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Statement of Senator Dianne Feinstein *Statement on the Assault Weapons Ban of 2013*

Mrs. FEINSTEIN. Mr. President, I happened to be on the floor and hear the remarks from the majority leader. I would like to thank him for his support of this legislation. It is extraordinarily important to me, to the people of my State, and, I believe, to a majority of Americans. I hope to make that clear during my remarks.

I would like to also thank the 23 cosponsors of this legislation. They are in alphabetical order: *Richard Blumenthal*, Senators *Boxer, Cardin, Carper, Cowan, Durbin, Franken, Gillibrand, Harkin, Hirono, Klobuchar, Lautenberg, Levin, Menendez, Mikulski, Murphy, Murray, Reed, Rockefeller, Schatz, Schumer, Warren, and Whitehouse*. I am very grateful for the willingness of the Presiding Officer and the others to step up, show courage, and do what is right for America.

There are all kinds of things we confront as Members of this great Senate. There are issues of national security, the economy, health care, immigration--all tough issues.

People often ask me why I care so much about assault weapons and why I stayed with this issue for more than 20 years.

The answer is this: In my view, the proliferation of this specific type of weapon goes to the heart of what kind of society in which we want to live. It goes to what kind of culture we are going to raise our children in, which brings us to the horrific massacre at Newtown, CT, 4 months ago.

Sandy Hook--and much has been said about it, but I can't forget--Sandy Hook was a safe school in a safe town. Candidly, it was

inconceivable that such a tragedy could happen there, but it did. I can't exaggerate how this senseless murder of 20 beautiful young children and 6 incredibly brave adults affected me and millions around this country. I think it is fair to say that this event really shocked the conscience of America.

The pictures of these little victims still bring tears to the eyes of millions. I am very impressed with this one page of the New York Daily News. I carry it when I speak to people, trying to get their votes. Some say no, and I look at this picture of these smiling faces, and in the middle, "Shame on U.S." This was the cover of the New York Daily News. I think it carries the message of what we are trying to do here, and I hope to demonstrate that during the time that I speak.

I think the despair that we all felt, for some of us, has changed to determination. I believe that this amendment over time will finally begin to address not only the wanton, brutal violence, but the weapon that is often used to carry out this wanton, brutal violence.

To have a chance at understanding these mass shootings, we need to understand how they are perpetrated and by whom.

It is impossible to know with any certainty what motivated Adam Lanza, the Newtown shooter. We know he exhibited clear signs of mental disturbance. We know he had an extreme aversion to normal social life, and he didn't like physical contact. He was in and out of school and spent time in special education classrooms and was home-schooled by his mother. He lived in a room with blacked-out curtains and played violent video games for hours on end.

We know his mother purchased assault weapons for him and kept an arsenal at home. We know that they went target shooting together at ranges and that both were certified in gun safety. Their home was a

veritable weapons depot, with many firearms, more than 1,600 rounds of ammunition, samurai swords, and even a gun safe in this young man's room.

It has been reported that Adam compiled a spreadsheet documenting hundreds of victims of mass murders--something he may have used as a measuring stick for his own sadistic plot.

We know one more thing: None of this information would have been caught on a background check. I say this although I support background checks. But this shows what is out there, which needs to be stopped.

On that December morning, Adam Lanza started his rampage by killing his mother. He then drove to Sandy Hook and shot his way into the school. He was heavily armed. This is what he carried: a Bushmaster XM15 assault rifle, a Glock handgun, a SIG Sauer handgun, ten 30-round magazines, and a Saiga 12-gauge assault shotgun. In less than 5 minutes, he fired at least 154 rounds from the Bushmaster in 2 classrooms. He stopped

only when first responders arrived. He then took his own life. He died with 139 more rounds available to fire.

I am sure background checks would stop many would-be murderers, but they would not have prevented Newtown. The weapons were legally purchased by his mother. While he was disturbed, he had no criminal record or record of mental illness and would not have been subject to a background check because his mother gave him these weapons.

Let me be clear: Universal background checks are very important. I strongly support them, but they would not have prevented the tragedy in Newtown.

I have watched these mass shootings escalate over the past 40 years--four decades of my public life. Twenty-nine have taken place in just the past decade, seven in the past year. Military-style assault weapons are often the weapon used in many of these shootings.

Just 3 days before Newtown, an AR-15 assault rifle was used to kill two people and seriously wound a third at a mall in Clackamas, OR.

Five months before Newtown, a gunman opened fire in a theater at a late-night performance of a brand new movie. He killed 12 and injured 58. The only reason he didn't continue was that his drum that he had in his weapon--a 100-round drum--jammed at approximately 50.

Although the Aurora shooter was being treated by mental health professionals, he owned a small arsenal of weapons, including a Smith & Wesson M&P15 assault rifle, a Remington 12-gauge shotgun, two Glock .40 caliber handguns, and a 100-round ammunition drum.

A number of weapons were used in the 1999 massacre at Columbine High School in Littleton, CO, where 13 were killed. The weapons were a TEC-DC9 assault pistol, a Hi-Point 9mm Carbine, a Savage pump-action shotgun, and a Savage 311-D 12-gauge shotgun.

High-capacity ammunition magazines also play a role in these mass shootings. In 2011, a gunman in Tucson used a semiautomatic Glock handgun equipped with a 33-round magazine to kill 6 and wound 12,

including Congresswoman Gabby Giffords. In 2007, a Virginia Tech gunman used 2 handguns and at least 19 magazines to kill 32 and wound 17. Some of these magazines were 15-round versions. All told, he had nearly 400 rounds to fire.

Has this ended with Newtown? Was Newtown such a stirring event on the conscience of America that no one would try it again? What is the answer? The answer is no.

On March 18, just 3 months after Sandy Hook, a former student at the University of Central Florida planned to set off a fire alarm in his apartment and kill students as they fled. A roommate saw him with these weapons and called the police. The police came quickly and were able to prevent another massacre. Here is what he had: a .22 caliber assault rifle, known as German Sport Guns GSG-5; a .45 caliber handgun; two 110-round magazines; 4 homemade explosive devices; and a stockpile of approximately 1,000 rounds.

On March 31, an AR-15 assault rifle was used to assassinate a district attorney and his wife in

Texas. The district attorney's wife innocently opened the door of their home. A gunman shot and killed her with a single bullet. As her husband turned to try to get to his weapon, he was killed in a burst of at least 20 rounds. This is the offensive nature of these weapons.

A shooting many years ago--because I came to know some of the victims who survived--encouraged me to submit the first bill in 1994. This was an attack by a man named Gian Luigi Ferri in a very high office building in San Francisco, CA, called 101 California Street. He came in and killed eight. He had two TEC-9s and magazines holding 50 rounds of ammunition.

He killed a young mother, Jody Sposato, 30, who had recently

given birth to her first child. Her neighbor said, "She just had that little, lovely baby 10 months ago." I came to know Jody's husband, Steve, who was a wonderful, tall man who used to come to see me with his baby in his arms. I am delighted to see that he remarried and made a new life for himself.

Ferri also killed Donald “Mike” Merrill, who had recently adopted two children, a son and a daughter, ages 4 and 2, with his wife Marilyn.

One of the wounded, a beautiful young woman, Michelle Scully, was saved because her husband John died while jumping on her body, shielding her from the gunfire.

This is how these events unfold. The tragedies they leave behind are actually never completely recoverable.

Over the years, as I have watched, I have come to see that these weapons are attractive to two groups of people. There are collectors, there is target practice, some hunt, and some think they offer a strong defense. This is one group. But death tolls show there is another group who covet these firearms more for their deadly firepower--most notably, grievance killers, gang members, and juveniles.

Let me mention the grievance killers. Their goal is to kill indiscriminately. These are weapons that are easy to fire quickly. They can fire many times without

overheating, and they can carry ammunition-feeding devices that exceed 100 rounds. These are the weapons of choice of this group of people. The question is, Can this group of people, who will kill with these weapons, buy these weapons easily? The answer today is yes.

These weapons are attractive to gang members because pistol grips and folding stocks make them easy to conceal and maneuver. These weapons pack enough firepower to confront other gangs as well as the police.

I would like to tell you one other story from my home town that touched me deeply. In 2004, undercover police officers Isaac Espinoza and Barry Parker confronted a man at the corner of Newcomb Avenue and Newhall Street in San Francisco. As the officers approached, the shooter pulled out an AK-47 from beneath his coat and fired 14 rounds, killing Officer Espinoza and injuring Officer Parker, both of whom were armed.

Officer Espinoza was a real star in the San Francisco Police Department. Everyone liked him, and he had real

credibility on the streets and in the community. He was very special. He had been a police officer for 8 years. During that time, he received four major service awards. Police Chief Greg Suhr, the current chief, said he wouldn't have been surprised if Officer Espinoza rose to be the chief himself one day. But he is gone. He left behind his wife of 7 years, Renata, and their daughter Isabella, who was 3 at the time of his murder.

Finally, assault weapons are attractive to juveniles because they are lightweight, have little recoil, and are easy to fire.

The takeaway is that nowhere seems safe from these acts of mass violence, made all the more deadly because of the military features of these particular weapons.

These mass killings aren't confined to dangerous areas. They happened in a mall in Clackamas. They happened in a movie theater in Aurora. They happened in a temple in Oak Creek. They happened in an office in San Francisco. Worst of all, they happen now in schools. Schools used to be safe places, but now we confront the legacy of

Columbine, Virginia Tech, and Newtown.

President Obama relayed the story of a murdered child's mother. She said she hates when people say her son was "in the wrong place at the wrong time." When are schools ever the wrong place? Schools should always be the right place for children and they should always be the right time. And that is why we must take action.

I am relieved we are finally debating the issue of gun violence, in particular the amendment I offer today to introduce the Assault Weapons Ban in the underlying bill. It has been 9 years since the first Federal Assault Weapons Ban expired in 2004, and far too many deaths. The Assault Weapons Ban I offer today as an amendment has one purpose: to begin to dry up the future supply of assault weapons and high-capacity ammunition magazines over time, which will save lives. It does not affect any legally owned weapon possessed now.

I fully support the bill to expand background checks, increase penalties on straw purchasers, and strengthen school security. But these provisions are

only part of a solution. The weapons I talk about can fire hundreds of rounds a minute with velocities and energy far exceeding the standard handguns. They do not belong on the streets where they can be bought without questions asked.

This amendment bans the future manufacture, possession, sales, and importation of 157 semiautomatic assault weapons by make and model. Let me list some of the most infamous models. We have here a display. They include the AK-47, the AR-15, the Bushmaster XM15, the Smith & Wesson M&P15, the Hi-Point Carbine, the UZI Mini Carbine, and the Intratec TEC-9. They include the MAC-10, the Saiga-12, the Street Sweeper, and all 157 of them are explicitly, by make and model, delineated in the bill.

The bill also prospectively bans the manufacture, sale, and importation of all other assault weapons that can accept a detachable magazine and have at least one military characteristic, such as a pistol grip or barrel shroud.

Finally, the amendment bans the manufacture and

importation--as well as the future sale or transfer--of large-capacity ammunition feeding devices capable of accepting more than 10 rounds. Here are some of these large magazines--and this is the drum that was used at Aurora. In many cases, such as the tragic shooting of Congresswoman Giffords, it is only when a shooter stops to switch magazines that police or others have the chance to take the shooter down, and he or she may well fumble in so doing.

Now what does the amendment not do? To clear up some misinformation, it is also important to know what the bill does not do. It does not take away any legally owned weapon. All weapons legally possessed on the date of enactment are exempted. The amendment does not require registration. If an assault weapon is legally owned before enactment and later transferred or sold, the recipient or purchaser must pass a background check as required in the underlying bill.

Finally, the amendment does not affect hunting or sporting firearms. Let me point that out. It protects

legitimate hunters by excluding 2,258 specifically named firearms used for hunting and sporting purposes. It took 96 pages of legal bill language to list these hunting and sporting firearms by make and model so everyone can see clearly their hunting or sporting gun is excluded from the bill. It took my staff a long time and a lot of vetting to compile this list, but they have done it.

Some have argued that the legislation would violate the Second Amendment. Candidly, that is wrong. The original Federal Assault Weapons Ban I sponsored in 1994 was repeatedly challenged in Federal Court on a variety of grounds, including the Second Amendment, the Commerce Clause, the Due Process Clause, and the Equal Protection Clause. The Fourth, the Sixth, the Ninth, and the District of Columbia Circuit Courts all upheld the 1994 law, with three of them rejecting challenges based on the Second Amendment.

Since these rulings, the Supreme Court, in 2008, recognized an individual right under the Second Amendment in a 5-to-4 decision in the District of

Columbia v. Heller. But Heller itself clearly rejects the claim that Second Amendment rights are absolute. In Heller, conservative Justice Antonin

Scalia stated: “The right secured by the Second Amendment is not unlimited.”

And the Court said the Second Amendment does not protect “a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purposes.” Case made.

Also, just like other constitutional rights, the Second Amendment’s right to keep and bear arms is subject to reasonable restrictions. An assault weapons ban is such a reasonable restriction, and no assault weapon ban has ever been overturned by a court of law.

Don’t take my word for it. Look at the Supreme Court decisions. Justice Scalia’s opinion in Heller specifically stated, “Weapons most useful in military service--M-16 rifles and the like” are weapons that “may be banned.” And there are weapons that are the like of the M-16 weapon on the

street today that are covered by this bill.

Third, an assault weapons ban leaves available ample means for individuals to defend themselves and their families using firearms. This amendment imposes restrictions on one class of weapons--military-style weapons--that are highly dangerous and can kill large numbers of people quickly, with increasing velocity. It leaves open ample opportunities to possess and use numerous types of firearms for defense. I have no question this bill is constitutional.

A second false attack is that assault weapons covered by this ban contain only “cosmetic features” and are no more dangerous than any other firearm. Nonsense. Law enforcement officers and gun experts are the best ones to go to, and we have. And they have pointed out these features were designed to be added to military weapons to make them more deadly and they have the same effect on civilian versions.

Some examples: The pistol grip was first added to a rifle by the German army in World War II, when it was incorporated in the

STG 44, which is called a “Storm Gun.” This feature allows a shooter to “spray-fire” a large number of rounds over a broad killing zone without having to aim at each individual target.

Folding stocks were added to the M1 Carbine by the U.S. Army in World War II so the weapon could be more easily transported by soldiers traveling in cramped aircraft and military vehicles. Similarly, UZI manufacturers started adding folding stocks to their weapons in the early 1950s at the request of Dutch and German military who found the traditional wooden stock to be too long for use while traveling in armored vehicles.

Every law enforcement officer who testified on the Assault Weapons Ban in our Judiciary hearing was emphatic that military characteristics add to a weapon’s lethality. From Baltimore County Police Chief Jim Johnson: Assault weapons are “meant for the battlefield.” Milwaukee Chief of Police Edward Flynn: “Military characteristics are not simply cosmetic in nature. These weapons are designed for combat.” And John Walsh, the U.S.

Attorney for Colorado, couldn’t be more clear: These weapons, he said, are “crafted to be as effective as possible at killing human beings.”

Now where are we today? Seven States and the District of Columbia banned assault weapons prior to the Newtown massacre. These are my own State, California, Connecticut, D.C., Hawaii, Maryland, Massachusetts, New York, and New Jersey.

Since Newtown, legislators in 20 States have introduced bills to either ban assault weapons or strengthen existing bans. Twenty States are now contemplating action.

Connecticut and New York passed laws to tighten their existing bans to prohibit assault weapons with one military characteristic, which is what we do in this bill.

Maryland expanded an existing ban on assault pistols to cover rifles and assault shotguns.

In Massachusetts and New Jersey, bills have been introduced to strengthen those States’ assault weapons bans.

Efforts are also underway to prohibit these deadly weapons in States with no current assault weapon ban. In Florida, Illinois, Indiana, Minnesota, Missouri, Mississippi, North Dakota, New Mexico, Oregon, Pennsylvania, Vermont, and Virginia, bills have been introduced to impose an assault weapons ban for the first time.

All of these States have strong hunting or sporting traditions, but the sponsors of these bills recognize that no one needs an assault weapon to hunt or target shoot.

In other States, bills have been introduced to regulate assault weapons. An Arizona bill would require the sale of any assault weapon be done through a licensed gun dealer.

Bills in Kentucky and Texas would require one to obtain a license to purchase an assault weapon. The Kentucky bill would also require the registration of assault weapons and handguns. That is Kentucky.

Some bills have been introduced that would go even further than the amendment I have introduced today.

California is seeking to strengthen its ban, going from a one-characteristic test to a zero-characteristic test. This bill would prohibit any semiautomatic rifle capable of accepting a detachable magazine.

A bill in South Carolina would require the government to seize any assault weapons used in certain crimes.

Even though more States are banning assault weapons, the need for a Federal ban has never been greater. If only California or New York bans assault weapons, nothing stops an individual from buying an assault weapon in a neighboring State, then crossing the border to commit violence. At a Judiciary Committee hearing, Senator *Durbin* mentioned that guns are coming into the city of Chicago which are being traced to the State of Mississippi.

I believe if this legislation does not pass, we will see bills passed in a number of States. That will result in a confusing patchwork of laws with different standards in different States. If this bill goes down, States will, I believe, pass additional

legislation. It is only a question of time.

Some suggest there may not be enough support in the Senate to pass the Assault Weapons Ban. But the support is there among the American people. In poll after poll, that support is there. In no poll--even with all the discussion, even with the mobilization of gun owners and the NRA, a majority in every single national poll done shows that the majority want controls over assault weapons. I know of no poll done this year that shows less than a majority to reinstate a Federal ban on assault weapons. We have more than 170 organizations covering a wide range of groups that have endorsed the bill. Here are a few:

Major Cities Chiefs; International Association of Chiefs of Police; American Medical Association; American Academy of Nursing; American Academy of Pediatrics; National Education Association; American Federation of Teachers; the Children's Defense Fund; the Sierra Club; the United States Conference of Catholic Bishops; the United States Conference of Mayors; the National League of Cities;

more than 800 mayors from across the country; Tom Ridge, former Governor and Homeland Security Secretary; John Warner, former Republican Senator from Virginia.

Few bills ever have such broad support, and I ask unanimous consent to have printed in the *Record* a list of endorsements.

I have also received letters and calls from Americans across the country, from all walks of life, including gun owners, who demand that we stop these weapons of war from claiming more innocent victims. I even had a member of the NRA call me and say, "I am a hunter and I have an AR-15 but I don't need it, and I am turning it in."

I ask unanimous consent to have printed in the *Record* excerpts from these letters.

There being no objection, the material was ordered to be printed in the **RECORD**, as follows:

ENDORSEMENTS FOR THE ASSAULT WEAPONS BAN OF 2013

CONSTITUENT LETTERS IN SUPPORT OF THE ASSAULT WEAPONS BAN OF 2013