⁵ *Id.*

⁶ Samuel Storr, *¿De dónde vienen las armas ilegales en México?* [Where do illegal arms in Mexico come from?], *Seguridad via Civil* (Jun. 22, 2021) (Mex.), <https://seguridadviacivil.iberomx.com/2021/06/22/donde-vienen-armas-ilegales-en-mexico/>.

⁷ *National Firearms Commerce and Trafficking Assessment (NFCTA): Crime Guns – Volume Two, Part IV Crime Guns Recovered Outside the United States and Traced by Law Enforcement*, Bureau of Alcohol, Tobacco, Firearms and Explosives, at 2 (Jan. 11, 2023), <https://www.atf.gov/firearms/national-firearms-commerce-and-trafficking-assessment-nfcta-crime-guns-volume-two>.

The results of trafficking guns from the United States into Mexico are deadly. From 1997 to 2017, gun-related homicides in Mexico increased by 570%.⁸ And in just the first half of 2022, 68.1% of the 15,561 homicides in Mexico were committed using a gun.⁹

Mexico is the fifth-ranked country in the world with the most unregistered guns.¹⁰ According to information provided by the Small Arms Survey – a global research organization that examines key aspects of small arms and armed violence – at the end of 2017 there were 13,690,408 unregistered civilian firearms in Mexico.¹¹ A large number of firearms are seized by the Mexican Government annually – 21,751 weapons were seized in 2021 alone.¹²

⁸ See Natalia P. Zamudio et. al., *Gross Human Rights Abuses: the Legal and Illegal Gun Trade to Mexico*, Comisión Mexicana de Defensa y Promoción de los Derechos Humanos (CMDPDH), at 8 (Aug. 2018).

⁹ *Defunciones por homicidio de enero a junio de 2022 (Preliminar)* [Deaths due to homicide from January to June 2022 (Preliminary)], INEGI, Comunicado de Prensa Núm. 27/23 (Jan. 23, 2023) (Mex.), <https://www.inegi.org.mx/contenidos/saladeprensa/boletines/2023/DH/DH-Ene-jun2022.pdf>.

¹⁰ Secretaría de Relaciones Exteriores, *Mexico has a gun pandemic: Ebrard*, Gobierno de México (Nov. 3, 2022), <https://www.gob.mx/sre/articulos/mexico-has-a-gun-pandemic-ebrard-318763>.

¹¹ *Civilian Firearms Holdings 2017*, Small Arms Survey, at 3, <https://www.smallarmssurvey.org/sites/default/files/resources/SAS-BP-Civilian-held-firearms-annexe.pdf>.

¹² *Censo Nacional de Procuración de Justicia Federal y Estatal 2022: Presentación de resultados generales* [National Census of Federal and State

Criminal organizations most likely to engage in illicit firearms trafficking are contributing to the high level of violence in Mexico: since 2006, organized crime has been responsible for over 150,000 murders in that country,¹³ many of which are connected to the cartels and gangs. Assault rifles are “the weapons of choice for Mexican drug trafficking organizations in part because they can easily be converted into fully automatic rifles.”¹⁴ They allow more accurate fire than handguns at longer ranges, and as semi-automatics, they facilitate rapid fire shooting.

Indeed, earlier this month, in a widely-reported story, the Gulf Cartel of Mexico claimed responsibility for the armed kidnapping of four American tourists crossing the border from Texas into Matamoros, Mexico. Two of the Americans were killed; the other two survived. A suspect was arrested and charged with knowingly conspiring to export or send from the United States a “multi-caliber AR

Prosecution of Justice 2022: Presentation of general results], INEGI, at 86 (Mar. 2, 2023) (Mex.), https://www.inegi.org.mx/contenidos/programas/cnpje/2022/doc/cnpje_2022_resultados.pdf.

¹³ U.S. Government Accountability Office, *Firearms Trafficking: U.S. Efforts to Disrupt Gun Smuggling into Mexico Would Benefit from Additional Data and Analysis*, GAO-21-322, 1 (Feb. 2021), <https://www.gao.gov/assets/gao-21-322.pdf> (citing to *Mexico: Organized Crime and Drug Trafficking Organizations*, Congressional Research Service (Jul. 28, 2020)).

¹⁴ Chelsea Parsons & Eugenio W. Vargas, *Beyond Our Borders: How Weak U.S. Gun Laws Contribute to Violent Crimes Abroad*, Center For American Progress (Feb. 2, 2018), <https://www.americanprogress.org/article/beyond-our-borders/>.

style pistol” for use by the Gulf Cartel, according to the criminal complaint filed in U.S. District Court in Brownsville, Texas.¹⁵ In addition to the four U.S. tourists, a Mexican woman was killed by a stray bullet nearly a block and a half away from the site of the kidnapping.¹⁶

The flow of weapons into Mexico creates other significant issues. Use of firearms has resulted in massive displacement of Mexican citizens; from 2017 to 2021, 52,013 people were displaced due to violence generated by organized armed groups; in 2021 alone this number was 21,443.¹⁷ Each year, thousands of people disappear in Mexico and as of March 19, 2023 there were 112,340 missing people in the country.¹⁸

¹⁵ Rosa Flores, *Pistol used in deadly kidnapping of Americans in Mexican border city was purchased in the US, criminal complaint says*, CNN (Mar. 20, 2023, 6:33 PM), <https://www.cnn.com/2023/03/20/americas/mexico-matamoros-us-citizens-kidnapping-gun-charge/index.html>.

¹⁶ Josh Campbell et. al., *Cartel suspected of American kidnapping issues apology letter*, CNN (Mar. 10, 2023, 1:41 PM), <https://www.cnn.com/2023/03/09/us/mexico-matamoros-americans-kidnapped-thursday/index.html>.

¹⁷ See Brenda G. P. Vázquez et al., *Episodios de Desplazamiento Interno Forzado Masivo en México: Informe 2021* [Episodes of Mass Forced Internal Displacement in Mexico: 2021 Report], Comisión Mexicana de Defensa y Promoción de los Derechos Humanos, at 11, 65, 72 (Jan. 24, 2023) (Mex.), <https://cmdpdh.org/wp-content/uploads/2023/01/Episodios-2021-FINAL.pdf>.

¹⁸ Comisión Nacional de Búsqueda, *Estadística del Registro Nacional de Personas Desaparecidas y No Localizadas (RNPDNO)* [Statistics of the National Registry of Missing and Not Located Persons], Gobierno de México,

The economic toll is also substantial. According to the National Institute of Statistics and Geography (INEGI),¹⁹ in 2021 the economic cost to the country of crime and insecurity was \$120.2 billion pesos (approximately \$5.85 billion U.S. dollars as of that date), or 0.67% of Gross Domestic Product.²⁰

In short, firearms from the United States have taken an enormous toll on human lives and have had a devastating, destabilizing effect on Mexican society and the economy.

ARGUMENT

I. EFFECT OF GUN VIOLENCE ON MEXICAN PEOPLE

The following *Amici* have knowledge about how gun violence affects different populations within Mexican society.

A. Women, Children, and Marginalized Groups

Amicus Sara San Martín Romero, an educator and peace activist, is a member of the Centro de Estudios Ecuménicos (Center of Ecumenical Studies), a

<https://versionpublicarnpdno.segob.gob.mx/Dashboard/Index> (last visited Mar. 19, 2023).

¹⁹ The National Institute of Statistics and Geography is an autonomous agency of the Mexican Government dedicated to coordinating the National System of Statistical and Geographical Information of Mexico.

²⁰ *Encuesta Nacional de Victimización de Empresas (ENVE) 2022: Principales Resultados* [National Survey of Business Victimization (ENVE) 2022: Main Results], INEGI, at 21 (Sep. 2022) (Mex.), https://www.inegi.org.mx/contenidos/programas/enve/2022/doc/enve_2022_presentacion_ejecutiva.pdf.

civil society based in Mexico City. She focuses on advocating for arms control and increasing the transparent flow of illegal weapons into Mexico. She is knowledgeable about the disproportionate toll that unlawful gun use has taken on women, children, and LGBTIQ+ communities in Mexico. She cites the following statistics:

- Between January 2015 and September 2022, 5,430 homicides of children and adolescents between the age of zero and seventeen were committed with firearms;²¹ and
- From January to September 2022, 627 children and adolescents between the age of zero and seventeen were killed by firearms, representing an increase of 6.8% during the same period in 2021.²²

²¹ Derechos de infancia y adolescencia en México, *Violencia por arma de fuego contra infancia y adolescencia en México (Datos a septiembre de 2022)* [Firearm violence against children and adolescents in Mexico (Data as of September 2022)], REDIM, (Oct. 26, 2022) (Mex.), <https://blog.derechosinfancia.org.mx/2022/10/26/violencia-con-arma-de-fuego-contra-infancia-y-adolescencia-en-mexico-a-septiembre-de-2022/>.

²² *Id.*

Additionally, using data obtained from the registered deaths database of the INEGI²³ and analyzed by Intersecta,²⁴ Ms. San Martín reports the following statistics:

- In 2021, 58.8% of murders of women were committed with a firearm;
- From 2007 to 2021, murders of women with firearms increased almost six-fold (from 383 to 2,316); and
- Young people are most affected by armed violence, and in 2021, six out of ten victims of a firearm crime were between ages eighteen and thirty-nine.

Ms. San Martín notes that between 2017 and 2019, 56.6% of the transgender people and 23.4% of homosexuals murdered were killed with firearms.²⁵ Earlier, in September 2016, Kenya Cuevas, a transgender person and an activist for the LGBTIQ+ population and sex workers, witnessed the shooting death of a friend,

²³ For the INEGI registered deaths database, see *Mortalidad - Conjunto de datos: Defunciones registradas (mortalidad general)* [Mortality – Data et: Registered deaths (overall mortality)], INEGI, <https://www.inegi.org.mx/sistemas/olap/Proyectos/bd/continuas/mortalidad/MortalidadGeneral.asp> (last visited Mar. 20, 2023), and to arrive at the statistics the following variables were considered: Año de ocurrencia [Year of occurrence], Causas detalladas CIE [Detailed Causes CIE], Sexo [Sex], and Edad [Age].

²⁴ Intersecta is a feminist organization that works to eliminate discrimination in Mexico. See www.intersecta.org.

²⁵ Intersecta Organización para la Igualdad et al., *Violencia de género con armas de fuego en México* [Gender violence with firearms in Mexico], at 22 (Oct. 2021) (Mex.), <https://www.intersecta.org/presentacion-del-informe-violencia-de-genero-con-armas-de-fuego-en-mexico/>.

Paola Buen Rostro.²⁶ The shooter also fired at Kenya, although the gun malfunctioned.

Observing the enormous negative impact that gun violence and increased access to weapons has had on children in Mexico, Ms. San Martín recounts that:

- Many children have lost a parent or have been orphaned due to gun violence, resulting in radical changes to their economic and family situations. For instance, Víctor Yunuen Mendoza Vivas and his then twelve year-old sister lost their mother Mariana Vivas when she and her friend Rosy were attacked and shot to death in Acapulco. Víctor was forced to identify his mother's body. Rosy's three year-old daughter witnessed the attack and was also orphaned by this tragic event.²⁷
- In January 2023 in La Perla, Veracruz, eleven year-old Samuel Romero Reyes was shot and killed by his ten year-old neighbor who was angry simply because he lost a video game. The gun had been left on the table in the neighbor's house by the shooter's father.²⁸

B. Gun Violence Resulting in Displacement of Persons

Amicus Dr. Cecilia Farfán Méndez is, among other things, Head of Research at the Center for U.S.-Mexican Studies at the University of California San Diego. She is a member of the Global Initiative Against Transnational

²⁶ *Id.*

²⁷ *See, e.g., id.*

²⁸ Carmen Morán Breña, *Pistolas y juegos: un niño mata a su compañero en Veracruz porque perdió a las maquinitas* [Guns and games: a boy kills another child in Veracruz because he lost an arcade game], *El País*, (Jan. 18, 2023, 12:28 PM) (Mex.), <https://elpais.com/mexico/2023-01-18/pistolas-y-juegos-un-nino-mata-a-su-companero-en-veracruz-porque-perdio-a-las-maquinitas.html>.

Organized Crime and the Urban Violence Research Network. In 2020, Dr. Farfán Méndez co-founded the Mexico Violence Resource Project, an online platform analyzing violence and organized crime in Mexico.

As an expert on organized crime in Mexico, she has researched the use of gun violence by criminal groups and its effects on displacement of the population, *e.g.*, people involuntarily forced to leave their homes and families as a result of such violence. Displaced people often leave behind housing, employment and schooling, and have access to significantly lesser forms of housing, jobs, and education as a result.

Dr. Farfán Méndez cites these examples of displacement due to gun violence:

- At the end of 2021, approximately 379,000 Mexican people were thought to be displaced as a result violence;²⁹
- In 2021, Mexico recorded the highest number of displaced people to date, 28,943. This is almost equivalent to the sum of people displaced in the previous three years, 29,896;³⁰
- In 2021, the principal cause of mass internal displacement in Mexico was violence perpetrated by armed organized crime groups;³¹ and

²⁹ See Ricardo Fal-Dutra Santos, *Figures and Analysis 2021 – Mexico: Displacement associated with Disasters*, Internal Displacement Monitoring Centre, at 1, <https://www.internal-displacement.org/sites/default/files/figures-analysis-2021-mex.pdf>.

³⁰ See Brenda G. P. Vázquez et al., *supra* note 17.

³¹ *Id.* at 78.

- In the period from 2017 to 2021, 52,013 people were displaced due to violence generated by armed organized crime groups. In 2021 alone this number was 21,443.³²

C. Gun Violence Resulting in Disappearances

Amicus Paulina Vega González is a Mexican human rights lawyer who assists groups of victims and activists affected by gun violence. Ms. Vega González notes that thousands of people disappear every year in Mexico. Indeed, as of March 19, 2023, there were 112,340 missing people in Mexico.³³

Families of the disappeared have formed citizen-led “search collectives” to investigate the disappearances, including by excavating mass graves. Ms. Vega González reports that searchers have found clandestine graves where human bodies with gunshot wounds were buried.

According to information provided to Ms. Vega González by civil society organization Fuerzas Unidas por Nuestros Desaparecidos en Nuevo León, (FUNDENL) in a location known as “El Tubo” in the state of Nuevo León families of the disappeared participated in a search where local authorities recovered the remains of at least seventeen human bodies as well as thousands of human skeletal remains. All of the skulls recovered were impacted by gunshots.

³² *Id.* at 79.

³³ Comisión Nacional de Búsqueda, *supra* note 18 (as of Mar. 19, 2023).

Ms. Vega González also reports that she has received information indicating that during the third, fourth, and sixth National Search Brigade of Missing Persons, relatives uncovered clandestine graves with bodies at: Navolato in the state of Sinaloa; Huitzuco in the state of Guerrero; and Mixtlalcingo in the state of Morelos, respectively. Again, among the remains found was a skull with gunshots.

Ms. Vega González has also supported the work of local human rights non-profit organizations assisting displaced communities such as the Centro Regional de Defensa de Derechos Humanos “Jose Maria Morelos y Pavón” based in Chilapa in the state of Guerrero. This Center provides support to more than 250 families forcibly displaced from their communities as a result of threats of heavily armed groups. To illustrate, in 2018, approximately 1,800 people, mainly women and children, were forcibly displaced from the municipalities of Zitala, Leonardo Bravo, and Eliodoro Castillo, in the Mexican state of Guerrero after receiving threats by armed groups.³⁴

³⁴ See *Descubre Brigada de Búsqueda Nuevas Fosas Clandestinas, Esta Vez en Navolato* [Discover the New Clandestine Graves Search Brigade, This Time in Navolato], Sistema Integral de Información en Derechos Humanos (Jan. 31, 2017, 9:00 AM) (Mex.), https://centroprodh.org.mx/sididh_2_0_alfa/?p=49199 (Third Brigade); *Halla una osamenta en Huitzuco la Brigada de Búsqueda en su primer día de excavaciones* [The Search Brigade finds a skeleton in Huitzuco on its first day of excavations], *El Sur* (Jan. 22, 2019) (Mex.), <https://suracapulco.mx/impreso/tag/cuarta-brigada-nacional-de-busqueda-de-personas-desaparecidas/>; *Brigda de Búsqueda de Desaparecidos Localiza Fosa Clandestina en Huitzuoco* [Search Brigade for the Disappeared Locates

II. SOCIETAL AND ECONOMIC COSTS TO GUN VIOLENCE

Amicus Dr. Carlos A. Pérez Ricart is an assistant professor in International Relations at the Center for Research and Teaching in Economics in Mexico City. He researches, publishes, and teaches on subjects such as security and organized crime and arms trafficking. A champion of human rights, Dr. Pérez Ricart has studied the effects that gun violence has wrought on the societal and economic fabric of Mexico. In a recent book that he co-authored, he described the deleterious effects on the Latin American economy created by gun violence, observing:

According to victimization surveys based on 2016 data, 36% of all Latin Americans claim to have been a victim of a crime. The damage done by such crime is costly in terms of lives and social (in)stability, but also in terms of regional welfare.³⁵ For example, the latest [as of that date] report of the Inter-American Development Bank estimated that the annual economic cost of

Clandestine Grave in Huitzuco], *Diario Objetivo* (Jan. 22, 2019) (Mex.), <https://diarioobjetivo.com.mx/2019/01/22/brigada-de-busqueda-de-desaparecidos-localiza-fosa-clandestina-en-huitzuco/> (Fourth Brigade); *Morelos: Brigada Nacional de Búsqueda de Personas Desaparecidas encuentra en Mixtlalcingo 75 restos óseos cubiertos con yeso* [Morelos: National Search Brigade for the Disappeared finds 75 skeletal remains covered with plaster in Mixtlalcingo], *Aristegui Noticias* (Nov. 23, 2012) (Mex.), <https://aristeguinoticias.com/2311/mexico/morelos-brigada-nacional-de-busqueda-de-personas-desaparecidas-encuentra-en-mixtlalcingo-75-restos-oseos-cubiertos-con-yeso/> (Sixth Brigade).

³⁵ See David Pérez Esparza et al., eds., *Gun Trafficking and Violence: From the Global Network to the Local Security Challenge*, St. Antony's Series, at 95 (2021).

crime was 3.5% of gross domestic product (internal citations omitted).³⁶

In a similar vein, Dr. Pérez Ricart reports that, between 2012 and 2018, gun ownership by civilians has been on the rise; 1.89 million Mexican households acquired a gun, some motivated by perceptions of insecurity, illegal activities surrounding their homes, or victimization and mistrust in the capacity of security agencies to protect them.³⁷ He fears that higher levels of gun ownership will only add to other forms of violence and he advocates that La Secretaría de la Defensa Nacional (SEDENA) takes measures such as educating safe methods of firearms storage and raising awareness on risks of owning firearms at home.³⁸

Notably, Dr. Pérez Ricart has also published on issues affecting the victims of non-fatal gunshot wounds (NGIs) including the most vulnerable Mexican population, young men ages eighteen to thirty-five.³⁹ According to his research,

³⁶ Carlos A. Pérez Ricart et al., *Guns in Latin America: Key Challenges from the Most Violent Region on Earth*, St. Anthony's Series, at 95 (Jan. 2021).

³⁷ See Eugenio Weigend Vargas & Carlos A. Pérez Ricart, *Gun Acquisition in Mexico 2012-18: Findings from Mexico's National Crime Victimization Survey*, 61 *Brit. J. Criminology* Issue 4 (Jul. 2021), available online through Edinburgh Napier Univ., at 11, <https://academic.oup.com/bjc/advance-article/doi/10.1093/bjc/azaa102/6105006> (data from Mexico's National Crime Victimization Surveys).

³⁸ See *id.*, at 15.

³⁹ See Eugenio Weigend Vargas & Carlos A. Pérez Ricart, *Non-fatal gunshot injuries during criminal acts in Mexico, 2013-2019*, *Injury Prevention*, at 1 (2021).

between 2013 and 2019, 97,551 persons were murdered with a gun in Mexico while another 150,415 suffered from a non-fatal gunshot during a crime in that time period.⁴⁰ In particular, Dr. Pérez Ricart has concluded:

- Nonfatal injuries often affect the victims considerably, in the form of tissue and organ damage and spinal cord injuries;
- Likewise, victims often experience psychological trauma such as post-traumatic stress disorder;⁴¹
- Victims of NGIs often find it hard to acquire and sustain employment and they suffer disproportionately from alcoholism and isolation;⁴² and
- Perhaps most important, the victims of NGIs face inflated healthcare expenses compared with the general population, creating a major public health challenge in Mexico. As Dr. Pérez Ricart observes: “[I]nitial individual healthcare expenditures associated with gunshot injuries are 13 times higher than those associated with other forms of non-fatal criminal injuries.”⁴³

Amicus Dr. Farfán Méndez also studies the impact of gun violence on Mexican society. In one research study, Dr. Farfán Méndez and her colleagues found that Mexican citizens’ views of core societal functions such as the armed forces and the political system are undermined by the perceived strength of criminal groups and drug trafficking organizations. For example:

⁴⁰ *Id.* at 3.

⁴¹ *Id.* at 2.

⁴² *Id.* at 2.

⁴³ *Id.* at 3.

- Seventy percent of Mexican citizens strongly agree or somewhat agree that organized criminal groups or drug trafficking organizations have more and better weapons than the armed forces;⁴⁴ and
- Fifty-seven percent of Mexican citizens strongly agree or somewhat agree that organized criminal groups or drug trafficking organizations can influence electoral processes at both the local and federal level.⁴⁵

III. GUN VIOLENCE HAS PERSONALLY IMPACTED *AMICI*

Amicus Santiago Aguirre Espinosa is intimately familiar with the effects of gun violence. He is the Director of *Amicus Centro de Derechos Humanos Miguel Agustín Pro Juárez A.C. (Centro Prodh)*, a non-profit organization in Mexico City. Centro Prodh provides free legal aid and representation to victims of violence. Mr. Aguirre has spent nearly twenty years advocating for human rights and gun control. His organization, Centro Prodh, has studied the dramatic effects of gun violence on individuals in Mexico, including:

- The murder of Francisco Javier Barajas Piña. Mr. Barajas was killed in May 2021 in the state of Guanajuato. He had been searching for his sister, who disappeared in February 2020, and whose body was later found in one of the largest clandestine graves in the state. Three months after his sister's body was identified, and after receiving multiple threats, Mr. Barajas himself was shot and killed; and
- The murder of Jesuit priests Javier Campos and Joaquín Mora. In June 2022, two elderly Jesuit priests and human rights defenders were

⁴⁴ See Mexican Democracy Center for U.S.-Mexican Studies, *Survey of the Quality of Democracy in Mexico – ENCADE 2021*, <https://mexicandemocracy.org/en/mexican-democracy-english/> (last visited Mar. 18, 2023).

⁴⁵ *Id.*

shot and killed in the town of Cerocahui in Chihuahua, Mexico. The two were trying to protect a man who ran into a church seeking refuge while fleeing from an armed man. Two others were also shot and killed. The perpetrator, a known criminal leader in the area, has not been detained and the crime remains unpunished despite widespread national and international attention.

Amicus Marcos Vizcarra has experienced firsthand the powerful impact that gun violence can have. On January 5, 2023, drug cartel members clashed with Mexican security forces in the city of Culiacán following the arrest of Ovidio Guzmán, alleged Sinaloa drug cartel leader. Suspected cartel members harassed and robbed reporters covering the unrest. Mr. Vizcarra – a freelance journalist who focuses on human rights, corruption, organized crime, and displacement – stated that a group of teenagers armed with 9mm weapons and Glocks whom he suspected were cartel members stopped him at gunpoint and stole his car. He took refuge in a nearby hotel where the same group of armed teenagers insisted he stop reporting on the events, took his cell phone and computer, and threatened to end his life if he did not comply. He is afraid to return home and remains concerned for his own security and for the security of his family.

Amicus Adrian LeBarón, in a highly publicized incident, lost his daughter and four of his grandchildren to gun violence when they were driving to a wedding. All told, three adult women and six children were murdered in a pair of horrific attacks when Mexican gunmen opened fire on the three vehicles in their caravan with automatic and belt-fed machine guns. Five children were also

wounded by gunfire. All of the victims held dual U.S.-Mexican citizenship. Members of the drug cartel La Linea have been arrested and are believed responsible for the massacre.

Amicus María Isabel Cruz Bernal's son, Reyes Yosimar García Cruz, is a municipal police officer who disappeared in Sinaloa, Mexico five years ago after heavily armed men abducted him from his home. She subsequently founded the non-profit Sabuesos Guerreras A.C. (Warrior Hounds), a collective of mothers, family members, and other volunteers who are looking for loved ones. Ms. Cruz Bernal has been searching for her son ever since, but is regularly threatened by heavily armed people who try to prevent her from searching.

Amicus María Herrera experienced personal loss – the disappearance of four sons – that has spurred her to become a leading human rights activist. She co-founded *Red de Enlaces Nacionales*, which organizes brigades in which the relatives, friends, and other activists go out into the field to search for their children and other loved ones in clandestine graves, literally with their bare hands. Ms. Herrera joined her first brigade in 2016, and has since learned from forensic anthropologists how to search for hidden graves of those killed by gun violence. So far, the National Search Brigade of Missing Persons has organized seven

brigades across four Mexican states.⁴⁶ Ms. Herrera has participated in each, searching for the remains of her sons. She traveled to the Vatican in May 2022 to meet with Pope Francis and receive a blessing for her sons and all the other missing people in Mexico and also filed a complaint before the Inter-American Commission on Human Rights in November 2022.

Amicus Lorena Reza Garduño's brother Gabriel was tortured and killed after being shot in the head in Jonacatepec, Morelos in 2021. This was the second violent loss in Lorena's family due to gun violence after her brother Juan Carlos was abducted in Cuernavaca, Morelos by a group of men armed with long-barreled weapons in September 2007. He remains missing. These tragedies prompted Lorena to become an anti-violence activist. Among other things, she has become a member of the National Search Brigade of Missing Persons.

⁴⁶ See Guadalupe Vallejo, *Arranca en Morelos la Brigada Nacional de Búsqueda de Personas Desaparecidas* [The National Brigade to Search for Missing Persons Starts in Morelos], *Expansión Política* (Nov. 26, 2022, 5:39 PM) (Mex.), <https://politica.expansion.mx/mexico/2022/11/26/arranca-en-morelos-la-brigada-nacional-de-busqueda-de-personas-desaparecidas>.

CONCLUSION

Amici bring a wide variety of perspectives to this case. The activists, scholars, victims, and families bear witness to the devastating effects of gun violence caused by the influx of weapons into Mexico. This devastation and destruction will continue unless and until the illegal flow of guns into Mexico ceases. The Court should reverse the judgment of the district court.

Dated: March 21, 2023

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CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 32 because the brief contains 4,670 words, excluding the parts of the brief exempted by Rule 32(f). This brief complies with the typeface and type style requirements of Rule 32(a)(5) and Rule 32(a)(6), respectively, because this brief has been prepared in a proportionately spaced typeface using Microsoft Word for Office 365 in Times New Roman 14-point font.

Dated: March 21, 2023

/s/ Roberta L. Horton

Roberta L. Horton

CERTIFICATE OF SERVICE

I hereby certify that on March 21, 2023, the foregoing Brief of Amici Curiae Mexican Activists, Scholars, and Victims in Support of Plaintiff-Appellant and Reversal was electronically filed with the Court via the appellate CM/ECF system, and that copies were served on all counsel of record by operation of the CM/ECF system on the same date.

/s/ Roberta L. Horton

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