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UNDER FIRE: DOES THE DISTRICT OF COLUMBIA'S GUN BAN HELP OR HURT THE FIGHT AGAINST CRIME?

HEARING

BEFORE THE

COMMITTEE ON GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED NINTH CONGRESS

FIRST SESSION

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UNDER FIRE: DOES THE DISTRICT OF COLUMBIA'S GUN BAN HELP OR HURT THE FIGHT AGAINST CRIME?

TUESDAY, JUNE 28, 2005

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC.

The committee met, pursuant to notice, at 2:30 p.m., in room 2154, Rayburn House Office Building, Hon. Tom Davis (chairman of the subcommittee) presiding.

Present: Davis of Virginia, Burton, Cannon, Duncan, Marchant, Westmoreland, McHenry, Dent, Waxman, Cummings, Kucinich, Clay, Watson, Van Hollen, Ruppersberger, and Norton.

Staff present: Melissa Wojciak, staff director; David Marin, deputy staff director/communications director; Keith Ausbrook, chief counsel; Rob White, press secretary; Drew Crockett, deputy director of communications; Shalley Kim, professional staff member; Teresa Austin, chief clerk; Sarah D'Orsie, deputy clerk; Leneal Scott, computer systems manager; Phil Barnett, minority staff director/chief counsel; Karen Lightfoot, minority communications director/senior policy advisor; Rosalind Parker, minority counsel; David Rapallo, minority chief investigative counsel; Earley Green, minority chief clerk; Jean Gosa, minority assistant clerk; and Chris Traci, minority research assistant.

Chairman TOM DAVIS. The committee will come to order. I want to thank everybody for joining us today, as the Committee on Government Reform takes a look at the District of Columbia law banning handguns and most automatic weapons.

In 1976, 3 years after Congress passed the Home Rule Act, the District of Columbia Council passed the Firearms Control Regulations Act, a law prohibiting the possession of unregistered firearms and banning the registration of all handguns, automatic firearms, and high-capacity semi-automatic firearms. The District's ban on handguns makes it illegal for anyone to own a handgun unless he or she is a police officer who has owned a gun registered prior to 1976. Sales of firearms are similarly restricted. This makes the District's gun laws among the strictest of any jurisdiction in the Nation.

Various lawsuits have been filed in recent years questioning the Constitutionality of the D.C. gun law under the second amendment. The courts have upheld the ban, finding it is within the District's power to regulate firearms. Meanwhile, legislation has been

introduced in both the House and Senate to overturn the District's gun ban.

I am a strong supporter of Home Rule. For our system of federalism and democracy to work, States and localities need to be able to make their own decisions, even if some of us think they are bad ones. I believe the citizens of the District, like residents of any city across the Nation, are best served when their locality's elected representatives are free to decide how to manage the city's affairs. After all, the District is certainly not the only city in America with a ban on handguns. New York has a restrictive handgun law; so does Chicago; so do smaller towns such as Morton Grove, Wilmette, Evanston, and Oak Park, all in Illinois.

I believe there is room in the Congress for debate on the merits of some of the Nation's gun laws, but I also believe the appropriate place for debate on the District's gun laws is in the chambers of the District of Columbia City Council.

Congress, as outlined in the Constitution, does retain final say over the city's legislative decision. But that is a power we should, and do, use only rarely. I also believe the District would be better off if my colleague Eleanor Holmes Norton would cast votes on the floor of the House of Representatives. We are, of course, working to build support for legislation to fix that, but that is a topic for another hearing—July 15th, for those taking notes.

I personally believe that Federal legislation seeking to overturn D.C.'s gun laws are an unnecessary and potentially dangerous assault on Home Rule. I personally believe the net result could be a less safe capital city. But this committee's agenda is not about my personal beliefs. The issues raised in this debate demand our time and demand our attention. The safety of D.C. residents demands it.

Today's hearing features a compelling array of witnesses who have differing opinions on the District's gun ban. I called this hearing because the District's gun ban not only raises Constitutional concerns among some observers, but it is worth a look to see if the ban is working as intended. Does the ban effectively keep dangerous weapons out of the hands of criminals? Would repealing it lead to a spike in violent crime and homicides? Or, as one of today's witnesses argued, would more guns equal less crime?

We are pleased to once again be joined by Mayor Tony Williams of the District of Columbia and the city's Police Chief Charles Ramsey to hear the city's perspective on the current gun laws. In addition, the committee is fortunate to be joined by an array of witnesses, including residents of the District of Columbia and representatives from both national think tanks and community organizations from all sides of the issue, and we appreciate an informative discussion on this.

Congress has acted on this in the past without any kind of hearings or anything, and we felt this was appropriate to move forward today to try to build a record so we can get the city on record and we can get proponents and opponents, both sides, to be able to state their case for the public record.

[The prepared statement of Chairman Tom Davis follows:]

Chairman Tom Davis
Government Reform Committee Hearing
"Under Fire: Does the District of Columbia's Gun Ban Help or Hurt the Fight Against Crime?"
June 28, 2005
Room 2154 Rayburn House Office Building

Good afternoon, and I thank everyone for joining us today as the Committee on Government Reform takes a look at the District of Columbia law banning handguns and most automatic weapons.

In 1976, three years after Congress passed the "Home Rule Act," the District of Columbia Council passed the Firearms Control Regulations Act, a law prohibiting the possession of unregistered firearms, and banning the registration of all handguns, automatic firearms, and high-capacity semi-automatic firearms. The District's ban on handguns makes it illegal for anyone to own a handgun unless he or she is a police officer or has owned a gun registered prior to 1976. Sales of firearms are similarly restricted. This makes the District's gun laws among the strictest of any jurisdiction in the nation.

Various lawsuits have been filed in recent years questioning the constitutionality of the D.C. gun law under the Second Amendment. The courts have upheld the ban, finding it is within the District's power to regulate firearms. Meanwhile, legislation has been introduced in both the House and Senate to overturn the District's gun ban.

I am a strong supporter of Home Rule. For our system of federalism and democracy to work, states and localities need to be able to make their own decisions – even if some of us think they're bad ones.

I believe the citizens of the District of Columbia – like residents of any city across the nation – are best served when their locally elected representatives are free to decide how to manage the city's affairs. After all, the District is certainly not the only city in America with a ban on handguns. New York City has a restrictive handgun law. So does Chicago. So do smaller towns, such as Morton Grove, Wilmette, Evanston and Oak Park, all in Illinois.

I believe there is room in the Congress for debate on the merits of some of our nation's gun laws. But I also believe the appropriate place for debate on *the District's* gun laws is the chamber of the District of Columbia Council.

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I also believe the District would be better off if my colleague, Eleanor Holmes Norton, could cast votes on the floor of the House of Representative. We are, of course, working to build support for legislation to fix that, but that is a topic for another hearing. [July 15, for those taking notes...Consider that my shameless plug for the day.]

I personally believe that federal legislation seeking to overturn D.C.'s gun laws are an unnecessary and potentially dangerous assault on home rule. I personally believe the net result could be a less safe capital city.

But this Committee's agenda is not about my personal beliefs. The issues raised in this debate demand our time and attention. The safety of D.C. residents demands it.

Today's hearing features a compelling array of witnesses who have differing opinions on the District's gun ban. I called this hearing because the District's gun ban not only raises Constitutional concerns among some observers, but it is worth a look to see if the ban is working as intended.

Does the ban effectively keep dangerous weapons out of the hands of criminals? Would repealing it lead to a spike in violent crime and homicides? Or, as one of today's witnesses has argued, would more guns equal *less* crime?

We are pleased to once again be joined by Mayor Tony Williams of the District of Columbia, and the city's police chief, Charles H. Ramsey, to hear the city's perspective on the current gun laws. In addition, the Committee is fortunate to be joined by an array of witnesses, including residents of the District of Columbia and representatives from both national think tanks and community organizations. I look forward to an informative discussion.

Chairman TOM DAVIS. I would now recognize the distinguished delegate for the District of Columbia, Ms. Norton.

Ms. NORTON. Thank you very much, Mr. Chairman. And I thank you especially for this hearing that is of great importance to D.C. elected officials and residents. I particularly appreciate the collegial conversation between you and me, Mr. Chairman, which resulted in today's hearing and your working with me to select and secure today's witnesses.

The current effort to repeal D.C.'s gun safety laws is the second consecutive attack on gun safety and on Home Rule in as many years, and the fourth attack on our gun laws since I have been a Member of Congress, thanks to the National Rifle Association.

I want to begin by making an important announcement. National organizations can and do get changes in D.C. laws, but not by coming to Congress. To its credit, Congress, in almost 30 years of Home Rule, has overturned D.C. law only very rarely. Our local laws can be changed the way yours are: by showing the minimum respect our elected officials deserve of lobbying the appropriate body.

If I may, I want to note that what is truly amazing about the gun safety repeal bill is that any Member of Congress would desire to introduce gun and pawn shops here, which could then sell assault weapons like AK–47s in the capital of the United States in the post-September 11th era, while we still have checkpoints in our streets stopping people to see if they are terrorists.

Who will take responsibility for a bill that would allow legal ownership of an M–16 by a person who might later go to the roof of an office or an apartment building and take aim at Federal targets, visitors, and officials? Any security professional will tell you that official Washington has as much to fear from the radical repeal in this bill as residents of the District of Columbia.

My only regret about a hearing on repeal is that any elected official or any police chief of any local jurisdiction in our country today would have to suffer the indignity of appearing before the U.S. Congress on a matter of profound local concern. The most fundamental guiding democratic principle of the founders of our country was local control, first from England and then, because they were deeply principled, they denied to the national government that they themselves created any control of the laws of local jurisdictions.

The entire reason for our founding revolution was that democracy demanded accountability running from the electorate to those whom they elected. The framers deeply believed that democracy required that citizens must be able to judge their elected officials by keeping or removing them.

No sponsor of this bill could be removed or rewarded by the voters of the District of Columbia, leaving more than half a million American citizens stranded and estranged from democracy in their own country. The ignorant claptrap from those who have not bothered to immerse themselves in American history that somehow the root principle of local control and accountability that gave birth to the Nation was not meant to apply to citizens living in our Nation's Capital is a slander on the founders of our country.

Even worse, the claim that democracy applies everywhere else in our country, but not to the capital of our country, demeans more than half a million American citizens who live in the District of Columbia by explicitly classifying them as second-class Americans.

Nevertheless, I appreciate that Mayor Tony Williams and Police Chief Charles Ramsey have come to testify as lead witnesses, and I thank today's other witnesses for their testimony as well. I hope it gives Mayor Williams some comfort in coming here to have a unanimous City Council and a virtually unanimous city behind him as well.

There are two important aspects to this hearing. The first is who has the right and the qualifications to decide the gun safety repeal issue. The second issue is the District's reasons for maintaining strict gun laws in this city.

Let us assume for a moment that the District is wrong in enacting strict gun safety laws. When Congress passed the Home Rule Act, it gave the District the right to make this decision, right or wrong, a matter that should close this case, particularly today, when Congress is demanding democracy worldwide.

Even if the District is wrong, can the case seriously be made in America today that correcting what is wrong lies with this body, whose members cannot be held accountable for the consequences of repeal, will not be hammered for increases in gun violence, and will not attend a single funeral? The assertion that in undemocratically repealing our gun safety laws Congress would be doing its Constitutional duty would get us laughed off of the world stage, particularly today, when the spread of democracy worldwide is declared national policy.

Since, in looking to the Constitution, Congress placed this matter in the hand of District officials and residents, we are left only with the second amendment, except that no local or Federal court, in 30 years of considering this Constitutional issue, has ever found that D.C.'s gun safety laws violate the second amendment to the Constitution of the United States.

Thus, sponsors and co-sponsors and proponents alike are driven back to desiring boldly to override the democratically enacted laws of a local jurisdiction in the United States of America today. I invite the co-sponsors to try their hand at defending the undemocratic repeal of our gun safety laws while rising to object when other nations ask for a pass on democracy.

No Member of Congress has the right to usurp our right to protect ourselves and our kids by introducing more guns that could take the gun violence already here the next step to a free-fire zone. No Member of Congress has the right to encourage guns in homes, when the overwhelming evidence from all the national data shows that guns in homes rarely are used to thwart intruders, and are almost always used to kill those closest to us and in suicides.

No Member of Congress has the right to the odious provision this bill carries that bars the Mayor and the council from taking any action, even to an—and I am here quoting—"discourage the private ownership"—discourage, my friends, the private ownership—or "use"—use—"of firearms." No Member of Congress has a rebuttal to the hard data that shows that one in five police officers is killed by an assault weapon in our country today, weapons that this bill

sanctions to be sold in the Nation's Capital. And no Member can contest the tragic fact that more teens are killed by gunfire than by all diseases combined.

The most bankrupt rationale offered for this outrageous interference with our local laws is the existing gun violence in the District of Columbia. Let us hear the proponents and the co-sponsors argue with a straight face that allowing guns in people's homes would reduce, rather than increase, the gun violence here. District officials and residents deserve credit and they deserve our appreciation for the significant reduction in gun killings and in crime that they have achieved, and particularly for the sharp reduction in the number of children killed this year by gunfire.

Our residents and officials deserve better than congressional action that would inevitably frustrate their hard work and drive up these killings. Nine year-old Dante Manning, shot and killed in Northwest in April, and 1 year-old Miani Gooding, shot and killed in Southeast in January, deserve better than to have the memory of their young lives besmirched by the repeal of the District's gun safety laws in the very year in which they died by gunfire. Promising 15 year-old Myesha Lowe, shot and killed as a bystander while eating fast food a year ago, whose mother, Francine Lowe, is here to testify today, deserves better too.

Thank you, Mr. Chairman.

[The prepared statement of Hon. Eleanor Holmes Norton follows:]

Statement of Congresswoman Eleanor Holmes Norton
Committee on Government Reform Hearing
"Under Fire: Does the District of Columbia's
Gun Ban Help or Hurt the Fight Against Crime?"
Tuesday, June 28, 2005

Thank you, Mr. Chairman for this hearing of great importance to D.C. elected officials and residents. I particularly appreciate the collegial conversation between you and me, Mr. Chairman, which resulted in today's hearing and your working with me to select and secure today's witnesses. The current effort to repeal D.C.'s gun safety laws is the second consecutive attack on gun safety and on home rule in as many years, and the fourth attack on our gun laws since I have been a member of Congress, thanks to the National Rifle Association. I want to begin by making an important announcement. National organizations can and do get changes in D.C. laws, but not by coming to Congress. To its credit, Congress in almost 30 years of home rule overturned D.C. law only very rarely. Our local laws can be changed the way yours are – by showing the minimum respect our elected officials deserve of lobbying the appropriate body.

If I may, I want first to note that what is truly amazing about the gun safety repeal bill is that any member of Congress would desire to introduce gun and pawn shops here, which could then sell assault weapons like AK-47s, in the capital of the United States, in the post-9/11 era, while we still have checkpoints in our streets stopping people to see if they are terrorists. Who will take responsibility for a bill that would allow legal ownership of an M-16 by a person who might later go to the roof of an office or apartment building and take aim at federal targets, visitors, and officials? Any security professional will tell you that official Washington has as much to fear from the radical repeal in this bill as residents of the District of Columbia.

My only regret about a hearing on repeal is that any elected official or any police chief of any local jurisdiction in our country today would have to suffer the indignity of appearing before the U.S. Congress on a matter of profound local concern. The most fundamental guiding democratic principle of the founders of our country was local control, first from England and then because they were deeply principled, they denied to the national government that they themselves created any control of the laws of local jurisdictions. The entire reason for our founding revolution was that democracy demanded accountability running from the electorate to those whom they elected. The framers deeply believed that democracy required that the citizens must be able to judge their elected officials by keeping or removing them. No sponsor of this bill could be removed or rewarded by the voters of the District of Columbia, leaving more than 500,000 American citizens stranded and estranged from democracy in their own country. The ignorant claptrap from those who have not bothered to immerse themselves in American history that somehow the root principle of local control and accountability that gave birth to the nation was not meant to apply to citizens living in our nation's capital is a slander on the founders of our country. Even worse, the claim that democracy applies everywhere else in the country but not to the capital of our country demeans the more

than half a million American citizens who live in the District of Columbia by explicitly classifying them as second class Americans. Nevertheless, I appreciate that Mayor Tony Williams and Police Chief Ramsey have come to testify as our lead witnesses, and I thank today's other witnesses for their testimony as well. I hope it gives Mayor Williams some comfort in coming here to have a unanimous City Council and a virtually unanimous city behind him as well.

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No member of Congress has the right to usurp our right to protect ourselves and our kids by introducing more guns that could take the gun violence already here the next step to a free fire zone. No member of Congress has the right to encourage guns in homes when the overwhelming evidence from all the national data shows that guns in homes rarely are used to thwart intruders and are almost always used to kill those closest to us or in suicides. No member of Congress has the right to the odious provision this bill carries that bars the Mayor and Council from taking any action even to "discourage the private ownership or use of firearms." No member of Congress has a rebuttal to the hard data that show that one in five police officers is killed by the assault weapons that this bill would sanction to be sold in the nation's capital and no member can contest the tragic fact that more teens are killed by gunfire than by all diseases combined.

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sponsors argue with a straight face that allowing guns in people's homes would reduce rather than increase gun violence here.

District officials and residents deserve credit and our appreciation for the significant reduction in gun killings and in crime that they have achieved and particularly for the sharp the reduction in the number of children killed this year by gunfire. Our residents and officials deserve better than Congressional action that would inevitably frustrate your hard work and drive up these killings. Nine year old Donte Manning, shot and killed in Northwest in April and one year old Mianni Goodine, shot and killed in Southeast in January, deserve better than to have the memory of their young lives besmirched by the repeal of the District's gun safety laws in the very year in which they died. Promising fifteen year old Myesha Lowe, shot and killed as a bystander while innocently eating fast food a year ago, whose mother, Francine Lowe, is here to testify today, deserves better, too.

Chairman TOM DAVIS. Thank you very much.

Mr. McHenry.

Mr. MCHENRY. Thank you, Mr. Chairman, for having this hearing today, and I appreciate your leadership of the Government Reform Committee.

Protecting the second amendment rights our Constitution provides for is essential to the freedoms of this country. I strongly support the rights of all citizens to lawfully purchase, use, keep personal firearms. Gun control laws simply penalize lawful gun owners who use their firearms for recreational hunting and self-defense purposes. The best way to reduce illegal gun violence and crime is through strict enforcement of current laws and stiffer penalties for criminals.

As a member of the NRA and a co-sponsor of Chairman Souder's bill, H.R. 1288, the District of Columbia Personal Protection Act, I believe it is important to draw attention to this issue. Restricting lawful residents' use of guns in the District of Columbia is not what our Constitution intended.

According to the FBI and D.C. Metropolitan Police, the homicide rate has soured in the District of Columbia since the city banned handguns in 1976. Before the ban, the homicide rate was declining. But by 1991 alone it had risen by more than 200 percent. This is in stark contrast to the overall national rate, which rose only 12 percent. This indicates that the ban has hurt those living in the District of Columbia and our visitors to our Nation's Capital. At this time, the District of Columbia is only three homicides—three homicides—away from the same number as we had last year, which illuminates that this gun ban is not preventing violent crime.

I would like to welcome our witnesses today. I certainly appreciate you being here to testify, appreciate your expertise on this issue, and look forward to hearing from each of you on this panel, this first panel as well as the second panel. But I think we need to look at new ways to take on this issue. It is not just simply about the residents of the District of Columbia; it is about our visitors from around the country. It is about my constituents who come to visit the Nation's Capital.

Indeed, it is about Americans from all States; it is our folks from around the country and around the world that come to our great National Capital. And it is a disgrace that we have such a high homicide rate and such violent crime occurring here in our Nation's Capital. Yet, we disarm those lawful citizens that should be able to lawfully keep firearms, and allow felons, who are continuing to commit crimes, keep firearms that they are obviously using to commit homicides.

So I look forward to hearing the testimony of the Mayor and the police chief here today; I look forward to our future panel as well to actually illuminate the facts of this issue.

Thank you, Mr. Chairman, for allowing us the opportunity to be here today, and thank you for your leadership.

[The prepared statement of Hon. Patrick T. McHenry follows:]

OPENING STATEMENT for District of Columbia Gun Ban Oversight Hearing
CONGRESSMAN McHenry
June 28, 2005, 2:30 p.m., 2154 RHOB

Thank you Mr. Chairman for your leadership on this issue and for taking the time to call this important hearing. Protecting the Second Amendment rights our Fore Fathers fought to provide for us is essential to the freedoms of this country. I strongly support the rights of all citizens to lawfully purchase, use, and keep personal firearms. Gun control laws simply penalize lawful gun owners who use their firearms for recreational, hunting, and self defense purposes. The best way to reduce illegal gun violence and crime is through strict enforcement of current laws and stiffer penalties for criminals.

As a member of the NRA and a co-sponsor of Chairman Souder's bill, H.R. 1288, the District of Columbia Personal Protection Act, I believe it is important to draw attention to this issue. Restricting lawful residents' use of guns in the District of Columbia is not what our Fore Fathers intended.

According to the FBI and DC Metropolitan Police the homicide rate has soared in the District since the city banned handguns in 1976. Before the ban, the homicide rate was declining; but by 1991 it had risen more than 200%. This is in stark contrast to the overall national rate, which rose only 12%, indicating the ban seems to have hurt more than it helped. At this time, the District of Columbia is only 3 homicides away from the same number as last year, which illustrates that this gun ban is not preventing violent crimes.

I would like to welcome all of our witnesses today and thank you for taking the time to be here and for lending us your expertise so that we can better understand how this affects the District. I look forward to hearing from each of you and for the opportunity to discuss what needs to be done to protect our Second Amendment rights. Thank you again Mr. Chairman, and I look forward to a productive hearing.

Chairman TOM DAVIS. Thank you very much.

Mr. Waxman.

Mr. WAXMAN. Mr. Chairman, thank you for holding this hearing today, which is cynically titled the District of Columbia Personal Protection Act. And I commend you for working with Congresswoman Norton to put this important hearing together. And I especially want to commend Congresswoman Norton for her determined leadership on this and so many other issues that matter to the residents of the District.

Contrary to the bill's title, the legislation we are considering won't enhance personal protection; it will imperil it. This is an astounding piece of legislation because it is so objectionable on so many levels. First, on process. We are having a hearing on this proposal today, 9 months after the bill passed the House. This isn't Chairman Davis' fault; the bill was run through last year over his objection. But passing a bill on the floor and then having a hearing inverts the legislative process.

On federalism or Home Rule grounds, the bill is a travesty. This bill was not requested by the District, is not wanted by the District, and is vehemently opposed by the District. This bill isn't even about the District; it is about the NRA and its right-wing supporters in Congress foisting a misguided proposal on U.S. citizens who don't even have a vote in the Congress.

The bill is deficient on Constitutional grounds. The bill says "The second amendment protects the rights of individuals to keep and bear arms." That is just wrong. It doesn't, even though the NRA desperately wants to ignore the Supreme Court's rulings and rewrite the Constitution.

The bill is also objectionable on law enforcement grounds. It allows not just handguns and rifles, but semi-automatic assault weapons. It compounds this danger by eliminating any form of registration, and it is riddled with gaping loopholes that undermine police efforts to curb gun violence. Here is an example. It would allow people to carry assault weapons for "informal target practice." How exactly would the District police enforce that?

And here is another one. It is fine, under this bill, to carry assault weapons as long as you are on your way to a dog obedience training class.

The most significant problem with this bill, however, is that it will directly endanger national security. I would like to show the committee members a picture. This is an actual size photo of a Barrett M82A1 50-caliber semi-automatic sniper rifle. These are what our military troops are using today to take out enemy positions in Iraq and Afghanistan. The military uses these weapons to destroy armored personnel carriers and blow up enemy bunkers from a mile away. The Marine Scout Sniper School at Quantico trains military snipers with these weapons.

Here is another picture. This is a photo of an airplane cockpit window that was blown out by a 50-caliber sniper rifle. This photo was on the gun manufacturer's Web page, touting its destructive force.

If this bill passes, District residents could assemble these weapons, fully load them, rest them on windowsills along Pennsylvania Avenue during an inauguration. Every single hot dog, ice cream, or

t-shirt vendor that lines District streets along the mall on the 4th of July could be stocked with fully loaded AK–47s. Under this bill, all of these actions would be totally legal. Why would anyone in their right mind want to allow these weapons onto the streets of the District of Columbia?

In short, this is a misguided, destructive, and ludicrous piece of legislation. If people are visiting the District of Columbia, they ought to leave their firearms back home. If the law of the District says they don't want them in this jurisdiction, then visitors ought to abide by the law, just as visitors to Los Angeles would have to abide by our law, if duly passed by the authorities running the city of Los Angeles.

Why should it be any different for the District of Columbia? Why should people in this district be subjected to sniper rifles, guns, assault weapons, anything that anybody wants to have available to them? And to say that the murder rate in this area is due to the fact that there is a gun ban is absolutely absurd.

Mr. Chairman, I am pleased that you are holding this hearing, and it takes some courage for you to do it, because the Republican leadership of the House has been in the pocket of the NRA for some time now, and that is why the House of Representatives rammed through a proposal to overturn the law in the District of Columbia. I hope it doesn't happen in the Senate; I hope it doesn't happen again in the House.

But at least we are holding a hearing, unfortunately, after the House has already taken such an extreme step as to overturn the law in the District of Columbia. And to have now before us a proposal which is misguided and called the District of Columbia Personal Protection Act is a complete misnomer and an outrage.

Thank you.

[The prepared statement of Hon. Henry A. Waxman follows:]

Statement of
Rep. Henry A. Waxman, Ranking Minority Member
Committee on Government Reform
Hearing on
"Under Fire: Does the District of Columbia's Gun Ban Help or Hurt the Fight Against Crime?"

June 28, 2005

Mr. Chairman, thank you for holding today's hearing on H.R. 1288, which is cynically titled, the "District of Columbia Personal Protection Act."

I commend you for working with Congresswoman Norton to put this important hearing together.

And I especially commend Congresswoman Norton for her determined leadership on this and so many other issues that matter to the residents of the district.

Contrary to the bill's title, the legislation we are considering won't enhance personal protection; it will imperil it.

This is an astounding piece of legislation because it is so objectionable on so many levels.

First, on process, we are having a hearing on this proposal today – nine months after the bill passed the House.

This isn't Chairman Davis's fault. The bill was rammed through last year over his objection. But passing a bill on the floor and then having hearings inverts the legislative process.

On federalism, or "home rule," grounds, the bill is travesty. This bill was not requested by the District, is not wanted by the District, and is vehemently opposed by the District.

This bill isn't even about the District. It's about the NRA and its right-wing supporters in Congress foisting a misguided proposal on U.S. citizens who don't have a vote in Congress.

The bill is deficient on constitutional grounds. The bill says, "The Second Amendment … protects the rights of individuals … to keep and bear arms."

That's just wrong. It doesn't, even though the NRA desperately wants to ignore the Supreme Court's rulings and rewrite the Constitution.

The bill is also objectionable on law enforcement grounds. It allows not just handguns and rifles, but semiautomatic assault weapons.

It compounds this danger by eliminating any form of registration.

And it is riddled with gaping loopholes that undermine police efforts to curb gun violence.

Here's an example. It would allow people to carry assault weapons for "informal target practice."

How exactly would the District Police enforce that?

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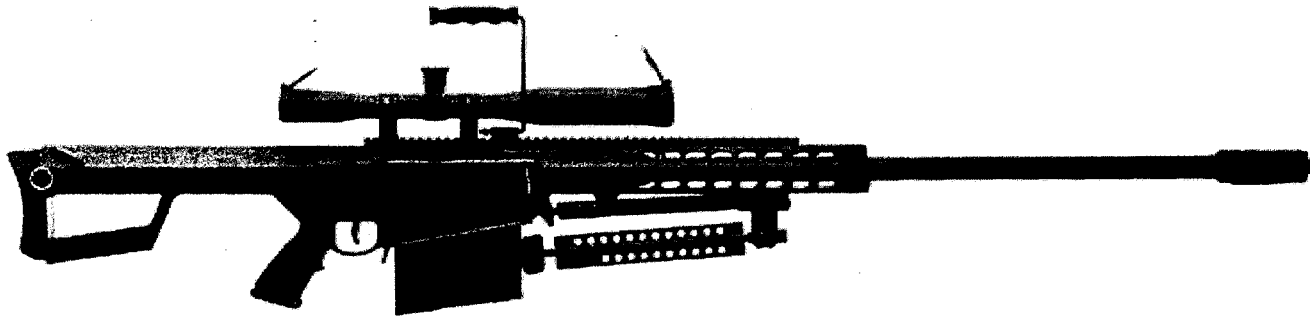
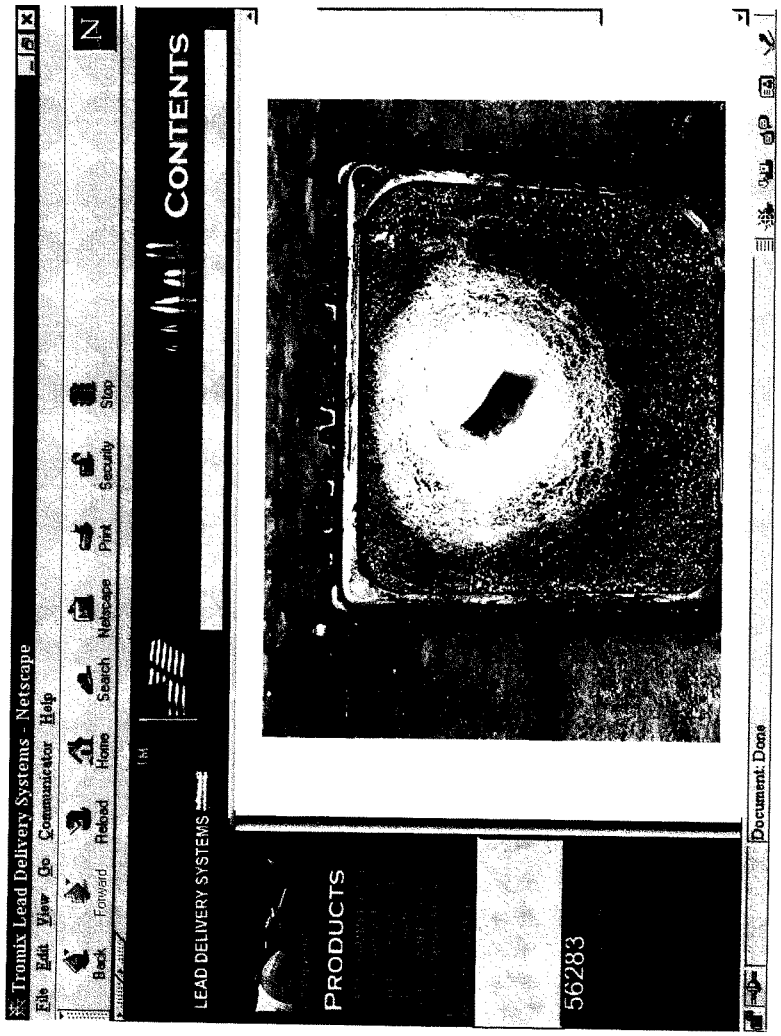
Why would anyone in their right mind want to allow these weapons onto the streets of DC?

In short, this is a misguided, destructive, and ludicrous piece of legislation.

BARRETT M82A1 SEMIAUTOMATIC .50 CALIBER SNIPER RIFLE

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At Tromix we believe that the proof is in the pudding. So we took the 50AE AR-15 to the range to make some pudding out of some fairly formidable targets.

The McDonald Douglas DC-9 center cockpit windshield. Designed with 2in. thick glass in a 3 ply laminate. These windshields were designed to take what ever the elements can throw at it. Imagine hail at 30,000ft going over 500 miles an hour. It is a good thing Mother Nature doesn't pack the 50AE.

By the way, the .223 mouse gun didn't even penetrate the windshield.

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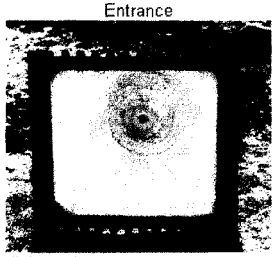

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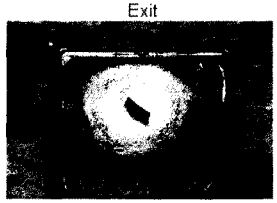

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Chairman TOM DAVIS. Thank you. I think about 50 Democrats voted for that too, just for the record.

Any other Members want to make opening statements before we move on to our panel? I want to get to the panel. Mr. Cummings, followed by Mr. Clay, and then Mr. Kucinich.

Mr. CUMMINGS. Mr. Chairman, I too want to hear from the panel, but I tell you, after I heard one of my colleagues on the other side, I just have to say something.

It is ridiculous to say that, when you have a situation where you already have a violence problem, to allow more guns into an area simply does not make sense. And I come from a district, the 7th Congressional District of Maryland, and Baltimore is in the center of my district, and we have one of the highest murder rates in the country. And I can tell you we just had a gun buy-back, and to my good friend Mr. McHenry, I can tell you we ran out of money after about a day, because there were so many guns out there.

I think that we have to do—and I applaud Ms. Norton, too, for what she has done with regard to all of this, and you, Mr. Chairman, for holding this hearing, but I think we have to use some common sense here. I know what it feels like to come home at 1 a.m., and have two sawed-off shotguns aiming at my head. I know the feeling. And I know what it is like to go to the funerals. It is not a very good feeling. I also know what it is like to go to the funeral of police officers.

And we have police officers that are reminding us that it is a thin blue line. Well, we also have Members of this Congress that go to those police officers' funerals, and we mourn. But the very officers that come and say help us protect you and give us what we need, the laws we need so that we can create that atmosphere of safety, suddenly we turn to the NRA and say what is your advice, and they say more guns, more guns, more guns. It only leads to more problems.

In my district they say I am the No. 1 target of the NRA. Well, I have to tell you that is a badge of honor in my district. And I think that we in this country have to have a common sense approach. Folks talk about the safety of the District and visitors coming here. Just a few weeks ago we saw Congressmen and staff run from these office buildings, trying to find a place of safety. But the fact still remains that if we allow guns to just flow in this district like water down a stream, then the only thing that we are creating is a much more dangerous atmosphere.

Last, but not least, let me say this. In the middle of my district, in Baltimore, which is only an hour ride away from here, there was an incident the other day—and I just read very briefly, Mr. Chairman, from the Baltimore Sun June 28, 2005: "Lost inside an adult t-shirt, a 13-year-old boy stood before a juvenile court judge yesterday and became the city's youngest murder suspect this year. The child is accused of being among a group of kids who had thrown an empty wine bottle at the victim Saturday morning, hitting the man in the foot. The victim protested, and at least a half an hour later police say the youngster covered his face with a bandanna, took a gun from a friend, and shot the victim several times. Police say the Pimlico Middle School pupil, who stands less than 5 feet tall, then shot in the back a second man who tried to drag the first

victim to safety." One of them died, by the way. One of these victims died.

My point is simply this: that I don't know where that gun came from, but anybody who has done the research on guns knows that guns that are in a home—and I am sure there will be testifying on this—you have a much greater chance of that gun being used by somebody in that house, or perhaps stolen, and that gun being used in a crime of passion or a crime which involves somebody that they know than it is to be used to protect themselves from an intruder. That is a fact, and those statistics have stood the test of time.

So it is that we gather here, Mr. Chairman, and I thank you again, but I say that we go forward with some sensitivity and some understanding. This is not a world about the NRA. This is a country that is about laws. This is a country about a thin blue line. And it is a very thin blue line, and we must do everything in our power to uplift them so that they can protect us.

With that, I yield back.

[The prepared statement of Hon. Elijah E. Cummings follows:]

Opening Statement

Representative Elijah E. Cummings, D-Maryland

Hearing on "Under Fire: Does the District of Columbia's Gun Ban Help or Hurt the Fight Against Crime?"

Committee on Government Reform
U.S. House of Representatives
109th Congress

June 28, 2005

Mr. Chairman,

Thank you for calling this important hearing to evaluate the District of Columbia's gun safety laws and congressional efforts to repeal those laws.

Since the passage of the District of Columbia Self-Government and Governmental Reorganization Act or Home Rule Act in 1973, the District has utilized its authority to not only elect a Mayor and a City Council, but also to regulate firearms. In 1976, the District of Columbia Council passed the Firearms Control Regulations Act, establishing one of the most robust limitations on gun ownership in the nation with the intention of combating an entrenched crime problem and promoting community safety.

Specifically, this gun safety law required all firearms in the District be registered, restricted the classes of individuals who can

register a firearm, and generally banned the registration of all handguns. It should be noted, however, that rifles and shotguns can be registered with some exceptions.

Despite the unwavering support of Mayor Williams and Metropolitan Police Department Chief Ramsey for the District's gun safety laws, under the District of Columbia Personal Protection Act (H.R. 1288) *Congress* would repeal nearly all of those laws and severely restrict the authority of the City Council and the Mayor from regulating firearm possession.

Specifically, H.R. 1288 states "the District of Columbia shall not have authority to enact laws or regulations that discourage or eliminate the private ownership or use of firearms." I am not convinced that H.R. 1288 is necessary, nor am I convinced that its passage would be in the best interest of the residents of the District of Columbia.

In evaluating the District's limitations on firearm possession, one is compelled to ask two central questions: one, are the District's gun safety laws effective and two, are they constitutional? In short, the answers to both those questions seem to be yes. The District's gun safety laws are effective at

discouraging gun violence by making firearms less widespread throughout the city and assisting law enforcement efforts in recovering unlawful firearms that endanger the lives of police officers and law-abiding citizens. The fruit of the District's laws are a declining homicide rate that is the lowest it has been since 1986 and a city that is safer.

Secondly, the two lawsuits challenging that the District's gun laws are a violation of the Second Amendment rights *failed* to overturn these laws on constitutional grounds. Specifically, the judges in both cases ruled that the District's gun safety laws were constitutional declaring that the Second Amendment does not confer a protected right of private gun ownership, rather the Second Amendment applies solely to State militias.

Mr. Chairman, it seems wise to move forward guided by the principle that democracy can function best when those closest to an issue are empowered to address it. The residents of the District of Columbia speak in clear and plain terms through their elected Mayor and City Council that their existing approach to gun safety is best for their community. If the residents of the District want to repeal their gun safety laws, then we should let democracy work and permit them to elect those leaders who will ease the existing

restrictions on firearms within the city. Until then, let us embrace the constitutional principle from whence our great nation was born—the right of self-determination—and let the District of Columbia manage this matter how best it sees fit.

I yield back the balance of my time and look forward to the testimony of today's witnesses.

Chairman TOM DAVIS. Thank you.

Mr. Clay.

Mr. CLAY. Thank you, Mr. Chairman, and thank Ranking Member Waxman for holding today's hearing on the District's gun laws.

In response to my colleague from Baltimore, I too want to say that I must be in good company being one of the most wanted of the NRA in Missouri, too. So I am in good stead with Mr. Cummings.

Let me say that this hearing comes at a time when the total number of homicides in Washington has fallen to the lowest level in 18 years. Repealing the D.C. gun ban would be a step in the wrong direction. Judges in two cases challenging the District's gun laws have ruled that these laws are Constitutional. Although this ruling is being appealed, it is an issue for the courts to decide, and not this Congress.

Pending legislation to repeal the District's gun laws would allow this Congress to arrogantly deny the District's right to enact its own laws. Opposition from District officials remains unanimous and consistent. It is unjust that my colleague, Congresswoman Eleanor Holmes Norton, who represents the District of Columbia, could not vote on behalf of the wishes of her constituents when the last Congress voted to repeal the District's firearm laws.

Today's hearing serves as glaring reminder that Congress must grant equal voting rights for the citizens of the District of Columbia so that its residents will have voting representation in Congress. The Federal Government continues to direct billions of taxpayer dollars to make our Nation's Capital safer for residents, commuters, tourists, public officials, and law enforcement professionals dedicated to public safety. It would be hypocritical of Congress to undermine the District's gun safety laws.

And I thank you, Mr. Chairman, again, and I yield back my time.

[The prepared statement of Hon. Wm. Lacy Clay follows:]

STATEMENT OF THE HONORABLE
WM. LACY CLAY

"UNDER FIRE: DOES THE DISTRICT OF COLUMBIA'S GUN BAN HELP OR HURT THE FIGHT AGAINST CRIME?"

June 28, 2005

Thank you, Chairman Davis and Ranking Member Waxman, for holding today's hearing on the District's gun laws. This hearing comes at a time when the total number of homicides in Washington, DC has fallen to the lowest level in 18 years. Repealing the DC Gun ban would be a step in the wrong direction. Judges in two cases challenging the District's gun laws have ruled that these laws are constitutional. Although this ruling is being appealed, it is an issue for the Courts to decide, not Congress.

Pending legislation to repeal the District's gun laws would allow this Congress to arrogantly deny the District's right to enact its own laws. Opposition from District officials remains unanimous and consistent. It is unjust that my colleague,

Congresswoman Eleanor Holmes Norton, who represents the District of Columbia, could not vote on behalf of the wishes of her constituents when the last Congress voted to repeal the District's firearm laws. Today's hearing serves as a glaring reminder that Congress must grant equal voting rights for the Citizens of the District of Columbia so that its residents will have VOTING representation in Congress.

The Federal Government continues to direct billions of taxpayer dollars to make our Nation's capitol safer for residents, commuters, tourists, public officials and law enforcement professionals dedicated to public safety. It would be hypocritical of Congress to undermine the Districts gun safety laws.

Thank you, Mr. Chairman and I yield back.

Chairman TOM DAVIS. Thank you.

Mr. Kucinich.

Mr. KUCINICH. I thank the Chair and the ranking member for holding this hearing, and welcome his Honor, the Mayor, and the chief to this Committee.

There are a number of different issues involved here. The first issue that needs to be addressed immediately is the issue of Home Rule. Do the people of Washington, DC, through their elected representatives, have the right to make laws to protect and provide for the safety of their community? I think there can be no other answer to that than the answer yes.

Now, as a former Mayor of the city of Cleveland, I understand full well the concerns of the Mayor of the city of Washington, DC, because the Mayor of the city of Washington, DC, and the members of the Council are forever being haunted with having to visit the families of victims of violent crimes. It goes with the territory. It also goes with the territory of the police officers.

This isn't theoretical. It is not some Constitutional debate that is arcane. There are people dying on the streets of our cities because of the proliferation of the handguns. It is just a fact. Now, my travels across this Nation, your Honor, I had the opportunity to meet with—in one community in particular, which I won't name—to meet with the families—mothers, mainly, and some brothers and sisters—of children who were casualties of the warfare that goes on in America's cities, and I saw hundreds of pictures spread out over a card table in a high school gym, and I saw various displays of pictures which kind of told the lives of young people.

And it is really remarkable when you think about it, about the carnage that goes on in America's cities. And we have all this attention in this country on a so-called war on terror, when there are people living with terror in their own neighborhoods because of the proliferation of handguns. And you are trying to tell the people of Washington, DC, they can't control their own destiny in this regard?

I read too many stories—and everyone here knows what I am talking about—too many stories about the brilliant careers of young people in school who have overcome all kinds of odds in the inner city, who were the pride of their mothers and fathers, and all of a sudden cut down by handguns. Anyone here who reads has read those stories. You only need to pick up the metro section of any major newspaper in this country to see those stories.

We are acting as if there is not a problem here. We are acting as if a community doesn't have the right to protect its own interests and the safety of its own people. When I was Mayor of the city of Cleveland, I took an oath to uphold the safety of the city of Cleveland, the same oath that every public official takes.

Mr. Mayor and to the police officers and the people who are here from Washington, DC, you should know that there are people in Congress who understand what you have to deal with on a daily basis. You should know that there are people who understand what it is like to grow up in a city, to love a city, to want to live in a city, and, at the same time, to have to contend with the day-to-day challenges in a city. I thank you for your perseverance, and I

pledge to you there are many Members of Congress who are on your side who are going to work to support not only Home Rule, but work to support your right to be safe. Thank you.

I yield back.

Chairman TOM DAVIS. Thank you very much.

Are there any other Members who wish to make opening statements? Yes, Mr. Ruppersberger.

Mr. RUPPERSBERGER. Mr. Chairman, a very important issue, a very important subject matter we must deal with. Thank you, Mr. Chairman and Ranking Member Waxman, for this hearing.

It is imperative that our Nation's Capital should be the model for the rest of our Nation. However, it faces the same problem as many of our urban areas must deal with on a daily basis, the problems of violence and also gun violence.

Last year, Congress considered legislation repealing the District of Columbia gun ban, and what I believe in a Constitutional right to bear arms, I also believe the Constitution charges lawmakers with the explicit responsibility of protecting our citizens. We are here today because legislation has been introduced that would again attempt to repeal the longstanding gun ban.

I believe this is an issue of balance. While there are many valid arguments for reconsidering the gun ban, Congress must also consider what would take its place. Simply deregulating gun ownership could create a lawless environment and breed more violence. Instead, the question for us should be what laws would govern the District of Columbia's gun ownership if the current ban were repealed.

It truly disturbs me when there are more people in jail than college. I don't believe that people should live in fear because we have firearms in the wrong hands. And that is the issue: in the wrong hands. We in Congress share the same mission as the community and the Metropolitan Police Department: to prevent crime and the fear of crime as we work with others to build safe and healthy neighborhoods throughout this Nation. Preventing crime through problem-solving, partnerships among communities, police and other city agencies is one solution to this growing problem. But our main concern is the accountability of this violence. How are we helping the citizens of the District of Columbia be accountable for firearms being in the wrong hands?

Getting involved to try to stop firearms is an area where we all can debate back and forth all day. Working to prevent crime is one of our No. 1 priorities. And I don't mean just catching the criminals, but looking at the whole picture as to how the individual even got in this situation from the beginning, especially juveniles.

Congressman Cummings talked about an incident in Baltimore yesterday where a 13 year-old child shot someone in the head and then his mother came to court with him, and on her hat she had "Stop Snitching." That is one of the major issues that we have to look at, just other than guns.

Now, today I hope we can gain new understanding of the effects of the current gun ban, as well as the impact it is having on the fight against crime. Making our neighborhoods and our cities a great place to live, work, and visit is a concern that will drive us

all to hopefully make the right decision. I look forward to hearing the testimony.

Thank you.

[The prepared statement of Hon. C.A. Dutch Ruppersberger follows:]

Congressman C.A. Dutch Ruppersberger
Committee on Government Reform Oversight

"Under Fire: Does The District of Columbia's Gun Ban Help Or Hurt The Fight Against Crime?"

June 28, 2005

Statement:

Thank you Mr. Chairman for holding this oversight hearing on the District of Columbia's gun control laws. It is imperative that our nation's capital should be the model for the rest of our nation; however, it faces the same problem that so many urban areas must grapple with on a daily bases: the problem of gun violence.

Last year, Congress considered legislation repealing the District of Columbia's gun ban. While I believe in a Constitutional right to bear arms, I also believe the Constitution charges lawmakers with the explicit responsibility of protecting citizens.

We are here today because legislation has been introduced that would again attempt to repeal the long-standing gun ban.

I believe this is an issue of balance. While there are many good arguments for reconsidering the gun ban,

Congress must also consider what would take its place.

Simply deregulating gun ownership would create a lawless environment and breed more violence. Instead, the question for us should be: what laws would govern the District of Columbia's gun ownership if the current ban were repealed?

It truly disturbs me when there are more people in jail then college because of fire arms being on the street. Communities throughout the nation are what hold the neighborhoods together.

I don't believe that people should live in fear because we have firearms in the wrong hands and unfortunately it seems that too often as we turn the news on that is all that we hear.

I share that same mission as the community and the Metropolitan Police Department: to prevent crime and the fear of crime as we work with others to build safe and healthy neighborhoods throughout the nations.

Preventing crime through problem solving partnerships among communities, police, and other city agencies is one solution to this growing problem, but my main and only concern is accountability of this violence. How are we helping the citizens of the

District of Columbia be accountable for firearms being in the wrong hands?

Getting involved to try and stop firearms is an area where we all can debate back and forth all day. What I think is key is to organize your community to take action.

Working to prevent crime is one of my number priorities and I don't mean just catching the criminals, but looking at the whole picture as to how this individual even got in this situation from the beginning.

Today I hope to gain new understanding of the effects of the current gun ban as well as the impact it is having on the fight against crime. Making our neighborhoods in our cities a great place to live, work, and visit is a concern that will drive me to always make this issue of gun laws a concern for me.

I look forward to hearing the testimony of today's panelists, many of whom have seen first-hand the gun violence that plagues our nation's capital as well as asking questions of the witnesses.

Thank you Mr. Chairman.

Chairman TOM DAVIS. Thank you.

Mr. Westmoreland.

Mr. WESTMORELAND. Thank you, Mr. Chairman. I appreciate the committee looking at such an important issue as gun restrictions in our Nation's Capital, and glad to have the witnesses joining us today.

One thing I believe we will hear from the witnesses today is that guns deter crime. As I have witnessed in my home State of Georgia, citizens who possess their own guns are able to effectively use them in self-defense, while ensuring that others are not hurt. The legislation before us today does not open the District's gun laws as wide as in Georgia, but makes an excellent step forward in protecting a fundamental right of American citizens: the right to keep and bear arms, and using those arms in self-defense.

The right is guaranteed in the second amendment and is not, as some courts claim, a right reserved only to State militias. The right of the citizens to be armed protects our fundamental liberties, as our founding fathers recognized. I look forward to hearing from the scholars today on this subject as well.

It also makes sense that criminals are far less likely to break into homes if they know there is a chance that people inside could be armed. Citizens use their weapons in self-defense hundreds, if not thousands, of times a year, and preventing residents of D.C. from enjoying that protection simply does not make sense to me, and I hope not to others on this committee. I look forward to hearing from the witnesses on both sides during this hearing and seeing what their debate and their excuse for this bill is.

And, Mr. Chairman, I want to thank you again for holding this hearing.

[The prepared statement of Hon. Lynn A. Westmoreland follows:]

Opening Statement of Rep. Lynn Westmoreland (GA-08)

before the

Committee on Government Reform

Oversight Hearing on "Under Fire: Does the District of Columbia's Gun Ban Help or Hurt the Fight Against Crime?"

Tuesday, June 28, 2005

Mr. Chairman, I appreciate the committee looking at such an important issue as gun restrictions in our nation's capital, and am glad to have the witnesses joining us today.

One thing I believe we will hear from the witnesses today—guns deter crime. As I have witnessed in my home state of Georgia, citizens who possess their own guns are able to effectively use them in self defense, while ensuring that others are not hurt.

The legislation before us today does not open the District's gun laws as wide as in Georgia, but makes an excellent step forward in protecting a fundamental right of American citizens: the right to keep and bear arms, and using those arms in self-defense.

This right is guaranteed in the Second Amendment, and is not, as some courts claim, a right reserved only to state militias. The right of the citizens to be armed protects our fundamental liberties, as our Founding Fathers recognized. I look forward to hearing from the scholars today on this subject as well.

It also makes sense that criminals are far less likely to break into homes if they know there is a chance the people inside could be armed. Citizens use their weapons in self-defense hundreds, if not thousands, of times a year, and preventing residents of DC from enjoying that protection simply does not make sense.

I look forward to hearing from the witnesses on both sides during the hearing today.

Thank you, Mr. Chairman.

Chairman TOM DAVIS. Thank you very much.

Mr. Van Hollen.

Mr. VAN HOLLEN. I thank you, Mr. Chairman. I also want to thank Congresswoman Norton for requesting this hearing and you for holding it, Mr. Chairman, and I will be very brief.

The fundamental question here, it seems to me, is who decides? You can hear people on one side of the aisle make the argument that more guns are going to make people more safe. However you want to make that argument, that is your right to do it. And you have people making the argument that we need reasonable restrictions on handguns and that will make people more safe. The question here is who is the right decisionmaker. Are they Members of Congress from other States, or are they the people of the District of Columbia, through their elected representatives?

Nobody here is going to the State of Georgia or to California, or any other State and saying we know better than your local legislators, we know better than your State legislature. And, yet, the authors of this bill are doing exactly that to the people of the District of Columbia. The arrogance of saying we know better as to what is in your interest. We understand your public safety interest better than you do. We don't say that to the people anywhere else in this country, and yet that is what Members of Congress here are trying to do, is impose their views on the District of Columbia.

It seems to me that in the interest of democracy, we should leave it to the people of the District of Columbia to elect their representatives, who use their best judgment as to what is best for the people. And if the people don't like the decisions they make, that is what elections are all about; they can turn them out at election time. But I don't think that people who represent folks from thousands of miles away should be making the decisions that should be made by the people of the District of Columbia.

Thank you, Mr. Chairman.

Chairman TOM DAVIS. Thank you very much. I think we are now going to hear from the elected officials of the District of Columbia, the two-term Mayor, Tony Williams, and Police Chief Charles Ramsey.

As you know, we swear our witnesses in before you testify, so if you would just rise and raise your right hands.

[Witnesses sworn.]

Chairman TOM DAVIS. I can't thank you enough for being with us here today. Mayor Williams, we will start with you. Try to keep it to 5 minutes, if you can, but this is an important issue, and some of the Members have gone over 5 minutes, so take as long as you need to to make sure you get your points across. But your entire statement is in the record.

And the same with you, Chief Ramsey. We appreciate very much your being here.

STATEMENTS OF ANTHONY WILLIAMS, MAYOR, THE DISTRICT OF COLUMBIA; AND CHARLES H. RAMSEY, CHIEF OF POLICE, METROPOLITAN POLICE DEPARTMENT

STATEMENT OF ANTHONY WILLIAMS

Mayor WILLIAMS. Thank you, Mr. Chairman. My full testimony has been submitted for the record, but I want to thank you and Congresswoman Norton, the ranking member, and all the distinguished members of the committee for the opportunity to testify today on the gun control laws in the District of Columbia.

And I want you to know that I am pleased that our chief of police, Charles Ramsey, is here with me today. He has led the effort to reorganize, reconstitute our Police Department and has led the effort to bring substantial reductions in crime over the last 2 years in our city, and that effort continues. And he is going to provide greater detail about how our gun control laws help prevent and combat crime.

What I want to focus on today is the focus of Congresswoman Norton's remarks, your remarks, Mr. Chairman, and Congressman Van Hollen's, and that is the critical importance of our gun control laws as a matter of our local democratic processes and the limited Home Rule that we enjoy.

As Mayor of the District of Columbia, it is my responsibility to do what I think is best to provide for the public safety of my citizens. That is my trust. Any attempt at the Federal level to pass a law or otherwise replace my judgment and our City Council's judgment with that of officials elected elsewhere I believe honestly and very sincerely is an indignity to the democratic process and to our citizens. It really represents student government more than self government.

This legislation, in fact, is a slap in the face to me and to the people who live in my city. People who live in Texas should be respected, but should no more impose their values on the people of the District than the people who live in one of my neighborhoods should impose their values on the people of Houston or Dallas or Fort Worth.

I am also really offended by this effort because of the hard work I have invested in returning my city to fiscal soundness, to economic viability, to operational responsiveness. Together we have worked to end the reign of the Control Board; together I have worked with the Federal Government and with the Congress diligently, hand in hand, to foster greater autonomy for my city, with an eventual goal of full voting representation in Congress. And I have to tell you a congressionally driven gun repeal takes us exactly in the wrong direction.

The District of Columbia has been governed by, in modern times, an elected Mayor and 13 elected council members, since 1975. During the Council's first legislative session in 1976, the District passed legislation that restricted the possession, use, transfer of handguns and semi-automatic weapons.

I support our gun control laws because, in my view—which is also the view of the overwhelming majority of my citizens—any increase in the number of guns in the District we believe will increase the likelihood that crimes will be committed with those

guns. We have made significant progress in reducing crime, although we still have a substantial amount to do.

The residents of the District I know, we all know all too well the human costs exacted by guns and violence. Seventy-nine percent of all homicides in the District last year were committed with guns, all of which were probably brought into the city illegally. Because of the porous nature of our borders, we can never rely on laws alone to keep guns out of our city, but these laws I believe are important local tools to help combat crime.

Now, the District is far safer than it was a decade ago. In 1995, which was not even the peak of the 1990's crime wave, more than 68,000 serious crimes were committed in our city. Last year, fewer than half that number was committed. Significantly long-term efforts—such as increasing the number of sworn officers to 3,800, restructuring our patrol service areas, strengthening our investigative capacity, improving 911 response times—have contributed to these great strides in public safety.

The Police Department is also taking aggressive action in the short term to reduce homicides and other crimes in the city. Though crime decreased 18 percent last year, arrests actually increased 14 percent. Project Safe Neighborhoods—in which, incidentally, we are working hand-in-hand with Federal law enforcement—is helping to stop the cycle of gun violence in the city. The Metropolitan Police Department is working with Federal law enforcement agencies and the courts to target and apprehend members of the most violent gangs in the city, and we are using the example of their prosecution and incarceration to deter other groups from resorting to similar violence.

I have to tell you it is inconceivable that Congress would encourage more people in D.C. to pick up a gun just when we are successfully working with the Federal Government to convince others to put down their guns.

Now, I awake every morning aware of my enormous responsibilities as Mayor to the nearly 600,000 residents of our Nation's Capital, certainly the people who work here and the visitors here. I am humbled by the honor bestowed on me as a trustee of the Nation's Capital. Being Mayor is a wonderful job.

But it is a difficult job, because I have the duties of a Mayor, I have the duties of a county manager and of a Governor. My city is host to the seat of the Federal Government, the largest diplomatic community in the world, more than 20 million visitors each year. The District Council, when I govern this city, through partnerships that we believe very importantly must span ideologies, political parties, geography, and every other thing we need to span, this is essentially especially true in the area of public safety.

I have traveled to every area of my city to hear first-hand from my citizens about their concerns and to enlist them in our crusade against crime. I have aligned my entire city budget to what I call "lift all communities," starting with those that are mostly left behind, in our city's renaissance. Every one of these communities is struggling with a crime problem that I have identified. The city has responded with a successful Hot Spots Initiative that has produced—by focusing all of our government and non-profit efforts in these communities—a 32 percent reduction in violent crime and a

25 percent reduction in overall crime in these violence-prone communities.

It has been mentioned that we are only 3 homicides below last year. That is true, and I don't relish that; I would like it to be lower. But that number last year was a 20-year low. So we are moving in the right direction, and I believe that the additional measures we are taking, such as a comprehensive crime bill that I have sent to our District Council, which would substantially toughen our penalties, will take us in the right direction to reduce crime.

I talk about my partnership with the Federal Government. You know, I support and I participate in the Criminal Justice Coordinating Council, which is an intergovernmental body. Members of my administration are open to every aspect of dialog—and I think everyone knows this—every aspect of dialog with our Federal partners.

But my point is that there are many ways for the Federal Government to work with local officials. Our public safety agenda must be, and is, community-based and ought to be supported by Congress, not undermined. You have my cooperation. You have my respect. You have my ear. In turn, the citizens of Washington, DC, do not need disrespect or second-guessing. And I say that very respectfully.

We ask that the Federal Government support the efforts I have outlined to reduce crime in our city, especially our prerogative: locally based on a democratic basis to enact local gun control laws that provide for the public safety of the citizens of the District.

The long and short of it is that the citizens of the District of Columbia want nothing more than other American citizens would demand and get, and that is the right to make their own decisions about their own public safety.

Thank you, Mr. Chairman and members of the committee, for the opportunity to testify to you today. As always, I am available to answer any questions you may have.

[The prepared statement of Mayor Williams follows:]

Government of the District of Columbia

Executive Office of the Mayor

Committee on Government Reform
United States House of Representatives

The Honorable Tom Davis, Chairman

"Under Fire:
Does the District of Columbia's Gun Ban
Help or Hurt the Fight Against Crime?"

Testimony of
Anthony A. Williams
Mayor
District of Columbia

Tuesday, June 28, 2005
Room 2154, Rayburn House Office Building
2:30 p.m.

Chairman Davis, Congresswoman Norton, and other distinguished members of the committee, thank you for this opportunity to testify today on the gun control laws in the District of Columbia. I am pleased that our Chief of Police, Charles Ramsey, is also here today. He will provide greater detail about how our gun control laws help prevent and combat crime. I would like to focus my remarks today on the critical importance of our gun control laws as a matter of our local democratic processes and Home Rule.

As Mayor of the District of Columbia, it is my responsibility to do what I think is best to provide for the public safety of our citizens. Any attempt at the federal level to pass a law or otherwise replace my judgment and our City Council's judgment with that of officials elected elsewhere is an indignity to the democratic process and our citizens.

This legislation is a slap in the face to me and to the people who live in this city. People who live in Texas should no more impose their values on the people of the District than people who live in the Shaw neighborhood should impose their values on the people of Houston.

I am also offended by this effort because of the hard work I've invested in returning this city to financial stability and economic good health. We ended the reign of the Control Board, and we have worked diligently hand-in-hand with Congress to foster greater autonomy for the city. A congressionally driven gun repeal takes us in the wrong direction.

The District of Columbia has been governed by an elected Mayor and thirteen elected Council members since 1975. During the Council's first legislative session in 1976, the District passed legislation that restricted the possession, use and transfer of handguns and semiautomatic weapons.

I support our gun control laws because in my view, which is also the view of most of our citizens, any increase in the number of guns in the District will increase the likelihood that crimes will be committed with those guns. We have made significant progress in reducing crime, although we still have work to do.

The residents of the District of Columbia know all too well the human costs exacted by guns and violence. Seventy nine percent of all homicides in the District last year were committed with guns, all of which were probably brought into the city illegally. Because of the porous nature of our borders, we can never rely on laws alone to keep guns out of our city, but these laws are important local tools to combat crime.

The District of Columbia is far safer than it was a decade ago. In 1995—which was not even the peak of the 90's crime wave—more than 68,000 serious crimes were committed in our city. Last year, fewer than half that number were committed. Significant long-term efforts—such as increasing the number of sworn officers to 3,800, restructuring our Police Service Areas, strengthening our investigative capacity, and improving 911 response times—have contributed to these great strides in public safety.

The police department is also taking aggressive action in the short term to reduce homicides and other crimes in the city. Though crime decreased 18 percent last year, arrests actually increased 14 percent. Project Safe Neighborhoods, in particular, is helping to stop the cycle of gun violence in the city. The Metropolitan Police Department is working with federal law

enforcement agencies and the courts to target and apprehend members of the most violent gangs in the city, and using the example of their prosecution and incarceration to deter other groups from resorting to similar violence. It is inconceivable that Congress would encourage more people in DC to pick up a gun just when we are successfully convincing others to put down their guns.

I awake every morning aware of my enormous responsibilities as Mayor to the nearly 600,000 residents of this city. I am humbled by the honor bestowed on me as custodian of the Nation's Capital. Being Mayor of Washington, DC is a wonderful job, and a difficult job. I have the duties of mayors, county managers, and governors. My city is host to the seat of the federal government, a strong international community, and more than 20 million visitors each year. The City Council and I govern this city through partnerships that span political parties, ideologies and geography.

This is especially true in the area of public safety. I have traveled to every area of my city to hear firsthand from citizens about their concerns and to enlist them in our crusade against crime. I have aligned my entire city budget to "lift all communities," starting with those that are mostly left behind in our city's renaissance. Every one of those communities is struggling with a crime problem. The city has responded with a successful Hot Spots Initiative that has produced a 32 percent reduction in violent crime and a 25 percent reduction in overall crime in these violence prone communities.

I support and participate in the Criminal Justice Coordinating Council, an intergovernmental body of local, regional, and federal law enforcement officials. Members of my administration are open to every aspect of dialogue with our federal partners.

My point is that there are many ways for the federal government to work with local officials. Our public safety agenda is community-based and ought to be supported by Congress, not undermined. You have my cooperation. You have my respect. You have my ear. In turn, the citizens of Washington, DC do not need disrespect or second guessing. And nor do I.

We ask that the federal government support the efforts I've outlined to reduce crime in our city -- especially our prerogative to enact local gun control laws that provide for the public safety of the citizens of the District of Columbia.

The citizens of the District of Columbia want nothing more than other American citizens would demand and get: the right to make our own decisions about our public safety.

Thank you for the opportunity to testify before you today.

Chairman TOM DAVIS. Mr. Mayor, thank you and thanks for the job you are doing for the city.

Chief Ramsey.

STATEMENT OF CHARLES H. RAMSEY

Chief RAMSEY. Thank you, Mr. Chairman, Congresswoman Norton, other members of the committee, staff, and guests. Thank you for the opportunity to present this testimony concerning the District of Columbia's handgun laws. I appear before you today not just as the chief of the Metropolitan Police Department, but also as a D.C. resident, as a father of a teenage son, and as a 36-year veteran of the law enforcement profession. It is in all these capacities that I express my strongest possible support for the District's current law restricting possession of handguns and encourage Congress not to overturn or weaken our laws in any way.

Before discussing the situation here in D.C., I do want to point out that the District of Columbia is hardly the only big city in the United States to have a strong handgun control law. Prior to coming to the District in 1988, I spent close to three decades in the Chicago Police Department, which has a local law on handguns that is very similar to the District's. Chicago residents and their duly elected representatives have chosen to restrict the ownership of handguns, and D.C. should be afforded the same rights.

Politically, I understand why some Members of Congress consider the District's law to be "fair game," even if those same Members would never contemplate similar attempts to undo laws elsewhere. But from a public safety standpoint, the reasons to enact and maintain strong and sensible handgun laws are as compelling in D.C. as they are in Chicago, New York, and other cities across the Nation. Our residents and our locally elected leaders have all come to the same conclusion: restricting the same and possession of handguns makes our community safer.

What impact would the repeal of D.C.'s gun laws have on our city? From my perspective, the answer to that question is straightforward and it is scary. Repealing our gun laws would mean substantially more handguns in the District of Columbia, and more handguns would mean more gun crimes, more gun violence, and more homicides, as well as more accidental shootings and suicides. More guns will also mean a greater threat to our police officers.

Even with our strong gun laws, the District already struggles with the problem of gun violence. Last year, 79 percent of the homicides in D.C. were committed with firearms. This includes 18 youth or young adults—the youngest just 7 years old—killed with a firearm last year. Moreover, almost 50 percent of our robberies and 20 percent of our aggravated assaults are committed with a firearm. Introducing even more firearms into our city would undoubtedly cause these figures to rise.

This is especially true in the area of homicide. Our figures show that homicides in D.C. are frequently motivated by arguments and retaliation. Together with domestic violence, these motives account for half of all the homicides in the District. These types of homicides are seldom premeditated offenses, but rather spur-of-the-moment "crimes of passion." When a handgun is readily available in

a home or on someone's person, the changes of these encounters turning lethal increase significantly.

Repealing our gun laws would mean more guns being more readily available to more people. And with handguns more readily available, I am concerned that more people would be inclined to use those handguns to settle arguments or domestic disputes, or to retaliate against someone else. I am convinced that these types of incidents, along with the increased likelihood of more accidental shootings and suicide, would far outnumber any instances in which a handgun in a home might be used as protection.

Repealing D.C.'s gun laws at any time would be counterproductive to our public safety goals. But repealing our laws now would be particularly devastating. While D.C. continues to face challenges with murder and other violent crimes, we have made tremendous progress in the last few years in bringing down our violent crime rate. Last year, D.C. recorded fewer than 200 homicides for the first time since 1986. Overall crime declined by nearly 9 percent in 2003, and by another 18 percent in 2004. So far this year, crime is down by another 14 percent, according to preliminary data.

The bottom line: crime in D.C. is moving in the right direction and our neighborhoods are safer than they have been in many years. Now is definitely not the time to put this very encouraging trend at risk by introducing more firearms and greater potential for violence into our city.

In fact, part of the reason for our success in reducing crime has been our ability to take more firearms off the streets. So far this year, 1,200 firearms have been recovered, an increase of about 15 percent from 2004. And in 2004 our firearm recoveries topped 2,000 for the first time in several years. We have put a high priority on removing illegal firearms, and our efforts are paying off.

In 2004, of the almost 1,600 registration checks for recovered firearms preformed by MPD, only 16 of the firearms, or 1 percent, were registered in the District. Of course, the vast, vast majority of the weapons we recover originate from jurisdictions outside the District. Last year, the Bureau of Alcohol, Tobacco, Firearms & Explosives performed trace checks on over 1,500 firearms recovered by MPD that were linked to crimes. Of these, 736 firearms were successfully traced. Six out or 10 firearms were from Maryland and Virginia. The next highest source States were North Carolina, Georgia, West Virginia, and South Carolina.

So we are continuing to face a serious problem with firearms being brought illegally into the District from other jurisdictions. Unfortunately, that problem is not likely to go away anytime soon. But we certainly should not compound this situation by weakening D.C.'s gun laws and making firearms even more prevalent in our city.

Another reason we have been able to reduce crime in the District of Columbia is through our partnerships with other agencies and community-based organizations. On the enforcement end, we work closely with the ATF and other Federal agencies on tracing firearms and trying to link them to unsolved crimes. We are also working cooperatively with the U.S. Attorney's Office, the DEA, ATF, and others on the Project Safe Neighborhoods Initiative, which is

targeting the most violent criminals in some of our historically violent neighborhoods, such as Sursum Corda and Barry Farm.

Coordination with the community to combat gun violence is another priority. In just the past 2 weeks, we have joined forces with the East of the River Clergy-Police-Community Partnership; ROOT, which stands for Reaching Out to Others Together; No Murders DC; and other community-based organizations on a number of anti-violence initiatives, especially initiatives that target young people during the summer months.

The Metropolitan Police Department is very proud of our record in reducing crime and violence in D.C. But we also recognize that we still have a lot of work to do and that, to be successful, we must coordinate our efforts with other agencies and organizations both inside the criminal justice system and in the community.

To be successful, we also need strong and sensible laws to protect not only our residents, but also our police officers, as last week's tragic shooting death of an officer in Prince George's County illustrates. The District's ban on most handgun possession is an essential element in our overall crime reduction strategy. This law was enacted with the overwhelming support of D.C. voters three decades ago, and the law continues to enjoy widespread support among our residents and our police officers today.

Repealing or weakening this law will not make our residents and our neighborhoods any safer. Such a move would actually endanger both our residents and the hard-working, dedicated police officers who already put their lives on the line to safeguard our Nation's Capital. For the sake of our residents and the safety of our police officers, we need to retain the District's strong and sensible law on handguns.

Thank you.

[The prepared statement of Chief Ramsey follows:]

Government of the District of Columbia

Metropolitan Police Department

Testimony of
Charles H. Ramsey
Chief of Police

"Oversight Hearing on the District of Columbia's Gun Control Law"

U.S. House of Representatives
Committee on Government Reform
Honorable Tom Davis, Chairman

June 28, 2005

Rayburn House Office Building
Room 2154
Washington, DC

Mister Chairman, Congresswoman Norton, other members of the Committee, staff and guests ... thank you for the opportunity to present this testimony concerning the District of Columbia's handgun laws. I appear before you today not just as the Chief of the Metropolitan Police Department, but also as a DC resident, as a father of a teenage son and as a 36-year veteran of the law enforcement profession. It is in all of these capacities that I express my strongest possible support for the District's current law restricting possession of handguns and encourage Congress not to overturn or weaken our laws in any way.

Before discussing the situation here in DC, I do want to point out that the District of Columbia is hardly the only big city in the United States to have a strong handgun control law. Prior to coming to the District in 1998, I spent close to three decades in Chicago, which has a local law on handguns that is very similar to the District's. Chicago residents and their duly elected representatives have chosen to restrict the ownership of handguns, and DC should be afforded the same rights.

Politically, I understand why some members of Congress consider the District's law to be "fair game," even if those same members would never contemplate similar attempts to undo laws elsewhere. But from a public safety standpoint, the reasons to enact and maintain strong and sensible handgun laws are as compelling in DC as they are in Chicago, New York and other cities across the nation. Our residents and our locally elected leaders have all come to the same conclusion: restricting the sale and possession of handguns makes our communities safer.

What impact would the repeal of DC's gun laws have on our city? From my perspective, the answer to that question is straightforward – and it is scary. Repealing our guns laws would mean substantially more handguns in the District of Columbia. And more handguns would mean more gun crimes, more gun violence and more homicides, as well as more accidental shootings and suicides. More guns will also mean a greater threat to our police officers.

Even with our strong gun laws, the District already struggles with the problem of gun violence. Last year, 79 percent of the homicides in DC were committed with firearms. This includes eighteen youth or young adults—the youngest just seven years old—killed with a firearm last year. Moreover, almost fifty percent of our robberies and 20 percent of aggravated assaults are committed with a firearm. Introducing even more firearms into our city would undoubtedly cause these figures to rise. This is especially true in the area of homicide. Our figures show that homicides in DC are frequently motivated by arguments and retaliation. Together with domestic violence, these motives account for half of all homicides in the District. These types of homicides are seldom pre-meditated offenses, but rather spur-of-the-moment, "crimes of passion." When a handgun is readily available in a home or on someone's person, the chances of these encounters turning lethal increase significantly.

Repealing our gun laws would mean more guns being more readily available to more people. And with handguns more readily available, I am concerned that more people would be inclined to use those handguns to settle arguments or domestic disputes, or to retaliate against someone else. I am convinced that these types of incidents, along with the increased likelihood of more accidental

shootings and suicides, would far outnumber any instances in which a handgun in the home might be used as protection.

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Repealing DC's gun laws at any time would be counterproductive to our public safety goals. But repealing our laws now would be particularly devastating. While DC continues to face challenges with murder and other violent crimes, we have made tremendous progress in the last few years in bringing down our violent crime rate. Last year, DC recorded fewer than 200 homicides for the first time since 1986. Overall crime declined by nearly 9 percent in 2003 and by another 18 percent in 2004. So far this year, crime is down by another 14 percent, according to preliminary data.

The bottom line: crime in DC is moving in the right direction, and our neighborhoods are safer than they have been in many years. Now is definitely not the time to put this very encouraging trend at risk by introducing more firearms, and greater potential for violence, into our city.

In fact, part of the reason for our success in reducing crime has been our ability to take more firearms off the streets. So far this year, 1,200 firearms have been recovered, an increase of about 15 percent from 2004. And in 2004, our firearm recoveries topped 2,000 for the first time in several years. We have put a high priority on removing illegal firearms, and our efforts are paying off.

In 2004, of the almost 1,600 registration checks for recovered firearms performed by MPD, only 16 of the firearms—or one percent—were registered in the District. Of course, the vast, vast majority of the weapons we recover originate from jurisdictions outside the District. Last year, the Bureau of Alcohol, Tobacco, Firearms and Explosives performed trace checks on over 1,500 firearms recovered by MPD that were linked to crimes. Of these, 736 firearms were successfully traced. Six out of ten firearms were from Maryland and Virginia. The next highest source states were North Carolina, Georgia, West Virginia and South Carolina. So we are continuing to face a serious problem with firearms being brought illegally into the District from other jurisdictions; unfortunately, that problem is not likely to go away anytime soon. But we certainly should not compound this situation by weakening DC's gun laws and making firearms even more prevalent in our city.

Another reason we have been able to reduce crime in the District of Columbia is through our partnerships with other agencies and community-based organizations. On the enforcement end, we work closely with the ATF and other federal agencies on tracing firearms and trying to link them to unsolved crimes. We are also working cooperatively with the US Attorney's Office, the DEA, ATF and others on the Project Safe Neighborhoods initiative, which is targeting the most violent criminals in some of our historically violent neighborhoods, such as Sursum Corda and Barry Farm.

Coordination with the community to combat gun violence is another priority. In just the past two weeks, we have joined forces with the East of the River Clergy-Police-Community Partnership,

ROOT (Reaching Out to Others Together), No Murders DC and other community-based organizations on a number of anti-violence initiatives, especially initiatives that target young people during the summer months.

* * * * *

The Metropolitan Police Department is very proud of our record in reducing crime and violence in DC. But we also recognize that we still have a lot of work to do, and that to be successful, we must coordinate our efforts with other agencies and organizations both inside the criminal justice system and in the community.

To be successful, we also need strong and sensible laws to protect not only our residents, but also our police officers, as last week's tragic shooting death of an officer in Prince George's County illustrates. The District's ban on most handgun possession is an essential element in our overall crime reduction strategy. This law was enacted with the overwhelming support of DC voters three decades ago, and the law continues to enjoy widespread support among our residents and our police officers today.

Repealing or weakening this law will not make our residents and our neighborhoods any safer. Such a move would actually endanger both our residents and the hard-working, dedicated police officers who already put their lives on the line to safeguard our Nation's Capital. For the sake of our residents and the safety of our police officers, we need to retain the District's strong and sensible law on handguns.

Thank you.

Chairman TOM DAVIS. Thank you very much. I am going to start the first 5 minutes with Mr. Burton, who wasn't here for an opening.

Mr. Burton, you are recognized for 5 minutes.

Mr. BURTON. Thank you very much, Mr. Chairman. I really appreciate that.

You know, when I first got off the plane and became a Congressman, I got in a cab with a cabdriver, Mr. Mayor and Chief, and I asked the cab driver, I said, what is the situation like here in Washington? He said, well, the crime problem is pretty bad. I said, well, you know, I have a permit to carry a weapon back in Indiana. Maybe I should get one here. He said, oh, you can't get a permit to carry a gun in D.C. I said, oh, is that right? He said, yeah. He said, the only people who have guns in D.C. are the criminals and the police. And he reached under the front seat of his cab, pulled out a .38 and said, but if you want one, I can get one for you in about 15 minutes.

That is a factual story.

I had a young lady that worked for me, she lived about three blocks from the Capitol. A guy shinnied up the drainpipe and came in through a window that was open on the third floor about this much. He attacked her with a 4-inch knife, stabbed her about four or five times. She had to beat him off with a pan; she couldn't have mace or a gun or anything in her place. And she survived and, fortunately, she got away. But the problem was she had no way to defend herself.

You know, I want to give you some statistical data. In all 50 States people have the right to keep a weapon in their home, but they don't in D.C. Now, I don't know what your latest statistics are, but by 1991, D.C.'s homicide rate had risen more than 200 percent. By comparison, the U.S. homicide rate had risen by only 12 percent. As of 2002, D.C.'s homicide rate is almost double the rate than when its handgun ban took effect. As of 2002, it is almost five times higher than the national average.

According to DOJ's crime statistics, 2002 saw D.C. once again earn its infamous distinction as the murder capital of America, and it was the 14th time in 15 years that it got that dubious distinction. The gun control capital of the America, D.C., is almost the violent crime and murder capital of the country, the place in this country that comes the closest to having this kind of gun law that gun advocates would want in D.C.—and I think the results speak for themselves.

As long as law-abiding citizens cannot protect themselves from somebody breaking into their home with a gun, then the criminal has the advantage. I won't live in D.C. I live in Virginia, and have a gun permit in Virginia because I want to protect myself. And I would urge you to look at the crime statistics over there in Virginia and in Indiana, and I bet you will find that the statistics show that people are safer there than they are in D.C. because they can protect themselves.

If a criminal knows you cannot defend yourself except with a pan, like my secretary did, then he has no deterrent to break into your house with a gun and to attack you. It is insane, in my opinion, it is insane for a law-abiding citizen not to be able to protect

themselves against somebody in the murder capital of the United States by having a weapon in their home to protect themselves.

Now I want to read to you what the current law is here, because I think people need to know this; it is very, very important. Just 1 second. Bear with me.

Well, you have to disassemble a gun, you can't have it in your house.

Excuse me, Mr. Chairman.

OK, registrants must keep any firearm in their possession unloaded and disassembled or bound by a trigger lock or similar device unless the firearm is kept at their place of business or used for lawful recreational purposes within the District of Columbia. Sales of firearms are similarly restricted. In addition, the possession of ammunition is restricted. The minimum punishment for violation of these restrictions is $1,000 and 1 year imprisonment. The maximum fine is $10,000 and imprisonment for up to 10 years.

I have to tell you, Mr. Chairman—and I appreciate very much your yielding to me—I am against violent crime. I am against criminals who use guns in the commission of a felony. But I cannot, for the life of me, figure out why a law-abiding citizen in a city like Washington, DC, that has the highest crime rate in the country 14 out of the last 15 years, cannot have a weapon in their own home to protect themselves. It makes absolutely no sense to me.

And Members of the Congress of the United States have been mugged, been beaten up, and gun-whipped. One of my staff people was gun-whipped by a guy not too long ago and robbed on the streets of Washington. Bob Michael, when he was the minority leader, was beaten up outside his garage and they took whatever he had on him at that time, and they had no way to defend themselves.

We had a prominent writer here in Washington, DC, who has come out openly against owning a gun and having it in their home. Somebody tried to break in his home and he had a gun in violation of the law. That was in the paper not too long ago.

I think it is extremely important that we make sure the people of this city are protected, just like the people in every other part of the country, and that their right to own and bear arms to protect themselves and their families should not and will not be infringed upon by this city.

Chairman TOM DAVIS. Thank you very much, Mr. Burton.

Ms. Norton.

Ms. NORTON. First of all, these witnesses didn't get the chance to respond because after the questions were asked——

Chairman TOM DAVIS. Well, if you would like to respond to that, we won't go into Ms. Norton's time; we will start that again.

Mayor WILLIAMS. Well, I will just respond to the notion that we are the only citizens in the country with "restrictive gun laws." That is not true. There are restrictive gun laws in cities across the country. The difference is, again, apparently they have the ability to set these laws and keep them in place, and we don't.

And then on the statistics, I just think we are using particular statistics to make a point, and not the most current statistics. I would ask the Chief to speak to that.

Chief RAMSEY. Yes. Earlier it was mentioned that the year the handgun ban was passed, in 1976, we had 188 murders. And that is true. Last year we had 198. That is an increase of 10 over that year. So certainly you can look at numbers. And it is not that we haven't had years where we have had tremendous spikes. We have also had 2 years when we were below that; we had 175 in 1984 and 148 in 1985. So statistics can be used any way they can, any way you want them to be used.

I am from the Midwest, and I would love to compare my crime stats with Gary, IN. I don't know about the rest of Indiana, but I think that Gary is a place that has more than enough problems on its own. So when it comes to taking a look at crime statistics and crime numbers, we have a ways to go, and we are working very aggressively. But we have made tremendous progress, tremendous strides in lowering the amount of crime in the District of Columbia, and I feel that adding more guns on the street is only going to cause problems.

My officers have to confront gunmen on a regular basis. This weekend alone we took 17 guns off the street. Friday we got an AK–47 off a 15-year-old boy. Now, I don't know how many folks you have confronted, sir, in the alley at night with a gun on them that was intent on doing harm, but my people have to do it every single day. And adding more guns into the mix is not a good thing; it is going to get one of them killed, and I would hate to see that.

So I would appreciate it—I am just telling you, sir, and I realize that we disagree. I realize we disagree, but to me it is a matter of safety, it is a matter of what is best for the people of our city. And that is all we are asking for here, is to get the same respect as everyone else.

Not being from the District, I never realized that this sort of thing went on. I just never realized. But I do now. And I am here to tell you that the people that we elect, that I helped elect ought to be the ones to make that decision. The men and women of the Metropolitan Police Department have put on that uniform, put on a bulletproof vest, and get out there and police our streets every day ought to have a say in what they are confronted with out there on the street. And we are going to open the floodgates and we are going to have nothing but problems, and it is going to be my people suffering as a result of it.

Chairman TOM DAVIS. Thank you.

Ms. Norton.

Ms. NORTON. Thank you very much. Thank you both for your testimony. It is important to hear you because you are the experts on this subject, and we are trying to learn here today.

Mr. Chairman, I note for the record that last year there were 157 homicides, all homicides in D.C. We are at 63 this year, on record, therefore, to reduce that. Last year, tragically, there were 18 juvenile homicides. To date, tragically, four, but only four.

So I want to begin by congratulating you on a very significant reduction over even this year and ask unanimous consent that these figures be put in the record, Mr .Chairman.

Chairman TOM DAVIS. Without objection, so ordered.

[The information referred to follows:]

Fatal Shootings in the District of Columbia

Ward	All homicides		Juvenile homicides	
	2004	2005-to-date (6/24/05)	2004	2005-to-date (6/24/05)
1	6	3	0	1
2	1	0	0	0
3	0	0	0	0
4	13	2	2	0
5	33	11	4	0
6	14	9	2	1
7	42	13	4	2
8	48	25	6	0
Total	157	63	18	4

Source: Research & Resource Development Unit, Metropolitan Police Department

Ms. NORTON. Could I ask both of you? Council has a bill pending here. I am going on the floor tomorrow to try to get our appropriation out of here, your money, not a cent of it money from the U.S. Congress. It will contain money in there for police and money in there for economic development. So I would like to ask you both what effect having guns, yes, in homes, but having more guns in the District of Columbia will have on two notions: one, the police workload, and two, the economic development that we see going on all around the city.

Mayor WILLIAMS. Well, our effort generally, Congresswoman Norton—and I will let the Chief speak to the police department particularly—but our effort overall has been to address the needs of our neighborhoods, stabilize those neighborhoods, harness all the resources of our government to attack problems in those neighborhoods. First step, get the agencies on their feet. Second step, harness all the efforts of our agencies around general problems within the wards.

One problem we have made a lot of progress is cleanup and stabilization of abandoned housing. Another area we have made a lot of progress with another agency is improving substantially response to 911. We then took that a step further and combined with redeploying our police and better patrol service areas, focused on hot spots in the city. And what drove down our crime over the last 2 years was our intensive focus on these hot spots, driving down crimes 30 to 35 percent.

Our next step, as you heard in the state of the District, was to build what we are calling new communities, mixed income communities with hope and opportunity for all the citizens in those communities, again, to pacify and stabilize these communities. I stress these words: pacify, stabilize these communities; revitalize these communities.

Bringing guns on the street—and the Chief is right, I believe guns unleashed, if you will—or allowed, I guess to be more polite—under this bill are not going to be used primarily by citizens protecting their homes, they are going to end up in the streets and the alleys, and our police are going to have to face them.

Chief RAMSEY. Ms. Norton, the addition of guns or the availability of guns, I don't see how it is going to help our situation here in the District of Columbia in terms of our fight against crime. I just don't see how that can happen.

Ms. NORTON. In terms of your own workload and the number of police, what is your view about having more guns in the District, in people's homes?

Chief RAMSEY. Well, we are going to have burglary, unfortunately, it will continue to be problem. I take the opposite view, that a person would not refrain from breaking in a house that they know they have a gun; they will wait until the opportunity to present themselves to break into the house that has a gun, because they can take the gun and they can sell it on the street or use it themselves.

There is no one thing that we can come up with that is going to be the end-all strategy of fighting crime, but I think we have to do what is sensible and what is reasonable. And reducing the amount

of guns that are available is certainly a sensible and reasonable approach.

I was watching an old movie a couple of nights ago, Tombstone, a Wyatt Earp thing. They were standing on the edge of town collecting guns from people in 1881, keeping them from bringing them into Tombstone. I mean, it was a sensible, reasonable thing for them to do. I had to kind of chuckle when I saw that because, you know, here we are today, a century or so later, still trying to stand at the borders and saying, hey, you need to leave your gun somewhere else; you don't need to come to town with your gun. I don't think that is all that unreasonable, especially when the average person that comes into this building—it is easier to get into the airport than it is to get into this building with all the screening for weapons and guns and so forth.

I mean, not everyone has the luxury in our neighborhoods, unfortunately, of having a situation where they have that up-front screening of individuals to make sure that anyone who is in possession of a firearm is decent, law-abiding, and authorized to do so. They have to live day in, day out in circumstances that can put their lives at risk. We do the best we can, but adding more guns to the mix I don't think is a solution, not for the District of Columbia. It may be for someplace else, but not for D.C.

Chairman TOM DAVIS. Chief, Ms. Norton's time is up. The Members have three votes to go over and cast, and if you can stay for questions, I am going to allow Ms. Norton to continue questions, and then recess the meeting. If you and the Mayor can stay, it would be important. This is important. I think you made news, bringing out Wyatt Earp as an advocate for the D.C. gun ban today. But I am going to allow Ms. Norton to continue. Members will resume questioning when we get back. And I appreciate your being able to continue with this.

Ms. NORTON. Thank you, Mr. Chairman. The chairman has given me the gavel. It shows you he trusts me. He ought not be so sure about that when it comes to the gavel.

I do have a few more questions. I would like to speak to the Chief. In another role he has had since September 11th. I used to talk to you only occasionally, Chief Ramsey, because these matters are not in my jurisdiction; the jurisdiction is of the Mayor and your jurisdiction. But I have had a lot of contact with you since September 11th because of the security measures around the Capitol.

There has been a lot of discussion about these bills in the abstract, and I go back to my roots as a law professor. I continue to teach a course at Georgetown, so I have to go back to the hypothetical. If you read this bill, you could have something that no one has ever seen in the District: gun shops and, if you were licensed, pawn shops where people could deal guns across the counter. We could have them on Capitol Hill, we could have them in Georgetown, you could have them across the river, because this bill keeps the District of Columbia from doing anything that would discourage the possession of firearms. So there is no way to read that except there is nothing you can do; Home Rule hands are tied.

D.C. couldn't require, for example, background checks. If somebody wanted to have gun shows in the District of Columbia, you could have gun shows, because the Mayor and the council can do

nothing to discourage—here is what the statute says—the possession and ownership of guns.

I am trying now to lay out some of what could happen and what you have to prepare to have happened.

You might, for example, think, well, let us pass an ordinance at least, some kind of law that says, OK, you can have them everywhere, but you can't have them in bars or you can't have them in churches or restaurants or in schools. Of course, I think that would violate the explicit language here. Because you can't "discourage" the possession of guns anywhere in the District of Columbia.

Now, let us leave aside District residents and their safety for a moment. Would you speak to me as a security official who is a part of the Federal team to keep the Nation's Capital secure from terrorism?

Chief RAMSEY. Yes. Guns can very easily fall into the wrong hands. There is no question about that. We see it with street gangs, where they go out and they use people to legally purchase guns, and then they transfer those guns to gang members and others. There is no way that once you open those floodgates, you can really control it.

In a city like the District of Columbia, which has more than its own security risks just by the fact that it is the capital of the United States, high-risk protectees that constantly visit here, it is a full-time job guaranteeing the safety, or at least trying to ensure the safety of those people, as well as the residents of the District of Columbia.

Again, adding more guns, I don't think there is a security officer anywhere, a responsible security officer, that would say the way to enhance security is to increase the number of guns. To me, there is no logic there, at all. I think that it is going to pose a tremendous burden on those Federal agencies, like the Secret Service, that have responsibility for the protection of the President. It certainly will put a huge burden on my department. And one of the first things I will do is ask for more manpower, because I know I am going to need it, because it is going to start and it is going to start fast.

And it is going to spill over into Virginia and Maryland, because anything that happens in D.C. spills into Maryland and Virginia, and vice versa. Gang problems, drug problems, whatever it might be, in that small area there within the National Capital region, we all impact one another to a degree that you can't just do it in isolation. So it is going to have a tremendous negative impact on all of us in law enforcement, period.

Ms. NORTON. Thank you. I just think that is one aspect of this bill that isn't even considered. They consider, you know, just hammer the District and you will be fine, and the changes since September 11th aren't discussed.

The argument is made that this is a bill for law-abiding citizens, in homes, people's homes, they should be able to keep it in their homes; this is not a bill that would allow felons to have guns. Would you speak to the notion of keeping guns in homes? And which homes you think, in the District, would be likely to have those guns and what you think would happen as a result of those guns in those homes in the District?

Chief RAMSEY. Well, I don't know who would be most likely, but I can assume that people in more crime-ridden areas of the city would tend to be the ones that think they need this for their own protection. However, they are the ones that are most likely to be burglarized. Mistakes can be made and accidental shootings take place all the time; children finding guns and accidentally shooting another sibling. There have been instances where parents heard a sound, didn't know who it was, wound up shooting one of their own kids or a loved one that they think is a burglar and turns out not to be.

And bullets have no eyes. The one part of this argument that kind of goes without too much comment, if you have two people, both legally in possession of a handgun, they decide to exchange gunfire, you know, most people don't hit what they are shooting at under those circumstances. Those bullets keep going, and they keep going until they strike something, and that something could be another Chelsea Cromartie, like we had happen over in Southeast last year, an 8-year-old girl shot in the head, sitting in her own living room watching television. Dante Manning, just this year, that got shot on 13th and Euclid Street, because whoever was being shot at they missed and they hit this child.

So having guns, firing guns in an urban area is just a mixture for disaster. Absolutely no good can come of it. Having guns in homes, again, is just something else. Burglars take what they can sell. Handguns bring a good price on the black market, and a handgun would be one of the first things that a person would take if they break into a house.

Ms. NORTON. You can't have a gun in the District of Columbia, apparently, legally, so where do they get the guns from?

Chief RAMSEY. We trace our guns, the ATF traces our guns. The two source States that come up most frequently are Maryland and Virginia. Six out of 10 guns that we recover come from one of those two States. That is followed by North Carolina, Georgia, West Virginia, and South Carolina. Pennsylvania was in there. We haven't gotten as many out of Pennsylvania recently as we had in years past. But those are the cities where most of the guns that come into the District, that is the source of the firearm, from those two jurisdictions closest to us.

Ms. NORTON. So, at the very least, then, the District of Columbia makes it more difficult to get a gun because you have to either go across the line or go into the street to illegally get a gun. You can't get it, become a criminal after you get it, and then deal with it that way.

Chief RAMSEY. Yes, ma'am. I realize that, you know, again, nothing is foolproof. We certainly don't claim that having a gun law means that there is no gun violence that can possibly happen in your jurisdiction. But there is no point in making it easier by making guns more available, by putting it in the hands of those that will misuse it.

We also get about 3,000 offenders back a year from our various penal institutions around the country. Again, we have a lot of issues that we need to deal with in the District of Columbia. Most of them go on to not re-offend, but some do re-offend. So we have a lot of people that we just need to just make sure that guns don't

fall into the wrong hands. We have a growing problem with juvenile violence.

You mentioned that earlier in your testimony, the number of homicides we had, car thefts, things of that nature. Last year we arrested 17 percent more juveniles than we did the year before. So juvenile violence is a problem, and they are younger and younger, and they are getting very sophisticated weapons. I mentioned just last Friday a 15-year-old boy with an AK–47 in his possession. I mean, that is the kind of thing that our officers are facing out there on the street, and we just don't need to make it easier.

This is not the time to go backward. We are making very good progress in our fight against crime, and I would just hate to see this happen, because it is going to have a negative impact.

Ms. NORTON. Thank you very much.

Final question for you, Mr. Mayor. In your role as President of the League of Cities, you must have some familiarity with the way in which other cities view gun laws of the kind we have, the role of the League of Cities itself with this kind of legislation. I wonder if you could somehow compare where we are with other cities across the United States and with where the League of Cities—which has big cities and little cities alike—where the League of Cities would stand on a bill like ours.

Mayor WILLIAMS. Well, Congresswoman Norton, I couldn't speak for the League in terms of taking a position on this. I know that the League of Cities and U.S. Conference of Mayors supported the strong anti-crime measures that were taken in the Clinton administration. I am not sure about this particular bill, but I can tell you this——

Ms. NORTON. You mean things like the assault weapon bill.

Mayor WILLIAMS. Oh, the assault weapons I am sure that, by and large, cities are——

Ms. NORTON. And you are aware that Congress has failed to renew the assault weapon law? So we have a situation where now you can sell assault weapons in this city and elsewhere.

Mayor WILLIAMS. And cities in general that are opposed, obviously, to that, would support strong measures. I think you could find that, by and large, your larger cities would have stronger gun control measures, as does the District of Columbia, and your smaller rural towns and communities would have different arrangements, in other words, more liberal measures to allow gun ownership.

But I think the point that you have made and the point that I am making and the Chief is making and other members have made is that this really ought to be a local prerogative, especially where, in my mind, I can give you examples of cities that have tough gun control laws that have had increases in crime. I can give you examples of cities that have tough gun control laws that have had decreases in crime.

I don't think you can make a direct linkage to gun control laws adding to an increase in crime. I think you can make a strong case, as we are making here, that if you relax these laws in an environment where one of your No. 1 problems is gun violence, adding more guns to the mix just, to us, is completely counter-intuitive, and I think most cities would tell you that.

Ms. NORTON. Well, thank you, Mr. Mayor. On behalf of the chairman and other members of the committee, I want to thank both of you for coming forward. There has been a lot of cheap talk about gun repeal and about crime in the District of Columbia, almost always at least for national exposure by people who have no expert background, as both of you have, and your testimony has been very valuable today.

Thank you very much. The hearing will be recessed until after the vote, by those who can vote.

[Recess.]

Mr. MCHENRY [presiding]. The committee will come back to order.

I certainly appreciate, Mayor and police chief, your waiting during our series of votes. Members will be returning, but as I know you have a very busy schedule, the chairman is actually on the floor at this moment trying to work an amendment, so he will be here shortly. He does have questions for you all, so if you would be good enough to stick around for those, we would certainly appreciate it.

At this time, I wanted to first start kindly with the chief of police. Chief Ramsey, was the Metro difficult getting over here today?

Chief RAMSEY. Well, we could work a little bit on the scheduling.

Mr. MCHENRY. I have seen that the thefts have gone down in D.C. It actually illuminates a point of progress you have made. Actually, I was here in 2000 and 2001, and I believe at that time your leadership during the WTO protests was quite heralded, and the issues and difficulties you dealt with there.

Chief RAMSEY. Thank you.

Mr. MCHENRY. So we appreciate your leadership.

I do think there has been progress made in Washington, DC. When I lived up here and worked up here as a staffer in 2000 and 2001, before my service in Congress, my house was broken into, my townhouse was broken into living in Southeast. And it was quite interesting to me that we are living in the Nation's Capital, yet we have a crime problem. And certainly it is a problem not uncommon across the United States. But what we are trying to do today is look at solutions for this.

There is a basic question that I have. Chief Ramsey, aren't guns illegal in Washington, DC, now?

Chief RAMSEY. Well, we have a restriction on the registration of handguns. There are some rifles that are able to be properly registered, shotguns with a barrel length of a certain amount—not, certainly, sawed-offs. That is not part of the ban; the ban is against the handguns.

Mr. MCHENRY. Just handguns. Now, in terms of crimes committed with handguns, do you have any statistics on that?

Chief RAMSEY. About 75 percent of the homicides, robberies, assaults with a dangerous weapon are committed with the use of a handgun.

Mr. MCHENRY. Seventy-five percent.

Chief RAMSEY. About 75 percent of the violent crime.

Mr. MCHENRY. And so the question is aren't they illegal?

Chief RAMSEY. Yes, sir. And individuals are charged with those offenses when they are arrested.

Mr. MCHENRY. So the handgun ban isn't working?

Chief RAMSEY. Well, sir, I am not intimately familiar with laws across the United States, but I believe murder is illegal, rape is illegal, robbery is illegal. I can't think of a city in the United States that doesn't have those same problems. So laws are designed to keep decent law-abiding citizens safe, but there are always those that will break those laws, which is why I have a job and thousands of others like me have a job in this, to get those people off the street and do the best we can to try to control it. But it is not absolute.

Mr. MCHENRY. It is not absolute. Therefore, a ban on handguns only prevents those law-abiding citizens from not having a handgun. Isn't that correct? If you are a law-abiding citizen and you uphold the law, you generally would not break the law by carrying a handgun in places where it is banned.

Chief RAMSEY. Well, unfortunately, there is not a ban and the rest of the country doesn't follow D.C.'s lead in having strict gun control laws. That is a very unfortunate circumstance. And because of that we do have guns that make their way into the city. If we had a stronger stand across this country about handguns, then I think you would see the benefits of that throughout this country in terms of a lowering of violent crime, particularly those crimes committed with handguns. But because of the unevenness of the laws as they exist now, it makes it very difficult.

Mr. MCHENRY. It makes it difficult. So the question I have to you is, generally speaking, with your history in law enforcement, I would probably say that those that have an advantage, criminals that have an advantage over the people they steal from, for instance, assault, batter, murder, they typically have an advantage of some sort, whether it is not just criminal intent, but perhaps the weapon they have and they use versus the people they are stealing from. Isn't that the case you have seen?

Chief RAMSEY. Well, if a person is armed and another one is unarmed, then obviously the person that has the gun would have an advantage.

Mr. MCHENRY. Therefore, if you level the playing field, for instance, if I broke into your home—and, as a police officer, you are entitled to carry a gun in Washington, DC, and I suspect that you would have a weapon in your home. If I broke in and I had a handgun, and I pulled a handgun and brandished it at you and said, give me your money, and you pulled out a handgun and said, no, not so fast, do you think there is a detente there? Wouldn't you say that would prevent me from stealing from you and assaulting you and stealing from your home?

Chief RAMSEY. Well, this is an interesting discussion that we are having here, I guess, and I think I kind of understand where you might be coming from. But if you had a gun on me and I didn't have mine with me, I would give you my money, quite frankly, seeing as how you had that kind of advantage.

Mr. MCHENRY. Well, I would hope——

Chief RAMSEY. I have been in a situation like that before, quite frankly.

Mr. MCHENRY. And tens of thousands of people in Washington, DC, do that.

Chief RAMSEY. But let us get down to the meat of I think where you might be trying to go with this, sir. If you have two people with guns and they decide that one is going to rob the other one and the other one says no, and they get into an exchange of gunfire, in most instances, including with highly trained police officers, they don't hit what they are aiming at. Those bullets don't stop; they keep traveling until they hit something.

Now, in the case of Dante Manning, he happened to be a 13 year-old boy standing in the street in front of his house, 13th and Euclid, that got hit in the head and is dead. Last year, 8 year-old Chelsea Cromartie shot, while sitting in her home watching television, by a stray bullet.

There are consequences way beyond the scenario that you are laying out that causes a public safety threat, sir.

Mr. MCHENRY. But all those folks that use those weapons were breaking the law. Am I correct?

Chief RAMSEY. Sir——

Mr. MCHENRY. Absolutely yes. So the conclusion of this is do you steal from the strong? No, you steal from the weak. Do you assault those that are mighty? No, you assault those that are meek. And if you level the playing field, if you level the playing field—you used the reference that your police officers encounter folks in a dark alley with a weapon.

You know what the advantage, though, that your officers have? It is that they have a weapon too. And they level the playing field. And you know what? It is shown statistically across the country that simply brandishing a handgun by a law-abiding citizen can prevent a crime. Brandishing a handgun, if I broke into your house, would maybe, possibly make me leave your premises. In fact, probably run.

Chief RAMSEY. Mr. McHenry, I appreciate all this, and, you know, you mentioned the officers have an advantage. I think if you talk to the family of 110 of my officers whose badges are hanging on that wall right now in my training academy that got killed in the line of duty, they didn't have much of an advantage. And I don't think that Officer Gauguin had much of an advantage last week when he was gunned down in Prince George's County.

And you keep using a very curious term of leveling the playing field. It seems to me like the only thing you are doing is playing with the lives of the people of the District of Columbia. And that, sir, is a game that I don't happen to want to participate in. We have laws in place. Those laws were put in place by the people who were elected to represent us as residents of the District of Columbia. And most—not all, but most folks would prefer they just be left alone, myself included.

And as far as my police officers go, and the kinds of dangers they confront on a daily basis, it is bad enough out there now. We don't need any more. Most homicides, the majority of homicides in the District of Columbia—and this has been true historically, as far back as I have gone—the main motives are argument and retaliation.

When people are in the heat of passion, when they are angry, if they have a weapon, they will use it. If they get into a fistfight, someone is going to win, someone is going to lose. The loser is like-

ly to pull that handgun. We are going to have tragedies. We are going to have problems beyond what we have now. And this just isn't the time to do it.

Mr. MCHENRY. But our discussion, up until you threw out some very emotional things—and I certainly want to give our officers on the streets everything they need. But the question I have is for those that are victims of crime. And in Washington, DC, we all admit we do have a crime problem. So I am looking at ways to actually solve this problem. As someone who lives in Washington, DC, a greater portion of the year, I want to have security in my own apartment here on Capitol Hill, just blocks from the Capitol.

Chief RAMSEY. Well, sir, I understand all those arguments, and I guess that part of the plan is probably to loosen some of the security around the buildings here, which, again, it is harder to get into the airport than it is to get into this building when it comes to checking people for weapons. And I don't hear anybody saying that we ought to allow handguns in here.

You mentioned earlier in your opening statement that your folks from your jurisdiction who want to come and visit D.C. want to carry their guns. Can they bring it with them when they come to see you in your office? You want to put it on us and put it on our backs. Yet, there are two Capital policemen for every single Member of Congress. The rest of us don't have those odds. So all we are asking is that we work together collectively to put in place the kinds of laws—which we already happen to have one, by the way—which will help us protect our people.

Mr. MCHENRY. What am I going to do with——

Chief RAMSEY. You want to help my police officers? Help us by not passing this law. That is how you can help my policemen.

Mr. MCHENRY. You know what you can do to help me in my life? Is allow me to carry a handgun so when somebody breaks into my house at 3 a.m., and wants to beat me up and take everything from me, and maybe possibly kill me and shoot me, if I just simply brandish a weapon and I am able to level the playing field, then I am going to have a chance of survival before I have to wait 30 minutes for your folks to come out there, if I have the ability to communicate with you all and call 911 to get a response.

So I will tell you, sir, that our motivation is to allow protection of individuals, not to spread more handguns. What we are trying to do is allow law-abiding citizens the same opportunity that these folks, these crooks, these criminals, these murders that are out on the streets have because they are willing to break the law. As a law-abiding citizen, we are trying to give that same opportunity and level the playing field.

Chief RAMSEY. Well, I am very appreciative of how motivated you are to do this, sir. I am just simply saying I am equally motivated not to let you do it. I think that it is really not in our best interest here in the District of Columbia—perhaps in other jurisdictions, but not in ours—to have the current handgun law in any way tampered with.

I think it is a good law, I think it is a solid law, I think it is good for the citizens of the District of Columbia. And if they choose to change it, then it should be their right and their decision to change it. And I think that is basically what we are saying here.

Mr. MCHENRY. Well, thank you for the exchange. I certainly appreciate it. Appreciate your testifying.

Chief RAMSEY. Thank you.

Mr. MCHENRY. At this point I would like to recognize Congresswoman Watson, if you have questions.

Ms. WATSON. Thank you so much, Mr. Chairman.

I want to thank our chief of police and our Honorable Mayor for being here. Those of you who are on the streets every day realize what the problem is, and the problem is guns in the hands of the irresponsible. But I would never want a shootout at the O.K. Corral, and that is exactly what it would be if we liberalize the gun laws here.

How do we know who the innocent people are? Because a youth is innocent until he pulls that gun. I am dealing with that right now in my district, South Central Los Angeles, and I have an illegal gun shop that has been operating for 15 years, and I went to ATF and I went to Customs, and we can't get them to close down, and they have violated every law.

So the people with the power get the guns, and the powerless become the victims. And I would not solve the problem of violence in this city where we work by letting everyone have a gun. You know, children find those guns. I know in my district they find them all the time. Kill their playmates, kill themselves. I see adults passing the guns on to children and having them fire that shot. The gangs started in my district. So I live with this problem every day. And the solution to gun violence on the streets is not allowing everyone who walks through the door to have a gun.

So my question to you, Chief Ramsey, is how do we, how would you—and I hope this law goes nowhere, and I am very sympathetic to the statement that let us make that decision, because I did put an amendment in this bill that we had fighting drugs and so on to let the local elected officials help determine what is a high violence area, because we live there and we represent these. And I was born in my district.

Under the Constitution there are people who have a right, if there is a militia, to carry a rifle. How would you balance that right and keeping guns away from irresponsible people? Can you deal with that?

Chief RAMSEY. Well, I wish I had the answer to that, ma'am. Unfortunately, I don't. I personally think that if you commit a crime with a handgun, I would like to see you get 10 years just for doing it with a gun, separate from whatever gun it is; robbery, rape, whatever it might be. You do 10 just for having a gun and using the gun that way, as opposed to anything else. But that is not the way it really works. So there is not a whole lot of disincentive for people not to use guns to commit crimes, and that is because of some of the laws that we have that, quite frankly, I think are a little weak when it comes to violence committed with the use of a handgun.

I don't think you solve that problem by introducing more guns. I think you deal with the criminal element in the harshest way you can in terms of letting them know and sending a clear message that if you commit a crime and you use a handgun, where you can potentially take somebody's life, then there is a very, very stiff

price to pay. Maybe then we will start to see less and less of it. Maybe then this kind of debate can take place, where we don't find ourselves in the midst of the kinds of problems and issues that we have now, where there is no disincentive for people who do that.

When you look at the amount of violence that is being committed out here, younger and younger people—and if we have a law where you can buy guns—let us say 18 year-olds are able to buy guns. Can you imagine 18, 19 year-old boys being stopped in many of our neighborhoods with a gun by a police officer? And you think nothing is going to happen? I mean, we are going to have some serious consequences here.

And this could be a good kid, perfect kid, but at night, in a dark alley, two, three guys in a car, it is a felony stop—at least you think it is a felony stop. I mean, those are the kinds of things that we confront every day. And by just having more guns available, it just doesn't make the situation any better.

In my department, our officers have to go through firearms training twice a year, 8 hour segments. Twice a year every year. They have to qualify not only with marksmanship, but also in their judgment in when to use deadly force. Now, we are talking about selling guns over the counter to people who get no training, get no supervision; there are no rules, there is no nothing. I mean, there are people who right now think they can kill an auto thief. Because somebody is stealing their car, they have the right to shoot them. And I am here to tell you that in most States you can't.

So those are the kinds of things that you are going to have, in addition to the other problems, the inappropriate application of the use of deadly force by private citizens, because they thought they were threatened. We have very, very strict guidelines in policing. We have police officers that get indicted, that get sent to jail for inappropriately using force. All kinds of regulations. Everybody in the world is looking at us. Who is going to be looking at Joe Blow Citizen who inappropriately uses deadly force because in their mind they thought they were justified, and yet they took a life? And there is nothing more serious than taking somebody's life, and you better be right when you do it.

Ms. WATSON. Thank you.

Mayor Williams, I think a lot of the criticism relative to the violence in this city is warranted, because it is a very violent city. Where do the guns come from?

Mayor WILLIAMS. Congresswoman, again, thank you for your leadership where I grew up, in LA. You do a wonderful job, and I really appreciate it. And when you talk about those neighborhoods in South Central, I know those neighborhoods. I still have many family members there. And I know you are fighting valiantly to lift those communities.

We are still a violent city, although, as you know, and as Congresswoman Norton has submitted for the record, crime has gone down substantially over the last 2 years. And we aim to bring it down even further this year and are on track to do that. But it is a violent city. And as the Chief reported—and he had a documented list of this, which I think we have also submitted for the record—Maryland, Virginia lead the categories—and he had a list of other areas. The fact is we have laws here, but we are in the

midst of a very porous metropolitan area, so our laws only have limited effect where guns are readily available elsewhere.

But I would join with the Chief and say that where you have applied a law and there is, admittedly, in some cases wanton disregard for that law, the answer isn't to remove the law; the answer is to add to your arsenal the tools to see that the law is enforced. So, for example, in our city—and I would argue in many cities across the country—there are still too many assaults. There still is too much sexual violence. There still is too much violence of all kinds. But we don't say, well, because so many people are violating the law, let us just remove the law. No. We add to our arsenal the tools to see that law has greater and greater effect. And I think that applies to the use of guns.

Mr. MCHENRY. The gentlelady's time has expired.

Congressman Westmoreland, you are recognized for 5 minutes.

Mr. WESTMORELAND. Thank you, Mr. Chairman.

Mr. Mayor, I think in your opening statement you talked about the guns—I believe there was about 1,200 or 1,500 guns that you all confiscated last year, is that correct? You said that they were probably——

Mayor WILLIAMS. 2,000, sir.

Mr. WESTMORELAND. I am sorry?

Mayor WILLIAMS. 2,000, sir, the Chief reports.

Mr. WESTMORELAND. OK. You said they were probably brought in illegally. Wouldn't you say that every one of them was absolutely brought in illegally if they were brought in?

Mayor WILLIAMS. If they were brought in, out of the 1,500 that we actually traced last year—we took in 2,000, but we traced 1,500. All but 16 were illegal. There were 16 that we got that had been registered prior to the 1976 ban.

Mr. WESTMORELAND. But they were legal in the States that they came from, they were just here illegally?

Mayor WILLIAMS. Some were legal in the States they came from; some had been stolen; some they had lost track of who purchased it last, because it had gone through so many hands. But there were some that had been legally purchased, but the majority of them no longer belonged to the individual who made the original purchase.

Mr. WESTMORELAND. Mr. Mayor, I know there has been some concerns today about Home Rule. Do you believe that Article I, Section 8 of the Constitution gives Congress the explicit power to enact or regulate legislation in the District of Columbia?

Mayor WILLIAMS. I think technically it has that power. But I think that my own personal view is that was a defect in the creation of the Constitution. As Mayor of this city, I have read God knows how many books now on the history of this city, and it isn't as if a lot of thought was given to that particular provision; it was put in place to solve an immediate problem, and almost immediately everybody involved understood that they had created a problem, and they indeed had.

I am the fourth modern Mayor of the District of Columbia, but, indeed, we had a number of Mayors and councils from the very creation of this city and from the very beginning that complained about this provision. So everybody knew—like the whole issue of union, the whole issue of slavery, the whole issue of emancipation

and voting rights, all these issues—that this was a problem that we would get to later, and we still haven't gotten to it. I think it is a fundamental issue here.

Mr. WESTMORELAND. But you agree that is what the Constitution of the United States says, that Congress has the explicit power to do that. Do you not agree with that?

Mayor WILLIAMS. Legally, but not morally. I think it is wrong.

Mr. WESTMORELAND. OK.

Mayor WILLIAMS. I really do, respectfully.

Mr. WESTMORELAND. Chief, let me ask you a question. Do you all do Neighborhood Watches in the District?

Chief RAMSEY. Yes, sir.

Mr. WESTMORELAND. Let us say you were at a Neighborhood Watch meeting with some neighbors and someone gave you the scenario of coming in and finding their family held hostage by someone with a weapon, or let us say someone came in and found someone pistol-whipping his wife. If you were at a Neighborhood Watch, what would you instruct that neighbor or that homeowner to do when he walked into a situation like that?

Chief RAMSEY. I would instruct him to call us. If they are not in harm's way, I would instruct them to call 911 as quickly as possible. Obviously, in a case of someone being pistol-whipped, if it was a spouse or something like that, you would try to take some action on your own in order to try to stop that from occurring, and that would be human nature. But odds are there would probably be two victims, as opposed to one. But they should contact the police immediately, if that is possible.

Mr. WESTMORELAND. I believe that you all probably haven't had the best 911 response time in the country.

Let me ask you another question. You are around criminals all the time, and I am sure you ask them questions and interview them as to crimes they have committed. So let us put your criminal mind on for a minute or one that you could associate with a criminal. If you were living on the border between Maryland and D.C. and you had a drug problem, or if you were in need of money or something that you could sell for money, and you had a weapon and you were going to make a decision on who to rob, would you rob somebody in Maryland that had an opportunity to have a weapon, or would you go to D.C., where you knew the victim was going to be unarmed?

Chief RAMSEY. Well, I can use a real-life example. I think Prince George's County has more robberies right now than we do in the District, so I guess that particular——

Mr. WESTMORELAND. Well, that is not my question.

Chief RAMSEY. That is your question. You said Maryland or the District.

Mr. WESTMORELAND. I am saying if you were a criminal—I am asking you a question. If you had to make a conscious decision, if you were going to commit a crime, would you rather try to commit the crime against someone who might be armed or against someone that you knew would be breaking the law to be armed?

Chief RAMSEY. First of all, sir, I am not a criminal and I don't think like a criminal. So that is No. 1. So I can't answer your question. I have no idea what is going through their mind.

Mr. WESTMORELAND. OK. Let us just——

Chief RAMSEY. No, sir. And you took an unfair shot at us and the hard-working men and women of the Metropolitan Police Department about response times. Our people have done a remarkable job over the last 3 years. We have enjoyed a 9 percent decrease in 2003, 18 percent last year, and so far 14 percent this year. We are not perfect, but we don't deserve that. We don't deserve it at all. We have people that lay their lives on the line every day answering calls for service. We run toward danger that most people would be running away from. And I am very proud of them, and they don't deserve that, sir. I am sorry.

Mr. WESTMORELAND. Well, sir, listen. I have police officers in Georgia every day that stop cars where the people can have guns. So, to me, they are braver stopping the ones that can have a gun than somebody without it. But I think you have answered my question about which would be the easiest prey.

But let me say this. You said you had recovered, I think, 2,000 firearms?

Chief RAMSEY. Yes, sir.

Mr. WESTMORELAND. And I believe Mr. Burton read the penalty, that the penalty was a minimum of $1,000 and 1 year in jail or the maximum of $10,000 and 10 years in jail. Could you tell me approximately what percentage of those paid the $1,000 or served the 1-year in jail, or what percentage of them paid the $10,000 and they are serving now or could serve up to 10 years in jail?

Chief RAMSEY. That information would have to come from the U.S. Attorney's Office or the courts. I don't have that available to me off-hand.

Mr. WESTMORELAND. Is that some information that you could get?

Chief RAMSEY. I could certainly make them aware of your request, sir, and see whether or not they could look that up.

Mr. WESTMORELAND. And isn't it true that the last statistics I have for the population, this is estimate population for the murders, as verified by the FBI is 2003. New York has a population of 8,085,742. They had 597 murders, or 7.38 murders per 100,000 people. Washington, DC, has a population of 563,384, had 248 murders, or approximately 44.02 murders per 100,000 people. How many of those murders do you know that you all solved?

Mr. MCHENRY. The gentleman's time has expired, so if the Chief would——

Chief RAMSEY. Our clearance rate over the last—and I think you are referring to 2003 statistics. Our clearance rate in 2003 was about 56 percent, if I am not mistaken, right in that area. I would have to look it up in order to be able to give you the precise number.

And it is interesting you use New York. They do have good gun laws in New York.

Mr. MCHENRY. At this time, Congressman Duncan from Tennessee is recognized for 5 minutes.

Mr. DUNCAN. Well, thank you very much, Mr. Chairman. And I know that we need to get on to the next panel, so I will try to be very brief. I am curious about one thing. There have been instances in the past or over the last many years where D.C. residents have

shot criminals in their homes, and I wonder do you know if any or how many of those have been prosecuted because those guns have been illegal? I was told that none of those people have been prosecuted in all those years. Is that correct?

Chief RAMSEY. I would have to do some research, Congressman, because I am not aware of any inordinate number of instances where we have had people shooting others inside their home in protection of themselves. I am sure that it is possible that could have happened. I would have to check to find out how many justifiable homicides we had in any given year.

And we do average anywhere from three to four justifiable homicides a year. Most of those are police shootings, however. So I would have to check to find out how many citizen homicides—because it still counts as a homicide, it just doesn't count as a criminal homicide—we had in any given year, and I would be glad to get that information to you.

Mr. DUNCAN. Well, let me ask you this. I spent 7½ years as a criminal court judge in Tennessee trying the felony criminal cases, and I had, I can tell you this, almost unanimous support from my local law enforcement people. And you do have things going in the right direction, I will give you credit for that.

On the other hand, I will say that, unfortunately, we have over 2 million people now in the prisons and jails of this country, and a lot of that is that we have started locking up for much longer sentences the violent criminals and the criminals who have used guns. It is a shame that we have that many people locked up, but it was necessary to do it. And what that has done, that has brought down the crime rate in almost every city in this country. So that same trend line has taken place in almost all the cities.

Yet, a witness in the second panel will say this: over the last 5 years, the District, never far out of the running, had, in three of those years, the highest murder rate among cities over 500,000. The other 2 years the city ranked second and third. It seems clear that D.C. residents need more protection than they are receiving. Nor has there been any success in Chicago, the only major city to have roughly similar laws, and a city that has consistently had the highest murder rate of the 10 largest U.S. cities.

What do you say to that?

Chief RAMSEY. Sir, I guess, you know, I mean, statistics can say whatever you would like them to say. And if all that is true, fine. I don't think the solution is in putting more guns on the street. I just don't. I mean, I have been a policeman for 36 years, and I have been in many situations and, believe me, I just do not think that we need more guns on the street. I just don't believe that.

We have worked very hard to get our murder rate down. Granted, our past has not been all that great. But we are moving in the right direction. As I said before, we are at about a 20-year low now, and we are even under that so far this year. And we are going to continue to aggressively fight crime in our city. It is not perfect. It is not going to get down to zero, maybe, but we are doing everything we possibly can.

But introducing more guns on the street, there is going to be a lot of these guns that are going to be used inappropriately by people who would not otherwise be committing crimes, but during road

rage, domestic disputes, or other types of situations they find themselves in. That handgun being available, I am afraid we are going to have some tragedies. I hate to see it.

Mr. DUNCAN. All I can say is a better job is going to have to be done, because this city has more police officers than any city in the entire world by far, when you add in the D.C. police force, the Capital Police force, the Park Police, all these other institutions that have all these police forces. You have all these Federal law enforcement officers all over the place here. It is an astounding number of law enforcement officials. And to have these kinds of statistics is just almost beyond comprehensive, when you consider the number of law enforcement personnel in this city.

And I think you can talk about statistics, but every place in this country where they have fewer or more lenient gun laws, the crime rates are at the lowest; and where you have the toughest or strictest gun laws, the crime rates are at the highest. And you look at Virginia and Maryland and these surrounding places where you say these guns are coming from, but they have more lenient gun laws and, yet, their crime rates, murder rates, and all these other violent crime rates and use of guns, they are so much lower. It just makes you shake your head in amazement at what is going on here.

So I certainly don't have all the answers, but somebody ought to be ashamed on all this that is going on in this city.

Chief RAMSEY. Well, Congressman, I would like to say that it is true we have a lot of police departments that operate in the District of Columbia. There is only one that answers 911 calls, and that is the Metropolitan Police Department, and there are 3,800 of us. The Capitol Police protect the Capitol, and you have about two cops for every Congressman up here on the Hill, so it is a very safe place. We have the Federal protective FBI, Secret Service. They all have their own responsibilities, and those responsibilities do not include regular routine patrol and answering 911 calls for service. That falls on the Metropolitan Police Department.

And, in addition to that, we also have the responsibility of assisting those Federal agencies in providing protection for the President, the Vice President, visiting dignitaries, and all these different security alerts that take place, protests that take place in the District of Columbia, not against the local government, but against the Federal Government, but we are charged with the responsibility of maintaining order.

So there are a lot of responsibilities inherent in being a member of the Metropolitan Police Department that other jurisdictions have no clue as to what all it entails. And I think our people do an outstanding job. They have nothing to be ashamed of.

Mr. DUNCAN. Well, all I can say is this. I live in an area where there is heavy tourism, and we have millions of people coming to our area and through that area, and we have about one-eighth or one-ninth the number of police officers per population. So it looks like to me like something better and more is going to have to be done.

Mr. MCHENRY. The gentleman's time has expired.

At this point we will allow Delegate Norton to have a final set of questions.

Ms. NORTON. Very few questions.

And I know the Mayor and the police chief are always under pressure to bring crime down, and I do want to congratulate you that you are at a 20-year low in crime and in homicides in the District of Columbia. You deserve great credit for that. And you have a lot of pressure from our own residents—you don't need any from anybody up here—because they are the ones that have to live with it. And I think the record needs to show that the rate has gone down very substantially.

I do appreciate the members who have offered statistics on the number of homicides in the District of Columbia, because they have made the very best argument for why we should not introduce more guns into this city.

I would just like to clear up one thing. There was a question that asked you, Chief Ramsey, about guns you have taken off the streets, and asked you how many of these people had to pay a $1,000 fine and got the 1-year in jail for possession of firearms. Is it not the case that most of the guns that you take from people on the streets are taken from criminals and felons, who would not be charged, usually, simply with possession, but would have much heavier charges because they shouldn't have had the guns in the first place?

Chief RAMSEY. That is true, ma'am, and that is a good point. A lot of times the U.S. Attorney's Office or the AG will not move forward with those charges because they have more serious charges placed against the individual, and those gun charges tend not to be placed. There are some instances where they are. I don't know, off the top of my head, how often that occurs, but because in most instances they are charged with other crimes, they are not charged with those particular crimes.

Ms. NORTON. The Congress is full of folks who like to talk about handling guns and just being ready for people who might break in. I would hate to have any of them actually tested one night to see if they really were ready when somebody broke in.

But I really would like to just straighten this matter of leveling the playing field out, about who is most likely to have the advantage, a gun experienced in breaking in and handling a gun in holdups, or a homeowner who is caught unaware if somebody breaks into his or her home. I mean, let us discuss the real level playing field here. Is the citizen likely to have a level playing field if she or he is up against an experienced criminal?

Mayor WILLIAMS. I would like to let the Chief speak to the dynamics of the situation, but I just want the record to reflect what the Chief reported but I think went unrecognized, and that is I applaud my friend and colleague, Jack Johnson, and what he and the chief are trying to do out there in Prince George's County, but the fact is Prince George's County and Maryland have more lenient gun laws than the District, and crime has been going up out there, as opposed to the District.

So if you take the philosophy that more lenient gun laws and this more level playing field is going to result in a reduction of crime, it is not proving true in just that one comparison—and I could give you others—statistically.

Chief RAMSEY. And, ma'am, I don't know who has an advantage in that particular situation. But I do know who has a disadvantage, and those are the people who are standing around the two guys with the guns, because they are the ones that are more likely to get shot than the people that they are shooting at. And that is just from experience. That is just what normally happens, is that the people who have nothing to do with it at all wind up catching a round and wind up getting seriously injured or killed as a result of it.

So each situation is different. You know, getting to a gun, being able to locate it, being able to fire, knowing when the use of deadly force is appropriate. And I think that is a key issue here. Again, police officers go through hours and hours and hours of training in the use of deadly force and the handling of a firearm. We sell weapons to citizens and there are no rules of engagement.

So that is just something that has to be seriously considered should something like this wind up taking place, is that you can't just lift the ban and just leave it open for us to try to figure out what to do. There are a lot of serious consequences to this if it should go through.

Ms. NORTON. Important point.

Chief, I know that in all the crime town meetings in the city I have been to, police say give it up, give up your money. I mean, if somebody is pointing a gun at you, it is hard for me to believe that a police officer would say shoot it out and may the best man win.

Chief RAMSEY. Well, there are studies, ma'am, that show that the person who has a gun drawn on you has an advantage. There is something called lag time, the time it takes for you to be able to actually respond, should you be in a situation like that. It depends on the frame of mind of everybody involved. There are so many factors.

But it really, I think, is beside the point in a sense that the real people that are at a disadvantage are the children playing in a schoolyard, people sitting on their front porch, other people that are out. You know, we are trained not to fire if the background isn't clear, meaning that if that bullet should miss the target, what is behind it, because, again, you could unintentionally shoot and seriously injure or kill someone else. All those things go into the training of a police officer.

And I think that when we find ourselves in a situation where we have gone back to that old movie I talked about before with Wyatt Earp, with everybody being armed—which, by the way, there is another section of that movie that says their murder rate was actually higher than that of New York City in its hay-day—you know, we go right backward to that. And I just think that a lot of innocent people are going to wind up suffering. There are unintended consequences from this action. No one is intentionally trying to do this, but there are serious unintended consequences to lifting our gun ban.

Ms. NORTON. One last note.

Mayor WILLIAMS. And I would add, Congresswoman Norton, I think there are unintended consequences to what I think is just a breathtaking usurpation of what limited Home Rule we have. I

think we need to decide, do we want the District officials to run the District government or someone else? For someone who has worked as aggressively as I have with the Federal Government to try to bring the District forward, and suffered, as you know, all the brick bats and criticisms of my constituents and colleagues and media cognoscenti about being too lenient, to have to turn around now and go back to my people and say the reward for good behavior and everything that we have done is to undermine something so fundamental to democratic free will, to me is just tragic. It is horrible. I can't over-emphasize that.

Ms. NORTON. And in a real sense that says it all.

Mr. Mayor and Chief Ramsey, let me just ask you this final question. You have town meetings around the city all the time. Police go to Mayor's town meetings; you each have your own town meetings. When you go to these town meetings, is there any sentiment in the District of Columbia for weakening our gun safety laws? What do you pick up from people who talk to you about guns?

Chief RAMSEY. Ma'am, I have not heard any meeting—I can't say anyone; there are certainly those proponents that would like to see the ban lifted, I would imagine. In fact, I know there is one that will testify, at least a couple that will testify a little later on. But for the most part people do not even discuss it, and if they do, they talk about gun violence and our need to get more guns off the street; and why don't we do gun buy-backs and why don't we do this and why don't we do that. The focus is always on what can we do to get more guns off the street.

Reverend Young, earlier this year, started something where he started a gun buy-back program. And like the gentleman mentioned who said that they had it in his community and they ran out of money, well, Reverend Young ran out of money too. Reverend Young is the minister that presided over Princess Hansen's funeral and a couple other funerals of young people in the District.

Again, the emphasis and the focus is on how can we get these guns out of the hands of people, as opposed to anything else, for the most part.

Mayor WILLIAMS. I would agree with that, Congresswoman. In hundreds and thousands now of questions at community meetings and thousands of e-mails, I have not detected a significant concern about this issue. I would just echo what the Chief has said. It is to bring more enforcement, not less, to the gun laws.

Ms. NORTON. Well, I want to thank both of you, because for the Mayor and the police chief to spend this kind of time outside of their jurisdiction actually, I think, says all we need to know about the importance of this issue to you.

And I want to thank you, Mr. Chairman, for the leeway you have given all of us to ask questions.

Chief RAMSEY. Thank you, ma'am.

Thank you, Mr. Chairman.

Mr. MCHENRY. Thank you, Delegate Norton.

At this time this panel is dismissed. I certainly appreciate you dealing with our lovely congressional schedule. Unfortunately, Chairman Davis was not able to come back. I know he did want to have a conversation with you all. Thank you all for testifying.

At this time we will recess for 2 minutes.

[Recess.]

Chairman TOM DAVIS [presiding]. Please rise with me and raise your right hands.

[Witnesses sworn.]

Chairman TOM DAVIS. We will start with Dr. John Lott, the resident scholar from the American Enterprise Institute; followed by Robert Levy, senior fellow in Constitutional studies at the Cato Institute; Robert Peck, president of the Greater Washington Board of Trade; Pastor Lionel Edmonds, Co-Chair of the Washington Interfaith Network; Sandra Seegars, a District of Columbia resident; Tyrone Parker, executive director, Alliance of Concerned Men; and Francine Lowe, District of Columbia resident.

Mr. Levy, would you just raise your right hand right there?

[Witness sworn.]

Chairman TOM DAVIS. We are going to start with Mr. Lott and move straight on down. Your entire statements are in the record, so you don't have to take the full 5 minutes.

Mr. Lott, thanks for being with us.

STATEMENTS OF JOHN R. LOTT, JR., PH.D., RESIDENT SCHOLAR, AMERICAN ENTERPRISE INSTITUTE; ROBERT A. LEVY, SENIOR FELLOW IN CONSTITUTIONAL STUDIES, THE CATO INSTITUTE; ROBERT PECK, PRESIDENT, GREATER WASHINGTON BOARD OF TRADE; PASTOR H. LIONEL EDMONDS, CO-CHAIR, WASHINGTON INTERFAITH NETWORK; SANDRA SEEGARS, DISTRICT OF COLUMBIA RESIDENT; TYRONE PARKER, EXECUTIVE DIRECTOR, ALLIANCE OF CONCERNED MEN; AND FRANCINE LOWE, DISTRICT OF COLUMBIA RESIDENT

STATEMENT OF JOHN R. LOTT, JR., PH.D.

Mr. LOTT. Thank you very much. Thank you, Mr. Chairman and distinguished panel members. I appreciate your time here today.

Guns make it easier for bad things to happen, but they also make it easier for people to protect themselves and prevent bad things from happening. And what concerns us all is what is the net effect that guns have on crime. Does it increase or decrease murders? The impacts it has on rape, robberies, and aggravated assaults.

We all want to keep guns away from criminals, but the problem that you basically run into is that when you pass these different type of gun control laws, it is the law-abiding citizens, and not the criminals, who are most likely to obey them, you can actually see increases in crime rather than reductions in crime.

My own research shows that police are the single-most important factor for reducing crime. Surely, Police Chief Ramsey talked about some of the things that he is doing to increase arrest rates and conviction rates. But even though they are extremely important, one thing I think is clear, and one thing that the police themselves understand, when you look at surveys of them or talk to them in different places, and that is they realize that they virtually always arrive on the crime scene after the crime has been committed.

In D.C., in 2003, the average response time for priority one calls was about 8 minutes and 25 seconds. So the question that you run

into, then, is what do you advise someone to do when they are having to confront a criminal by themselves, if they have to wait that 8½ minutes before the police can arrive, and then assuming that they can make a 911 call.

And there is a lot of evidence on this. Probably the largest study that has been done is the National Crime Victimization Survey done by the Department of Justice, which surveys about 100,000 to 150,000 people each year, and it has been doing this survey for about 25 years now, almost. And what they find is that you look at victims of crime, you find how they responded to the crime, you found how the criminal responded—was the criminal armed or not—what was the type of crime that was involved; what were the circumstances, time of day, many different factors that were there—did it occur in a house, outside the residence. And what you can find is that given the residence or given that victims respond in different ways, what was the probability of serious injury to them with all those different factors.

And what you find is that by far the safest course of action for victims to take is to have a gun. We frequently hear that passive behavior is a safe course of action. We heard that today. And there is a kernel of truth to it, but when you look at the survey, you find, in fact, that is very misleading and actually dangerous advice. If you compare passive behavior to all forms of active resistance lumped together, passive behavior is, indeed, slightly safer.

But the problem with it, and the reason why it is misleading is that, under active resistance, you are lumping together 10 different types of active resistance, everything from yelling and screaming, running away, a baseball bat, mace, a knife, a gun, or a stun gun. Some of those are indeed much more dangerous than passive behavior.

For example, for a woman, by far the most dangerous course of action for her to take when she is confronted by a criminal is to use her fists. There is a very simple reason for that, and that is you are virtually always talking about a male criminal doing the attacking. In the case of a female victim and a male attacker, there is a large strength differential that exists there. The second most dangerous course of action for a woman to take is to run away. If she can run away and escape, that is great. But the problem is that women victims tend to be significantly slower runners than men are, and in the process of being tackled and subdued significant injury frequently results.

Again, as I say, if you look through these numbers—and I am happy to go through it more in depth—by far the safest course of action is particularly true for people who are relatively weaker physically—women and the elderly—is to have a gun.

There are other things that have been brought up today about fears about what might happen. We see this debate occurring time after time. We have 37 States now in the United States that have "right to carry" laws. A lot of the concerns about people using guns improperly, in the heat of the moment, other things that could happen, in these States you consistently find that the people who carry these concealed handguns tend to be extremely law-abiding, they lose their permits for any type of gun related violation at hundreds

or thousands of 1 percentage point, and virtually always for fairly trivial types of violations.

There were discussions today about the assault weapons ban. I find it a little bit interesting it was just brought up today, because just a few weeks ago we had the first crime numbers come out after the assault weapons ban sunset last year, and there was obviously a lot of concern about what would be happening to crime. Well, it turns out now that murder rates and robbery rates fell last year. Murder rates fell by 3 percent. And, more interestingly, the murder rates fell by more in the States that didn't have their own assault weapons ban—over 4 percent—than the States that did have an assault weapons ban of their own.

We could talk about other things. The risks of having guns in the home is something that has been brought up multiple times. There are a couple of serious issues with the study that people were citing earlier in the testimony, and that is that what they would do is they would look at a city over the course of a year, identify people who had been killed or injured from a gun, and then ask the relatives of the deceased whether a gun was owned in the residence.

Then, as a comparison group, they would find people who lived within a mile who were the same age, sex, and race, and ask them whether they owned a gun. And they would run a regression that would say what is the probability of dying based on whether a gun was said to be owned in the home.

When people have gone back and looked at that data, what they found is that in only, at most, 14 percent of the deaths—and that includes suicide, was the gun in the home that was mentioned in the survey actually the weapon that was used in the death. Eighty-six percent of the time it was from weapons being brought in from the outside, which raises an issue of why it would have been beneficial for them to own a gun.

But, on the other side, they only count as benefits times when you actually killed the attacker. Killing the attacker in self defense occurs fewer than once out of every 1,000 times. You are ignoring the benefits from simply brandishing the gun and you are ignoring even times where you would wound the attacker or fire a warning shot.

Now, what I would like to try to do in the brief minute or so that I have left, is just to turn to some data, because—if I could see the first slide there—we have been talking about what might happen after the D.C. ban was removed. Well, one thing you can go and look at is what happened when the ban was imposed to begin with. In the 5-years before the D.C. ban in late 1976, murder rates declined from about 37 to 27 per 100,000 people. In the 5-years afterwards, they went up to 35 per 100,000 people.

And you can see from the graph here—and 1976 is the line there—there is only 1 year between 1976 and, in fact, today, that you find a murder rate even just slightly below the murder rate that existed in 1976 before the ban went into effect. And even that it is a small tenth of a percent difference in terms of murder rates.

Now, one of the things that the police chief was bringing up is he would talk about numbers in terms of the number of murders. One concern just to bring up there and keep in mind is that the

population in D.C. has fallen by about 20 percent over that period of time. And when you take that into account, it helps explain why the murder rates—in 2004, for example, the murder rate, even with all the drops that they were talking about, was still about 30 percent higher than the murder rate was in 1976.

Can I see the next slide, please?

This shows you how violent crime rates have changed before and after the ban went into effect. You basically find that violent crime rates were falling, on average, prior to the law going into effect, were rising for the next 7 years basically, and they have gone up and down since then. But, again, after that point in time there have been 2 years after 1976 where the violent crime rate was as low or as low as it was when the ban went into effect; all the rest of the time it has been dramatically higher than that.

Now, you can compare D.C. to the changes in murder rates or violent crime rates in Maryland or Virginia, the next graph that is there. And it is very difficult—that is for murder. Or you can look at the next slide for violent crime rates.

And it is very hard to see. Violent crime rates were falling relative to Maryland and Virginia up until 1976, and then they were flat or rising in the period of time afterwards.

And I can go and show you the numbers for Chicago—I won't go through that right now—and other places in the United States, but Chicago you actually see a very big increase in robbery rates after they instituted their ban. And if you compare it relative to the counties that surround it, you see very large increases that occur in either murder rates or—why don't we skip a couple slides just to show you. Next one.

That is robbery rates. That just shows you how the robbery rates changed before and after the Chicago gun ban.

The next slide, please.

That shows you, when you compare the murder rates relative to the counties that are surrounding Chicago, how there was a substantial increase in Chicago murder rates relative to the surrounding counties.

And if you show the next slide, that shows you how violent crime rates changed.

You know, the bottom line—and I have data in here from Australia and from England that show you after they had their bans.

It would be nice if simply banning the guns took guns away from criminals. But the problem is that it seems to be mainly the law-abiding citizens, and not the criminals, who obey these rules. And you end up having unintended consequences in terms of higher crime rates, at least, certainly not lower, as a result of these changes.

Thank you.

[The prepared statement of Mr. Lott follows:]

Oversight Hearing on the District of Columbia's Gun Control Laws

Testimony of

John R. Lott, Jr., Ph.D.
Resident Scholar
American Enterprise Institute
Washington, D.C.

before the

Committee on Government Reform
United States House of Representatives

June 28, 2005

Mr. Chairman, distinguished members of the Committee:

My name is John R. Lott, Jr.. I am a resident scholar at the American Enterprise Institute. Thank you very much for inviting me to discuss the current ban on handguns in the District of Columbia. There has been a lot of concern that "allowing broader gun ownership in the District of Columbia would lead to more shootings."[1] The claim is that the ban has been an important tool in reducing violent crime and murder in the city.

Since September 24, 1976, D.C. residents have lived under the nation's most restrictive gun laws: Police enforce a citywide handgun ban, and local statutes require residents to keep long guns disassembled, unloaded and locked up. The law even forbids target shooting.

D.C.'s gun-control regime has aroused surprisingly little controversy until recently. Had the law worked, the relative lack of controversy wouldn't surprise anyone. But, if one looks at the data, it is clear that the law hasn't done anything to reduce violence. Over the last five years, the District, never far out of the running, had in three of those years the highest murder rate among cities over 500,000 people. The other two years the city ranked second and third. It seems clear that D.C. residents need more protection then they are receiving.

Nor has there been any success in Chicago, the only other major city to have roughly similar laws, and a city that has consistently had the highest murder rate of the U.S. ten largest cities.

Even more importantly, one can also look at how crime rates have varied in these cities over time. In D.C., crime has risen significantly since the gun ban went into effect. In the five years before the D.C.

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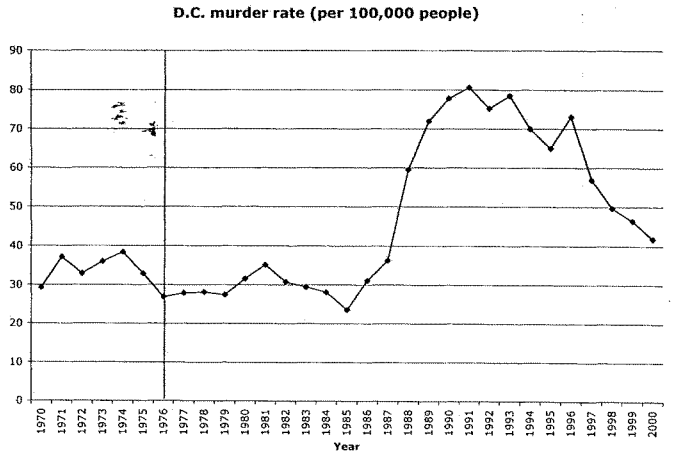
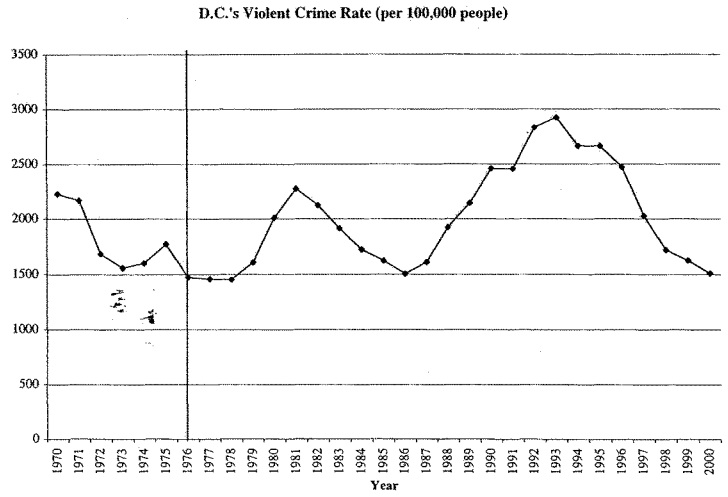
[1] Jacob Adelman, "D.C. delegate and allies counter bill to end gun ban," Associated Press, June 16, 2005.

ban in late 1976, the murder rate was slightly declining: the rate fell from 37 to 27 per 100,000. But in the five years after the ban went into effect, the murder rate rose back up to 35. In fact, while crime rates have fluctuated over time, the murder rate after 1976 has only once fallen below what it was in 1976. The preliminary estimate of a 35 per 100,000 people murder rate in 2004 is still well above what the murder rate was when the handgun ban went into effect. (The explosion in murder during the late 1980s was likely due to the crack cocaine problem, which was a nationwide problem, particularly in urban areas such as D.C..)





Robberies and overall violent crime changed just as dramatically. Robberies in the five years before the ban fell from 1,514 to 1,003 per 100,000 and then rose by over 63 percent, up to 1,635 in the five years after it.

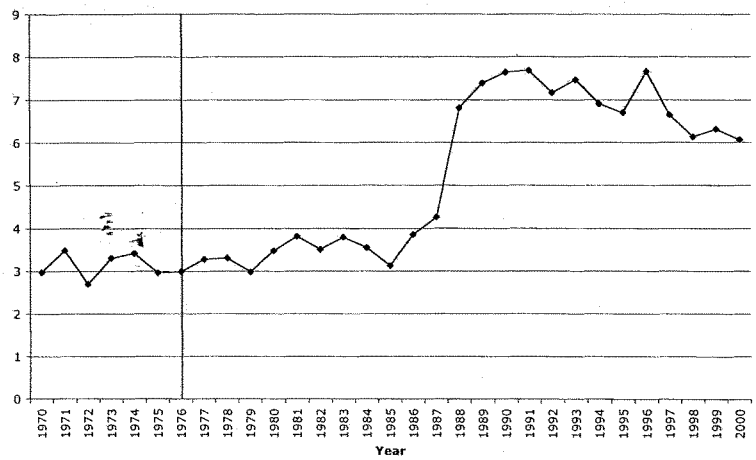
These drops and subsequent increases were much larger than any changes in neighboring Maryland and Virginia. For example, the District's murder rate fell from 3.5 to 3 times more than in the neighboring states and rose back to 3.8 times more within five years. After the ban was implemented the ratio of the murder rates between D.C. and neighboring Maryland and Virginia never fell below the rate seen in either 1975 or 1976. In other words, the relative gap between D.C.'s and Maryland and Virginia's murder rates are never reduced after the D.C. ban.

Advocates of the ban point out how much murder rates have fallen since the mid-1990s as a measure of the handgun ban's success,[2] but it is clear from the previous graphs that the starting point picked for comparisons was well above the crime rates when the ban went into effect. It is hard to see that evidence showing the current murder rate is still 30 percent above the pre-ban level as evidence of the ban's success. Nor is it particularly obvious why one should assume that the benefits of the law will only start kicking almost twenty years after the ban was passed. A more obvious explanation is that those crime rates were near the height of the crack epidemic and various problems with the operation of the police department.

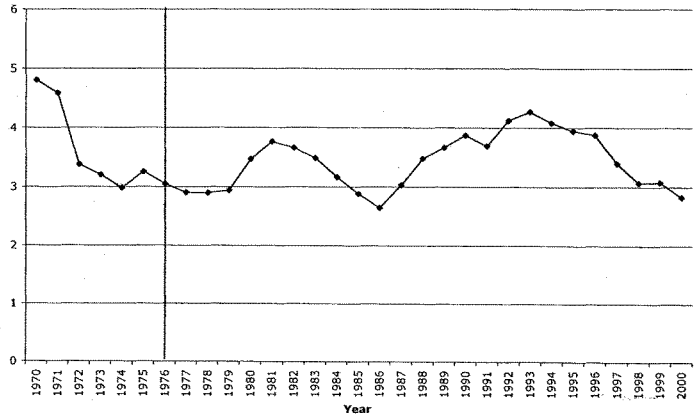
"The city has worked too hard to achieve our 20-year low in homicides to now allow a reversal with the introduction of guns in homes, in the workplace, and on any property a resident owns."

[2] Ibid.

Comparing D.C.'s Murder Rate to the Average Murder Rate in Maryland and Virginia

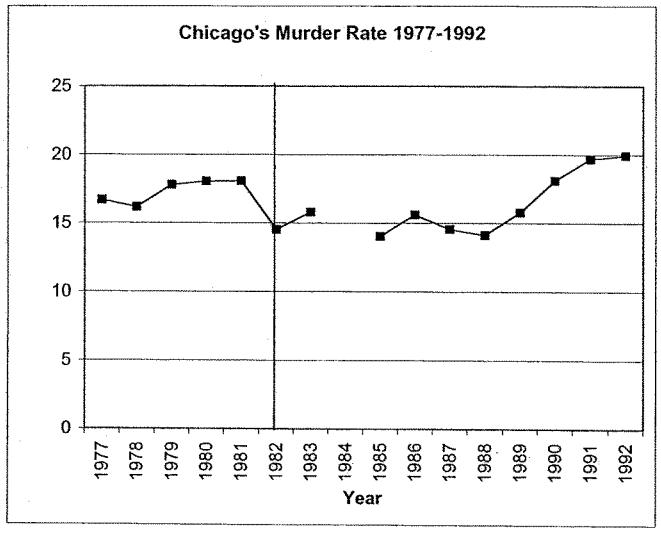


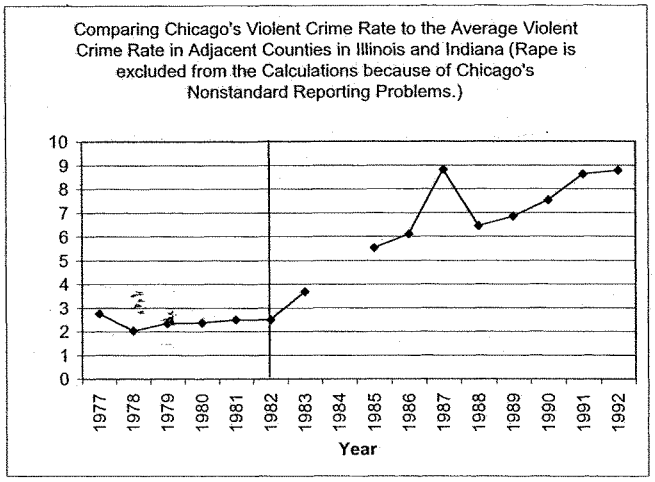
Comparing D.C.'s Violent Crime Rate to the Average Violent Crime Rate in Maryland and Virginia



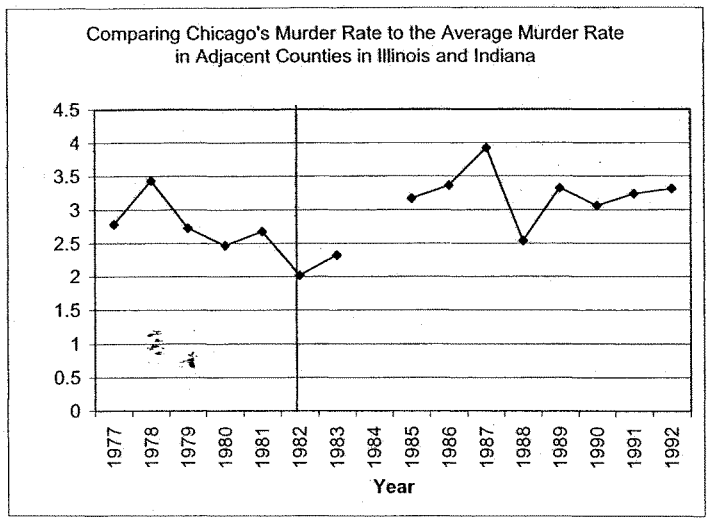
The District does face some severe crime problems unrelated to the gun ban. Although it has improved in recent years, the District's police force still fights a legacy of corruption and incompetence: Under city hiring rules, police can't use even basic intelligence tests to screen applicants. Department computer systems don't work and officers sometimes have trouble finding functional patrol cars. During the early 1990s, as Congress demanded that the city improve police staffing, the city failed to conduct even basic background checks. As a result, there are officers still on the force and subject to civil service protections who have criminal records so severe that they cannot work the streets or testify in court. The city's poor neighborhoods, likewise, rank among the worst in the country, and community-police cooperation suffers just about everywhere.

But even cities with far better police agencies have seen crime soar in the wake of handgun bans. Chicago, which banned all handguns since 1982, has police computer systems that are the envy of the nation, a bevy of shiny new police facilities and a productive working relationship with community groups. Indeed, the city has achieved impressive reductions in property crime in recent years. But the gun ban didn't work at all when it came to reducing violence. Chicago's murder rate fell from 27 to 22 per 100,000 in the five years before the law and then rose slightly to 23. Between 1982 and 2003 there was only one year when the murder rate was even slightly lower than it was when the ban was instituted in 1982. (Chicago did not report its crime data to the FBI for 1984. Chicago also did not report its rape cases in a way consistent with the FBI reporting rules so the violent crime graph excludes rapes.)





The change is even more dramatic when compared to five neighboring Illinois and Indiana counties: Chicago's murder rate fell from being 5.4 times greater than its neighbors in 1977 to 3 times in 1982, and then went back up to 6.1 times greater in 1987. The robbery data is quite dramatic showing that Chicago's robbery rates remained at three times the average of adjacent counties until immediately after the ban when Chicago's robbery rates soared to eight times greater than its neighbors after five years.


Comparing Chicago's Murder Rate to the Average Murder Rate in Adjacent Counties in Illinois and Indiana
4.5
4
3.5
3
2.5
2
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1
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1978
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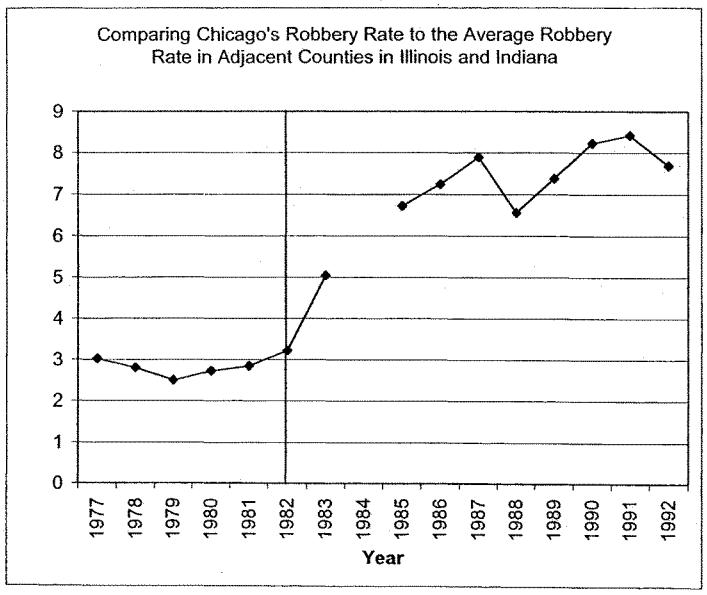
Comparing Chicago's Robbery Rate to the Average Robbery Rate in Adjacent Counties in Illinois and Indiana
9
8
7
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1983
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1985
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1987
1988
1989
1990
1991
1992
Year

In other words, crime rates actually improved prior to these bans and then deteriorated after they took effect. Even though guns will leak into the District and Chicago from neighboring areas, at least some minor benefit still should have been observed if gun bans did indeed reduce crime. Instead, the opposite was the case. The gun bans appear to have disarmed mainly law-abiding citizens while leaving criminals free to prey on the populace.

There are also lessons to learn from gun bans in other countries. From Britain to Australia, promises of lower crime rates from gun control have turned into historic increases in crime.

While the normal knee-jerk solutions are to press for even more controls, once guns are banned, the explanation that the laws failed simply because they didn't go far enough becomes preposterous.

All these experiments were adopted under what gun-control advocates would argue were ideal conditions. Both countries adopted laws that applied to the entire country. Australia and Britain are surrounded by water, and thus do not have the easy smuggling problem that Washington, DC might suffer from.

Take the United Kingdom: With new data showing violent crime soaring, Britain's home secretary announced legislation this month that would impose an outright ban on many toy guns.

Britain has already banned just about every type of weapon that a criminal might want to use. Handguns were made illegal in 1997, and nearly every other firearm (even BB guns) is now subject to a complex regulatory regime.

Twice As Dangerous

The laws didn't do what was claimed. The British government recently reported that gun crime in England and Wales nearly doubled in the four years from 1998-99 to 2002-03. The serious violent crime rate soared by 64%, and overall violent crime by 118%.[3] According to the International Crime Victimization Survey, the violent crime rate in England and Wales now stands at twice the rate of that in the U.S..[4] A figure published in the Economist Magazine last year (January 3, 2004) clearly illustrates how armed robberies were changing in Britain before and after their January 1997 handgun ban. Prior to the ban, armed robberies were falling dramatically. After the ban, armed robberies stopped falling and started rising.

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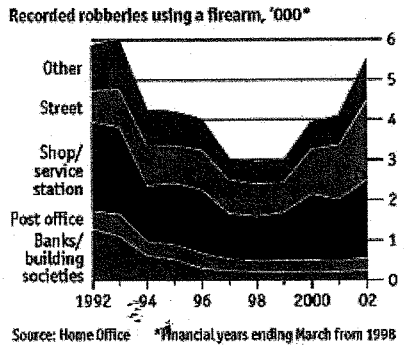
[3] Gordon Barclay & Cynthia Tavares, "International comparisons of criminal justice statistics 2000," Home Office Statistical Bulletin, October 24, 2003

[4] The 2000 International Crime Victimization Survey (http://ruljis.leidenuniv.nl/group/jfcr/www/icvs/).



Australia also saw its violent crime rates soar after its 1996 Port Arthur gun-control measures banned most firearms. Violent crime rates averaged 32% higher in the six years after the law was passed (from 1997 to 2002) than they did the year before the law went into effect.[5] Armed robbery rates increased 74%. According to the International Crime Victimization Survey, Australia's violent crime rate is also now double that of the U.S..[6]

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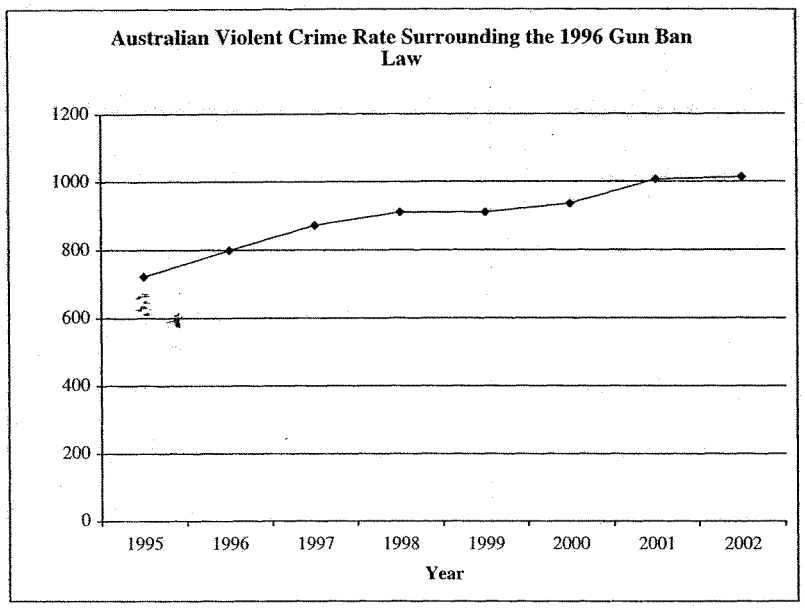
[5]http://www.abs.gov.au/Ausstats/ABS@.nsf/94713ad445ff1425ca25682000192af2/08238ef609c9178eca256b35001967d0!OpenDocument

[6] The 2000 International Crime Victimization Survey (http://ruljis.leidenuniv.nl/group/jfcr/www/icvs/).



Guns do not tell the whole story: Gangs, police and prisons also play a major role. Drug gangs can't simply call up the police when another gang encroaches on their turf, so they end up establishing their own armies and committing a great many murders.

The U.S. has long had a sophisticated and violent gang subculture that the nation's decentralized system of 16,500 police agencies has had a difficult time handling. England's more centralized 45-agency police did a better job fighting gangs, but, over time, the gangs have become more violent, sophisticated and apt at acquiring guns. This has led to rising gun crime.

Police and prisons probably also account for some of the difference in crime, though it doesn't explain why the difference has grown so suddenly. The U.S. also has more police per capita than the U.K., particularly in its big cities: New York and London are roughly the same size, but New York has about 40,000 police officers to London's 29,000.

Failed Policies

The U.S. also locks up many more criminals: Nearly 500 out of 1 million Americans are serving time behind bars as compared to about 150 per 1 million in the other English-speaking countries. America, quite simply, keeps more bad guys behind bars where they can't commit crimes.

Repealing gun control laws might not solve the crime problems in the District of Columbia overnight, but the exploding crime rates (including gun crime) in cities and countries that have banned guns shows that we can add gun control to the list of government planning efforts that do not live up to their billing. Its failures have become too overwhelming to ignore.

Chairman TOM DAVIS. Thank you very much.

Mr. Levy, thank you for being with us.

STATEMENT OF ROBERT A. LEVY

Mr. LEVY. Mr. Chairman and distinguished members, thanks very much for inviting me to testify. I want to comment very briefly on the Home Rule question, since that came up several times. The question was raised why shouldn't D.C. officials run the D.C. government. Well, the short answer is because D.C. officials are violating the U.S. Constitution.

Now, Congress has expressly set out in Article I, Section 8, has plenary power over the District of Columbia. Moreover, every Member of Congress has an independent and affirmative obligation to uphold our Constitution. So if the District's handgun ban violates the second amendment, as it almost surely does, then Congress should act to defend D.C. residents' second amendment rights, much as Congress would act if a State were violating rights of free speech or discriminating against racial or religious minorities. The question in all of those cases is whether the challenged law is Constitutional. And, in D.C., the gun ban is indisputably unConstitutional.

I support the principles underlying H.R. 1288, but I must say that I oppose enactment of the bill at this time. My written testimony establishes four points: first, the second amendment secures an individual, not a collective right; second, the second amendment indisputably applies to the District of Columbia, despite the fact that D.C. is not 1 of the 50 States; third, District residents and other citizens across the Nation can best secure their second amendment rights through the judicial process, not through the D.C. Personal Protection Act; and, fourth, Congress should, for that reason, step aside at least until *Parker* v. *District of Columbia,* which is the second amendment challenge to the D.C. gun ban, is resolved in Federal court.

Of course, I would be happy to answer questions on any of those points, but in the next few minutes I want to focus on my third and fourth points exclusively. So let us begin with this question: How can D.C. residents most effectively secure their second amendment rights? And then I will discuss the best role that I think Congress should play.

To permanently guaranty the rights of D.C. residents, a Constitutional challenge to the District's gun laws should be brought in a Federal court, like the D.C. Circuit, where there is no adverse precedent. Preferably, the challenge should be civil, not criminal, filed by sympathetic, law-abiding plaintiffs, not bank robbers or drug pushers.

And, in fact, that case is now in litigation. In 2003, three local attorneys and I filed *Parker* v. *District of Columbia,* pro bono, on behalf of six D.C. residents. The case is not about machine guns; it is not about assault weapons. It is about the right to own an ordinary, garden variety handgun. Nor do the plaintiffs argue in that case for the right to carry a gun outside their home. That is another question for another day.

This case is about a pistol in the home for self defense. In effect, no one in the District can possess a functional firearm in his or her

own residence, and the law applies not just to unfit persons like felons or minors or the mentally incompetent, but across the board to ordinary, honest, responsible citizens.

There have been more than three dozen challenges to the D.C. law that have already been filed, mostly by criminals who are serving longer sentences for gun possession. The *Parker* case is quite different. The lead plaintiff, Shelly Parker, a young lady who resides in the heart of D.C., where she and her neighbors are relentlessly harassed by the drug dealers. Ms. Parker decided to do something about it. She called the police; she organized block meetings; and she encouraged her neighbors to complain.

Not surprisingly, she was labeled as a troublemaker by the dealers, who threaten her at every opportunity. One dealer, in fact, tried to pry his way into her house repeatedly yelling, "Bitch, I'll kill you. I live on this block too." But Ms. Parker knows that the police are unlikely to shut down the drug traffic on her block, and she would like to possess a functional handgun within her home for self-defense. But she fears prosecution because of D.C.'s unConstitutional ban.

A second plaintiff is a private police officer who carries a handgun to provide security for the Thurgood Marshall Judicial Center. But when he applied for permission to possess a handgun within his home to defend his own household, the D.C. government turned him down.

The six plaintiffs in *Parker* live in D.C., they pay their taxes in D.C., and they obey the laws in D.C., but the District of Columbia says that if somebody breaks into their house, their only choice is to call 911 and pray that the police arrive in time. That is not a good enough choice. The right to keep and bear arms includes the right to defend your property and your family and your life, and no government should be permitted to take that right away.

And, yet, that is why I argue that Congress should step aside until *Parker* v. *District of Columbia* is resolved. *Parker* is now pending before the U.S. Court of Appeals for the D.C. Circuit. If H.R. 1288 is enacted, the lawsuit will be dismissed as moot. Plaintiffs, of course, cannot challenge a law that no longer exists. Otherwise, *Parker* could well be headed to the Supreme Court, and that is where it belongs.

It is a compelling case. The citizens of this country deserve a four-square pronouncement from the Nation's highest court about the real meaning of the second amendment for all Americans, not just the residents of D.C.

Temporarily, the rights of D.C. residents can be secured either by litigation or by legislation. But the *Parker* plaintiffs know—indeed, we all know—that a narrow bill aimed at the D.C. Code could easily be repealed by the next anti-gun Congress, and the bill will have no effect outside of the District. That means it will have negligible impact on second amendment rights when contrasted with an unambiguous proclamation applicable across the Nation from the U.S. Supreme Court.

Thanks very much.

[The prepared statement of Mr. Levy follows:]

Oversight Hearing on the District of Columbia's Gun Control Laws

Testimony of

Robert A. Levy, Ph.D., J.D.
Senior Fellow in Constitutional Studies
Cato Institute
Washington, D.C.

before the

Committee on Government Reform
United States House of Representatives

June 28, 2005

Mr. Chairman, distinguished members of the Committee:

My name is Robert A. Levy. I am a senior fellow in constitutional studies at the Cato Institute. Thank you for inviting me to comment on selected aspects of the District of Columbia's gun control laws.

This afternoon, I testify in support of the principles underlying H.R. 1288, The District of Columbia Personal Protection Act, which would repeal the District's ban on handguns and make other changes to the city's gun control laws. Although I support the underlying principles, I am nevertheless opposed to enactment of the legislation at this time. Essentially, I believe that advocates of gun owners' rights will be better served if *Parker v. District of Columbia*, a Second Amendment challenge to the D.C. handgun ban, is first resolved by the U.S. Court of Appeals for the District of Columbia Circuit, then presented to the U.S. Supreme Court for final review. Of course, *Parker* will be dismissed as moot if the challenged law is repealed.

My reasons for preferring the judicial route before proceeding with legislation are elaborated in Part IV below, "What Role Should Congress Play in Securing Second Amendment Rights?" First, however, some background in Part I, "Does the Second Amendment Secure an Individual or Collective Right?" That is followed by Part II, "Does the Second Amendment Apply to the District of Columbia?" Then Part III, "How Can District Residents Best Secure Their Second Amendment Rights?"

I. Does the Second Amendment Secure an Individual or Collective Right?

A question that has perplexed legal scholars for decades goes like this: Does the right to keep and bear arms belong to us as individuals, or does it belong to us collectively as members of a militia? The answer has now been documented in an extended and scholarly staff memorandum

opinion prepared for the Attorney General and released to the public last year.[1] The memorandum opinion concluded that "The Second Amendment secures a right of individuals generally, not a right of States or a right restricted to persons serving in militias."

I concur. The main clause of the Second Amendment ("the right of the people to keep and bear Arms, shall not be infringed") secures the right. The subordinate clause ("A well regulated Militia, being necessary to the security of a free State") justifies the right. Properly understood, the militia clause helps explain why we have a right to bear arms. A well-regulated militia is a sufficient but not necessary condition to the exercise of that right. Imagine if the Second Amendment said, "A well-educated Electorate, being necessary to self-governance in a free state, the right of the people to keep and read Books shall not be infringed." Surely, no one would suggest that only registered voters (i.e., members of the electorate) would have a right to read.[2] Yet that is precisely the effect if the Second Amendment is interpreted to apply only to members of a militia.

If the Second Amendment truly meant what the collective rights advocates propose, then the text would read, "A well regulated Militia being necessary to the security of a free State, the right of the states [or the state militias] to keep and bear arms shall not be infringed." But the Second Amendment, like the First and Fourth Amendments, refers explicitly to "the right of the people." Consider the placement of the amendment within the Bill of Rights, the part of the Constitution that deals exclusively with the rights of individuals. There can be no doubt that First Amendment rights like speech and religion belong to us as individuals. Similarly, Fourth Amendment protections against unreasonable searches are individual rights. In the context of the Second Amendment, we secure "the right of the people" by guaranteeing the right of each person. Second Amendment protections were not intended for the state but for each individual against the state – a deterrent to government tyranny. Here's how Ninth Circuit judge Alex Kozinski put it: "The institution of slavery required a class of people who lacked the means to resist.... All too many of the ... great tragedies of history – Stalin's atrocities, the killing fields of Cambodia, the Holocaust – were perpetrated by armed troops against unarmed populations."[3]

Maybe the threat of tyrannical government is less today than it was when our republic was experiencing its birth pangs. But incompetence by the state in defending its citizens is a greater threat. The demand for police to defend us increases in proportion to our inability to defend ourselves. That's why disarmed societies tend to become police states. Witness law abiding inner city residents, disarmed by gun control, begging for police protection against drug gangs – despite the terrible violations of civil liberties that such protection entails (e.g., curfews, anti-loitering laws, civil asset forfeiture, non-consensual searches of public housing, and even video

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[1] U.S. Department of Justice, "Whether the Second Amendment Secures an Individual Right," August 24, 2004, available at www.usdoj.gov/olc/secondamendment2.htm.

[2] Nelson Lund, *A Primer on the Constitutional Right to Bear Arms*, Virginia Institute for Public Policy Report No. 7, at 5 (citing Ronald S. Resnick, "Private Arms as the Palladium of Liberty: The Meaning of the Second Amendment," 77 U. Det. Mercy L. Rev. 1, 4 (1999)).

[3] Silveira v. Lockyer, 328 F.3d 567, 569-570 (9th Cir. 2003) (Kozinski, J., dissenting from denial of rehearing en banc).

surveillance of residents in high crime areas). An unarmed citizenry creates the conditions that lead to tyranny. The right to bear arms is thus preventive; it reduces the demand for a police state. When people are incapable of protecting themselves, they become either victims of the criminals or dependents of the state.

What do the courts have to say? In a 2001 Texas case, *United States v. Emerson*, the Fifth Circuit held that the Constitution "protects the right of individuals, including those not then actually a member of any militia ... to privately possess and bear their own firearms ... suitable as personal individual weapons."[4] That constitutional right is not absolute, said the court. For example, killers do not have a constitutional right to possess weapons of mass destruction. Some persons and some weapons may be restricted. Indeed, the Fifth Circuit held that Emerson's Second Amendment rights could be temporarily curtailed because there was reason to believe he posed a threat to his estranged wife. And the Tenth Circuit, in *United States v. Haney*,[5] ruled that machine guns were not the type of weapon protected by the Second Amendment. The Supreme Court declined to review either case.

The high Court has not decided a Second Amendment case since *United States v. Miller* in 1939.[6] On that occasion, the challenged statute required registration of machine guns, sawed off rifles, sawed off shotguns, and silencers. First, said the Court, "militia" means all males physically capable of acting in concert for the common defense. That suggested a right belonging to all of us, as individuals. But the Court also held that the right extended only to weapons rationally related to a militia – not the sawed off shotgun questioned in *Miller*. That mixed ruling has puzzled legal scholars for more than six decades. If military use is the decisive test, then citizens can possess rocket launchers and missiles. Obviously, that is not what the Court had in mind. Indeed, anti-gun advocates, who regularly cite *Miller* with approval, would be apoplectic if the Court's military-use doctrine were logically extended.

Because *Miller* is so murky, it can only be interpreted narrowly, allowing restrictions on weapons, like machine guns and silencers, with slight value to law abiding citizens, and high value to criminals. In other words, *Miller* applies to the type of weapon, not to the question whether the Second Amendment protects individuals or members of a militia. That's the conclusion the Fifth Circuit reached in *Emerson*. It found that *Miller* upheld neither the individual rights model of the Second Amendment nor the collective rights model. *Miller* simply decided that the weapons at issue were not protected.

Enter former U.S. Attorney General John Ashcroft. First, in a letter to the National Rifle Association,[7] he reaffirmed a long-held opinion that all law-abiding citizens have an individual right to keep and bear arms. Ashcroft's letter was supported by 18 state attorneys general,

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[4] United States v. Emerson, 270 F.3d 203, 260 (5th Cir. 2001).

[5] United States v. Haney, 264 F.3d 1161, 1166 (10th Cir. 2001).

[6] United States v. Miller, 307 U.S. 174 (1939).

[7] Letter from John Ashcroft, then-U.S. Attorney General, to James Jay Baker, Executive Director, National Rifle Association (May 17, 2001) available at http://www.nraila.org/images/Ashcroft.pdf.

including six Democrats,[8] then followed by two Justice Department briefs, filed with the Supreme Court in the *Haney* and *Emerson* cases. For the first time, the federal government argued against the collective rights position in formal court papers.

Despite Ashcroft's view of the Second Amendment, the Justice Department declared that both *Emerson* and *Haney* were correctly decided. In *Emerson*, the restriction on persons subject to a domestic violence restraining order was a permissible exception to Second Amendment protection. And in *Haney*, the ban on machine guns applied to a type of weapon uniquely susceptible to criminal misuse.

Many legal scholars are now taking that same position. Harvard's Alan Dershowitz, a former ACLU board member, says he "hates" guns and wants the Second Amendment repealed. But he condemns "foolish liberals who are trying to read the Second Amendment out of the Constitution by claiming it's not an individual right .... They're courting disaster by encouraging others to use the same means to eliminate portions of the Constitution they don't like."[9] Harvard's Laurence Tribe, another respected liberal scholar, and Yale professor Akhil Amar acknowledge that there is an individual right to keep and bear arms, albeit limited by "reasonable regulation in the interest of public safety."[10] In that respect, Tribe and Amar agree with the *Emerson* court and with Ashcroft on two fundamental issues: First, the Second Amendment confirms an individual rather than a collective right. Second, that right is not absolute; it is subject to regulation. To the extent there is disagreement, it hinges on what constitutes permissible regulation – i.e., where to draw the line.

To reinforce the views of Dershowitz, Tribe, Amar, and Ashcroft, let me comment briefly on a few of the underlying constitutional points.

- Three provisions limit the states' power over the militia. Article I, section 8, grants Congress the power to "organiz[e], arm[], and disciplin[e], the militia." Article I, section 10, says that "No state shall, without the consent of Congress, ... keep troops in time of peace." Article II, section 2, declares the "President shall be Commander in Chief ... of the Militia of the several States." Given those three provisions, how could the Second Amendment secure a state's right to arm the militia? No one argued then or argues now that the Second Amendment repealed all three earlier provisions.

- Consider the Supreme Court's pronouncement in *Miller*: "When called for service [in an organized militia] these men were expected to appear bearing arms supplied by themselves." If militia members were to arm themselves, the Second Amendment could not refer to states arming militias. Furthermore, if the *Miller* Court thought the Second

[8] Letter from Bill Pryor, then-Alabama Attorney General, to John Ashcroft, then-U.S. Attorney General (July 8, 2002), copy available in my files.

[9] Quoted in Dan Gifford, "The Conceptual Foundations of Anglo-American Jurisprudence in Religion and Reason," 62 Tenn. L. Rev. 759, 789 (1995).

[10] Laurence H. Tribe and Akhil Reed Amar, "Well-Regulated Militias, and More," N.Y. Times, Oct. 28, 1999, at A31.

Amendment merely enabled states to arm their militias, the Court would have dismissed the case on standing grounds. The plaintiff, Miller, was not a state and therefore had no standing to sue. The Court would never have reached the question whether a sawed off shotgun had military utility.

- Multiple provisions in the Bill of Rights refer to the right "of the people." In a 1990 case, *United States v. Verdugo-Urquidez*, the Court said, "'the people' protected by the Fourth Amendment, and by the First and Second Amendments, and to whom rights and powers are reserved in the Ninth and Tenth Amendments, refers to a class of persons who are part of a national community or have otherwise developed sufficient connection with this country to be considered part of that community."[11] That statement contains no mention or even suggestion of a collective right.

- What about the militia clause? That syntax was not unusual for the times. For example, the free press clause of the 1842 Rhode Island Constitution stated: "The liberty of the press being essential to the security of freedom in a state, any person may publish his sentiments of any subject." That provision surely does not mean that the right to publish protects only the press. It protects "any person"; and one reason among others that it protects any person is that a free press is essential to a free society.

- In the Militia Act of 1792, militia is defined as "every free able-bodied white male citizen ... who is or shall be of the age of 18 years, and under the age of 45 years."[12] That definition is expanded in the Modern Militia Act (1956-58) to read "all able-bodied males at least 17 years of age and ... under 45 yrs of age [and] female citizens ... who are members of the National Guard." The Act goes on to state that "the classes of the militia are (1) the organized militia, which consists of the National Guard and the Naval Militia; and (2) the unorganized militia, which consists of [all other members]."[13] Ninth Circuit judge Andrew J. Kleinfeld wrote that the "militia is like the jury pool, consisting of 'the people,' limited, like the jury pool, to those capable of performing the service."[14]

- Next, consider this historical context: Anti-federalists wanted three major changes prior to ratifying the Constitution: (1) include a Bill of Rights, (2) give states, not the federal government, power to arm the militia, and (3) eliminate federal power to maintain a standing army. Here was the federalist response, addressing those demands in reverse order: (1) Don't worry about the federal government maintaining a standing army; the federal militia power will obviate that need. (2) Don't worry about federal control over the militia; armed individuals will obviate those concerns. And (3) to ensure that individuals have a right to be armed, we will include such a provision in a Bill of Rights. So the federalist position depended on the people being armed. Clearly, the addition of

[11] United States v. Verdugo-Urquidez, 494 U.S. 259, 265 (1990).

[12] Militia Act of 1792, ch. 33, § 1, 1 Stat. 271 (1792).

[13] 10 U.S.C.A § 311 (1956).

[14] Silveira v. Lockyer, 328 F.3d 567, 582 (9th Cir. 2003) (Kleinfeld, J., dissenting).

the Second Amendment could not have been intended to eliminate that right. The Second Amendment's prefatory clause was the federalists' way of pacifying anti-federalists without limiting the power of the federal government to maintain a standing army or increasing the states' power over the militia.

- Here's a parallel view of that history, interpreting the term "well-regulated." In its 18th century context, well-regulated did not mean heavily regulated, but rather properly, not overly regulated. Looked at in that manner, the Second Amendment ensured that militias would not be improperly regulated – even weakened – by disarming the citizens who would be their members. The Framers feared and distrusted standing armies; so they provided for a militia (all able-bodied males above the age of 17) as a counterweight. But the framers also realized, in granting Congress near-plenary power over the militia, that a select, armed subset – like today's National Guard – could be equivalent to a standing army. So they wisely crafted the Second Amendment to forbid Congress from disarming other citizens, thereby ensuring a "well-regulated" militia.

For those of us eagerly awaiting a Supreme Court pronouncement on the Second Amendment, for the first time in 66 years, the Constitution is on our side.

II. Does the Second Amendment Apply to the District of Columbia?

In January 2004, U.S. District Judge Reggie B. Walton dismissed on standing grounds the claims of all but one plaintiff in *Seegars v. Ashcroft*, a Second Amendment challenge to the D.C. gun ban. With respect to one plaintiff deemed to have standing, Judge Walton held that she was "unable to maintain a Second Amendment challenge ... and, in any event, the Second Amendment does not apply to the District of Columbia."[15]

That conclusion echoed a prior concurring opinion in *Sandidge v. United States*, a 1987 case that reached the D.C. Court of Appeals.[16] Both the *Sandidge* concurrence and the *Seegars* opinion observed that the text of the Second Amendment refers to the security of a "free State," but the District of Columbia is not a state. "Nothing suggests that the founders were concerned about 'free territories,' 'free protectorates,' or a 'free Seat of Government of the United States.' ... Therefore, whatever may be said for the second amendment and its reach within the several states, I conclude that it does not apply to the Seat of Government."[17]

In light of the opinions in *Sandidge* and *Seegars*, I have been asked by the Committee to comment on the proposition that the District of Columbia is not subject to the Second Amendment.[18] A few observations:

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[15] Seegars v. Ashcroft, 297 F. Supp. 2d 201, 204 (D.D.C. 2004).

[16] Sandidge v. United States, 520 A.2d 1057 (D.C. 1987) (Nebeker, J., concurring).

[17] *Id.* at 1059.

[18] For a definitive treatment of this issue, see Stephen P. Halbrook, "Second-Class Citizenship and the Second Amendment in the District of Columbia, 5 GMU Civ. Rts. L.J. 105-178 (1995).

- *Sandidge* is a local court decision, not binding on federal courts. Moreover, the opinion in *Sandidge* is a concurrence, not the holding of the court.

- The conclusion in *Seegars* is *dicta*. Judge Walton held that the plaintiff could not sustain a Second Amendment challenge for a number of reasons not relevant here. His statement about the applicability of the Second Amendment to the District was not essential to his overall holding.

- *Seegars* was reversed in relevant part (on standing grounds) by the U.S. Court of Appeals,[19] which has not established any precedent on this issue within the D.C. Circuit.

- Indeed, the D.C. Circuit in a 1998 case, *Fraternal Order of Police v. United States*, rejected a Second Amendment challenge by a policeman not able to possess a gun because he had been convicted of a misdemeanor domestic violence charge.[20] The court found a rational basis for the gun restriction – a question the court need not have addressed if it believed that the Second Amendment was inapplicable to the District.

- In *Parker v. District of Columbia* (about which more below), U.S. District Judge Emmet G. Sullivan dismissed a Second Amendment challenge on the merits without invoking Judge Walton's prior dicta that the District is exempt from the Second Amendment.[21]

- Even if the courts were to agree that the Second Amendment does not apply to the District of Columbia, Congress has plenary power to enact legislation that forecloses violation of the Second Amendment by the District of Columbia government. Nothing precludes Congress from granting rights to D.C. residents that exceed those secured by the U.S. Constitution.

- The Constitution refers in multiple places to states as distinct political components of the United States. For example, the authority to train the militia is "reserv[ed] to the States"; "No State shall enter into any treaty"; "nor shall any State deprive any person of life, liberty, or property, without due process of law." The terms "the States," "no State," and "any State" – denoting State governments – contain nouns without descriptive adjectives. That should be contrasted with "free State," a descriptive and more generic term that refers to any political entity in which the citizens possess individual rights and enjoy liberty.[22]

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[19] Seegars v. Gonzales, 396 F.3d 1248, 1256 (D.C. Cir. 2005).

[20] Fraternal Order of Police v. United States, 152 F.3d 998, 1002-1004 (D.C. Cir. 1998).

[21] Parker v. District of Columbia, 311 F. Supp. 2d 103 (D.D.C 2004).

[22] The capitalization of State within the Second Amendment and elsewhere among the cited constitutional provisions is of no discernible significance. Note, for example, that terms like Powers, Year, Qualifications, Branch, and Age are also capitalized, without apparent import.

- In contemporaneous usage, a "free state" meant a "free society." That interpretation is confirmed by Webster's 1828 *American Dictionary of the English Language*, which defines "free," in part, as follows: "In government, not enslaved; ... not subject to the arbitrary will of a sovereign or lord; as a free state, nation or people." And Webster defined "state," in pertinent part, as "A political body, or body politic; the whole body of people united under one government, whatever may be the form of the government."

- Alexander Hamilton, in Federalist No. 29, wrote that an armed citizenry is the best and only real defense against a standing army. He added: "Little more can reasonably be aimed at with respect to the people at large than to have them properly armed and equipped." James Madison, in Federalist No. 46, stated that a standing army "would be opposed [by] a militia amounting to near half a million citizens with arms in their hands." It is simply inconceivable that Hamilton and Madison meant to exclude from the "people at large" and "near half a million citizens" the inhabitants of the Nation's Capital.

- Even if the term "free State" does not encompass Washington, D.C., the notion that the District is therefore exempt from the Second Amendment depends on a "collective rights" interpretation under which the militia clause is a necessary condition of the right to keep and bear arms. But if the militia clause is merely explanatory, as argued above, then it is a sufficient, but not necessary, condition to the exercise of Second Amendment rights. Accordingly, whether the District of Columbia is a state would be irrelevant.

- The 14th Amendment begins with this crystalline statement: "All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States." As citizens of the United States – even if not citizens of a particular state – D.C. residents are entitled to the rights of U.S. citizenship. To declare and reinforce one of those rights, Congress passed the Firearms Owners' Protection Act of 1986, which stated that "the rights of citizens [include the right] to keep and bear arms under the second amendment to the United States Constitution."[23] Thus, the District's ban on possession of handguns by law-abiding residents violates a right of citizenship guaranteed by the 14th Amendment, as interpreted by Congress – regardless whether the District of Columbia is a state.

III. How Can District Residents Best Secure Their Second Amendment Rights?

To vindicate the Second Amendment rights of D.C. residents, and guarantee that those rights will be permanently secured, a constitutional challenge to the District's gun laws should be brought in a federal court where there is no adverse judicial precedent. Preferably, the challenge should be civil, not criminal; filed by sympathetic, law-abiding plaintiffs who simply want a gun in their home for self-defense.

In fact, such a case is now pending before the U.S. Court of Appeals for the District of Columbia Circuit. In February 2003, three local attorneys and I filed a civil lawsuit in Washington, D.C.'s federal court on behalf of six D.C. residents who want to be able to defend themselves in their

[23] Pub. L. No. 99-308, 100 Stat. 449, § 1(b)(1)(A).

own homes. The litigation, *Parker v. District of Columbia*, is not about machine guns and assault weapons. It's about the right to own ordinary, garden-variety handguns. Nor do the plaintiffs argue for the right to carry a gun outside the home. That's another question for another day. This case is about a pistol in the home for self-defense.

Off and on over the years, Washington, D.C. has reclaimed its title as the nation's murder capital. Yet, the D.C. government has been feckless in disarming violent criminals. At the same time, however, it has done a superb job of disarming decent, peaceable residents.

For starters, no handgun can be registered in D.C. Even those pistols registered prior to the District's 1976 ban cannot be carried from room to room in the home without a license, which is never granted. Moreover, all firearms in the home, including rifles and shotguns, must be unloaded and either disassembled or bound by a trigger lock. In effect, no one in the District can possess a functional firearm in his or her own residence. The law applies not just to "unfit" persons like felons, minors, or the mentally incompetent, but across-the-board to ordinary, honest, responsible citizens.

More than three dozen challenges to the D.C. law have already been filed – but mostly by criminals serving longer sentences for gun possession. The *Parker* case is different. The lead plaintiff, Shelly Parker, resides in a high-crime neighborhood in the heart of the District. People living on her block are harassed relentlessly by drug dealers and addicts. Ms. Parker decided to do something about it. She called the police – time and again – then encouraged her neighbors to do the same. She organized block meetings to discuss the problem. For her audacity, Shelly Parker was labeled as a trouble-maker by the dealers, who threatened her at every opportunity.

In 2002, the back window of her car was broken. Then a large rock was thrown through her front window. Her security camera was stolen from the outside of her house. A drug user drove his car into her back fence. A year later, a dealer started banging on her door and tried to pry his way into her house, repeatedly yelling, "Bitch, I'll kill you, I live on this block too." Ms. Parker knows that the police are "not going to do very much about the drug problem on my block." She would like to possess a functional handgun within her home for self-defense, but fears arrest, prosecution, incarceration, and fine because of D.C.'s unconstitutional gun ban.

A second plaintiff is a special police officer who carries a handgun to provide security for the Thurgood Marshall Judicial Center. But when he applied for permission to possess a handgun within his home, to defend his own household, the D.C. government turned him down. Other plaintiffs include a gay man who was assaulted in another city on account of his sexual orientation. While walking to dinner with a co-worker, he encountered a group of young men who started yelling, "faggot," "homo," "queer," "we're going to kill you and they'll never find your bodies." Our plaintiff pulled his handgun out of his backpack and his assailants retreated. He could not have done that in Washington, D.C.

The six plaintiffs in *Parker v. District of Columbia* are asking a federal judge to prevent D.C. from barring the registration of handguns, banning the possession of functional firearms within the home, and forbidding firearms from being carried from room to room. The plaintiffs live in the District, pay their taxes in the District, and obey the laws in the District. But the District of

Columbia says that if someone breaks into their houses, their only choice is to call 911 and pray that the police arrive in time. That's not good enough. The right to keep and bear arms includes the right to defend your property, your family, and your life. No government should be permitted to take that right away.

IV. What Role Should Congress Play in Securing Second Amendment Rights?

Most of the public statements opposing The District of Columbia Personal Protection Act are without merit. I address two of them below.

First, District of Columbia Del. Eleanor Holmes Norton argues that Congress must not intervene to overturn selected D.C. gun laws because that would represent an impermissible "intrusion into our self-government."[24] Nonsense. Congress, as expressly set out in Article I of the U.S. Constitution, has plenary power over the District. Moreover, every member of Congress has an independent, affirmative obligation to uphold the Constitution. If the District's handgun ban violates the Second Amendment – as it does – then Congress should act to defend D.C. residents' Second Amendment rights.

Second, the *Washington Post* editorializes that Congress should not use its plenary power in a supposedly local matter because "the District is hardly unique."[25] Wrong again. The District is indeed unique, in the following respects:

- The District's rate of gun violence is among the highest in the nation. Still, Washington, D.C. has the most draconian gun laws of any major city. If "reasonable" regulations are those that prohibit bad persons from possessing massively destructive firearms, then the District's blanket prohibition of handguns is patently unreasonable.

- Until 1868, when the 14th Amendment was ratified, the Bill of Rights applied only to the federal government. But unlike most of the other ten amendments, the applicability of the Second Amendment to the states has not been resolved. Yet because Washington, D.C. is not one of the 50 states (even though it is a "free State" in the context of the Second Amendment), the complex, widely debated question of "incorporation" need not be addressed when D.C. law is challenged on Second Amendment grounds.

- Felonies under D.C. law are prosecuted by the U.S. Attorney for the District of Columbia, an employee of the Justice Department – the same Justice Department that is now on record favoring an individual rights theory of the Second Amendment. To be sure, former Attorney General Ashcroft declared in an internal memorandum that the Justice Department "will continue to defend the constitutionality of all existing federal

[24] Press Release, Del. Eleanor Holmes Norton, Norton Ready to Fight Gun Repeal on House Floor Next Wednesday (Sept. 24, 2004) available at http://www.dcvote.org/media/release.cfm?releaseID=137.

[25] Gunning for the District," Wash. Post, Sept. 15, 2004, A24.

firearms laws."[26] But D.C. law, although enacted pursuant to congressional delegation, is not federal law.

That said, there is a legitimate and important reason for Congress to step aside until *Parker v. District of Columbia* is resolved. The *Parker* lawsuit was filed by upstanding D.C. residents who want to be able to defend themselves and their families in their own homes. *Parker* is now pending before the U.S. Court of Appeals for the D.C. Circuit. If H.R. 1288 is enacted, the lawsuit will be dismissed as moot. After all, plaintiffs cannot challenge a law that no longer exists.

Otherwise, *Parker* could well be headed to the Supreme Court; and that is where it belongs. The citizens of this country deserve a foursquare pronouncement from the nation's highest court about the real meaning of the Second Amendment for all Americans – not just the residents of D.C. Presently, because the Supreme Court has not resolved its view of the Second Amendment, the right to keep and bear arms under state law extends only as far as each state's constitution or statutes permit. That's unacceptable. A disputable Second Amendment right without a legally enforceable federal remedy is, in some states, no right at all.

Although the rights of D.C. residents can be secured by either legislation or litigation, a narrow bill aimed at the D.C. Code will do only part of the job. The bill could be repealed by the next anti-gun Congress. And more important, the bill will have no effect outside of the District.[27] That means, of course, the bill will have negligible impact on gun owners' rights when contrasted with an unambiguous proclamation, applicable across the nation, from the U.S. Supreme Court.

If the Court should mistakenly hold that the Second Amendment provides a collective rather than an individual right, that would be the time for the legislative branch to ensure that D.C. residents have more protection than the judicial branch was willing to recognize. Until then, congressional action is premature.

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[26] Quoted in Neely Tucker and Arthur Santana, "U.S. Backs District Gun Law in Court: Argument Differs from Ashcroft's," Wash. Post, Mar. 31, 2002, at A01.

[27] In my view, Congress is empowered to overturn gun control laws, anywhere in the United States, if those laws violate the Second Amendment. Section 5 of the 14th Amendment authorizes Congress to remedy state violations of rights secured by the federal Constitution, providing that the remedy is "congruent and proportional" to the underlying violation. See City of Boerne v. Flores, 521 US 507, 530 (1997). Yet that is not what Congress purports to accomplish by enacting H.R. 1288, which is directed exclusively at the District of Columbia.

Chairman TOM DAVIS. Thank you very much.
Mr. Peck.

STATEMENT OF ROBERT PECK

Mr. PECK. Thank you, Mr. Chairman. And I particularly want to thank you for all that you do to make the greater Washington area such a great region. My name is Bob Peck, and I serve as president of the Greater Washington Board of Trade. I also want to thank—since we have a regional group—the members from Maryland who came here to uphold the District's right to enact its own laws and make them stick. And I also want to thank Congresswoman Watson for staying here for so long during this hearing too.

The Board of Trade consists of about 1,200 members who represent 40 percent of the region's private sector work force, and I would note to you that 80 percent of this region's work force is in the private sector. As a voice of business in the National Capital Region, we have been deeply troubled by attempts over the past year to repeal the gun safety laws that were in place to protect the families, workers, and tourists in the District of Columbia.

Today, Washington is in the midst of an economic renaissance. It has earned the acclaim of urban advocates throughout the country and the world and has captured the interest of investors throughout the world, even more important. For 2 years running, we have been rated as the best place to invest in real estate in the entire world. Downtown blocks that were once lined with vacant or dilapidated buildings now comprise the second largest office market in the Nation, behind only Midtown Manhattan. We have crowds on the streets daytime and nighttime, and we have tourism back up to levels that we haven't seen since September 11th.

From January 2002 to December of this year, 5,000 new residential units will have opened in Downtown Washington, an area that was once an office area only. As a District employer ourselves, the Board of Trade, which has been in the city for 115 years, vividly recalls worse times in this area, and we take considerable pride in our city's transformation.

To sustain this climate of economic revival and this outcome, our city's elected officials and business leaders have worked hard to overcome the perception that Washington is not a safe place to bring the family. And I submit to you that the economic numbers that we have posted over the past few years are proof that we have made that stick.

And I have to say that I am appalled at the comments we have heard today about the Nation's Capital. I think it is a deliberate attempt to malign the people, the businesses of this city, and it has the effect of making our Nation's Capital look bad not only to our country, but to the entire world.

Moreover, the comments are just untrue and unfair. We have a hardworking employee community here, and you would not know it to have heard what we heard from some of the Members today. We also, I have to say, have a hardworking, effective police force and I was particularly appalled to hear our police department maligned the way it was today.

Passage of the D.C. Personal Protection Act would garner plenty of national attention for the city by reinforcing the harmful percep-

tion, no longer true, that the District is a haven for crime. Our business community has worked hard, invested dollars, and taken risks to bring this community back together and some of the rhetoric we have heard here today threatens our success.

We know that there is work to do in the District of Columbia. We know that we have room for improvement on the crime front. We wish, quite honestly, that some of the Federal police forces here spent more time working with our metropolitan police to patrol all the areas of the city. I know that Ms. Norton promoted legislation that would have the other Federal police forces cooperate with the metropolitan police. We support the police department and its chief. We do not think that this area needs a change. We do not think that we are doing so well that we do not want to see a change in our basic gun laws.

I also have to tell you I am appalled at this notion that people who go buy a weapon are going to go out and use it presumably whenever they feel like it. In my training as a military officer and in what I have seen of police training, including in my stint in the Government when I had a Federal police force under my jurisdiction, I know how hard all of us who have been authorized to use weapons are trained not only in using them, but in when not to use them. And I doubt that we would find the sympathy among the supporters of gun repeal for very extensive training among our private citizens for how safely to use a weapon or to learn, for example, fire discipline or rules of engagement.

We will continue to support responsible and collaborative efforts to improve the safety of District communities, and we will continue to fight the imposition of policies that could take our city back to a time most of us would rather forget.

And finally, I will say this about the business community and the D.C. government. We do not support everything that the D.C. Council does. We do not support everything that the executive branch of the District government does. But we sure as heck do support the right of D.C. citizens to fight out our policy disputes in our own forums. We win some in the business community, we lose some in the business community, and that is the way democracy is supposed to work in towns and cities all over the country, and we think that should be true in Washington also.

Thank you very much.

[The prepared statement of Mr. Peck follows:]

TESTIMONY OF THE GREATER WASHINGTON BOARD OF TRADE
Oversight Hearing on Handgun Laws in the District of Columbia

For Presentation to the House Committee on Government Reform
June 28, 2005

Good afternoon. My name is Bob Peck, and I serve as President of the Greater Washington Board of Trade. The Board of Trade consists of about 1,200 members that, together, comprise about 40 percent of this region's private sector workforce. As the voice of business in the National Capital Region, we have been deeply troubled by efforts over the past year to repeal the gun safety laws that are in place to protect the families, workers and tourists of the District of Columbia.

Today, Washington, DC is in the midst of an economic renaissance that has earned the acclaim of urban visionaries and captured the interest of business investors throughout the world. Downtown blocks once lined with vacant or abandoned buildings now comprise the second strongest office market in the nation, behind only Midtown Manhattan. Streets that were once deserted after nightfall are now lit by four-star hotels, *Zagat*-acclaimed restaurants and international retailers. From January of 2002 to December of this year, five thousand new residential units will have opened in Downtown Washington, an area that was once dismissed as an urban office park. As a District employer who vividly recalls more difficult times, the Board of Trade takes considerable pride in our city's transformation.

To sustain this climate of economic revival, our city's elected officials and business leaders have worked hard to overcome the perception that Washington, DC is not a safe place to bring the family. It was not that long ago that the District gained some notoriety for what were unacceptable crime statistics. In some parts of the country, it may have seemed like an ironic punchline. For those of us who were here during that difficult period of time, it was the city's economic and civic nadir.

It is in that spirit of pride and long-term perspective that the Board of Trade has consistently supported the handgun safety laws that are currently on the books, and opposed legislative efforts to roll back these safeguards. Last year, we joined our District business colleagues in unified opposition to the *District of Columbia Personal Protection Act*, and have expressed our firm opposition to the version introduced earlier this year. The Board of Trade believes this proposal would do considerable harm to the city's hard-earned reputation as a great place to do business.

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If passed by Congress into law, this bill would eliminate the ban on handguns and handgun ammunition in the District of Columbia, eliminate the ban on semiautomatic weapons and even eliminate the registration requirement for firearms. Passage of the *District of Columbia Personal Protection Act* would garner national attention, thus refueling the harmful perception that the District is a haven for weapons that have no place in our society, and that people should come here at their own risk.

My testimony should not be interpreted by this committee as a blanket endorsement of the status quo. We still have room for improvement on the crime front. However, a review of our city's recent crime statistics provides clear and compelling evidence that things are moving in the right direction. According to the FBI Uniform Crime Reporting Program, murders, rapes and robberies each declined by more than 20 percent from 2003 to 2004, while aggravated assaults fell by nearly 14 percent. The 198 murders that occurred last year in the District are still far too many. However, when comparing that total with 399 in 1994, or 482 back in 1991, one cannot help but acknowledge that this city – under this police department and under these current laws – is a far safer place today to live, work and visit.

We will continue to support responsible and collaborative efforts to improve the safety of District communities, and we will continue to fight the imposition of policies that could take our city back to a time most of us would rather forget. Thank you for this opportunity to testify, and for your consideration.

# # #

Chairman DAVIS. Thank you very much.

Pastor Edmonds, thank you for being with us.

STATEMENT OF PASTOR H. LIONEL EDMONDS

Pastor EDMONDS. Good afternoon, Congresswoman Norton, my Congresswoman, Congresswoman Watson, and Chairman Davis. My name is H. Lionel Edmonds and I am a co-chair of the Citizens to Save D.C. Gun Safety Laws. I also am the pastor of Mount Lebanon Baptist Church in Northwest Washington, D.C., and I serve as president of the Washington Interfaith Network.

I would first like to thank Chairman Davis for the compassionate leadership that you so graciously offer to the citizens of the District. The District of Columbia as well as the Nation is both blessed by your efforts to make the places where we work, worship, and live environments that enrich and enlarge us.

My first contact with a gun came as a small child in the great State of Indiana, Congressman Burton's home State, in the city of Fort Wayne, in the home of my Uncle Jesse, the neighborhood barber. His son Marshall and I had just finished playing some catch in the backyard of the house. We ran into the house to refresh ourselves when Marshall went somewhere in Uncle Jesse's room and came back out with a loaded gun. "Look what I found," Marshall said. "I saw this game on television called Russian Roulette, let's play some of that."

Thank God that the bullet that was left in the chamber of that gun by accident never was fired. Yet, I cannot help but to think that the trouble that Marshall got into later on in life first found fertile soil within the curious little mind of that little boy in a barber's house.

I support the gun safety laws in the District. These laws attempt to limit the access to guns. Such laws may prohibit the curiosity of children who may by chance come across a gun in the home of a relative or a friend and may use it for something other than its intended purpose.

As the pastor of a church just a couple of blocks from this place where our testimony is now being given, I could tell you if time permitted the countless number of tearful funeral services that I have both participated in and conducted where a little boy or girl's cold corpse lays still in a coffin all because of a senseless verbal argument which led to someone going back home to get "my mother or father's gun." Places of worship ought to be places where young people gather to celebrate life, not to weep and cry over its ending.

How can anyone be pro-life, pro-family, pro-marriage, and pro-gun at the same time? Repealing the gun laws in the Nation's Capital is a gamble where too much is at stake. The parent or adult may purchase the gun for protection and yet they are promoting the idea within the conscious of their child that it is all right for me to take some matters into my own hands. Children ought to be learning on the computer or reading a book in the house, not coming across a misplaced case of bullets and then bring them to school for show and tell.

Thank you so much, Chairman Davis, for your leadership on this issue.

[The prepared statement of Pastor Edmonds follows:]

Good Afternoon, Congressman Davis and Committee on Government Reform,

I first would like to thank Congressman Davis for the compassionate leadership that you so graciously offer to the citizens of the District of Columbia. The District of Columbia as well as the nation is both blessed by your efforts to make the places where we work and live environments that enrich and enlarge us.

My first contact with a gun came as a small child, at the home of my Uncle Jesse, the neighborhood barber. His son, Marshall, and I had just finished playing some catch in the backyard of the house. We ran into the house to refresh ourselves, when Marshall went somewhere in Uncle Jesse's room and came back out with a gun. "Look what I've found", Marshall said, "I saw this game on television called 'Russian Roulette', let's play some of that." Thank God that the bullet that was left in the chamber of that gun by accident never was fired, yet I can't help but to think that the trouble that Marshall got into later on in life first found fertile soil within the curious little mind of a little boy in a barber's house.

I support the current gun laws in the District, these laws attempt to limit the access to guns. Such laws may prohibit the curiosity of children who may by chance come across a gun in the home of a relative or friend and may use it for something other than its intended purpose. As the pastor of a church just a couple of blocks from this place where our testimony is now being gave, I could tell you if permitted the time the countless number of tearful funeral services that I have participated within where a little boy or girl's cold corpse lays still in a coffin all because of a senseless verbal argument which led to someone going back home to get "my mother or father's gun." Places of worship ought to be places where young people gather to celebrate life, not to weep and cry over it's ending.

I cannot be pro God and pro gun at the same time. Repealing the gun laws in the nation's capital is a gamble where to much is at stake. The parent or adult may purchase a gun for protection and yet they are promoting the idea within the tender conscious of their child that it's alright for me to take some matters into my own hands. Children ought to be learning on the computer, or reading a book in the house, and not coming across a misplaced case of bullets and then bring them to school for show and tell.

I urge the committee on government reform to help prevent anyone from playing Russian Roulette with the future of our next generation. Thank you Congressman Davis for this time, and may God Bless America.

Sincerely,
Pastor H. Lionel Edmonds

Chairman DAVIS. Thank you very much.

Let me just note, I was gone because we had an amendment on the floor I had to sit there and rebut, it was the committee's jurisdiction, and that is where some of the other Members are, too. So we are holding down the fort. But thank you very much for staying with us.

Ms. Seegars, thanks for being with us.

STATEMENT OF SANDRA SEEGARS

Ms. SEEGARS. Good evening, and thank you for holding this hearing. I am a resident of Congress Heights in Southeast Washington, DC. I am the chairperson of Advisory Neighborhood Commission 8E, a commissioner with the D.C. Taxicab Commission, a member and the public relations person for the Seventh District Metropolitan Police Department Citizen Advisory Council, member of the National Rifle Association, and an unchallenged candidate for president of the United Planning Organization "Petey" Green Center.

I do not support the current gun laws of the District of Columbia. I do support repealing the strict gun ban laws in the District.

Repealing the current handgun ban in the Nation's Capital would permit persons who want or need a loaded handgun to own one for his or her protection of person, property, or family. I am of the opinion that if law-abiding citizens could own loaded handguns, it would create a deterrent because thugs would know that some of us have a handgun, but not which ones.

It is time to face reality. The District's handgun ban is not working. It has not worked for a long, long time. What it is doing is giving more control and power to the thugs, and making law-abiding citizens more vulnerable and fearful. The ban has allowed thugs more reason to prey on law-abiding citizens because they are not armed. Thugs are using handguns on innocent law-abiding citizens and on each other. I know many criminals and some of them have told me that they like easy prey; that is, seniors, women, and frightened people. Sure, the victim can arm themselves with baseball bats, knives, and mace, but they are no match to a person with a handgun.

I have seen this city go from good to bad to hell. I am fully aware of the acceleration of handgun fatalities, which has occurred since the handgun ban went into effect. My oldest brother, who owned a handgun, was shot down in the streets in 1978. It so happened, that day he did not have his with him. I believe this triggered my younger brother to shoot someone to death in 1980.

The crying mothers and tearful family members of gunshot victims have every right to cry and be angry. My heartfelt sympathy goes out to all of them, including my mother. However, this is not an emotional, subjective issue. It is a Constitutional right that should be granted to all Americans, including the citizens of the District of Columbia. I want my rights honored, so who would cry for me?

I, along with the residents of the District, am being denied the right of self-protection because we are being denied the right to bear arms. I feel that we are being victimized twice—once by the strict handgun ban, and second by the handgun-toting thugs. For

those of you who live where handguns are legal, how many shootouts have there been? Is crime high or low? Are crimes being committed by legal or illegal handguns?

Reflecting back to pre-handgun days, there was not a handgun in every household. Therefore, when the handgun ban is repealed, everyone is not going to rush out to purchase a handgun. However, we should have that option; to bear arms or not to bear arms would become the question. At that time a person can make a conscious decision to bear arms or not to bear arms, whichever best fits their circumstances. Those who do not want to own a handgun should not stand in the way of those who do. If a person has a child or a mentally challenged person in the home and feels that it would create havoc, they could decide not to own a handgun.

We can compare other situations with owning a handgun. When a person fears height, that person would avoid high places. A person who has a fear of automobiles more than likely would choose not to own an automobile. The government has not banned automobiles because someone has a fear of them. Nor does the government ban automobiles, trains, or airplanes because people died in them or by them.

All I am saying is that an individual's personal circumstances should not stand in the way of others. As far as suicide, people have not stopped committing suicide because they do not own a handgun. Suicide being an issue, the government needs to ban knives, ropes, medicine, and bridges. Even with suicidal attempts with these items, the doctors do not ask the government to ban them. They tell their patients and their family members to keep the items away from the individual.

Currently, we can own unloaded rifles and shotguns. I believe handguns are safer because they are less cumbersome. When a rapist or burglar enters my home, I would like to have an even playing field by being able to defend myself with a loaded handgun, not a bat, knife, or mace. I say loaded because an intruder is not going to wait on you to go get a weapon and load it.

It is strange that the same District residents who cannot own handguns to protect themselves are the same ones who are enlisted in the armed forces protecting our country with handguns, rifles, and other artillery and munitions.

Once the ban is repealed, in order to get a license approved to own a handgun, I believe a thorough criminal background check, a physical and mental exam should be done upon submission of an application for a license, and before the person purchases a handgun. The persons licensed to own a gun must have proof that they have successfully completed a firearms training course. There would be one handgun per household.

Once approved to own a handgun, I believe that the handgun should be examined periodically by the police or another authorized entity, at the expense of the handgun owner, to see that the handgun is still operable, if it has been fired, and that it is still in possession of the legal owner.

If there is a felon or ex-felon in the household, or if a felon plans to return to the household, everyone in the house would become ineligible to submit an application. Some misdemeanors should be denied as well; such as, drunkards and drug addicts. The applicant

must be a citizen of the United States, and there should be a specified period of time that the applicant lived in the District prior to the application for the license.

Another reason the residents of the District should be able to own handguns to defend themselves is because of a 1981 court ruling in the Carolyn B. Warren case, which is attached to my testimony. It was declared that the police do not have to protect individuals, only the public at large. It was stated that the police owe an individual nothing, thereby not liable for injury occurring due to an officer's neglect or refusal to assist a victim of a crime. If you may have noticed, very seldom is a police officer found guilty in court when liable or negligent charges are filed against them.

I believe the right to bear arms is a Constitutional issue, which Congress does play a role and has a responsibility to ensure this right to the residents of the District. Once Congress repeals the ban, the City Council at that time should introduce laws accordingly. I believe the application to own a handgun should be stringent. I believe that Congress' decision to repeal the handgun ban in the District should not be guided by emotions and subjectivity, but by intellect and objectivity.

As to Home Rule, our Representative has already weakened that when she approved expanding the Capitol Hill Police Department's patrol area. I believe Judge Reggie Walton made an incorrect decision when he ruled on our case to bear arms in the District, just as the judge did when she ruled on baby Briana returning to her abusive family. Now Briana is dead. I believe that denying the right to bear arms is denying a right under the Constitution.

[The prepared statement of Ms. Seegars follows:]

Congress of the United States
House of Representatives
Committee on Government Reform
2157 Rayburn House Office Building
Washington DC 20515

Oversight Hearing on the District of Columbia's Gun Control Law
(June 28, 2005)

Sandra "S.S." Seegars
1107 Savannah St., SE,
Washington, DC 20032-4517

I am a resident of Congress Heights in Southeast Washington, District of Columbia, I am the Chairperson of Advisory Neighborhood Commission 8E, a commissioner with the DC Taxicab Commission, member of and Public Relations person for the Seventh District Metropolitan Police Department Citizen Advisory Council, member of the National Rifle Association, and an unchallenged candidate for president of the United Planning Organization "Petey" Green Center.

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Repealing the current handgun ban in the nation's capital would permit persons who want or need a loaded handgun to own **one** for his or her protection of person, property or family. I am of the opinion that if law-abiding citizens could own loaded handguns, it would create a deterrent because thugs would know that some of us have a handgun, but not which one.

It's time to face reality. The District's handgun ban is not working. It hasn't worked for a long, long time. What it is doing is giving more control and power to the thugs, and making law-abiding citizens more vulnerable and fearful. The ban has allowed thugs more reason to prey on law-abiding citizens, because they aren't armed. Thugs are using handguns on innocent law-abiding citizens and on each other. I know many criminals, and some of them have told me that they like easy prey, i.e., seniors, women, and frighten people. Sure the victim can arm themselves with baseball bats, knives and mace, but they are no match to a person with a handgun.

I have seen this city go from good to bad to hell. I am fully aware of the acceleration in handgun fatalities, which has occurred since the handgun ban went into affect. My oldest brother, who owned a handgun, was shot down in the streets, in 1978. So happened, that day he did not have his with him. I believe this triggered my younger brother to shoot someone to death, in 1980.

The crying mothers, and tearful family members of gunshot victims have every right to cry and be angry. My heartfelt sympathy goes out to all of them, including my mother. However, this is not an emotional, subjective issue. It is a constitutional right that should be granted all Americans, including the citizens of the District of Columbia. I want my rights honored, so who is going to cry for me? I, along with the residents of the District, am being denied the right of self-protection because we are being denied the right to bear arms. I feel that we are being victimized twice, once by the strict handgun ban, and second by the handgun-toting thugs. For those of you who live where handguns are legal, how many shootouts have there been? Is crime high or low? Are crimes being committed with legal or illegal handguns?

Reflecting back to pre-handgun ban days, there wasn't a handgun in every household. Therefore, when the handgun ban is repealed, everyone is not going to rush out to purchase a handgun. However, we should have that option; to bear arms or not to bear arms would become the question. At that time a person can make a conscious decision to bear arms or not to bear arms, whichever best fits their circumstances. For those who do not want to own a handgun, should not stand in the way of those who do. If a person has a child or mentally challenged person in the home, and feel that it would create havoc, they could decide not to own a gun.

We can compare other situations with owning a handgun. When a person fears height. That person would avoid high places. A person who has a fear of automobiles, more than likely would choice not to own an automobile. The government has not banned automobiles because someone has a fear of them. Nor, does the government ban automobiles, trains or planes because people died in them or by them. All I am saying is that individual's personal circumstances should not stand in the way of others. As far as suicide, people have not stopped committing suicide because they do not own a handgun. Suicide being an issue, the government needs to ban knives, ropes, medicine and bridges. Even with suicidal attempts with these items, the doctors don't ask the government to ban them; they tell their patients and their family members to "keep the items away from the individual."

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If there is a felon or ex-felon in the household, or if a felon plans to return to the household, everyone in the house would become ineligible to submit an application. Some misdemeanants should be denied as well, i.e., drunkards and drug addicts. The applicant must be a citizen of the United States, and there should be a specified period of time that the applicant lived in the District prior to the application for the license.

Another reason the residents of the District should be able to own handguns to defend themselves is because of a 1981 court ruling in the Carolyn B. Warren case (see attachment). It was declared that the police do not have to protect individuals, only the public at-large. It was stated that the police owes an individual nothing, thereby, not liable for injury occurring due to an officer 's neglect or refusal to assist a victim of a crime. If you may have noticed, very seldom is a police officer found guilty in court when liable or negligent charges are filed against them.

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END

Respectfully submitted,

Sandra "S.S." Seegars

Dated June 24, 2005

One attachment: The Carolyn B. Warren Decision
444 A.2d 1. District of Columbia Court of Appeals. Argued En Banc April 13, 1981. Decided Dec. 21, 1981.
Carolyn Warren, et al, Appellants, v. District of Columbia, et al., Apellees.
Wilfred Nichol, Appellant, v. District of Columbia Metropolitan Police Department, et al., Appellees.

District of Columbia Court of Appeals.

Carolyn WARREN, et al., Appellants,
v.
DISTRICT OF COLUMBIA, et al., Appellees.
Wilfred NICHOL, Appellant,
v.
DISTRICT OF COLUMBIA METROPOLITAN POLICE DEPARTMENT, et al., Appellees.

Nos. 79-6, 79-394.

Argued En Banc April 13, 1981.
Decided Dec. 21, 1981.

Suits against District of Columbia and individual members of metropolitan police department for negligent failure to provide adequate police services were dismissed by the Superior Court, Joseph M. Hannon and William C. Pryor, JJ., and plaintiffs appealed. The Court of Appeals, Nebeker, J., held that: (1) fact that police answered call and arrived outside premises which were scene of burglary and assaults did not give rise to special duty on part of police toward victims therein, and police officers were not answerable in damages for failing to ascertain that assaults were continuing upon victims therein, or for leaving premises without so ascertaining, and (2) where unknown occupants in vehicle which rear-ended another proceeded to beat operator of foremost vehicle, duty of officer arriving on scene was directly related to his official and general duty to investigate offenses, and his directing companion of assault victim to cease efforts to identify assailants, and thus to break off violent confrontation, related solely to his duty to public generally and possessed no additional element necessary to create overriding special relationship and duty to particular persons, and gave rise to no liability.

Affirmed.

Kelly, J., filed opinion concurring in part and dissenting in part in which Mack, J., joined.

Newman, C. J., filed statement concurring in part and dissenting in part.

West Headnotes

[1] **District of Columbia** 7
132k7 Most Cited Cases

Government and its agents are under no general duty to provide public services, such as police protection, to any particular individual citizen, but, rather, duty to provide public services is owed to public at large, and, absent special relationship between police and individual, no specific legal duty exists.

[2] **District of Columbia** 7
132k7 Most Cited Cases

That police answered call and arrived outside premises which were scene of burglary and assaults did not give rise to special duty on part of police toward victims therein, and police officers were not answerable in damages for failing to ascertain that assaults were continuing upon victims therein, or for leaving premises without so ascertaining.

[3] **District of Columbia** 7
132k7 Most Cited Cases

Where unknown occupants in vehicle which rear-ended another proceeded to beat operator of foremost vehicle, duty of officer arriving on scene was directly related to his official and general duty to investigate offenses, and his directing companion of assault victim to cease efforts to identify assailants, and thus to break off violent confrontation, related solely to his duty to public generally and possessed no additional element necessary to create overriding special relationship and duty to particular persons, and gave rise to no liability.

*1 Stephen A. Friedman, Washington, D. C., for appellants.

Charles L. Reischel, Deputy Corp. Counsel, with whom Judith W. Rogers, Corp. Counsel, and David P. Sutton, Asst. Corp. Counsel, Washington, D. C., were on the petition, for appellees.

Before NEWMAN, Chief Judge, and KELLY, KERN, NEBEKER, HARRIS, MACK and FERREN, Associate Judges.

NEBEKER, Associate Judge:

Appellants Carolyn Warren, Miriam Douglas, and Joan Taliaferro in No. 79-6, and appellant Wilfred Nichol in No. 79-394 sued the District of Columbia and individual members of the Metropolitan Police Department for negligent failure to provide adequate

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police services. The respective trial judges held that the police were under no specific legal duty to provide protection to the individual appellants and dismissed the complaints for failure to state a claim upon which relief could be granted. Super.Ct.Civ.R. 12(b)(6). However, in a split decision a three-judge division of this court determined that appellants Warren, Taliaferro and Nichol were owed a special duty of care by the police department and reversed the trial court rulings. The division unanimously concluded that appellant Douglas failed to fit within the class of persons to whom a special duty was owed, and affirmed the lower court's dismissal of her complaint. The court en banc, on petitions for rehearing, vacated the panel's decision. After rearguments, notwithstanding our sympathy for appellants who were the tragic victims of despicable criminal acts, we affirm the judgments of dismissal.

Appeal No. 79-6

In the early morning hours of March 16, 1975, appellants Carolyn Warren, Joan Taliaferro, and Miriam Douglas were asleep in their rooming house at 1112 Lamont Street, N.W. Warren and Taliaferro shared a room on the third floor of the house; Douglas shared a room on the second floor with her four-year-old daughter. The women were awakened by the sound of the back door being broken down by two men later identified as Marvin Kent and James Morse. The men entered Douglas' second floor room, where Kent forced Douglas to sodomize him and Morse raped her.

Warren and Taliaferro heard Douglas' screams from the floor below. Warren telephoned the police, told the officer on duty that the house was being burglarized, and requested immediate assistance. The department employee told her to remain quiet and assured her that police assistance would be dispatched promptly. Warren's call was received at Metropolitan Police Department Headquarters at 6:23 a. m., and was recorded as a burglary in progress. At 6:26 a. m., a call was dispatched to officers on the street as a "Code 2" assignment, although calls of a crime in progress should be given priority and designated as "Code 1." Four police cruisers responded to the broadcast; three to the Lamont Street address and one to another address to investigate a possible suspect.

Meanwhile, Warren and Taliaferro crawled from their window onto an adjoining roof and waited for the police to arrive. While there, they saw one policeman drive through the alley behind their house and proceed to the front of the residence without stopping, leaning out the window, or getting out of the car to check the back entrance of the house. A second officer apparently knocked on the door in front of the residence, but left when he received no answer. The three officers departed the scene at 6:33 a. m., five minutes after they arrived.

Warren and Taliaferro crawled back inside their room. They again heard Douglas' continuing screams; again called the police; told the officer that the intruders had entered the home, and requested immediate assistance. Once again, a police officer assured them that help was on the way. This second call was received at 6:42 a. m. and recorded merely as "investigate the trouble"-it was never dispatched to any police officers.

Believing the police might be in the house, Warren and Taliaferro called down to Douglas, thereby alerting Kent to their presence. Kent and Morse then forced all three women, at knifepoint, to accompany them to Kent's apartment. For the next fourteen hours the women were held captive, raped, robbed, beaten, forced to commit sexual acts upon each other, and made to submit to the sexual demands of Kent and Morse.

Appellants' claims of negligence included: the dispatcher's failure to forward the 6:23 a. m. call with the proper degree of urgency; *3 the responding officers' failure to follow standard police investigative procedures, specifically their failure to check the rear entrance and position themselves properly near the doors and windows to ascertain whether there was any activity inside; and the dispatcher's failure to dispatch the 6:42 a. m. call.

Appeal No. 79-394

On April 30, 1978, at approximately 11:30 p. m., appellant Nichol stopped his car for a red light at the intersection of Missouri Avenue and Sixteenth Street, N.W. Unknown occupants in a vehicle directly behind appellant struck his car in the rear several times, and then proceeded to beat appellant about the face and head breaking his jaw.

A Metropolitan Police Department officer arrived at the scene. In response to the officer's direction, appellant's companion ceased any further efforts to obtain identification information of the assailants. When the officer then failed to get the information, leaving Nichol unable to institute legal action against his assailants, Nichol brought a negligence action against the officer, the Metropolitan Police Department and the District of Columbia.

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(1)(2) The trial judges correctly dismissed both complaints. In a carefully reasoned Memorandum Opinion, Judge Hannon based his decision in No. 79-6 on "the fundamental principle that a government and its agents are under no general duty to provide public services, such as police protection, to any particular individual citizen." See p. 4, infra. The duty to provide public services is owed to the public at large, and, absent a special relationship between the police and an individual, no specific legal duty exists. Holding that no special relationship existed between the police and appellants in No. 79-6, Judge Hannon concluded that no specific legal duty existed. We hold that Judge Hannon was correct and adopt the relevant portions of his opinion. Those portions appear in the following Appendix.[FN1]

FN1. Having based his dismissal on an absence of duty, Judge Hannon found it unnecessary to decide the adequacy of the notice to the District of Columbia under D.C.Code 1973, s 12-309. Consequently, we do not review that issue on appeal.

(3) Judge Pryor, then of the trial court, ruled likewise in No. 79-394 on the basis of Judge Hannon's opinion. In No. 79-394, a police officer directed Nichol's companion to cease efforts to identify the assailants and thus to break off the violent confrontation. The officer's duty to get that identification was one directly related to his official and general duty to investigate the offenses. His actions and failings were solely related to his duty to the public generally and possessed no additional element necessary to create an overriding special relationship and duty.[FN2]

FN2. It can be seen from cases in which a special duty has been found that an additional element has been injected above the existing general public duty. E.g., Florence v. Goldberg, 44 N.Y.2d 189, 404 N.Y.S.2d 583, 375 N.E.2d 763 (1978) (school crossing guard course of conduct and police requiring replacement of absent guard together with reliance); McCorkle v. City of Los Angeles, 70 Cal.2d 252, 74 Cal.Rptr. 389, 449 P.2d 453 (1969) (en banc) (use of auto accident victim to aid police investigation by walking to point of impact in street); Johnson v. States, 69 Cal.2d 782, 73 Cal.Rptr. 240, 447 P.2d 352 (1968) (en banc) (placement of youth with known homicidal tendencies in foster home); Gardner v. Village of Chicago Ridge, 71 Ill.App.2d 373, 219 N.E.2d 147 (1966) (return of victim to scene for "show up" identification of still violent assault suspects); Schuster v. City of New York, 5 N.Y.2d 75, 180 N.Y.S.2d 265, 154 N.E.2d 534 (1958) (recruitment of citizen informant in national organized violent crime case).

Here the effort to separate the hostile assailants from the victims-a necessary part of the on-scene responsibility of the police-adds nothing to the general duty owed the public and fails to create a relationship which imposes a special legal duty such as that created when there is a course of conduct, special knowledge of possible harm, or the actual use of individuals in the investigation. See Falco v. City of New York, 34 A.D.2d 673, 310 N.Y.S.2d 524 (App.Div.1970), aff'd, 29 N.Y.2d 918, 329 N.Y.S.2d 97, 279 N.E.2d 854 (1972) (police officer's *4 statement to injured motorcyclist that he would obtain name of motorist who struck the motorcycle was a gratuitous promise and did not create a special legal duty); Jackson v. Heyman, 126 N.J.Super. 281, 314 A.2d 82 (Super.Ct.Law Div.1973) (police officers' investigation of vehicle accident where pedestrian was a minor child did not create a special legal duty to child's parents who were unsuccessful in their attempt to recover damages because police failed to identify drivers of vehicle). We hold that Judge Pryor did not err in dismissing No. 79-394 for failure to state a claim.

In either case, it is easy to condemn the failings of the police. However, the desire for condemnation cannot satisfy the need for a special relationship out of which a duty to specific persons arises. In neither of these cases has a relationship been alleged beyond that found in general police responses to crimes. Civil liability fails as a matter of law.

APPENDIX
SUPERIOR COURT OF THE DISTRICT OF COLUMBIA CIVIL DIVISION
Civil Action No. 4695-76
CAROLYN WARREN, et al., Plaintiffs,
v.
DISTRICT OF COLUMBIA, et al., Defendants.
MEMORANDUM OPINION

The Court, however, does not agree that defendants owed a specific legal duty to plaintiffs with respect to the allegations made in the amended complaint for

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the reason that the District of Columbia appears to follow the well-established rule that official police personnel and the government employing them are not generally liable to victims of criminal acts for failure to provide adequate police protection. Compare Rieser v. District of Columbia, 183 U.S.App.D.C. 375, 390-91, 563 F.2d 462, 477-78 (1977) (rehearing en banc granted and panel opinion vacated on other grounds; panel opinion reinstated in pertinent part, 188 U.S.App.D.C. 384, 580 F.2d 641 (647) (1978)); Westminster Investing Corp. v. G. C. Murphy Co., 140 U.S.App.D.C. 247, 259-50, 434 F.2d 521, 523-24 (1970) and Yohanan v. Wells, No. 78-0671 (D.D.C. June 28, 1978), with Massengill v. Yuma County, 104 Ariz. 518, 456 P.2d 376 (1969) (en banc); Riss v. City of New York, 22 N.Y.2d 579, 293 N.Y.S.2d 897, 240 N.E.2d 860 (1968); Annot., 46 A.L.R.3d 1084 (1972) and Annot., 41 A.L.R.3d 700 (1972). This uniformly accepted rule rests upon the fundamental principle that a government and its agents are under no general duty to provide public services, such as police protection, to any particular individual citizen. Turner v. United States, 248 U.S. 354, 357-58, 39 S.Ct. 109, 110, 63 L.Ed. 291 (1919); Rieser v. District of Columbia, supra.

A publicly maintained police force constitutes a basic governmental service provided to benefit the community at large by promoting public peace, safety and good order. The extent and quality of police protection afforded to the community necessarily depends upon the availability of public resources and upon legislative or administrative determinations concerning allocation of those resources. Riss v. City of New York, supra. The public, through its representative officials, recruits, trains, maintains and disciplines its police force and determines the manner in which personnel are deployed. At any given time, publicly furnished police protection may accrue to the personal benefit of individual citizens, but at all times the needs and interests of the community at large predominate. Private resources and needs have little direct effect upon the nature of police services provided to the public. Accordingly, courts have without exception concluded that when a municipality or other governmental entity undertakes to furnish police services, it assumes a duty only to the public at large and not to individual members of the community. E.g., Trautman v. City of Stamford, 32 Conn.Supp. 258, 350 A.2d 782 (1975); *5Henderson v. City of St. Petersburg, 247 So.2d 23 (Fla.Dist.Ct.App.1971); Massengill v. Yuma County, supra, and Riss v. City of New York, supra. Dereliction in the performance of police duties may, therefore, be redressed only in the context of a public prosecution and not in a private suit for money damages. Massengill, supra.

This rule of duty owed to the public at large has been most frequently applied in cases involving complaints of inadequate protection during urban riots or mob violence. Many of these cases challenge the preparedness of the police to handle such situations, while others, such as Westminster Investing Corp. v. G. C. Murphy Co., supra, challenge the tactical decisions made to curtail or remove police protection from the riot areas. In Westminster, officials of the Metropolitan Police Department of the District of Columbia had decided to limit police presence in the area of the Murphy Company's store during the firey 1968 riots. Murphy's store was destroyed and the company filed a claim against the District of Columbia contending that the police department had deliberately or negligently abandoned its policing obligations during the riots and thereby permitted rioters to destroy Murphy's property. In affirming the dismissal of Murphy's claim against the District, the United States Court of Appeals for the District of Columbia Circuit held that the District of Columbia had no direct legal obligation to Murphy and that Murphy, therefore, had "no substantive right to recover the damages resulting from failure of (the) government or its officers to keep the peace." Id. at 252, 434 F.2d at 526, quoting Turner v. United States, supra (248 U.S.) at 358 (39 S.Ct. at 110).

Courts have also found no private duty and no liability in an assortment of other situations which involved allegedly inadequate police protection. In Henderson v. City of St. Petersburg, supra, plaintiff had contacted the St. Petersburg police department and made arrangements for specific police protection while making deliveries in a dark and secluded part of the city. Plaintiff had been previously attacked while making such deliveries and, accordingly, relied upon the assurances of police personnel that officers would be on the scene. Following carefully the instructions given him by the police, plaintiff was, nonetheless, shot by assailants. The order dismissing plaintiff's complaint against the city was affirmed on the grounds that, in the absence of a special relationship, not present in the case, the police department was under no duty to protect plaintiff Henderson.

It was in Massengill v. Yuma County, supra, that the Arizona Supreme Court, in a unanimous en banc decision, affirmed the dismissal of a complaint alleging that a deputy sheriff and the county employing him were negligent in failing to apprehend two reckless drivers. According to the complaint, the

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deputy sheriff saw two youths leave a local tavern and drive their cars away at excessive speeds. The deputy sheriff then allegedly followed the two cars, watching them weave back and forth, drive on the wrong side of the road and attempt to pass on a hill. The officer made no attempt to apprehend the drivers or prevent their reckless conduct. Shortly thereafter the two reckless drivers collided with an oncoming vehicle causing the deaths of five of the six persons involved. The Arizona Superior Court had concluded that the duty of defendants to arrest the reckless drivers was a duty owed to the general public and not to the deceased occupants of the oncoming vehicle. The Arizona Supreme Court agreed. Accord, Trautman v. City of Stamford, supra. (Footnote 1 omitted.)

The general duty owed to the public may become a specific duty owed to an individual if the police and the individual are in a special relationship different from that existing between the police and citizens generally. Thus, when the New York police department solicited confidential information to aid in apprehension of gangster Willie Sutton, the police assumed a special duty to the informant who came forward. Schuster v. City of New York, 5 N.Y.2d 75, 180 N.Y.S.2d 265, 154 N.E.2d 534 (1958). Similarly, a special relationship was created when the police arranged a confrontation between a suspect and a witness to a crime, *6 thereby giving the suspect an opportunity to assault the witness. Gardner v. Village of Chicago Ridge, 71 Ill.App.2d 373, 219 N.E.2d 147 (1966). In McCorkle v. City of Los Angeles, 70 Cal.2d 252, 74 Cal.Rptr. 389, 449 P.2d 453 (1969), a police officer investigating a traffic accident led plaintiff into the middle of the highway where plaintiff was then struck by another car. The California Court found that a special duty had been created by the officer's affirmative conduct. Likewise, a parole officer was held to have been in a special relationship with individuals operating a foster home and, therefore, under an obligation to disclose the violent character of a juvenile whom he sought to place in the foster home. Johnson v. State, 69 Cal.2d 782, 73 Cal.Rptr. 240, 447 P.2d 352 (1968).[FN2] The United States Court of Appeals for the District of Columbia recognized a similar special relationship between a government mental hospital and the family of a violent, assaultive patient who the hospital planned to discharge and who the hospital knew had previously attacked family members. Hicks v. United States, 167 U.S.App.D.C. 169, 511 F.2d 407 (1975).

FN2. A similar factual situation is presented in Rieser v. District of Columbia, supra. This case involved a woman who was raped and murdered by a District of Columbia parolee who had been assisted by a parole officer in obtaining employment at the apartment complex where the murder took place. The decedent's father filed suit for damages under the District of Columbia Wrongful Death Act against the owners of the apartment complex, the parolee, the parole officer and the District of Columbia. The Court of Appeals, MacKinnon, Circuit Judge, held inter alia that an actionable duty exists where a special relationship has been established between the governmental unit and plaintiff.

Plaintiffs in this action contend that they, too, entered a special relationship with the police when Warren and Taliaferro telephoned to request assistance. Courts which have had the opportunity to consider comparable situations have concluded that a request for aid is not in itself sufficient to create a special duty. In Riss v. City of New York, supra, the plaintiff had complained to the police numerous times about a rejected suitor who had threatened her repeatedly. In response to plaintiff's desperate pleas for help, the police rendered only nominal assistance and refused to help plaintiff further. Plaintiff received a "last chance" threat from the suitor and once more called the police without success. The following day, the suitor carried out his threat by "having a hired thug throw lye in (plaintiff's) face." Id. at 584, 293 N.Y.S.2d at 900, 240 N.E.2d at 862. Distinguishing Schuster v. City of New York, supra, the Court held that plaintiff's pleas for help did not create a special relationship between herself and the police and could not serve as the basis of liability.

The plaintiff in Antique Arts Corporation v. City of Torrance, 39 Cal.App.3d 588, 114 Cal.Rptr. 332 (1974), arranged to have its burglar alarm directly wired to the Torrance police station. Plaintiff contended that the alarm went off during the course of a burglary but the police dispatcher negligently delayed ten minutes before transmitting the alert, thereby allowing the burglars to escape with plaintiff's goods. Plaintiff argued that the alarm hookup created a special relationship with the police, but the Court rejected this contention, concluding that "an alert from an alarm, irrespective of how transmitted, is no more than a complaint that a crime has been or is being committed." Id. at 592, 114 Cal.Rptr. at 334.

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As noted above, the Florida Appeals Court dismissed the complaint in Henderson v. City of St. Petersburg, supra, notwithstanding plaintiff's having requested and specifically discussed plans for police protection. After reviewing cases in which the police or other government agency were under a 'special duty' different from that owed to the public generally, the Florida Court concluded that a request for police protection, even when accompanied by a promise that protection would be provided, does not create the "special duty" necessary to establish tort liability. Id. at 25.

Plaintiffs have adopted a more novel theory in an attempt to distinguish this case from those discussed above. Plaintiffs contend *7 that although the Metropolitan Police Department may not have been under a specific duty to these plaintiffs at the time of the initial telephone complaint, the police undertook an obligation by taking some action toward rendering assistance. Plaintiffs seem to be saying that no liability would have attached had the police operator refused plaintiffs' call, had the dispatcher refused to transmit the message, or had the officers refused to respond. However, plaintiffs' argument continues, once the operator, dispatcher and officers took some action to assist plaintiffs, they all became personally answerable in money damages for failing to render assistance adequate to meet plaintiffs' needs. Without any supporting authority, plaintiffs contend that defendant police employees were "at least" in the position of volunteers and must be held liable as volunteers for any damages resulting from their negligent omissions. Plaintiffs' argument misapprehends both the legal status of the police officer and the legal status of the volunteer.

In the classic case, H. R. Moch Co., Inc. v. Rensselaer Water Co., 247 N.Y. 160, 159 N.E. 896 (1928), then Judge Cardozo delineated the liability of a volunteer:

> It is ancient learning that one who assumes to act, even though gratuitously, may thereby become subject to the duty of acting carefully, if he acts at all .... The hand once set to a task may not always be withdrawn with impunity though liability would fail if it had never been applied at all.... If conduct has gone forward to such a stage that inaction would commonly result, not negatively merely in withholding a benefit, but positively or actively in working an injury, there exists a relation out of which arises a duty to go forward. (Id. at 167, 159 N.E. at 898.)

The Moch case involved a suit against a water company for failure to supply adequate water to fight a city fire. Judge Cardozo found that the failure to provide adequate water to fight the fire constituted, at most, a nonactionable withholding of a benefit. Whatever the omissions and failures of the defendant police officers in this action, those alleged omissions and failures, too, constituted no more than a similar withholding of a benefit.

Moreover, volunteer liability is premised in large part upon the assumption that the volunteer is free to assess each rescue situation, weigh the risks involved, and determine whether to shoulder the obligation or leave it to someone else.[FN3] Police officers clearly are not in a position to make such choices on a case by case basis and it would be absurd to presume that an individual assumes a permanent "volunteer" status when he becomes a police officer. Again, in the words of Judge Cardozo:

> FN3. The District of Columbia Court of Appeals recently refrained from implying an adoption of the rescue doctrine in this jurisdiction. Gillespie v. Washington, D.C.App., 395 A.2d (18) 21 (1978). This Court's discussion of the rescue doctrine and its applicability to plaintiffs' claim should likewise not be considered an adoption of the doctrine.

> An intention to assume an obligation of indefinite extension to every member of the public is seen to be the more improbable when we recall the crushing burden that the obligation would impose.... A promisor will not be deemed to have had in mind the assumption of a risk so overwhelming for any trivial reward. (Id. at 165-166, 159 N.E. at 897-98.)

Plaintiffs have also construed the issues in this case as giving rise to "negligent performance of police duties." In an attempt to avoid the overwhelming case law barring private suits over negligent omissions in the performance of police duties, plaintiffs seek to bring this action within the orbit of cases allowing recovery for injuries caused by negligent acts of police officers in the performance of their official duties. The cases cited by plaintiffs include the negligent handling of a police dog, negligent operation of a police vehicle, and the negligent use of a police weapon. Such cases involve acts of affirmative negligence, for which anyone-police or civilian-would be liable: negligent handling of an attack dog, negligent operation of a motor vehicle, and negligent use of a firearm. Those acts *8 of ordinary negligence do not change in character because they happen to have been committed by a

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police officer in the course of his duties. However, the allegations of negligence in the present case derive solely from defendants' status as police employees and from plaintiffs' contention that defendants failed to do what reasonably prudent police employees would have done in similar circumstances. The difference is between ordinary negligence on the one hand and a novel sort of professional malpractice on the other. A person does not, by becoming a police officer, insulate himself from any of the basic duties which everyone owes to other people, but neither does he assume any greater obligation to others individually. The only additional duty undertaken by accepting employment as a police officer is the duty owed to the public at large.

The public duty concept has drawn some criticism for purportedly creating the rule that: " 'Because we owe a duty to everybody, we owe it to nobody.' " Riss v. City of New York, supra at 585, 293 N.Y.S.2d at 901, 240 N.E.2d at 862 (Keating, J., dissenting). A duty owed to the public, however, is no less enforceable because it is owed to "everybody." Public officials at all levels remain accountable to the public and the public maintains elaborate mechanisms to enforce its rights-both formally in the courts and less formally through internal disciplinary proceedings. In the case of the Metropolitan Police Department, officers are subject to criminal charges and a penalty of two years imprisonment for failure to arrest law breakers. D.C.Code 1973, s 4-143. Additionally, officers are answerable to their superiors and ultimately to the public through its representatives, for dereliction in their assigned duties. D.C.Code 1973, s 4-121.

The absence of a duty specifically enforceable by individual members of the community is not peculiar to public police services. Our representative form of government is replete with duties owed to everyone in their capacity as citizens but not enforceable by anyone in his capacity as an individual. Through its representatives, the public creates community service; through its representatives, the public establishes the standards which it demands of its employees in carrying out those services and through its representatives, the public can most effectively enforce adherence to those standards of competence. As members of the general public, individuals forego any direct control over the conduct of public employees in the same manner that such individuals avoid any direct responsibility for compensating public employees.

Plaintiffs in this action would have the Court and a jury of twelve additional community representatives join in the responsibility of judging the adequacy of a public employee's performance in office. Plaintiffs' proposition would lead to results which the Massengill Court aptly described as "staggering." Massengill v. Yuma County, supra at 523, 456 P.2d at 381. In this case plaintiffs ask the Court and jury to arrogate to themselves the power to determine, for example, whether defendant Officer Thompson acted in a manner consistent with good police practice when he volunteered to stake out a suspect's house rather than volunteering to report to the crime scene. Consistent with this contention then, should a Court and jury also undertake to sift through clues known to the police in order to determine whether a criminal could reasonably have been apprehended before committing a second crime? Should a Court also be empowered to evaluate, in the context of a tort action, the handling of a major fire and determine whether the hoses were properly placed and the firemen correctly allocated? Might a Court also properly entertain a tort claim over a school teacher's ability to teach seventh grade English or over a postman's failure to deliver promptly an important piece of mail?

Establishment by the Court of a new, privately enforceable duty to use reasonable diligence in the performance of public functions would not likely improve services rendered to the public. The creation of direct, personal accountability between each government employee and every member of the community would effectively bring the *9 business of government to a speedy halt, "would dampen the ardor of all but the most resolute, or the most irresponsible in the unflinching discharge of their duties," [FN4] and dispatch anew generation of litigants to the courthouse over grievances real and imagined. An enormous amount of public time and money would be consumed in litigation of private claims rather than in bettering the inadequate service which draws the complaints. Unable to pass the risk of litigation costs on to their "clients," prudent public employees would choose to leave public service.

FN4. Gregoire v. Biddle, 177 F.2d 579, 581 (2d Cir. 1949).

Although recognizing the obligation of public employees to perform their duties fully and adequately, the law properly does not permit that obligation to be enforced in a private suit for money damages. Accordingly, the Court concludes that plaintiffs have failed to state claims upon which relief may be granted and accordingly, the action is

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dismissed as to all defendants. (Footnote 5 omitted.)
JOSEPH M. HANNON

Judge

Dated: November 21, 1978

KELLY, Associate Judge, with whom MACK, Associate Judge, joins, concurring in part and dissenting in part:

The basic premise underlying the dismissals of these complaints is correct: unless a "special duty" to a particular individual can be shown, public officials and governmental units owe only a general, nonactionable duty to members of the public to provide services such as fire and police protection. Chandler v. District of Columbia, D.C.App., 404 A.2d 964 (1979); Duran v. City of Tucson, 20 Ariz.App. 22, 509 P.2d 1059 (1973); Trautman v. City of Stamford, 32 Conn.Supp. 258, 350 A.2d 782 (1975); Trujillo v. City of Albuquerque, 93 N.M. 564, 603 P.2d 303 (App.1979); 18 E. McQuillan, Municipal Corporations ss 53.04a, b (3d ed. 1977). As stated in 2 T. Colley, Law of Torts: The rule of official responsibility, then, appears to be this: That if the duty which the official authority imposes upon an officer is a duty to the public, a failure to perform it, or an inadequate or erroneous performance, must be a public, not an individual injury, and must be redressed, if at all, in some form of public prosecution. On the other hand, if the duty is a duty to the individual, then a neglect to perform it, or to perform it properly, is an individual wrong, and may support an individual action for damages. "The failure of a public officer to perform a public duty can constitute an individual wrong only when some person can show that in the public duty was involved also a duty to himself as an individual, and that he has suffered a special and peculiar injury by reason of its nonperformance." (Id. s 300, at 385-86 (4th ed. 1932); citation and footnotes omitted.)

This general duty/special duty dichotomy is illustrated by our decision in Chandler v. District of Columbia, supra. There, the District of Columbia, for financial reasons, decided to close several randomly chosen fire stations, one of which was near Mrs. Chandler's home. After a fire broke out in her home and her two children died from smoke inhalation, Mrs. Chandler sued for wrongful death, alleging that her children's deaths resulted from the District's negligence in closing the fire station. Recognizing the general rule of municipal nonliability, this court found that the facts of Mrs. Chandler's case did not give rise to a special duty or "special relationship." Id. at 966-67. By way of further analysis, fire protection services are meant to benefit the community as a whole, and because Mrs. Chandler's children were members of the general public, with nothing to single them out as specific individuals to whom a duty was owed, no special duty had arisen.Without the critical element of duty, an action in negligence does not lie.[FN1]

FN1. The Chandler case was also decided on the basis of sovereign immunity; because the decision to close the stations was a discretionary act, the city could not be sued. Id. at 966. See generally Wade v. District of Columbia, D.C.App., 310 A.2d 857 (1973) (en banc).
As the Chandler court noted, the questions of sovereign immunity and duty require separate analysis. Chandler, supra at 966. No question of sovereign immunity is raised in these appeals.

***10** The same reasoning applies in police protection cases. For example, in Trautman v. City of Stamford, supra, a plaintiff who was struck by a car while standing on a public sidewalk sued the city and two police officers, alleging a negligent failure to stop drag racing on the street adjacent to the sidewalk. In finding that no special duty was owed the plaintiff, the court stated, "the allegations of the instant case nowhere assert any conduct directed specifically by the defendant police officers toward the plaintiff individually. The conduct of the defendant patrolmen is directed ... toward the general public of which the plaintiff happened to be a part at the time in question." Id. 32 Conn.Supp. at 259, 350 A.2d at 783. The same rule has been applied in finding no special duty to protect a young man from violence in a city park, Trujillo v. City of Albuquerque, supra ; to warn a motel employee of suspicious persons in the motel parking lot, Sapp v. City of Tallahassee, 348 So.2d 363 (Fla.Dist.Ct.App.1977); to arrest a drunk driver whose car collided with the plaintiff's decedent's car, Massengill v. Yuma County, 104 Ariz. 518, 456 P.2d 376 (1969); to protect a young lady from the threats of her estranged boyfriend, Riss v. City of New York, 22 N.Y.2d 579, 293 N.Y.S.2d 897, 240 N.E.2d 860 (1968); and to protect property during a civil disturbance, Westminster Investing

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Corp. v. G. C. Murphy Co., 140 U.S.App.D.C. 247, 434 F.2d 521 (1970).

The general, nonactionable duty to provide police services may narrow, however, to a special, actionable duty if two factors are present. First, there must be some form of privity between the police department and the victim that sets the victim apart from the general public. See, e.g., City of Tampa v. Davis, 226 So.2d 450, 454 (Fla.Dist.Ct.App.1969). That is, the victim must become a reasonably foreseeable plaintiff. Second, there must be specific assurances of protection that give rise to justifiable reliance by the victim. See, e.g., Sapp v. City of Tallahassee, supra at 365-66.

In Bloom v. City of New York, 78 Misc.2d 1077, 357 N.Y.S.2d 979 (1974), several store owners sued the city for negligent failure to protect their property during a civil disturbance in 1968. The complaints alleged that city officials gave specific assurances of police protection, but negligently failed to take steps to carry out the promises. The city moved to dismiss the complaint, relying on the general rule of municipal nonliability. The court denied the motion, easily distinguishing the case from those cases in which there is no special duty:

> In the case at bar it is alleged that the plaintiffs were ready, willing and able to protecttheir premises but that they were restrained by the police who assured them that proper police protection would be provided. There is therefore alleged an affirmative series of acts by which the city assumed a special duty .... (Id. at 1078, 357 N.Y.S.2d at 981.)

See also Silverman v. City of Fort Wayne, 171 Ind.App. 415, 357 N.E.2d 285 (Ind.App.1976) (dismissal of negligence complaint arising from failure to protect property during riot reversed in light of personal promise of protection).[FN2]

> FN2. The allegations of specific assurances of protection in Bloom and Silverman distinguish those cases from Westminster Investing Corp. v. G. C. Murphy Co., supra, a case relied on by the trial judge in No. 79-6. The plaintiffs in Westminster were members of the general public, to whom no promises of protection had been made, and to whom the District therefore owed no special duty.

In Florence v. Goldberg, 44 N.Y.2d 189, 404 N.Y.S.2d 583, 375 N.E.2d 763 (1978), the police department voluntarily assigned a school crossing guard to cover a particularly busy intersection in Brooklyn. For the first two weeks of school, the infant plaintiff's mother accompanied him to school and saw a guard at the intersection every day. When the mother accepted employment, she sent the child to school by himself, relying on the guard's presence at the intersection. *11 One day, the guard was ill and the police department failed to provide a replacement or to notify school officials that there would be no guard at the crossing. The child was struck by a taxi cab as he tried to cross the street alone; the mother sued the city in negligence. Upholding a jury verdict for the child, the court emphasized two factors distinguishing that case from general duty cases. First, the duty assumed by the police was a limited one; it was directed toward a specific class of individuals rather than toward the public in general. Id. at 196-97, 404 N.Y.S.2d at 587, 375 N.E.2d at 767. Second, the mother had witnessed the provision of services and had relied to her detriment on the guard's performance. Id. The combination of these two factors led the court to conclude that the general duty to provide police services had become a special duty owed to that child. [FN3]

> FN3. Appellees attempt to distinguish Florence from the case at bar by arguing that the police in Florence breached a statutory duty to provide crossing guards. It is clear from the opinion, however, that the police department regulations referred to by appellees dealt only with the procedures to be followed if a school guard, once gratuitously assigned, was unable to report for duty. The initial assumption of the duty to provide a crossing guard was completely voluntary. Florence, supra 44 N.Y.2d at 196, 404 N.Y.S.2d at 587, 375 N.E.2d at 767.

As both the Bloom and Florence courts noted, the concept of special duty is actually no more than an application of the cardinal principal of tort law that, even where no duty to act may exist originally, once one undertakes to act, he has a duty to do so with due care. Florence v. Goldberg, supra at 196, 404 N.Y.S.2d at 587, 375 N.E.2d at 766; Bloom v. City of New York, supra at 1079, 357 N.Y.S.2d at 981. Cf. Security National Bank v. Lish, D.C.App., 311 A.2d 833, 834 (1973) ("(o)ne who assumes to act, even though gratuitously, may thereby become subject to the duty of acting carefully, if he acts at all.")

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(quoting Glanzer v. Shepard, 233 N.Y. 236, 239, 135 N.E. 275, 276 (1922)). More precisely, one who begins to perform a service to another, whether gratuitously or not must perform with reasonable care; thus, he subjects himself to liability for any harm suffered because the other reasonably and foreseeably relied upon the actor's performance. See W. Prosser, The Law of Torts s 56 (4th ed. 1972); 2 F. Harper and F. James, The Law of Torts s 18.6 (1956); 2 Restatement (Second) of Torts s 323 (1965). In the words of Chief Judge Cardozo:

> If conduct has gone forward to such a stage that inaction would commonly result, not negatively merely in withholding a benefit, but positively or actively in working an injury, there exists a relation out of which arises a duty to go forward. (Moch Co. v. Rensselaer Water Co., 247 N.Y. 160, 167, 159 N.E. 896, 898 (1928); citation omitted.)

This is not, of course, a theory of strict liability; the actor need only do that which is reasonable under the circumstances. Prosser, supra.

To summarize, there are two prerequisites to a finding of a special duty. First, there must be direct contact or some other form of privity between the victim and the police department so that the victim becomes a reasonably foreseeable plaintiff. Second, there must be specific assurances of police services that create justifiable reliance by the victim. Without both of these elements, the duty to provide police services remains a general, nonactionable duty to the public at large.

II

In reviewing the trial courts' grants of the motions to dismiss, "we must accept every well-pleaded allegation of material fact ... as true and indulge all reasonable inferences which may arise therefrom." Early Settlers Insurance Co. v. Schweid, D.C.App., 221 A.2d 920, 922 (1966). The dismissals will be sustained only if it appears "beyond doubt that the plaintiff(s) can prove no set of facts in support of (their claims) which would entitle (them) to relief." Conley v. Gibson, 355 U.S. 41, 45-46, 78 S.Ct. 99, 101-102, 2 L.Ed.2d 80 (1957). See also Owens v. Tiber Island Condominium Association, D.C.App., 373 A.2d 890, 893 (1977).

*12 Under this standard of review, I would hold that the complaints of appellants Warren, Taliaferro (No. 79-6), and Nichol (No. 79-394), contain facts that, if proved, are sufficient to establish that the Police Department owed each a special duty. Appellants Warren's and Taliaferro's urgent telephone calls to the Metropolitan Police Department removed them from the broad class of the general public. Appellant Nichol's direct contact with the officer on the scene of the assault made him a reasonably foreseeable plaintiff. Any duty assumed by the police from those points on was not a duty to the community as a whole, but a specific duty to identifiable persons.

All three of these appellants have also alleged specific assurances of police protection that may have created justifiable reliance on their parts. When a police department employee tells frantic callers that help is on the way, as in No. 79-6, or that he will obtain vital information for an injured person, as in No. 79-394, it is reasonably foreseeable that the persons so assured may forego, to their detriment, other avenues of help. Once the police embarked upon services under circumstances where it was reasonably foreseeable that a citizen might rely on their performance, they assumed a duty to perform with due care.

Appellant Douglas does not fit within the class of persons to whom a special duty was owed. Although she arguably meets the first prerequisite,[FN4] she does not fulfill the second. Because she was unaware of either the telephone calls to the police or the police's assurances to the other women, she could not have justifiably relied to her detriment on those assurances. Therefore, the dismissal as to her must be affirmed.

> FN4. Whether she removed herself from the class of the general public is, as stated, a factual question: from the point of view of the police department, with its knowledge from the telephone call, was appellant Douglas a foreseeable victim or merely still a member of the general public?

I do not ignore appellees' "floodgates of litigation" argument and have carefully considered the trial judge's fear that "(t)he creation of a direct, personal accountability between each government employee and every member of the community would effectively bring the business of government to a speedy halt ... and dispatch a new generation of litigants to the courthouse over grievances real and imagined." [FN5] The duty which I recognize in this opinion will not create such broad liability. Moreover, the argument

> FN5. See Appendix infra at 4.

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> assumes that a strict liability standard is to be imposed and that the courts would prove completely unable to apply general principles of tort liability in a reasonable fashion in the context of actions arising from the negligent acts of police ... personnel. The argument is ... made as if there were no such legal principles as fault, proximate cause or foreseeability, all of which operate to keep liability within reasonable bounds. No one is contending that the police must be at the scene of every potential crime .... They need only act as a reasonable man would under the circumstances. (Riss v. City of New York, supra at 586, 293 N.Y.S.2d at 902, 240 N.E.2d at 863 (Keating, J., dissenting).)

In my judgment, the complaints of appellants Warren, Taliaferro and Nichol contain sufficient facts from which they may prove that a special duty was owed to them; consequently, the trial judges erred in dismissing their complaints for failure to state a claim upon which relief could be granted. To me, also, gratuitous comments about condemning the recognized "failings" of the police in these cases is no substitute for an independent and objective decisional analysis of an important and sensitive issue.

NEWMAN, Chief Judge, concurring in part and dissenting in part:

I concur in the majority opinion as to appellant Nichol (No. 79-394). I join the dissent as to appellants Warren, Douglas and Taliaferro (No. 79-6).

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Chairman DAVIS. Thank you very much.

Mr. Parker, thank you for being with us.

STATEMENT OF TYRONE PARKER

Mr. PARKER. First of all, let me thank you for your continued consideration and regard to the citizens of the District of Columbia, and for this particular hearing. Ms. Norton, I continue to support and be behind your outstanding work because I know beyond a doubt you have always been for the least and the less and those who do not have a voice. Ms. Watson, I heard you say that you are from the place that started gangs, so I know that you can sympathize and understand the testimony that we, the citizens, come forth with.

I am the executive director of the Alliance of Concerned Men, a 501(c)(3), that offers two to three different perspectives in regard to my presentation today. The Alliance of Concerned Men is an organization that basically was composed of previously incarcerated men that understood the conditions of our community and wanted to step forward and make a difference. To this point, the last 13 years we have been involved with working with the gangs, working with the crews, working with returning prisoners in the whole compound in an attempt to get them back on the right track. So we understand beyond a question of doubt what the impact of this particular law would be in regards to repealing the ban pertaining to guns in our community.

We have already begun to make a significant change in regards to public safety. In the public housing areas that we primarily work with, we have been able to negotiate seven peace treaties in the District of Columbia in the last 8 years and have not had one single retaliation, simply because they have seen the opportunity to turn their lives around and not increase the prison population which a number of our men are basically going into now.

I think that this is one of the greatest challenges that we are confronted with—the massive number of prisoners that are basically returning from the prison, but as well as are in the prisons today. It has destabilized our family structure and our community structure. Therefore, these individuals do not have anything to be able to model after or anything to be able to margin themselves after.

So they tend to look at the one single thing that is so blatant today in our community, unlike the times of our days, which I consider, as we say, the "baby boomers." We look at the echo generation that does not have the components in place, so when it comes time for them to settle an argument, they tend to do the next best thing, to go for a gun. A gun has been the common denominator.

But now we are beginning to see changes in our particular communities. We are not hearing about the drive-by shootings every morning that we are accustomed to hearing about. We are no longer hearing about gang turf wars over drugs as we have been hearing. I know when their lives are concerned, men began to go into some of these communities and the topic of the conversation they heard was who got shot, what was the magnitude of the gun, how fast can you buy one, and they could respond on a dime by getting as many guns as they wanted.

Now, as we see the momentum of what is occurring in regards to the initiative that is in place and other things that are happening, we are beginning to hear the texture of the conversation change. We are beginning to hear the kids talk about baseball games and the opportunity to go to school. We are beginning to see the public elements of human fear no longer in these communities. People are beginning to live as they should live and not be just simply because they do not have the economical dollars to be able to leave and live in other places, but having a high quality of life. We are beginning to see a movement take place where the quality of life is beginning to surface from those individuals who at one point in time considered that they had no chance.

For us to take a step back and lose the momentum of victory, in which we are current in a number of these particular places where most folks dare not go, it would be a sin and a shame. The information that I have heard today has saddened my heart and just basically made me feel so bad, because it talked about outstanding law enforcement agencies, and it talked about people that were doing their very best to make the quality of life what it is. But it is one thing, as they often say, the road to hell is paved with a lot of good intentions. And even while some of the intentions may be good, the outcome will not be.

I speak also from the perspective of being a previously incarcerated person, having done time for armed robbery in the District of Columbia some 26 years ago. I understand the impact of who I was and who I had to become. This last year, I was given the award of Washingtonian of the Year because of the work and outstanding support that our type of organizations have been able to do. But as we see the men and the women return back to the District of Columbia with nothing in place to the point of employment, shelter, health care, they will have very little opportunities to be able to work themselves back, especially as things are today.

So I would truly hate to see this gun ban lifted, where each and every household basically lives in fear because of the environment that has been created to have the gun in the house. I tell you, we would create bands of individuals who see no opportunities and, instead of stealing cars, they would become house-breakers and the new commodity would be the guns that they would bring out of these particular places, the guns that they believe would give them another opportunity to be able to rid themselves of the problems that they have.

No, we cannot afford to step back 1 inch and relinquish the momentum that we have accomplished. I know it is not perfect, but it is quite a way from how it once was. And victory is truly in sight for the storm has passed. And for that I say, "Thank you, Jesus," because I do not have to attend the number of funerals or see the mothers cry as they have cried. I do not have to see the communities in the conditions that they have been. We are there each and every day.

I thank you for your time, I thank you for your spirit, but I pray that this bill goes nowhere.

[The prepared statement of Mr. Parker follows:]

STATEMENT OF

Tyrone Parker
Executive Director
Alliance of Concerned Men
Washington, DC

Before the
Committee on Government Reform

Concerning
District of Columbia's Gun Control Law

Submitted for Record June 27, 2005

I. The Alliance of Concerned Men is a non-profit community-based organization that works to reduce violence and social dysfunction in high-risk neighborhoods in the Washington Metropolitan Area. It was created in 1991 by five men who grew up together and attended Eastern High School in Washington, DC in the 1960's. These men know and understand life on the city streets and behind bars. They have seen family and friends shot and killed, and they have seen new norms develop where violence, guns and drugs became way of life. They have dedicated themselves to stopping this trend, to helping others learn from their own experience, and to making a positive difference in the lives of youth.

The Alliance of Concerned Men has become internationally known. The Alliance is best know for its' intervention in negotiating a truce between the "Avenue and Circle" crew members at the Benning Heights Public Housing Development, where 12 year old Darryl Hall was kidnapped, murdered and found several days later, frozen in a local ravine. ACM has been featured in Hendrick Smith's documentary entitled "Across the River", ABC's nationally televised :The Power of one', CBS's Dan Rather's Eye on America, "The Power of Faith", and many other featured stories and published articles both nationally and internationally.

The Alliance has brokered gang truce peace agreements in Benning Terrace, Langston Terrace, Carver Terrace, and other D.C. communities notorious for violence, gangs and drugs. It has shown D.C. youth paths out of conflict and toward dignity without retaliation. It has helped connect people with jobs and training opportunities. Finally, it has developed programs designed to prevent violence before it happens, and to help people develop positive attitudes and aspirations.

II. ACM has received a citation in a national study published by the Manhatta Institute for Policy Research, which commended ACM for being 'perhaps ou 'last best hope' for reaching at-risk teens who seem 'unreachable'." ACM is als nationally recognized as a pioneer in dealing directly with the incarcerated parent

III. Upon release from prison, ex-offenders often have a hard time findin employment due to a lack of employable skills, a lack of basic societal etiquett or a host of other reasons that lead to a failure to acclimate back into the community. Therefore, these individuals often resort back to the same activitie that lead to their incarceration in the first place. Often these activities are gan and drug involved. However, now a new element is added. The ex-offenders fin themselves getting involved in extremely violent behavior because they ar battling over their old turf with people involved in gangs and drugs that hav filled the void while these individuals were incarcerated. We don't want them t resort to their belief of a quick fix factor or breaking into a person home believin that they will find a gun that will be the answer to all their problem or give ther the satisfaction of saying "I rather be in jail, broke then on the street with n money".

IV. Over the last 13 years with a number of public safety components in place, w have been able to reduce homicides and the human factors of living in fear. W have been able to get our youth to a point of talking out their differences verse using a gun to settle their differences. One of the major factors between m generation – "Baby Boomers", and the "Echo Generation" while living in th inner city - has **been the availability of guns**.

In the beginning, we could not go into communities where there was a larg perception or conversation about guns. We would often hear conversations abou who had what guns, what size guns and the weather conditions to best use certai guns in. And on a moments notice, they youth had the ability to have a point ma to go and get their guns whenever needed. We no longer see to a large degree th gang or crew fights over territory or any of the other norms. We no longer hea about the drive-by shootings that was a part of our everyday experience. Th conversation around guns and who had got shot and how much they cost i becoming a thing of the past.

As we look at the history of our communities, the progress of the city, polic statistics, and community funerals – the public's perception says to us that th storm is passing over – "Thank You Jesus"!

So therefore we can ill afford to lift this gun ban or any component of th initiatives that has produced these outstanding results. We cannot afford as community to lose the momentum of **Victory!**

Chairman DAVIS. Thank you very much.

Ms. Lowe, last but not least, we appreciate your patience. Thanks for being with us.

STATEMENT OF FRANCINE LOWE

Ms. LOWE. Good afternoon, Mr. Davis, Ms. Eleanor Holmes Norton, Ms. Watson. My name is Francine Lowe. I am an employee of the Department of Public Works Solid Waste Management Division. I am proud to be a native Washingtonian. I have seven kids, four girls and three boys, ranging in age from 4 years old to 20 years old. They were also born in the District of Columbia.

I am asking the Congress to leave our gun laws alone in the name of my daughter, Myesha. Myesha was an innocent bystander who was shot and killed July 24, 2004. I testify here today because that is the least I can do. But I come in great sadness because my family and I have not gotten over, and will never get over, the death of Myesha by gunfire. Yet Congress keeps trying to repeal our gun safety laws.

Does Congress think that repealing our gun laws will save children like Myesha? Many mothers like myself who are raising their children in tough neighborhoods in D.C. know otherwise. If Congress makes it easier for residents to have guns, there will be more mothers like myself and more children like Myesha.

We had much hope for my wonderful daughter, Myesha. She was what mothers want daughters to be, pretty, bright, and polite. Myesha was an honor roll student and had graduated from Hine Junior High School. Her school this last fall was going to be Dunbar. She never made it. Myesha and her sister Rasheida were in the Trinity College Upward Bound program. She was shot and killed on a Saturday, and that Monday Trinity College was going to take them up to Niagara Falls to tour some colleges.

Myesha had permission from my mother to go to Checkers to get her something to eat on the evening of July 24th. Some kids drove by and had words with a passenger in another car. All agree that Myesha was not in the dispute and was not the intended victim, but Myesha was shot twice, one in the head and once in the leg, sitting in a car full of girls. My heart started aching then and I do not think it will ever stop. When I arrived at the hospital Myesha was dead.

Anyone with a teenage child knows that a gun in the house will almost be impossible to keep from a teenager. There is a saying, you can run but you cannot hide. You can hide guns and lock them up, but if someone can get to it, a teenager can. I know there are people who would think a gun in their home would protect them. But anyone who knows our city knows that our guns are more likely to be pulled out and used to cause tragedies in our homes and streets.

A gun caused a tremendous tragedy in my family. The last thing I would want this city to do is to have more guns, legal or illegal, in homes or in the streets. Please, Congress, do not pass this legislation to repeal our gun laws.

[The prepared statement of Ms. Lowe follows:]

Testimony of Francine Lowe before the Government Reform Committee Hearing "Under Fire: Does the District of Columbia's Gun Ban Help or Hurt the Fight Against Crime?" June 28, 2005

I am Francine Lowe. I am an employee of the Sanitation Department of the D.C. Department of Public Works. I am proud to be a native Washingtonian. All seven of my children, four girls and three boys, ranging in ages from 4 to 20, were also born in the District of Columbia. I am asking Congress to leave our gun laws alone in the name of my daughter Myesha, who at 15 was an innocent bystander who was shot and killed on July 24th a little over a year ago. I testify here today because it is the least I can do. But I come in great sadness because my family and I have not gotten over and will never get over Myesha's death by gunfire. However, we never thought that action to give us further pain would or could be taken. Yet Congress keeps trying to repeal our gun safety laws. Does Congress think that repealing our gun laws will save children like Myesha? Many mothers like me are raising their children in tough neighborhoods in D.C. know otherwise. If Congress makes it even easier for residents to have guns, there will be more mothers like me and more children like Myesha.

We had much hope for my wonderful daughter, Myesha. She was what mothers want daughters to be, bright and polite as she could be. Myesha was an honor roll student. She had just graduated from Hine Junior High School and would have moved on to Dunbar this year. Myesha and her sister Rasheida were in the Trinity College Upward Bound program. That Monday her Upward Bound group was going on a tour of colleges.

Myesha had permission from her grandmother to go to a favorite neighborhood fast food store the evening of July 24th. Some kids drove by and had words with an occupant of the car. All agree that Myesha was not in the dispute and was not the intended victim, but it was Myesha who took a bullet in her head. When I got to the hospital, Myesha was already dead. My heart started aching then and hasn't stopped.

Anyone with a teenage child knows that a gun in the house would be almost impossible to keep from a teenager. There is a saying that you can run but you can't hide. You can hide the gun and lock it up, but if anyone can get to it, a teenager will get to it. I know there will be people who will think a gun at home will protect them, but anyone who knows our city knows that the gun is more likely to be pulled out and used to cause a tragedy in the home.

A gun caused a terrible tragedy in my family. The last thing we need in this city is more guns, legal or illegal, in homes or in the streets. Please do not pass legislation to repeal our gun laws.

Chairman DAVIS. Thank you very much.

This has been a very, very interesting hearing. Part of it, I think we see the cultural divide in this country in terms of how people view guns, people's rights to own them. To me, the ultimate question I think is, however you feel about it, who should be making the decisions: should they be made locally or do they get made nationally?

Dr. Lott put up some very interesting statistics. Of course, I am reminded that statistics can show anything. But is there anything that can show statistically how this has reduced crime? The interesting thing to me is are there any facts that we can show that have shown that preventing guns legally in the city has reduced crime? Because according to Dr. Lott's statistics, it has actually gone up, and I have seen that used before. It is kind of counterintuitive that it would work that way.

But the committee would be very interested in looking at that, and we will ask the police chief as well. A lot of this is I guess I would say intuitive in terms of what it would mean. But I thought those statistics were interesting at least in terms of putting a case together.

I am not sure how relevant they are because crime is dependent on so many different things than just do you own a gun or not. You look at when crack cocaine hit the city, the crime rate went up, and that did not have anything to do with guns. But I would be interested if anybody has any statistics, not today, and we will ask the police chief at the same time for that and see what he can produce on that.

Mr. Levy, let me ask you. I have not followed the court suit. Where is that at this point? Because ultimately, if it is a second amendment question, Congress is not going to decide it, it is going to be decided in the courts. I think your point is you want to pick the best case you can and take it up the ladder and the courts will ultimately decide if cities have the right to do that, not just the District of Columbia, but all the other cities that have passed these bans on handguns. Is that correct?

Mr. LEVY. That is correct. There were two cases involved, parallel cases. In the *Seegars* v. *Ashcroft* case, the trial court Judge Walton dismissed the *Seegars* case holding that none of the plaintiffs has standing to challenge the D.C. handgun ban. One of the plaintiffs who owned a shotgun had standing to challenge another portion of the D.C. law.

But Judge Walton found that the second amendment did not protect an individual right to keep and bear arms. On appeal, the U.S. Court of Appeals for the D.C. Circuit determined that none of the plaintiffs has standing in the *Seegars* case. So that case has been resolved and dismissed on June 21st, just 1 week ago. We do not know whether the *Seegars* plaintiffs will seek to obtain certiorari at the Supreme Court level.

The parallel case is the one that I spoke about, and that is *Parker* v. *District of Columbia.* Even though it was filed 4 months before the *Seegars* case, it was resolved by the District Court later by Judge Sullivan. He found that the *Parker* plaintiffs were not protected because, again like Judge Walton, he found that the second amendment did not secure an individual right to keep and bear

arms. That has been appealed to the D.C. Circuit. The D.C. Circuit put that case on hold until the *Seegars* case was resolved. One week ago today the *Seegars* case was resolved and dismissed. And so now the *Parker* case is front and center.

The *Parker* plaintiffs, we think, will have standing and so the D.C. Circuit will address this case on the Constitutional merits. The *Parker* plaintiffs were told that they would, in fact, be prosecuted by the D.C. government at oral argument in the trial court. So standing is likely to be conferred and the D.C. Circuit is likely to issue a merits-based opinion on the second amendment very soon.

Chairman DAVIS. Why do you think there has not been more litigation like Shelly Parker's suit over restrictive gun laws?

Mr. LEVY. In D.C.?

Chairman DAVIS. Everywhere. This is a case of the city's right to do it, I guess there are probably some nuances with the city, but in any city being able to ban them outright. Ultimately, this is a second amendment decision that should not be resolved legislatively, it ought to be resolved Constitutionally.

Mr. LEVY. I think a couple of points in that regard. One of which is that D.C. has the most draconian gun laws in the Nation. So one would expect that the suits most likely to succeed would be the ones here in D.C.

A second issue is a complicated legal issue, and that is the issue of incorporation. The 14th amendment has incorporated a number of the Bill of Rights provisions to apply against the States. Prior to the 14th amendment, the Bill of Rights only applied against the Federal Government. Most of the Bill of Rights provisions have been assessed as to whether or not they are incorporated. The verdict is still out on whether the second amendment has been incorporated.

So not only in other States than D.C. would you be faced with a merits determination on the second amendment, but you would also be faced with the issue of whether the second amendment even applies against States. You do not have to address that issue in D.C. D.C., not being a State for purposes of the 14th amendment, the incorporation issue is a non-issue. So you can bring a second amendment challenge in D.C. without concern over incorporation problems.

Chairman DAVIS. I think we actually heard some very cogent arguments from everybody today in terms of whether this works or does not work. But I guess where I come down is that is ultimately up to the voters of the city to make that decision. If you are out in Shenandoah County or out in rural Virginia, they are going to make one decision.

But in cities that are plagued by high crime, the elected officials, and this has been pretty uniform, and the elected officials in Washington too, you do not find a lot of urban Members opposing gun control laws. It seems to be kind of a cultural phenomena depending to some extent on where you live.

But here is my difficulty. Washington, D.C. does not get a vote in Congress. We are spending billions of dollars to bring democracy to Baghdad, to other parts of the world, and then here we do not allow a vote even in the House for the Nation's Capital, if you will,

which is the Capitol of democracy. And when the local officials make decisions we do not give them sometimes the kind of respect and rule that we would in other city in the United States as well, which kind of compounds it.

And if you want democracy ultimately to be successful here, you have to hold elected officials accountable. That means a high crime rate, let the people in the city hold them accountable and let them sort that out. Cities are going to come to different conclusions the way they deal with that.

The city has a lot of laws on the books that I am not happy about, particularly the cell phone law that they have gotten in terms of when you are driving. But my feeling always has been that if it does not interfere with the operations of government, that you let the people make those decisions and that is just kind of the way it is.

Mr. LEVY. May I comment on that, Mr. Chairman?

Chairman DAVIS. Sure. Yes, please.

Mr. LEVY. I think the issue of whether or not the District has a vote in Congress is quite a separate issue and need not impinge upon this issue as to whether or not the District government is now violating the second amendment. The very nature of a Constitutional republic is——

Chairman DAVIS. Correct. That is on a Constitutional basis and that is why getting it resolved in the court is different. I do not disagree with you on that. But, of course, what we are talking about today is a legislative solution and a legislation solution that applies just to this city and just to the one city in the United States, that happens to be the capital of the free world, that does not have it, which makes me, at least from my perspective, more reluctant to try to engage in it from a legislative position regardless of the merits.

Mr. LEVY. The position of the Federal Government in regard to enforcing rights violations against the States was changed in 1868 when the 14th amendment was ratified. After 1868 the Federal Government had every right to step in and stop the States from violating provisions of the U.S. Constitution. That is what the civil rights cases were all about.

Chairman DAVIS. But we have not stepped in with any other cities. This is not the only city with a gun ban. There are other cities in the country that have them.

Mr. LEVY. It is the city with the most draconian gun ban in the Nation.

Chairman DAVIS. I think if you look at some of the suburban Illinois cities, they also have it. You could pass I guess a conceal and carry law nationally, you could pass I guess a national law on that basis. But if you can do it nationally one way, you could probably legislate it the other way as well. But I understand your argument. But understand, this is just one Member's perspective, my reluctance, whatever you might think about the merits of this thing, to pass a hurdle here where we would impose nationally, 435 Members impose their will on a city that has elected officials.

Now, I understand that within the city there is always some controversy on these amendments. And the city would have the right, by the way, to change this if the Council wanted to change it, and

that would be the right of members here who advocate gun ownership rights to elect council members and Mayors who take an opposite view, if that is what they choose to do. We would respect that and I would feel the same way, that you kind of respect the ability and the rights of the city to make that decision.

Ms. Seegars, did you want to say something?

Ms. SEEGARS. I hear everything you are saying, but D.C. is unlike anyplace else in the country or in the world. We have a representative there who is basically a lobbyist for us. When she gets a vote, then you can say all those things about D.C. and other States and it will apply to us. Right now, with no vote, that does not apply to us. And we do plan to take the case to the Supreme Court.

Chairman DAVIS. I agree. But she is an effective lobbyist.

Ms. SEEGARS. She does fairly well. No, she is good.

Chairman DAVIS. Even when she goes down, she goes down fighting. I can testify to that.

Ms. SEEGARS. She sure does.

Chairman DAVIS. I have a couple other questions, if I could get to them before I hand it over to Ms. Norton.

Ms. Seegars, let me just ask you, do you think that repealing the handgun ban would encourage D.C. residents to take the law into their own hands? Or do you think it would just be used by law-abiding citizens to defend themselves?

Ms. SEEGARS. I believe it will stop the criminals from attacking us. I believe that we, the law-abiding citizens, as I am, I do not think we will just run out in the street and start shooting people. I think we will use it in our homes. And yes, we do plan to take this case to the Supreme Court.

If you look at other cities in other States, they do not run out on the street and shoot people for no reason. So I do not think we would be so stupid as to go out and start shooting people.

Chairman DAVIS. Mr. Lott, let me ask, you had your stats up there, murders, rapes, and robberies have all declined the last couple of years.

Mr. LOTT. Correct.

Chairman DAVIS. The gun ban of course predated that. Do you think these recent numbers could be indicative of a long-term decline in the crime rate in the city?

Mr. LOTT. We have been seeing a drop nationally in violent crime. There have been increases in arrest and conviction rates, and I think those are important in helping to explain it.

Chairman DAVIS. Do you think the gun ban effectively keeps dangerous weapons out of the hands of criminals?

Mr. LOTT. I think it keeps the guns out of the hands of some criminals. But I think it has a relatively bigger effect in terms of disarming law-abiding citizens relative to criminals. And the net effect of that is to actually lower the cost for the criminals committing crimes.

Chairman DAVIS. Is it your opinion, and I guess it would be Mr. Levy's opinion, that the right to bear arms is one that belongs to individuals, not just members of the militia?

Mr. LOTT. I am a statistician. I will leave the law questions to others.

Chairman DAVIS. All right. You are a numbers guy.

Would you agree with that, Mr. Levy?

Mr. LEVY. Well it is not just Mr. Levy's opinion. I think it is important to note that it is the opinion of most legal scholars now. Here is Alan Dershowitz, former ACLU board member, who says he hates guns and he wants to see the second amendment repealed. But he condemns "foolish liberals who are trying to read the second amendment out of the Constitution by claiming it is not an individual right. They are courting disaster by encouraging others to use the same means to eliminate portions of the Constitution that they don't like."

Harvard's Laurence Tribe, another liberal icon, who in his latest treatise on Constitutional law, joined by Yale's professor Akhil Amar, writing that "reasonable regulation in the interest of public safety" is permissible but that there is an indisputable individual right to keep and bear arms. I think Tribe and Amar, and Dershowitz, and I can name dozens and dozens of other respected legal scholars, they agree with Attorney General Ashcroft and they agree with the Fifth Circuit Court of Appeals in the case of *U.S.* v. *Emerson* that there is an individual right, not a collective right.

The only thing they disagree on is what constitutes reasonable regulation; that is, where do you draw the line. One place we know we are not do draw the line, and that is where D.C. has drawn it, where there is an absolute ban on handguns, even in your own home for your own family's defense.

Chairman DAVIS. OK. But the courts have not ruled on that.

Mr. LEVY. The appellate court has not ruled. It is pending now and we hope for a ruling sometime soon.

Chairman DAVIS. And that decision was not successful at the lower court, correct?

Mr. LEVY. The lower court ruled in favor of a collective right, not an individual right. The appellate court of course reviews this de novo; that is, this is strictly a matter of law, it is not fact-dependent. The appellate court will look at this from scratch.

Chairman DAVIS. Sure. I think this works its way up.

Mr. Peck, what would be the economic impact on tourism if the gun ban is repealed? Do you see any economic impact at this point? Is it a perception issue, or is it a real issue?

Mr. PECK. It is mostly a perception issue. As I said in my testimony, I think our fear, were this law to pass, would be just to highlight again for people what is an unfair characterization of the city as an unsafe place to be. We market this region around the country and around the world and we are still fighting perceptions from 20 years ago about crime.

The fact is, on an economic basis, aside from, and I say that advisedly because it should never be aside from, the personal tragedies that happen with gun play in this city, there is an impact on even the areas of the city that we can prove statistically are safe because people do not make those kinds of distinctions.

And I will say this, it is not just an impact on the city, it is an impact on the whole region. When the city had a reputation for being unsafe, not being well-governed, not handling its infrastructure well, it had an impact on the economy of the entire region.

Chairman DAVIS. Thank you very much. Ms. Norton.

Ms. NORTON. Thank you, Mr. Chairman.

I want to particularly thank all of today's witnesses for staying so long. You see the way the Congress operates. There is nothing that any of us can do about the fact that votes come and people have to go and do them, or at least most people do. I want to thank all of you. All of you have presented important testimony for us to hear. I have only a few questions for each of you.

Ms. Lowe, I cannot bear to ask you any questions. I just think we have to let your testimony stand for itself. It would break my heart to ask you any questions. I can only thank you for having the courage to come here and speak out.

Chairman DAVIS. Let me just associate myself with those remarks, and we appreciate that very much.

Ms. NORTON. Reverend Edmonds, just let me compliment the work of the Washington Interfaith Network. It is the most extraordinary community organization in our town, where the ministers from around this region, from congregations White and Black and Hispanic, work together on the toughest issues—housing, after school, in the most extraordinary set of organizations that really force elected officials to come to bear with issues. It is quite an extraordinary organization that I tremendously admire.

You are pastor of a church near Dunbar High School where I went to school, Myesha was on her way. This is in a hard core part of the District of Columbia, hard core.

Pastor EDMONDS. Yes.

Ms. NORTON. Where the District had to go in with lots of resources to clear out folks with guns. You also are a member of ministerial organizations in the District. Where do ministers of the gospel, ministers in our city stand on the gun laws in our city, so far as you know? Do they support the gun laws, or would they support repeal?

Pastor EDMONDS. From my perspective and position, I do not know of any minister who would want to see the gun laws in the District repealed. To us, that is an appeal to the lower instincts in man. And when I hear the conversation and the argument to repeal the gun laws, to me as a minister, it is an attraction to the base elements in us that seek to resolve issues by violence, retribution.

I could go to a young person's funeral each week, I could conduct a funeral each week due to gunfire, due to some type of weapon violence. And so, in summary, I do not know of any pastor worth his or her salt that wants to see an increase in the accessibility of guns in the District.

Ms. NORTON. Thank you. I regard you as an expert witness on that, Reverend Edmonds.

Mr. Levy, I understand and appreciate that at least you want to step aside until the *Parker* case is resolved. You and the NRA have a beef on your competing lawsuits going in various ways, all on the second amendment. You opine that our laws are, "indisputably un-Constitutional." Well, fortunately we have courts for that. I guess I have to repair you to the courts. You have argued the case here and your lawyers will argue it there.

I only note for the record that, for whatever reasons, you and Ms. Seegars have lost below. And to the extent that you want to argue,

and here you are speaking also, sir, to a Constitutional lawyer, to the extent that you want to argue that you did not lose on the merits but on some other matter, such as standing, may I say to you that it is the obligation of courts to avoid reaching the Constitutional issue if they can sidestep it by going to another issue.

So the only answer we can get for you is the answer you are seeking in the proper forum. Having lost below, you are now at the next court. You will go to the Supreme Court. Good luck. There is very definitive language at the Supreme Court level about the second amendment.

I want to therefore move on to Mr. Lott, who tells us that a woman even would be better when attacked if she had a gun in her hand, safest course of action. Let me just ask you, Mr. Lott, do you oppose the assault weapon ban that Congress has not reenacted? Would you oppose that?

And I am sure you were in the room when Mr. Waxman held up the gun, life-size, that could be sold in the District of Columbia now that there is no assault weapon ban and presumably therefore could be legally owned. Would you therefore sanction the ownership of assault weapons in the District of Columbia today?

Mr. LOTT. Assault weapons is a made-up term.

Ms. NORTON. AK–47s, M–16s. You name it what you want to call it that sounds better. Would you in fact sanction the ownership of such guns as, call it what you want to, Mr. Waxman held up in the District of Columbia in homes owned by law-abiding citizens in the District of Columbia?

Mr. LOTT. When you use the term AK–47, that is not——

Ms. NORTON. Answer the question outright, Mr. Lott, and call it what you want to.

Mr. LOTT. OK. I do think the assault weapons ban made no sense. I think it had no beneficial impact in terms of crime. I think, if anything, it just imposed costs on some law-abiding citizens. But I know of no statistical study that has been done, nothing that has been published in any academic journal that shows there has been any benefit in terms of reduction in crime with the assault weapons ban.

Ms. NORTON. I just want to be clear. All I want to do is to be clear, as you are aware, this is an area, a high terrorist target, I just wanted to have it on the record.

Mr. LOTT. Sure.

Ms. NORTON. And you have been honest and you have been clear. I just want to go now to your own statistics where you compare, first of all, States. I am really wondering about your statistics and causation.

For example, you compare the District of Columbia to Virginia and Maryland. Not only are these huge jurisdictions, Maryland has one large city like the District of Columbia. One might want to compare the District of Columbia to Baltimore. Virginia has maybe one, that would be Richmond, like the District of Columbia. Meanwhile, Maryland has jurisdictions like Montgomery County, one of the richest counties in the United States, and Virginia has Fairfax and other of the richest counties in the United States.

Chairman DAVIS. Wealthier than Montgomery, for the record. [Laughter.]

Ms. NORTON. Therefore, I am questioning your statistics. Did you control, because I could see nothing in the text of your testimony, that controlled for concentrated poverty? In as much as the data shows that Census tracts with high poverty are where the crime rose in the District of Columbia, from 36 to 44 tracts. That is to say, as the tracts of poverty increased, this figure from 1976 also increased.

I am a native Washingtonian. When I was born and raised in the District of Columbia it was a largely middle class city, Black and White. Like every other city, the middle class moved out, except for some of us. My own sister, who also went to Dunbar High School with me, raised her sons in Montgomery County. Did your study, which compared us to two of the richest States that surround us, control for concentration of poverty when you compared us to Maryland and Virginia?

Mr. LOTT. I have two books, one published by the University of Chicago Press, that are the largest studies that have been done on crime. I have data in those that look at the 10,000 largest cities in the United States as well as all the counties in the United States over a 24 year period of time, where I literally control for thousands of different factors. I have detailed information——

Ms. NORTON. What I am asking is, look, you cannot put testimony before us and——

Mr. LOTT. Right. All I tried to do——

Ms. NORTON. If you want me to quote from your testimony, I am going to quote from your testimony.

Mr. LOTT. Sure.

Chairman DAVIS. Let him answer.

Ms. NORTON. But he is now going into his books, Mr. Chairman. My question is——

Mr. LOTT. All I tried to do in these——

Ms. NORTON. Much larger than the changes in neighboring Maryland and Virginia. You come in here with it, I have a right to cross examine you on it.

Mr. LOTT. Right. All I tried to do for those things is just in a very simple way just show how the crime rate in D.C. has been changing, mainly just to show that it has not fallen. It has gone up, if anything, in these simple things that you can do there.

Now I have books where I try to control for lots of factors in regression analysis over a long period of time looking at all the jurisdictions in the United States, control for poverty, different measures of income, multiple demographic type measures that are there. And what you find is that the stricter the gun control laws that you have, you see increases in violent crime.

Ms. NORTON. Mr. Lott, I asked you a simple question. You answered my first question. I asked you that in offering us this sentence, "These drops and subsequent increases were much larger [here] than any changes in neighboring Maryland and Virginia," I simply asked you whether you controlled for poverty?

Mr. LOTT. No, I do not. But I am saying that I have done that in other places where I have gone—I just did not want to go into regression analysis——

Ms. NORTON. I would just ask you to do it here as well. I would just appreciate it.

Finally, I must say to you, Mr. Lott, because I think it needs to go on the record, I am going to read from a Washington Post article, since, as you have said, you are only a statistician, I am going to read from it because I think it is relevant in evaluating your testimony. "Lott's greatest fan and defender online, Mary Rosh, a former student of Lott's, has jousted online for 3 years against Lott's harshest critics who have bitterly attacked his research and data which he says show gun ownership deters crime. Rosh said Lott taught her at the University of Pennsylvania in the early 1990's and was 'the best professor that I ever had, would try to take any class he taught'."

I am not even going to read all of this. He posted an effusive review of his books on the Amazon.com site, giving it the highest five star rating. It was signed Mary Rosh. Mary Rosh was not real. She was actually John R. Lott, Jr. That was you.

Mr. LOTT. There are multiple mistakes in that piece.

Ms. NORTON. Mistakes? It was an intentional—it is something that an academic, someone with a Ph.D. should have known better than to do.

Chairman DAVIS. Well, let him explain it. Do you want to explain it or say anything about it?

Mr. LOTT. Yes. I have to go through things. The reviews, the books that you are talking about was one review. The account was my children's account. My four sons' names are Maxim, Ryan, Roger, and Shirlin. And you take the first two letters of those and my wife set up an e-mail account. And the book review was done by my son. It was not done by me. He had shown me the review but it was not anything that he had done that was—you know, it was just a son writing a review of his dad's book that was posted there and he just used the e-mail address that was there because that was the one that my wife had set up for him to go and use.

With regard to the other things, I did use that e-mail address for postings in Internet chat rooms. But the things that were there that were done were based upon some facts. So I was just referring to a graduate class that I had taught where I had gotten perfect evaluations in the class and what some people had said.

So some of the things are taken out of context there, and other things are just wrong as to ascribing who was writing what, when.

Ms. NORTON. Well Mary Rosh did not exist. I think we ought to leave it there because apparently you said, "We should not have done it."

Let me go on to Ms. Seegars. There are only two more witnesses. I want to be able to ask everybody who is left a question. Ms. Seegars is a good friend in the prayer circle. You cannot have 100 percent of anybody.

Actually, Sandra Seegars is a wonderful community activist, a good friend who does a lot of good work in the District of Columbia for the people of the District of Columbia in the toughest ward. She deserves to be heard, even when she is as wrong as she is today, because she has earned the right to come forward, and when she wants to challenge us she has gone into court.

I have to ask, Ms. Seegars, were you born in the District of Columbia?

Ms. SEEGARS. I was born in Alexandria but I have lived in D.C. since I was 3.

Ms. NORTON. Do you believe in Home Rule for the District of Columbia?

Ms. SEEGARS. Sometimes.

Ms. NORTON. Oh. Would you explain yourself?

Ms. SEEGARS. I believe in Home Rule when we have a Representative that will stick to Federal levels instead of butting in and out of local levels when they feel it necessary. So, yes and no.

Ms. NORTON. Well, this is a Federal level, is it not, because the Congress of the United States is trying to pass this law.

Ms. SEEGARS. But when you came over to ward 8, about 30 people were there when the lady was called "White trash," you were all up in that and it was very local. And so to me, you cannot have it both ways. So my answer is, yes and no.

Ms. NORTON. First of all, Ms. Seegars, if you want to change the subject, I want to proudly say that if anybody wants to use a racial epithet against anyone Black or White, Jew or gentile, I will rise up and criticize that person. But let us get to what the Congress has control of. You say you are for Home Rule. Do you think the Congress of the United States, you are going to court now, that is fair game, but do you think the Congress of the United States should repeal this or any other law of the District of Columbia?

Ms. SEEGARS. By us not being a State, and by us only having the top official as a Mayor, yes.

Ms. NORTON. So you then believe that democracy should not be the rule here? That the 600,000 people here are not entitled to the same democracy that they would be entitled to if they continued to live in Alexandria, where you were born?

Ms. SEEGARS. We are not entitled to a whole bunch of things in D.C. That is why I need to move back to Alexandria. There are a lot of things we are not entitled to. We do not have a Governor, we do not have Senators, we do not have any of that. So I believe it is a Constitutional matter and I believe that Federal is in charge of the Constitution. I think the elected officials, I voted for none of them, are not representing me properly.

Ms. NORTON. At least you got to vote for them and you can take them out. You cannot vote for anybody sitting up here except me, and I cannot vote.

Chairman DAVIS. If she moves out to Virginia, she might be able to.

Ms. SEEGARS. I will say that I have gone to Mr. Davis and got some successful results.

Ms. NORTON. Well, we are very pleased for that. Let us see if you will get some successful results from the Congress of the United States when they decide that they want to do whatever they want to do for the District of Columbia.

Let me move on to this bill. I notice in your testimony that you are for a whole set of things that are not in this bill—criminal background check, completion of a firearms training course, even periodic review by the police department or some other authorized entity into seeing whether or not the handgun owner has fired his weapon or anything. In as much as none of that is in the bill pending before us, I take it that you oppose the bill pending before us.

Ms. SEEGARS. No. That is when the local officials can step in and write laws accordingly. Once it is repealed, then the local officials can write that.

Ms. NORTON. If you want it repealed, why do you not just get us to write it, since you want us to repeal it?

Ms. SEEGARS. Can you? Will you?

Ms. NORTON. Of course. We can rewrite everything in the District of Columbia law.

Ms. SEEGARS. I understand what you are saying, Ms. Norton. I understand full well what you are saying. But sometimes we have to step over something to get to what we want. Right now, I am willing to step over the elected officials in the city to get this, because I want to be able to protect myself and my home. I really do. I would like to have a handgun, a loaded handgun so if somebody comes up to my house in Southeast Washington I can shoot them. That is what I do believe.

Ms. NORTON. I understand, Ms. Seegars. Let me just say, before I go on to Mr. Peck, that one of the reasons that I have credibility when I go on the floor to defend Home Rule is I have to tell Members of Congress that whether or not I would agree with a law of the District of Columbia, then I give them the one I most disagree with. And that law is one, by the way, our ministers, I think, were instrumental in defeating, and that is I would most disagree if the District Council decided to impose the death penalty in the District of Columbia.

Ms. SEEGARS. I am for that.

Ms. NORTON. Excuse me. I have conscientious objections and I have other objections based on the efficacy of the death penalty.

But let me just say this for the record in light of your selective view of Home Rule, when you are for it and when you are not. If the Council passes a law imposing the death penalty on the District of Columbia, as a matter of principle I would feel that I would have to as ardently argue that Congress could not step in as I do on bills that I favor. I just want to tell you, I have you in a prayer circle, so I want you to just think about it, whether one can selectively be for Home Rule.

Mr. Peck, finally, Board of Trade here is a Regional Board of Trade. Let me ask you this, what does the region have to do with it? Why would the Regional Board of Trade be against repeal of our gun laws?

Mr. PECK. I can give you two reasons. One is, as I have tried to express, the economic health of this region depends, as we have learned and can show over some business cycles now, on the economic and social health of the District of Columbia. So we have a concern, we in fact have a specific objective in our policy agenda of supporting measures that would fight crime.

Specifically in that, we decided that since we are not great experts at this, we support police efforts. Not uncritically. We have gone to Chief Ramsey and suggested more vigorous patrolling, which he has done, but we generally support what the police chiefs think is best in their jurisdictions.

We believe, as I have said, that this perception out there that the District is an unsafe place will hurt the District first, but, by definition, the entire region. It is like pebbles in a pond and it spreads

out. Or like I say sometimes, we have a very vibrant economy also in Fairfax County in Reston and Tyson's Corner, but when you go around to the rest of the country or go around the world and say you want people to do business in the Washington area, you are talking about the Washington area.

Second, we believe fundamentally, and this is a change I have to tell you from where the Board of Trade was 30 years ago, that Home Rule is a good thing. And if you believe in Home Rule, and what I am talking about now is a locally elected body that gets to make the laws and decide what happens with, for example, the money that is raised on business people in the District of Columbia and then spent in the District of Columbia, that we are prepared to rise and fall, win and lose on locally elected officials for our laws.

Ms. NORTON. I thank you for that, Mr. Peck. I note for the record as well that our tourist industry is a regional cash cow for the neighboring regional counties as well.

The final question for Mr. Parker.

Mr. PECK. May I say one more thing. I want to explain why I took umbrage before at what people were saying about the District of Columbia. It is this, No. 1, we are benefited by the presence of the Federal Government in many ways. We are not adequately compensated for all the services that we give, but we are benefited in all kinds of things—free museums, 40 percent of the regional economic product comes one way or another out of the Federal Government. So I say that.

But you know what, no other city is subject to scrutiny by the national legislature for what is going on inside its jurisdiction or we would have an awful lot of cities and districts all over here who we could up at a table with witnesses and question their policies, question what they are doing. I would love to ask some other cities why their economies are not doing as well as ours. But we do not get to do that.

Ms. NORTON. Thank you, Mr. Peck. My goodness, those are important words.

Final question to Mr. Parker. Mr. Parker, everybody I think had to listen very closely to what you had to say. There are different ways to bring credibilities to the table, but you bring it in the hardest, perhaps most important way because you bring it from all sides—you now work with ex-offenders, you yourself are an ex-offender, used a gun. I am not sure you testified about this, but I know that you lost a son to gunfire.

Mr. PARKER. Absolutely.

Ms. NORTON. Therefore, I said I regarded Pastor Edmonds as an expert witness on where the pastors of this city would be on gun repeal, I certainly regard you as an expert witness on the question I am about to ask you. This bill would assume that a person who could get a gun would have to be himself a person who did not have the kind of record you had. You could not get a gun probably under this bill. So it would have to be a law-abiding person; that is to say a person without a conviction record.

I want to ask you what harm it would do in light of the ex-offenders with whom you work? I am assuming a scenario where an ex-offender comes back home, and we know the thousands that are coming back now, I am assuming that he does not have a place to

live, I am assuming that he certainly does not have a job, because we are making jobs very well but we also have high unemployment with people who do not have any record.

Mr. PARKER. Absolutely.

Ms. NORTON. I am assuming he is going to stay with somebody. I am assuming he is going to stay with his mother or his girlfriend or his uncle. And now assume that law-abiding person probably living in a part of the city where there is a fair amount of crime, because those might be the people most likely to have guns, I am assuming for purposes of this hypothetical situation that this law-abiding person has a gun in the home. I would like for you to describe what you think would happen as far as the ex-offenders coming back to the city and finding themselves in a home now with a gun.

Mr. PARKER. Well, there is an old saying that they often utilize with that population, and it goes like, "I prefer to be in jail broke than on the street with no money." And when you look at it from the perspective that a large number of the returning brothers and sisters are looking at in comparison to being able to obtain employment, to a degree of actually having a dream that they would like to manifest but not having the necessary means to, they would primarily take almost any means necessary to be able to obtain some of the things that they wish to obtain.

And this particular population here I think is actually confronted with a number of serious challenges. As you made mention in regards to employment, how competitive that actually is, even with individuals that do not have a prison record. When you look at the environment today pertaining to these men and women that are returning home, I have heard numbers of 500,000 and 600,000 people, basically the same equivalency of the city of the District of Columbia, that are coming back and just do not have the means to actually make a transformation into the everyday way of life. It is a challenge within itself.

I do not think that the environment that we are talking about creating will actually be anything for the good in regards to working with this particular population, or for the city as a whole. I think that we are confronting with some very serious challenges. I heard my good friend, Mr. Peck, who primarily deals with the business aspects of the city, I think if we can begin to get the business community to the table in the sense of employment for this particular population and look at it from the perspective of redemption in the highest sense, in which it may not occur.

But to answer your question, long story short, I think from that perspective that this would be a very serious challenge for us.

Ms. NORTON. Thank you very much, Mr. Parker.

May I say, Mr. Chairman, I appreciate the way you have let this hearing go on. I know we have one more person who wants to ask a question. Mr. Parker, we do have a period of time during which people who get out of prison are tested for drugs? We do not have any way to test them for guns that may be in the home. Thank you very much, Mr. Chairman.

Chairman DAVIS. Thank you. Ms. Watson.

Ms. WATSON. Thank you so much, Mr. Chairman.

To everyone here, I want to apologize to all of you for the disparaging remarks made by my colleagues to the first panel. I think that both our Mayor here in Washington, DC, and our police chief, Mr. Ramsey, have done an honorable job in trying to protect the citizens of this district. I think you heard him say if we could combine—I think it was Mr. Lott who said you have more law enforcement officers here than anywhere in the country, and that is true, but they have their responsibilities and their assignments. If they could all work on street crime and, as the chief said, answer the call when it comes in to 911, we probably would see crime go flat.

Let me say this, I am very, very sensitive to guns in homes because my cousin, 6 years old, was the first victim of a loaded gun. It was in his house, somebody had it in his house, the young man who shot him, and here comes little Leonard looking in the screen window and the 14-year-older said, let me show you how this gun works. My aunt, his aunt was upstairs and she heard the gunshot and ran down and he was still quivering with his brain shot out. So ever since then, I do not want guns in any home.

I want Mr. Lott to tell me how lifting this ban against guns will stop the drive-by shooters; how lifting this ban against guns will protect the innocent on the streets. I see it every day. I speak of what I know, not what I am experiencing here in Washington. I just want to know how by putting guns in the hands of law-abiding citizens, you are going to restrict them to protecting their homes? How are you going to stop the violence that comes from a gun when it is on the street? Can you respond.

Mr. LOTT. Yes, guns do make it easier for bad things to happen. But they also make it easier for people to protect themselves to prevent bad things from happening. Criminals like to go after victims that they perceive as being relatively weak.

Ms. WATSON. Reclaiming my time. Are you saying that we should arm everyone with a gun and let us have these shootouts? Suppose the person who is coming to do harm to a home runs on the street. Should the homeowner be allowed to run out there and shoot him, when we have traffic, when we have children coming from schools? If we lift the ban against guns, how do we control their use when they are on the streets? And I am going to give you another question that you can respond to.

Mr. LOTT. Am I going to be able to answer this one?

Ms. WATSON. Let me just finish with my second question and then you can respond.

Chairman DAVIS. But we do not control the guns now. That is one of the problems. You have the laws, but that is why we have had some of the issues. But go ahead, Ms. Watson.

Ms. WATSON. Let me reclaim my time and then you can respond to both. They reference the second amendment. I have read it over and over again. I was on the judiciary committee in my State of California for 17 years and the NRA had a seat in those chambers. I have looked at the second amendment. Is the word "militia" in that?

Mr. LOTT. You would like me to answer both questions now?

Ms. WATSON. Yes. Is the word "militia" in there, yes or no?

Mr. LOTT. Yes.

Ms. WATSON. OK. And I have interpreted the second amendment as saying in regards to a militia, citizens have the right to bear arms. I asked professors at Harvard and all around and said would you interpret this for me, and it arguably states that it is related to a militia. So tell me in response, how do you read the second amendment? And then also tell me how you see repealing this law that bans guns will make people in this city safe?

Mr. LOTT. OK, and I will take them in the order you want. I am not a lawyer. I have taught at law schools; I have taught at the University of Chicago Law School, and I was at Yale as a research scholar for a couple of years. I can tell you what those scholars who look at this tell me, and basically it is that there is a clause there that says the "right of the people," and the other parts of the Constitution that refer to the right of the people mean it as an individual right, whether you are talking about the first or the 14th amendment. And that is the second part of the clause there in the second amendment. So that is basically my knowledge of the issue.

Now on the other question you are asking, I feel more knowledgeable to try to talk about. And that is, the concerns that you raise are concerns that have been addressed over and over again in States that have right to carry laws. You are talking about people carrying guns outside their homes. You have 37 States, including Virginia next door here, that allow citizens, with certain basis requirements, to go and carry concealed handguns. You have another nine States that have more restrictive rules but still also, including California, still allow some citizens to carry concealed handguns. A county like Orange County, which obviously is not the same as Los Angeles, issues a lot of permits.

The types of concerns that you are raising about people acting irresponsibly is just not something you observe. These people lose their permits for any reason, in hundreds or thousands of 1 percentage point, and most of those times are due to something like people accidentally carrying a gun into a restricted area like an airport. You can go to Web sites for the Department of Public Safety with Texas, or the Secretary of State in Florida, they have very detailed data on their Web sites on how many citizens have been given permits, and the rate at which they have lost them for different types of reasons.

For example in Florida, you are talking about over 800,000 people have been granted permits since permits started being granted in October 1987, and over that period of time you have had something like 152 have lost their permits for any type of firearms related violation, and virtually all of those have been for one type of violation, and that is carrying a gun accidentally into a restricted area like an airport or a school. Not that those people are causing any harm or representing any threat, when you have that many people over a long 20 year period of time you are going to have some hundreds of 1 percent which are going to forget every once in awhile when they are in a hurry that they have the gun with them. That is basically the type of case that you have there.

Ms. WATSON. My time is up. Thank you, Mr. Chairman.

Chairman DAVIS. Thank you, Ms. Watson. I want to thank the panel.

Let me ask Mr. Lott just one last question. From your observation, if anybody else wants to answer also, when you had conceal and carry laws in States, has there been a rise in gun violence?

Mr. LOTT. No. It has gone down. In fact, you have seen an even bigger drop in gun violence than you have seen drops in violent crime generally. Each additional year that these laws existed.

Chairman DAVIS. How do you explain that?

Mr. LOTT. Well I think what you see happening is that criminals, if they come across somebody who has a gun, their desire is to leave the area; go and live another day and try to get another victim.

But I think what is happening here is criminals do not know until they actually go and attack somebody whether that person is going to be able to defend themselves or not, and that goes to protect individuals who would never even think of carrying a concealed handgun. You have also seen drops in deaths of police officers after these types of laws have been done, in part I think it is because you see fewer criminals carrying guns. They realize the types of examples that the chief was giving earlier about what happens if you run into a situation where a criminal has a gun and the victim has a gun.

There is a big difference when the criminal starts to use a gun, OK? He would rather not have to get into a gun fight because that is a murder held to you or something like that. You look at the clearance rates, he was mentioning the clearance rates in D.C. for murder would be about 50 percent, that is much lower than the clearance rates for other types of crime. So criminals respond to the fact that they not only face a higher probability of getting caught once they go and commit a crime like murder, but also the penalties that they face are also much greater.

Chairman DAVIS. Thank you very much.

Let me thank all of our witnesses. It has been a very useful discussion. I think we have been able to get all the perspectives out here as Congress considers this. This has been very, very helpful to us. I just want to thank everybody. We have differences of opinion, I respect all and I understand where everybody is coming from on this, and it has certainly crystallized it for me. Thank you very much.

The hearing is adjourned.

[Whereupon, at 7:03 p.m., the committee was adjourned.]

[The prepared statements of Hon. Jon C. Porter, Hon. Diane E. Watson and additional information submitted for the hearing record follows:]

STATEMENT FOR THE RECORD
CONGRESSMAN JON C. PORTER (R-NV-3)
"Under Fire: Does the District of Columbia's Gun Ban Help or Hurt the Fight Against Crime?"
JUNE 28, 2005

Mr. Chairman, thank you for holding this hearing today. I would also like to thank the witnesses for taking the time to be here today.

Issues surrounding gun control laws have been historically contentious. This issue has been particularly interesting to observe in Washington, D.C., as we not only have to deal with different perspectives from politicians regarding national gun laws, but we are also faced with a local gun ban that bans Washington, D.C. residents from registering handguns or other predetermined weapons.

Although a court ruling upheld D.C.'s gun ban on the ground that private ownership of guns was not protected by the Second Amendment of the U.S. Constitution, the issue of private gun ownership in Washington, D.C. still continues to be a hot topic among many of this city's residents. Yes, crime rates within the Washington D.C. area may have declined in recent years; however, many argue that gun bans only serve to put guns in the hands of criminals at the expense of private citizens.

Many studies show that areas with fewest gun ownership laws actually have the lowest crime rates. In countries such as Great Britain and Canada, where gun laws are among the strictest in the world, homicide and other violent crime rates have actually increased, despite the good intentions of the gun bans. One study regarding American gun bans, done by the Journal of American Medical Association, shows that violent crime rates have not been discernibly impacted by the passage of the Brady Law in 1994, countering claims by other interest groups that assert that the Brady Law has saved thousands of lives. Furthermore, crime rates in the less-restrictive Northern Virginia area still remain far below those found in Washington, D.C.

Mr. Chairman, I am interested to hear the testimony being provided by the witnesses today. I would like to gain a better understanding as to why these laws are in place, and how Washington, D.C. authorities are working to keep guns out of the hands of predatory criminals as opposed to criminalizing those who wish to use guns to protect their families and homes.

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Opening Statement
Congresswoman Diane E. Watson
Government Reform Committee
Full Committee Hearing
Under Fire: Does the District of Columbia's Gun Ban Help or Hurt the Fight Against Crime?

Mr. Chairman, thank you for holding this most important hearing. This issue has an impact not only on the safety and security of the citizens of the District of Columbia but also with every constituent each of us represent across the country. The question here today is, who is better position to establish laws and standards for our communities: people in the federal government, or the people from those communities themselves?

If we repeal D.C.'s gun laws it will show our nation that Congress has ignored our communities' gun recovery efforts and have little concern for the safety of our citizens and the police officers who protect them

everyday. It will also show we have nothing but contempt for local decision making and democracy.

I can speak first hand on the plague of crime caused by gun violence in my congressional district. In Los Angeles, I am holding a series of six forums focused on youth violence to pinpoint problems that cause youth to commit crimes. One problem they constantly face is the proliferation of guns throughout the community. Since my District is part of a high crime area, the removal of illicit guns is at the forefront of my agenda. There is an illegal gun shop in my district, Botach Tactical, which has drawn my attention in recent months. I have been working diligently to ensure that this shop does not become a source of gang weaponry. If we repeal D.C.'s gun law we will letting this gun shop and America know that they have the green light to

fight with bullets, which will lead to more guns on the street and the death of more innocent people.

We should not be that loosening the ban on assault weapons in any part of our nation. The answer to solving the problem of gun violence is not contained in a bill that will allow the possession of loaded assault weapons and armor piercing ammunition, eliminate gun registration programs, and legalize concealed handguns in D.C. We should be alarmed by the disproportionate rate at which murders are occurring nationwide. Allowing firearms to flood into the Washington, D.C. is not a method to end this madness.

Mr. Chairman, our goal should be to do whatever we can to eliminate crime in all areas of our nation. Any legislation that does not serve this purpose should seriously be reevaluated. Thank you for your

willingness to come testify and I appreciate all of your efforts in combating the crime that is killing our streets on a daily basis.

I yield back.

June 28, 2005

STATEMENT OF
JOHN MICHAEL SNYDER
PUBLIC AFFAIRS DIRECTOR
CITIZENS COMMITTEE FOR THE RIGHT TO KEEP AND BEAR ARMS
202-326-5259
SUBMITTED TO THE
COMMITTEE ON GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C.

Mr. Chairman and Members of the Committee:

Let me thank you for holding today's oversight hearing on the District of Colombia's gun control laws, and request that you include this statement in the public record of the hearing.

In our view, the local legislative situation in the District of Columbia relating to the acquisition and use of firearms, especially handguns, by law-abiding citizens, is a civil rights abomination which prevents people from being able to secure life and property from criminal activity.

We support H.R. 1288, by Rep. Mark Souder of Indiana and a number of cosponsors, and S. 1082, by Sen. Kay Bailey Hutchison of Texas and a number of cosponsors, the proposed District of Columbia Personal Protection Act, to limit the authority of the D.C. Council and Mayor to regulate the possession of firearms in the city.

H.R. 1288 and S. 1082, if enacted into law, certainly would go a long way to remove an intolerable burden placed on law-abiding Washington, D.C. residents by the District of Columbia government. As things stand now, decent people in the Nation's Capital are unable to obtain the means necessary for defense against violent criminals. It is an absolute disgrace that people in the Capital of the world's greatest nation are unable to protect themselves, even in their own homes, against violent thugs.

Under current D.C. law, decent people can't get a handgun for defense of themselves and their families, even in their own homes. In addition, they can't keep rifles or shotguns loaded or even fully assembled. The whole D.C. system has allowed violent criminals to run rampant, knowing they can't be stopped by law-abiding citizens. The contention that such matters are best handled by government entities is a joke, as experience and crime statistics in the District of Columbia attest. How many high-profile unsolved homicides of young women such as those of Joyce Chang and Chandra Levy do we have to cite to show that local government just does not have what it takes to provide a secure environment?

As common sense would seem to indicate to any clear-headed individual, and as scholarly studies, such as those conducted by John R. Lott, Jr. of the American Enterprise Institute, and Gary Kleck of Florida State University, demonstrate, firearms, including handguns, in the possession of law-abiding citizens, are a deterrent to violent criminal activity.

The proposed Act would permit law-abiding citizens to possess handguns and rifles in their homes and businesses, repeal the registration requirements for firearms and ammunition and

eliminate criminal penalties for the possession and carrying of firearms by people in their homes and businesses. It also would correct an erroneous provision that treats some firearms as if they are machine guns.

The proposed Act would amend the D.C. Code so that the municipal government could not prohibit, or unduly burden the ability of law-abiding citizens to acquire firearms for sporting, self-protection or other lawful purposes. It would find as a matter of national policy that the Second Amendment to the United
States Constitution provides that the right of the people to keep and bear arms shall not be infringed, and that the Second Amendment specifically protects the rights of individuals, including those who are not members of a militia or engaged in military service or training, to keep and bear arms.

It would state that the law-abiding citizens of the District of Columbia are deprived by local laws of handguns, rifles and shotguns that are commonly kept by law-abiding persons throughout the United States for sporting use and for lawful defense of their persons, homes businesses and families.

It would also state that the District of Columbia has the highest per capita murder rate in the Nation, which may be attributed in part to local laws prohibiting possession of firearms by law-abiding persons who would otherwise be able to defend themselves and their loved ones in their own homes and businesses.

The proposed Act would stipulate that the Gun Control Act of 1968, as amended by the Firearms Owners' Protection Act of 1986, and the Brady Handgun Violence Protection Act of 1993, provides comprehensive federal regulations applicable to the District of Columbia as elsewhere. In addition, existing District of Columbia criminal laws punish possession and illegal use of firearms by violent criminals and felons. Consequently, it would find "there is no need for local laws which only affect and disarm law-abiding citizens."

While a number of local officials argue that adoption of the proposed Act would be an infringement on local home rule, this ignores the fact that the District of Columbia is a special constitutional entity. It is the Capital of the United States of America. As such, it is the city of the country, not just the political playground of officials so incompetent that proliferating potholes in District streets make the city resemble more the burg of a third-world country than the Capital of the Free World.

To the argument that passage of the proposed Act would be an infringement of home rule, let us respond that Congress granted home rule and has the power to rescind it and perhaps ought to rescind it. The Capital of the United States of America and of the Free World might be a safer, better place without home rule for the District of Columbia.