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NATIONAL RIGHT-TO-CARRY RECIPROCITY ACT OF 2011

HEARING

BEFORE THE

SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

ON

H.R. 822

SEPTEMBER 13, 2011

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NATIONAL RIGHT-TO-CARRY RECIPROCITY ACT OF 2011

TUESDAY, SEPTEMBER 13, 2011

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME, TERRORISM,
AND HOMELAND SECURITY,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to call, at 9:59 a.m., in room 2141, Rayburn Office Building, the Honorable F. James Sensenbrenner, Jr. (Chairman of the Subcommittee) presiding.

Present: Representatives Sensenbrenner, Goodlatte, Lungren, Forbes, Poe, Chaffetz, Griffin, Gowdy, Adams, Quayle, Conyers, Scott, Cohen, Chu, and Quigley.

Mr. SENSENBRENNER. The Subcommittee will be in order.

I yield myself 5 minutes for an opening statement.

Many States with concealed carry laws have extended concealed carry privileges of reciprocity to residents of other States. However, the laws are confusing, vary widely, and subject otherwise law-abiding citizens to frivolous prosecution. To address this problem, H.R. 822, the National Right-to-Carry Act, provides that anyone who has a valid firearm carry permit to use that permit in any other State that issues concealed weapon permits.

Individuals carrying a concealed firearm would be required to comply with the rules and restrictions of the State he or she is visiting. Forty-eight States currently permit concealed carry in some manner. Thirty-five States have shall-issue permit laws, which require States to issue permits to people who meet legal requirements for a concealed carry permit.

In November, my State of Wisconsin will implement a newly enacted shall-issue law, replacing its current prohibition on concealed carry. As more and more States adopt the shall-issue policy, the idea of national reciprocity legislation makes more sense.

The ability to travel freely and to provide for one's defense are the hallmarks of liberty and should be recognized by our government.

Moreover, States with right-to-carry laws have lower violent crime rates than States that don't. According to FBI statistics, States with concealed carry laws have 22 percent lower violent crime rates, 30 percent lower murder rates, 46 percent lower robbery rates, and 12 percent lower aggravated assault rates, compared to the rest of the country.

It is important to reiterate that this legislation does not create a national licensing scheme. Rather, it would require States that currently permit people to carry concealed firearms to recognize other States' valid concealed carry permits, much like States recognize drivers' licenses issued from other States. H.R. 822 does not, however, impact State laws governing how firearms are used within the various States.

I have long been an advocate for the Second Amendment, and I believe the Constitution provides law-abiding citizens the freedom to keep and bear arms. This legislation recognizes that the right to bear arms does not stop at the State line and is unimpeded by different State governments.

And with that, I yield back the balance of my time and recognize the gentleman from Virginia, Mr. Scott, the Ranking minority Member.

[The bill, H.R. 822, follows:]

I

112TH CONGRESS
1ST SESSION

H. R. 822

To amend title 18, United States Code, to provide a national standard in accordance with which nonresidents of a State may carry concealed firearms in the State.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 18, 2011

Mr. STEARNS (for himself and Mr. SHULER) introduced the following bill; which was referred to the Committee on the Judiciary

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A BILL

To amend title 18, United States Code, to provide a national standard in accordance with which nonresidents of a State may carry concealed firearms in the State.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Right-to-Carry Reciprocity Act of 2011".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The Second Amendment to the Constitution of the United States protects the fundamental right

of an individual to keep and bear arms, including for purposes of individual self-defense.

(2) The Supreme Court of the United States has recognized this right in the case of District of Columbia v. Heller, and in the case of McDonald v. City of Chicago, has recognized that the right is protected against State infringement by the Fourteenth Amendment to the Constitution of the United States.

(3) The Congress has the power to pass legislation to protect against infringement of all rights protected under the Fourteenth Amendment to the Constitution of the United States.

(4) The right to bear arms includes the right to carry arms for self-defense and the defense of others.

(5) The Congress has enacted legislation of national scope authorizing the carrying of concealed firearms by qualified active and retired law enforcement officers.

(6) Forty-eight States provide by statute for the issuance to individuals of permits to carry concealed firearms, or allow the carrying of concealed firearms for lawful purposes without the need for a permit.

(7) The overwhelming majority of individuals who exercise the right to carry firearms in their own States and other States have proven to be law-abiding, and such carrying has been demonstrated to provide crime prevention or crime resistance benefits for the licensees and for others.

(8) The Congress finds that preventing the lawful carrying of firearms by individuals who are traveling outside their home State interferes with the constitutional right of interstate travel, and harms interstate commerce.

(9) Among the purposes of this Act is the protection of the rights, privileges, and immunities guaranteed to a citizen of the United States by the Fourteenth Amendment to the Constitution of the United States.

(10) The Congress, therefore, should provide for national recognition, in States that issue to their own citizens licenses or permits to carry concealed handguns, of other State permits or licenses to carry concealed handguns.

SEC. 3. RECIPROCITY FOR THE CARRYING OF CERTAIN CONCEALED FIREARMS.

(a) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by inserting after section 926C the following:

"§ 926D. Reciprocity for the carrying of certain concealed firearms

"(a) Notwithstanding any provision of the law of any State or political subdivision thereof, related to the carrying or transportation of firearms, a person who is not prohibited by Federal law from possessing, transporting, shipping, or receiving a firearm, and who is carrying a government-issued photographic identification document and a valid license or permit which is issued pursuant to the law of a State and which permits the person to carry a concealed firearm, may carry a concealed handgun (other than a machinegun or destructive device) that has been shipped or transported in interstate or foreign commerce, in any State, other than the State of residence of the person, that—

"(1) has a statute that allows residents of the State to obtain licenses or permits to carry concealed firearms; or

"(2) does not prohibit the carrying of concealed firearms by residents of the State for lawful purposes.

"(b) A person carrying a concealed handgun under this section shall be permitted to carry a handgun subject to the same conditions or limitations that apply to residents of the State who have permits issued by the State or are otherwise lawfully allowed to do so by the State.

"(c) In a State that allows the issuing authority for licenses or permits to carry concealed firearms to impose restrictions on the carrying of firearms by individual holders of such licenses or permits, a firearm shall be carried according to the same terms authorized by an unrestricted license or permit issued to a resident of the State.

"(d) Nothing in this section shall be construed to preempt any provision of State law with respect to the issuance of licenses or permits to carry concealed firearms.".

(b) CLERICAL AMENDMENT.—The table of sections for such chapter is amended by inserting after the item relating to section 926C the following:

"926D. Reciprocity for the carrying of certain concealed firearms.".

(c) SEVERABILITY.—Notwithstanding any other provision of this Act, if any provision of this section, or any amendment made by this section, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, this section and amendments made by this section and the application of

1 such provision or amendment to other persons or cir-
2 cumstances shall not be affected thereby.
3 (d) EFFECTIVE DATE.—The amendments made by
4 this section shall take effect 90 days after the date of the
5 enactment of this Act.

○

Mr. SCOTT. Thank you, Mr. Chairman.

Mr. Chairman, gun violence remains a major problem in our country. As a Nation, we continue to struggle with various proposals to address this issue. I believe this bill is a step backwards in an effort to enhance gun safety, because it would overrule existing judgments enacted by States controlling who should be allowed to carry concealed weapons within their borders.

Setting aside for a moment the issue of whether it is a good idea to allow or encourage the carrying of concealed weapons, it should certainly be unwise and improper for us to discard the ability of States to protect the safety of their own citizens.

I cite a letter from the Virginia Association of Chiefs of Police to this Committee, stating that, "H.R. 822 would severely undermine State concealed carry licensing systems by allowing out-of-state visitors to carry concealed firearms even if those visitors have not met the standards of carrying a concealed weapon in the State which they are visiting."

I would ask, Mr. Chairman, this letter be included into the record.

Mr. SENSENBRENNER. Without objection.

[The information referred to follows:]

VIRGINIA ASSOCIATION of CHIEFS of POLICE

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July 13, 2011

The Honorable Lamar Smith
Chairperson
Committee on the Judiciary
United States House of Representatives
Washington, DC 20510

Dear Chairman Smith:

On behalf of the Virginia Association of Chiefs of Police (VACP), I am writing to express our strong opposition to H.R. 822, the National Right-to-Carry Reciprocity Act of 2011. This bill would weaken existing state laws by allowing an individual to carry concealed firearms when visiting another state or the District of Columbia as long as the individual was entitled to carry concealed firearms pursuant to the laws of his or her home state.

It is the VACP's belief that H.R. 822 would severely undermine state concealed carry licensing systems by allowing out of state visitors to carry concealed firearms even if those visitors have not met the standards for carrying a concealed weapon in the state they are visiting. For example, some states require a person to show that they know how to use a firearm or meet minimum training standards before obtaining a concealed carry license. These states would be forced to allow out of state visitors to carry concealed weapons even if they do not meet that state's concealed licensing standards.

It is the VACP's belief that states and localities should have the right to determine who is eligible to carry firearms in their communities. It is essential that state, local and tribal governments maintain the ability to legislate concealed carry laws that best fit the needs of their communities—private citizens as well as active and former law enforcement personnel.

The VACP urges you to act quickly and take all necessary steps to defeat this dangerous and unacceptable legislation. Thank you for your attention to this matter. Please let me know how we can be of assistance.

Sincerely,

Douglas L. Davis
President

1606 Santa Rosa Road, Suite 134 • Henrico, Virginia 23288
Phone: (804) 285-8227 • Fax: (804) 285-3363 • http://www.vachiefs.org

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Mr. SCOTT. If a State decides to enter into a reciprocity agreement with another State, as many States do, that is their right, and they continue to exercise independent judgment about how to protect their own citizens. However, we in Congress must not strip them of their power to decide how to protect the safety of their citizens.

Also, this bill presents police on the beat with an almost impossible challenge of knowing whether an out-of-state permit as valid or not.

Do we have the screen?

You can see on the screen—I think they are going to show—this is a South Dakota permit, and the next——

Mr. SENSENBRENNER. If the gentleman would suspend a bit, can we dim the lights here so we can see what is on the screen a little better?

Mr. SCOTT. This is the South Dakota permit.

Mr. SENSENBRENNER. Thank you.

Mr. SCOTT. And the next, Mr. Chairman, is an Indiana permit.

If you notice, these look apparently easy to forge, to just print up. And a cop on the beat wouldn't know whether he is looking at a valid permit or not.

Today, we will hear from Philadelphia Police Commissioner Ramsey about the unnecessary problems this bill presents to law enforcement and experience he has had, which illustrates why we should reject the bill.

In the Crime Subcommittee, we debate measures which we hope will protect public safety. Unfortunately, this will do just the opposite.

I look forward to the witnesses and look forward to discussing the issues with them.

Thank you, Mr. Chairman. I yield back.

Mr. SENSENBRENNER. Thank you.

Without objection, all Members' opening statements will appear in the record at this time.

Without objection, the Chair is authorized to declare recesses of the Committee during votes today.

It is now my pleasure to introduce today's witnesses.

Professor Joyce Lee Malcolm is a professor of law at George Mason University School of Law. She previously taught at Princeton, Bentley University, Boston University, Northeastern University, and Cambridge University. She is a fellow of the Royal Historical Society and a fellow of Robinson College at Cambridge University. She served as the senior advisor of MIT's securities studies program and a visiting scholar at the Massachusetts Center for Renaissance Studies. She earned her bachelor of arts, master of arts, and Ph.D. from Brandeis.

Professor David Kopel is research director of the Independence Institute, a public policy research organization in Golden, Colorado, and is associate policy analyst with the Cato Institute in Washington, D.C. He is an adjunct professor of constitutional law at the University of Denver Sturm College of Law.

Before joining the Independence Institute, Mr. Kopel served as assistant attorney general for the State of Colorado. From 1998 to 1999, he served as an adjunct professor of law at NYU. And from 2001 to 2009, he was a media columnist for the Rocky Mountain News. He earned his bachelor of arts in history from Brown, and his juris doctorate from the University of Michigan.

Commissioner Charles H. Ramsey was appointed police commissioner of the Philadelphia Police Department in 2008. He currently serves as president of both the Police Executive Research Forum and the Major Cities Chief Association.

In 2007, he was a security consultant to the Washington, D.C., Convention Center and the United States Senate Sergeant at Arms. During that year, he also served on the Independent Commission on Security Forces of Iraq, led now by National Security Advisor General James L. Jones.

Commissioner Ramsey also served as the chief of the Washington, D.C., Metropolitan Police Department from 1998 to 2006. He served in the Chicago Police Department for nearly three decades in a variety of assignments, including deputy superintendent of the bureau of staff services. He holds both a bachelor's and master's degree in criminal justice from Lewis University in Romeoville, Illinois.

Each of the witnesses' written statements will be entered into the record in its entirety. I ask each witness to summarize his or her testimony in 5 minutes or less.

And, Professor Malcolm, you are the first up.

Could you please turn the mike on and pull it toward you?

And we will reset the clock.

TESTIMONY OF JOYCE LEE MALCOLM, PROFESSOR OF LAW, GEORGE MASON UNIVERSITY

Ms. MALCOLM. Thank you. As we all know, there has been a national debate in this country for more than 30 years over whether more guns in private hands means more crime or more guns in private hands means less crime. While the national Government has passed statutes like the Brady bill and the assault weapons ban, and then allowed it expire, the States have also been discussing which route to take. And they have been opting one by one to permit their citizens to carry firearms concealed, in the confidence that this can both help them defend themselves and also deter crime.

The Americans and the British share a common law view on self-defense, which William Blackstone summarizes very briefly when he says: "Self-defense is the primary law of nature, so it is not, neither can it be in fact, taken away by the laws of society."

In America, the people have opted and the States have opted to allow the people to be armed. In Great Britain, they have preferred to insist that people depend on the police, and they have disarmed public citizens more and more.

And there has been a dramatic difference in the rate, in the crime results in both of these. I am just quickly going to start with America.

In America, since crime, violent crime, peaked in 1991, 25 States have passed concealed carry statutes. And I will ask the Chairman's permission to include Wisconsin in the 49 States that now permit concealed carry, since I believe it is November that it will go into——

Mr. SENSENBRENNER. The Governor signed the bill, so permission is granted.

Ms. MALCOLM. Okay, thank you.

So there are now, or there will shortly be, 39 of the States of the 49 States that are shall-issue States. Illinois is the only State that does not permit people to carry concealed weapons. And all of these States have trusted to the good judgment of the people and their responsibility.

Since 1991, when crime peaked, millions of guns have been purchased and hundreds of thousands of permits have been issued. But violent crime has been declining for 20 years. In 1991, 758

crimes per 100,000 people were recorded. By 2009, it was down to 429 per 100,000 people.

The people who have been registered to carry concealed firearms have done so remarkably responsibly. There is a sense and an understanding that police cannot protect everyone. And in fact, court cases have shown that they have no duty to protect.

In the case here in the District of Columbia, *Warren v. the District of Columbia*, when women sued the police department because they had failed to answer 911 when called repeatedly for over a half hour, the judge, in finding in favor of the police, found what he called "a fundamental principle of American law that a government and its agents are under no general duty to provide public services such as police protection to any individual citizen."

In addition, since citizens are left to themselves, it is really important they be able to protect themselves. And of course, in the last couple of years, the Supreme Court has affirmed that the Second Amendment does guarantee an individual right to keep and bear arms in both the Heller case and now in *McDonald v. the City of Chicago* last year.

In Great Britain, by contrast, since 1920, both parties have decided to disarm citizens. So in 1920, they passed a law that you had to get a license to carry a handgun and you had to have a good reason to get that license. And gradually, what was considered a good reason has been ratcheted down, so that by 1969, self-defense was never a good reason to have a gun. In 1997, their Firearms Act outlawed all handguns in private hands and confiscated those that were already owned and registered.

In 1953, their Prevention of Crime Act prohibited carrying any article for defensive purposes in a public place. And an Arizona tourist was arrested, for example, for defending herself against three men who attacked her in a subway station by using her penknife. When she reported it to the police, she was arrested for carrying an offensive weapon.

They also have a list of weapons for which you get an automatic 10-year sentence, and along with rocket launchers and machine guns, this includes chemical sprays.

The result of this kind of disarmament of the public has been that gun crime in the United Kingdom doubled in the past decade. So having banned handguns and taken them out of the possession of people who already had them, they have not stopped gun crime. They have simply made it worse.

In 2009, Britain was judged from studies as the most dangerous country in Europe.

Mr. SENSENBRENNER. The gentlewoman's time has expired.

Ms. MALCOLM. Okay.

[The prepared statement of Ms. Malcolm follows:]

Testimony of Joyce Lee Malcolm

before the

United States House of Representatives
Subcommittee on Crime

Of the Committee on the Judiciary

Regarding National Right to Carry Reciprocity Act of 2011

H.R. 822

112th Congress, Second Session

September 13, 2011

Presented by Joyce Lee Malcolm
Professor of Law, George Mason University School of Law
Author of *To Keep and Bear Arms: The Origins of an Anglo-American Right* (Harvard University Press, 1994)
Guns and Violence: The English Experience (Harvard University Press, 2002)

Self-defence, therefore, as it is justly called the primary law of nature, so it is not, neither can it be in fact, taken away by the law of society.
William Blackstone, *Commentaries on the Laws of England*[1]

While national attention has focused for more than thirty years on the debate over whether more guns in civilian hands meant more, or less, crime, the states were making their decision. One by one they passed legislation to permit citizens to carry concealed weapons in the firm belief that individuals have a right to protect themselves and that guns in the hands of law-abiding citizens would deter crime. This brief testimony compares two approaches to crime prevention and public safety, the American approach of permitting armed citizens to carry weapons for protection and the British approach of disarming subjects of guns and all other means of defense with the promise the state will protect them.

First the American approach, and with it the importance of H.R. 822. Forty-nine states now permit citizens to carry concealed firearms.[2] Illinois is the sole exception. Since 1991 when violent crime peaked in this country, twenty-five states have passed laws to permit law-abiding citizens who complete safety training the right to carry concealed weapons. While eight states have restrictive licensing systems, the great majority, some thirty-nine, have "shall issue" laws that allow

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[1] William Blackstone, *Commentaries on the Laws of England* (London, 1765-1769: repr. Chicago, 1979). Vol. 3, p. 4.
[2] Iowa legalized concealed carrying of firearms in 2010. Wisconsin passed similar legislation this year to become the 49th state to legalize concealed carrying of firearms. Its law goes into effect in November, 2011.

firearms to be carried for self-defense.[3] Despite great controversy as each of these laws was passed, they have worked as their sponsors intended. Since 1991 as civilians have purchased millions of additional firearms[4] and a growing number of states have issued hundreds of thousands of permits to carry them, violent crime in America has fallen from 758.1 crimes per 100,000 population in 1991 to 429.4 per 100,000 in 2009.[5] These "shall issue" states have trusted the good judgment of their citizens and have not been disappointed.[6] For example Florida's concealed-carry law took effect on October 1, 1987. From that date until the end of 1996 over 380,000 licenses were issued, only 72 of which were subsequently revoked because the holders had committed crimes, few of which involved the permitted guns. During Virginia's first nine years of experience with the concealed-carry system not a single permit holder was involved in a violent crime. After the first year of Texas' concealed carry law more than 114,000 licenses had been issued and only 17 revoked, while a year after Nevada's law went into effect police could not document one case of a fatality that resulted from irresponsible gun use by someone who obtained a permit under the new law. In sum the citizens licensed to carry concealed weapons have done so safely and responsibly.

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[3] These "shall issue" states are Alaska, Arizona, Arkansas, Colorado. Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

[4] For example the FBI National Instant Background Checks for 2009 recorded 14,033,824 guns purchased, an increase of 10% from 2008.

[5] United States Crime Index Rates per 100,000 Inhabitants, 1960-2009 prepared by the Disaster Center, www.disastercenter.com.

[6]. For information on the use of concealed carry certificates that follow see Joyce Lee Malcolm, *Guns and Violence: The English Experience* (Cambridge, 2002), p. 243.

If self-defense is to be effective people must be able to be armed. The police cannot protect everyone, or even anyone all of the time. Indeed, police have no legal obligation to protect any one individual. In the case of *Warren v. District of Columbia* three women sued the District of Columbia police after they repeatedly telephoned 911 for half an hour when men broke into their townhouse. No one ever came to their aid. They endured fourteen hours of terrible violence and abuse.[7] On appeal the District of Columbia's highest court exonerated the District and its police affirming it a "fundamental principle of American law that a government and its agents are under no general duty to provide public services, such as police protection, to any individual citizen." In their moment of need individuals are simply left to rely upon themselves. As William Blackstone, the great English jurist explained:

> The law respects the passions of the human mind, and . . . makes it lawful in him to do himself that immediate justice to which he is prompted by nature, and which no prudential motives are strong enough to restrain. It considers that the future process of law is by no means an adequate remedy for injuries accompanied with force.[8]

While concealed carry laws are not the sole reason for the reduction in violent crime in America, they have played a critical role in that result, affording protection to individuals and deterring criminals. The police do not keep track of defensive uses of a gun, but some fifteen national polls, including one by the *Los Angeles Times*, found between 700,000 and 3.6 million defensive uses of guns annually.[9] Studies

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[7] *Warren v. District of Columbia*, 444 A.2d 1 (D.C. Ct. of Ap., 1981).
[8] Blackstone, *Commentaries*, 3:3-4.
[9] Even if defensive uses are reported to the police the police do not keep a record of them. The estimate given above is from a study by Gallup and Peter Hart Research Associations, Inc. For surveys on defensive uses of firearms see Gary Kleck, "The Frequency of Defensive Gun Use," in Don Kates

have shown that some 98% of the time an armed citizen merely has to brandish his or her gun to stop an attack.[10] On the other hand the shoot-outs opponents of concealed carry predicted would take place as angry people reached for their firearms, or armed drivers collided, have not occurred. Violent crime has decreased.

This is a result the American Founders foresaw when they included the Second Amendment in the Bill of Rights. Any confusion over their intent to permit individuals to protect themselves has now been clarified by the United States Supreme Court in the landmark cases of *District of Columbia versus Heller* (2008) and *McDonald versus City of Chicago* (2010). The Court affirmed that the Second Amendment does, as the great majority of Americans have always believed, embody an individual right "to keep and bear arms" and in *MacDonald versus City of Chicago* they have incorporated this right through the Fourteenth Amendment.[11] House Bill 822 to provide national concealed carry reciprocity is the culmination of this decision by our nation's highest court and the near universal practice of our states.

Although the British and American people share the common law understanding of the right to self-defense and both have Bills of Rights meant to guarantee that right, British practice has differed dramatically. For nearly a century British governments have been disarming law-abiding people in the belief this will enhance public safety.[12] The upshot was that during this past August's widespread riots in

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and Gary Kleck, *The Great American Gun Debate: Essays on Firearms and Violence*, (San Francisco, 1997), p. 1

[10] See John Lott, *More Guns, Less Crime* (Chicago, 1998), p. 3.

[11] *District of Columbia v. Heller*, 554 US 570(2008); *MacDonald v. City of Chicago* 561 US 3025 (2010).

[12] The English Bill of Rights includes a guarantee that "That the Subjects which are Protestants may have Armes for their defence Suitable to their Condition and as allowed by Law." In practice despite

England, Englishmen were reduced to the use of baseball bats to protect themselves sparking a 5000% increase in sales of bats from Amazon. The public's disarmament began after World War I with the 1920 Firearms Act, Britain's first serious firearms regulation. Since then British governments of both major parties have gradually disarmed the public insisting that individual protection must be left to the police.[13] The 1920 Act required that a local police commissioner certify that an applicant had a good reason to have a gun and was a suitable person to own it. The inclusion of self-defense as a "good reason" was limited from the start. In 1920 police were informed that "a good reason for having a revolver" would be "if a person lives in a solitary house, where protection against thieves and burglars is essential, or has been exposed to definite threats to life on account of his performance of some public duty."[14] Presumably being exposed to threats for reasons other than the performance of a public duty was not to be regarded as a matter sufficiently serious to justify owning a handgun. Over the years through classified instructions from the Home Office to the police the definition of what constituted a "good reason" for having a handgun continued to narrow. In 1937 the Home Secretery decided " "As a general rule applications to possess firearms for house or personal protection should be discouraged on the grounds that firearms cannot be regarded as a suitable means of protection and may be a source of danger."[15] By 1946 the Home

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the clauses potentially limiting language the 90% of the English population, Protestants did in fact have that right. Catholics were permitted firearms for personal defense. However, since the English Bill of Rights is not entrenched as the American Bill of Rights is, Parliament has been able to chip away at the intent until it is virtually a dead letter. See Joyce Lee Malcolm, *The Keep and Bear Arms: The Origins of Anglo-American Right* (Cambridge, 1994), pp. 134, 167-8.

[13] Firearms Act, 10 & 11 Geo. V, c.55 (1920) and see Malcolm, *To Keep and Bear Arms*, pp. 144-149.

[14] See Malcolm, *Guns and Violence*, pp. 155-156.

[15] "Memorandum for the Guidance of the Police," Home Office, Firearm Act, 1937.

Secretary told Parliament, "I would not regard the plea that a revolver is wanted for the protection of an applicant's person or property as necessarily justifying the issue of a firearm certificate."[16] By 1969 the Home Office instructed police: "It should never be necessary for anyone to posses a firearm for the protection of his house or person."[17]

Then in 1997 in response to a crazed man's shooting of school children in the village of Dunblane, the government passed legislation that made virtually all handguns illegal and confiscated those already registered.[18] Britain's famed Olympic shooting team has had to keep their weapons overseas and practice in Switzerland. Britons are not to even handle a handgun or unregistered long gun as a former soldier found out in November, 2009. Paul Clarke, 27, discovered a shotgun in his garden and brought it to his local police station to turn in. He was immediately arrested on charges of possessing a gun and taken to the cells. He faced a five-year prison sentence.[19] At his trial at Guildford Crown Court he was found guilty of possessing the gun and personally handing it in to the police. There was a law in Surrey, although the Surrey police confessed they had never bothered to let the public know about it, that forbade a member of the public who discovered a gun from actually touching it. The individual was supposed to report the discovery to the police and the police would pick the gun up. The judge commented,

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[16] Cited in Colin Greenwood, *Firearms Control: A Study of Armed Crime and Firearms Control in England and Wales* (London, 1972), p. 72.
[17] See "Memorandum for the Guidance of the Police," Home Office, Firearms Act, 1937;" Royal Commission on Police Powers and Procedure," 1929, Parliamentary Papers, Cmd. 3297; "Memorandum for the Guidance of the Police," Home Office, 1964, p. 7; "Memorandum for the Guidance of the Police," Home Office, September, 1969, p. 22.
[18] Firearms (Amendment) Act, 1997 c. 5, Firearms Act (No. 2), 1997.
[19] "Ex-soldier faces jail for handing in gun," Free Republic, November 12, 2009.

"This is an unusual case, but in law there is no dispute that Mr. Clarke has no defence to this charge. The intention of anybody possessing a firearm is irrelevant."

This effort to reduce gun crime by banning private possession of handguns since 1997 has failed dramatically. English men and women have suffered from a doubling of gun crime in the last decade while in London alone gun crime doubled in 2010 over the previous year.[20] Britons also have experienced a 25% increase in contact theft in the latest yearly report, and have a 23% risk of becoming a crime victim.[21] A 2009 study found Britain the most violent country in Europe.[22] None of these crime figures take account of the violence in August of this year.

Guns were not the only weapon prohibited by British disarmament. They were just the beginning. Insisting that people did not need to protect themselves, that it was the duty of society to protect them the government banned other means of defense. The 1953 Prevention of Crime Act prohibits carrying any item in a public place with the intention it might be used for defense.[23] The debate over this bill is instructive. During the debate Ronald Bell, a member of parliament, asked that carrying something for self-defense be exempted from the act:

> . . . One has to remember that there are many places where society cannot get, or cannot get there in time. On those occasions a man has to defend himself and those whom he is escorting. It is not very much consolation that society will come forward a great deal later, pick up the bits, and punish the violent offender.

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[20] Sandra Leville, "London gun crime rises as shootings nearly double," March 3, 2010, http://www.guardian.co.uk;

[21] British Home Office, "Crime in England and Wales 2008/2009: A summary of the main findings"

[22] James Slack, "The most violent country in Europe. Britain is also worse than South Africa and U.S," July 3, 2009, www. dailymail.co.uk.

[23] Prevention of Crime Act, 1&2 Elizabeth II, c. 14 (1953).

But the attorney general, arguing for the legislation on behalf of the government, assured Parliament, "The argument of self-defence is one to which perhaps we should not attach too much weight."[24] Lord Saltoun objected that the object of a weapon was to assist weakness to cope with strength and it was this ability that the hill was "framed to destroy." "I do not think any government have the right – though they may very well have the power—to deprive people for whom they are responsible of the right to defend themselves."[25] Self-defense was not exempted. The rationale of British governments for disarming the public, knowing it would likely imperil individuals, was put this way: "the more the ordinary citizen arms himself, the more excuse is there for the person who intends to perpetrate something unlawful to arm himself so that he can achieve his end."[26]

Crime has increased while pedestrians have been arrested for carrying a razor, a pickaxe handle, a stone and a drum of pepper.[27] An American tourist, Dina Letarte of Arizona, who used her pen knife to protect herself when she and two friends were violently attacked by three men in the subway, was arrested when she reported the incident to the police.[28] She was convicted of carrying an offensive weapon.

As crime has continued to climb legislation was passed to ban other items that might be used for protection. Knives with points are now illegal as are toy or replica guns.[29] In addition there is a list of forbidden weapons, possession of which carries

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[24] Malcolm, *Guns and Violence*, pp. 176-177.
[25] Malcolm, *Guns and Violence*, p. 179.
[26] Malcolm, *Guns and Violence*, p. 178.
[27] Ibid., p. 185.
[28] Gail Tabor, "Woman Guilty Of Self Defense? – Bearing Arms Is No Right In London," *Arizona Republic*, reprinted in *"The Seattle Times"*, November 11, 1991.
[29] The Violent Crime Reduction Act, 2006 bans imitation of guns unless they are at least 50% colored bright green, blue, red, pink, yellow, purple or transparent.

a ten-year prison sentence. Along with rocket launchers and machine guns, the list includes chemical sprays and any knife with a blade more than three inches long.[30] Even helping someone in distress is discouraged. The public has been advised not to intervene if they see a crime occurring. They are to walk on by and telephone the police.

As a result of this refusal to permit law-abiding people to have the means to defend themselves Great Britain, once a peaceful country, has become increasingly violent. There is little to deter offenders. And as governments, largely for financial reasons, have relied increasingly on surveillance cameras rather than police and the criminal justice system uses short sentences and community service to save money the public has been left unprotected by society.

During the recent riots some desperate Londoners took matters into their own hands. In a Turkish neighborhood shopkeepers and their families protected the homes and shops on their street standing guard day and night, chasing away crowds of thugs. "They come to our shops," one man told the London Daily Mail, "and we fight them with sticks."

In sum, the American system of trusting ordinary people to protect themselves and carry firearms responsibly has enhanced public safety. Individuals can protect themselves and others, criminals don't know who has a firearm and are cautious about attacking. The Founders' understanding of that most basic right of all, the right of self-defense, was in accord with common law, human nature and good

[30] Firearms Act, 1968, Section 5, Weapons subject to general prohibition.

sense. The United States Supreme Court has affirmed the right of individuals to keep and bear arms. The American states have overwhelmingly acted to respect that right and permit their residents to carry firearms for their protection. It is time for Congress to grant these states and their residents exercising their right to carry firearms for their protection the reciprocity they need.

Mr. SENSENBRENNER. Professor Kopel?

TESTIMONY OF DAVID B. KOPEL, ADJUNCT PROFESSOR, DENVER UNIVERSITY STURM COLLEGE OF LAW

Mr. KOPEL. Thank you, Chairman Sensenbrenner.

Mr. SENSENBRENNER. Could you please turn on the mike?

Mr. KOPEL. We are slow learners over here.

The constitutional right to travel is supported by many Supreme Court precedents. The Supreme Court's most recent decision on the right to travel is *Saenz v. Roe* from 1999. Writing for a seven-justice majority, Justice Stevens explained that the nature of our Federal union and our constitutional concepts of personal liberty require that all citizens be free to travel throughout the length and breadth of our land, uninhibited by statutes, rules, or regulations, which unreasonably burden or restrict this movement.

The *Saenz* court explained that one component of the right to travel is the right to be treated as a welcome visitor rather than an unfriendly alien when temporarily present in the second State.

In 1868, the 14th Amendment granted a new power to Congress to enforce the national citizenship rights of the American people. Notably, congressional debate on the 14th Amendment's privileges or immunities clause indicated specific intent to protect the right to travel.

Congress discussed South Carolina's notorious 1844 persecution of Samuel Hoar, an attorney from Massachusetts. He had traveled to South Carolina to mount a legal challenge to the State law which authorized the capture and enslavement of free Black sailors whose ship entered a South Carolina port. Incited by the South Carolina Legislature and Governor, mobs threatened violence against the attorney, and he was forced to leave the State.

The great Illinois Senator Lyman Trumbull was the author of the 13th Amendment abolishing slavery. He cited the Samuel Hoar case and Mississippi's prohibition on gun ownership by freedmen as examples of the needs for a congressional power to enforce national citizenship rights.

Today, every State but one allows the carrying of handguns in public places for lawful self-defense. The large majority of these States have reciprocity agreements with other States, so that a carry permit issued to residents in State A may be used by those residents when they visit State B, and vice versa.

These States are not the primary problem that H.R. 822 addresses. A few States, including California, New York, and New Jersey, refuse to enter into reciprocity agreements with any of their sister States, and they have no provision allowing a nonresident to apply for a permit.

These States impose impediments on interstate travel that discriminate against travelers based on the mere fact that they are citizens of other States. They deny the right to be treated as a welcome visitor rather than an unfriendly alien when temporarily present in the second State.

Notably, the need to be prepared for self-defense is especially acute when one is traveling in a different State. At home, one will be familiar with the safety of different parts of town at different

times of the day. A visitor will not have such familiarity and could more easily end up in a dangerous, high-crime area.

Further, tourists and similar visitors are particularly targeted by criminals. Their style of dress or mannerisms may indicate that they are not familiar with local customs. Because they are not local residents, they are known to be less likely to be able to make another trip to testify in court against a criminal, so the criminal has a greater sense of impunity in attacking a tourist.

To be deprived of the right of self-defense while traveling is to be deprived of the constitutional right to travel freely and safely throughout the entire United States of America.

In addition to the right to travel, Congress has the constitutional authority to protect American citizens from State or local government infringements of the Second Amendment right to bear arms. As the Supreme Court explained in *District of Columbia v. Heller*, the right to bear arms includes the right to carry weapons in the case of confrontation for the core lawful purpose of self-defense.

The Heller opinion listed some presumptively lawful regulatory measures. According to the Supreme Court, "nothing in our opinion should be taken to cast doubt on long-standing prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places, such as schools and government buildings." These are the exceptions that prove the rules.

Under Heller, ordinary citizens, but not felons or the mentally ill, have Second Amendment rights to possess guns. The Second Amendment right includes the right to carry guns but not in sensitive places.

Samuel Hoar escaped before the criminals could injure or kill him. Many interstate travelers are not so lucky. Congress has the clear constitutional authority and the responsibility to protect national citizenship rights from infringements by State or local governments.

H.R. 822 safeguards the constitutional right to travel and the constitutional right to bear arms and enhances public safety.

Thank you.

[The prepared statement of Mr. Kopel follows:]

Testimony of David B. Kopel

before the

United States House of Representatives Subcommittee on Crime, Terrorism, and Homeland Security,

Of the Committee on the Judiciary

Regarding interstate recognition of handgun carry permits

H.R. 822

112th Congress, Second Session

September 13, 2011

Presented by David B. Kopel

Adjunct Professor of Advanced Constitution Law, Denver University, Sturm College of Law

Research Director, Independence Institute, Golden, Colorado.

Summary of key points:

Congress has the legitimate constitutional authority to enact H.R. 822.

First, the bill would protect the right of interstate travel, which is one of the "privileges or immunities of citizens of the United States," which the 14th Amendment gives Congress the explicit authority to protect.

Second, the Second Amendment right to keep and bear arms is also protected by section 1 of the 14th Amendment, and therefore Congress has the power under section 5 of the 14th Amendment to protect the right to bear arms from state infringements.

The Supreme Court's *Heller* and *McDonald* decisions recognize that the right to carry arms for lawful self-defense in public places in part of the Second Amendment right. Even if the Supreme Court had been silent on the right to carry, or left the issue in a gray zone, Congress can still act to protect the right to carry; under the rule of *City of Boerne v. Flores*, only an explicit Supreme Court decision holding that there is no right to carry would bar Congress from legislating to protect the right to carry.

Additionally, H.R. 822 is supported by a very long line of Supreme Court precedent (but perhaps not original meaning) that the congressional power to protect interstate commerce from state interference can be used to protect the right to travel.

The denial of the exercise of constitutional rights is, in itself, sufficient reason for Congress to act to end that denial.

H.R. 822 would also very likely be upheld by courts because it uses the same jurisdictional hook as many other federal gun laws: namely that the gun in question must have at some point moved in interstate commerce. This is the same jurisdictional basis as is used for the federal statutes barring various categories of persons from possessing firearms (Gun Control Act of 1968; 18 U.S.C. § 922(g)); the version of the Gun-free School Zones Act which Congress enacted in 1995, after an earlier version of the GFZSA was ruled unconstitutional by the Supreme Court in *United States v. Lopez* (18 U.S.C. 922(q)); and the Law Enforcement Officers Safety Act, allowing interstate carry of firearms by active and retired law enforcement officers (18 U.S.C. § 926B&C).

The theory that once a gun has been sold in interstate commerce it forever remains subject to congressional regulation under the interstate commerce clause, is solidly established in the federal courts, even though it is contrary to the original meaning of the Constitution. However, use of Congressional power under section 5 of the 14th Amendment to protect the right to arms and the right to travel is entirely consistent with original meaning.

H.R. 822 is consistent with the letter and the spirit of the 10th Amendment, and of principles of federalism. The very reason that the 14th Amendment was added to the Constitution by the People was to adjust the state/federal balance, granting Congress the direct power to act against state infringements of important federal rights, such as the right to bear arms and the right to travel.

Empirical evidence and social science show that H.R. 822 would not be harmful to public safety. Social scientists differ on whether the licensed carry laws that now exists in most states lead to a statistically significant reduction in crime. Social scientists *agree* that there is no evidence that licensed carry leads to a statistically significant increase in crime.

Records from states around the nation show that persons who hold licensed carry permits are far more law-abiding than the general population, that permit revocations are very rare, and that virtually none of the permitees ever perpetrate violent crimes with a gun.

Some gun prohibition groups have claimed that many permitees commit crimes. These claims are based on misrepresentation of the facts, for example categorizing lawful self-defense—as determined by law enforcement and the courts—as if it were a crime.

I. Congressional enforcement of the right to travel

A. A well-established line of Supreme Court precedents recognizes the constitutional right to travel.

The constitutional right to travel is supported by many Supreme Court precedents.[1] The Supreme Court's most recent major decision on the right to travel is *Sáenz v.*

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[1] *E.g.*, Dunn v. Blumstein, 405 U.S. 330, 338 (1972) (a "fundamental personal right"); Griffin v. Breckenridge, 403 U.S. 88, 105-07 (1971) (affirming congressional power to enact a statute to thwart private criminal conduct interfering with the right to travel; "That right, like other rights of national citizenship, is within the power of Congress to protect by appropriate legislation."); Shapiro v. Thompson, 394 U.S. 618, 629 (1969) ("This Court long ago recognized that the nature of our Federal Union and our constitutional concepts of personal liberty unite to require that all citizens be free to travel throughout the length and breadth of our land uninhibited by statutes, rules, or regulations which unreasonably burden or restrict this movement."); United States v. Guest, 383 U.S. 745, 758 (1966) (Congress can enact legislation against state or private interference with the right to travel, which is "A right so elementary was conceived from the beginning to be a necessary concomitant of the stronger Union."); id. at 763 (Harlan, J., concurring) ("past cases do indeed establish that there is a constitutional 'right to travel' between States free from unreasonable governmental interference."); Edwards v. California, 314 U.S. 160, 181 (1941) (Douglas, J., concurring) ("The conclusion that the right of free movement is a right of national citizenship stands on firm historical ground."); United States v. Wheeler, 254 U.S. 281 (1920); Travis v. Yale & Towne Mfg. Co., 252 U.S. 60, 78 (1920); Twining v. New Jersey, 211 U.S. 78, 97 (1908) ("among the rights and privileges of national citizenship recognized by this court are the right to pass freely from state to state"); Williams v. Fears, 179 U.S. 270, 274 (1900) ("the right, ordinarily, of free transit from or through the territory of any state is a right secured by the 14th Amendment and by other provisions of the Constitution"); Blake v. McClung, 172 U.S. 239 (1898) ("The right of a citizen of one state to pass through or to reside in any other state for the purposes of trade, agriculture, professional pursuits, or otherwise")(quoting Corfield v. Coryell, 4 Wash. C. C. 371, 380, Fed. Cas. No. 3,230, a leading case decided by Justice Bushrod Washington while circuit-riding); Slaughter-House Cases, 83 U.S. 36, 51 (1872) (Bradley, J., dissenting)(same quote from Corfield); Paul v. Virginia, 75 U.S. 168, 180 (1868) (Regarding ArticleIV's privileges and immunities clause: "It was undoubtedly the object of the clause in question to place the citizens of each State upon the same footing with citizens of other States, so far as the advantages resulting from citizenship in those States are concerned. It relieves them from the disabilities of alienage in other States; it inhibits discriminating legislation against them by other States; it gives them the right of free ingress into other States, and egress from them; it insures to them in other States the same freedom possessed by the citizens of those States in the acquisition and enjoyment of property and in the pursuit of happiness; and it secures to them in other States the equal protection of their laws. It has been justly said that no provision in the Constitution has tended so strongly to constitute the citizens of the United States one people as this."); Crandall v. Nevada, 73 U.S. 35, 49 (1867) ("We are all citizens of the United States, and as members of the same community must have the right to pass and repass through every part of it without interruption, as freely as in our own States."); Passenger Cases, 48 U.S. 283, 492 (1849) (Taney, C.J., dissenting (same language quoted and adopted by the Crandall majority, above).

Paul v. Virginia, *supra*, was over-ruled on other grounds in United States v. S.E. Underwriters Ass'n, 322 U.S. 533 (1944). Paul's explication of Article IV privileges and immunities remains good law, and had been quoted with approval in Hicklin v. Orbeck, 437 U.S. 518, 524 (1978) and Baldwin v. Montana Fish and Game Comm'n, 436 U.S. 371, 380-81 (1978).

Roe, 526 U.S. 489 (1999). Writing for a seven-Justice majority,[2] Justice Stevens explained:

> The word "travel" is not found in the text of the Constitution. Yet the "constitutional right to travel from one State to another" is firmly embedded in our jurisprudence. *United States v. Guest*, 383 U. S. 745, 757 (1966). Indeed, as Justice Stewart reminded us in *Shapiro v. Thompson*, 394 U. S. 618 (1969), the right is so important that it is "assertable against private interference as well as governmental action ... a virtually unconditional personal right, guaranteed by the Constitution to us all." *Id.*, at 643 (concurring opinion).

Quoting the *Shapiro* case, the *Sáenz* Court wrote that it has "long 'recognized that the nature of our Federal Union and our constitutional concepts of personal liberty unite to require that all citizens be free to travel throughout the length and breadth of our land uninhibited by statutes, rules, or regulations which unreasonably burden or restrict this movement.'" *Sáenz* at 499.

In other words, an "unreasonable" burden on interstate travel is a violation of the Constitution.

The *Sáenz* Court explained that there are three components to the right to travel. Two of them (the right to cross state borders, and the right to become a citizen of a different state) are not addressed by H.R. 822. The component that is addressed is the "right to be treated as a welcome visitor rather than an unfriendly alien when temporarily present in the second State." *Id.* at 500.

As for the right of visitors to be treated equally, it is

> expressly protected by the text of the Constitution. The first sentence of Article IV, §2, provides:

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[2] In dissent, Chief Justice Rehnquist and Justice Thomas argued that that there was no violation of the right to travel in the particular case at bar: California's rule that new arrivals to the state would for their first year in California receive welfare benefits at the levels of their previous state, rather than the higher payments provided in California. The dissenters agreed, however, that "The right to travel clearly embraces the right to go from one place to another, and prohibits States from impeding the free interstate passage of citizens." Further, "Nonresident visitors of other States should not be subject to discrimination solely because they live out of State." *Sáenz* at 511-12, 512 (Rehnquist, C.J., dissenting). The dissenters' main argument was that the majority was conflating the right to travel with the separate right to become a citizen of another state. That criticism, whether or not it is correct, does not bear on H.R. 822, because H.R. 822 only involves pure travel, not immigration to another state. A second dissent, written by Justice Thomas and joined by Justice Rehnquist, pointed out that the majority's welfare rights decision was out of step with Supreme Court precedent which had interpreted the 14th Amendment Privileges or Immunities clause narrowly, but that dissent also expressed openness to re-examining the original meaning of that clause in an appropriate case, as Justice Thomas eventually did in *McDonald v. Chicago*.

> "The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States."
>
> Thus, by virtue of a person's state citizenship, a citizen of one State who travels in other States, intending to return home at the end of his journey, is entitled to enjoy the "Privileges and Immunities of Citizens in the several States" that he visits. This provision removes "from the citizens of each State the disabilities of alienage in the other States." Paul v. Virginia, 8 Wall. 168, 180 (1869) ("[W]ithout some provision . . . removing from citizens of each State the disabilities of alienage in the other States, and giving them equality of privilege with citizens of those States, the Republic would have constituted little more than a league of States; it would not have constituted the Union which now exists"). It provides important protections for nonresidents who enter a State whether to obtain employment, Hicklin v. Orbeck, 437 U. S. 518 (1978), to procure medical services, Doe v. Bolton , 410 U. S. 179, 200 (1973), or even to engage in commercial shrimp fishing, Toomer v. Witsell, 334 U. S. 385 (1948). Those protections are not "absolute," but the Clause "does bar discrimination against citizens of other States where there is no substantial reason for the discrimination beyond the mere fact that they are citizens of other States." Id., at 396.

Sáenz at 501-02.

B. The 14th Amendment was intended to give Congress the power to protect the right to travel—with special concern for travelers who might be threatened by violence.

Section 5 of the 14th Amendment grants a new power to Congress: "The Congress shall have power to enforce, by appropriate legislation, the provisions of this article." One of the purposes of section 5 was to give Congress the affirmative power to enforce the rights protected in Article IV, § 2, which Congress believed to be among those rights which were protected by section 1 of the 14th Amendment. Randy Barnett, *Whence Comes Section One? The Abolitionist Origins of the Fourteenth Amendment* 3 JOURNAL OF LEGAL ANALYSIS 165 (2011).[3]

Notably, congressional debate on the 14th Amendment's Privilege or Immunities clause indicated specific intent to protect the right to travel—not just the right to

[3] Some supporters of the 14th Amendment argued that Congress had always had the implicit power to enforce Article IV, § 2 "Privileges and Immunities." They pointed out that the Supreme Court had found that Congress had implicit power to enforce another provision of Article IV, § 2, namely the requirement that charged criminals who fled a state before trial, or fugitive slaves, or fugitive indentured servants who had not completed their term of labor, must be returned to the original state. Prigg v. Pennsylvania, 41 U.S. 539 (1842). To remove any doubt, the drafters of the 14th Amendment made sure to put "Privileges or Immunities of citizens of the United States" in section 1 of the 14th amendment, and a congressional enforcement power in section 5. Kurt T. Lash, *The Origins of the Privileges or Immunities Clause, Part II: John Bingham and the Second Draft of the Fourteenth Amendment*, 99 GEORGETOWN LAW JOURNAL 329 (2011).

become a citizen of a new state. Congress discussed South Carolina's notorious 1844 persecution of Samuel Hoar, an attorney from Massachusetts. Hoar had traveled to South Carolina to mount a legal challenge to the state law which authorized the capture and enslavement of any free black sailor who in a South Carolina port stepped off his ship and onto the land.[4] Incited by the South Carolina legislature and governor, mobs threatened violence against the attorney, and he was forced to leave the state. *See* Massachusetts General Court, Joint special committee on the treatment of Samuel Hoar by the state of South Carolina, *Resolve and declaration* (1845).

For example, Senator John Sherman (R-Ohio)[5] explained the need for the Amendment, pointing out that Article IV of the Constitution had always meant that "a man who was recognized as a citizen of one state had the right to go anywhere within the United States and exercise the immunity of a citizen of the United States; but the trouble was in enforcing this constitutional provision. In the celebrated case of Mr. Hoar...This constitutional provision was in effect a dead letter as to him." Cong. Globe, 39th Cong., 1st Sess. 41 (Dec. 13, 1865).

Illinois Senator Lyman Trumbull had authored the 13th Amendment, abolishing slavery. He cited the Hoar case, and Mississippi's prohibition on gun ownership by freedmen, as examples of the needs for a congressional power to enforce national citizenship rights. Cong. Globe, 39th Cong., 1st Sess. 474 (Jan. 29, 1866). *See also* Cong. Globe, 39th Cong., 1st Sess. 1066 (Feb. 27, 1866) (Rep. Hiram Price, of Iowa, regarding the proposed privileges or immunities clause of the 14th Amendment: "I want to have a Constitution that will protect my children and my children's children who may have occasion to travel in any part of the United States.").

Ohio Republican Columbus Delano[6] explained the 14th Amendment to the public by reminding them of the Hoar atrocity, and stating that the 14th Amendment would protect the right of travel. Cincinnati Commercial, Aug. 31, 1866, p. 2 (report of speech at Coshocton, Ohio, Aug. 28).

C. Congress's power to regulate interstate commerce includes the power to thwart impediments to the right to travel.

After the Civil Rights Act of 1964 outlawed racial discrimination in places of public accommodation, various legal challenges were brought. The one that related to the right to travel was *Heart of Atlanta Motel v. United States*, 379 U.S. 241 (1964).

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[4] Hoar had previously served in the U.S. House, and he also had a long career, before and after 1844, in the Massachusetts legislature. The Governor of Massachusetts had appointed him to go to South Carolina to carry out the Massachusetts legislature's instructions to collect information about the seizure of Massachusetts free black citizens in South Carolina, and to bring lawsuits challenging the constitutionality of the South Carolina statute.

[5] He later served as Secretary of the Treasury, and Secretary of State, and is best known today as the sponsor of the Sherman Antitrust Act.

[6] He had been a U.S. Representative and a State Representative, and would later serve as Commissioner of Internal Revenue and as Secretary of the Interior.

The motel was clearly involved in catering to interstate travel:

> It is readily accessible to interstate highways 75 and 85 and state highways 23 and 41. Appellant solicits patronage from outside the State of Georgia through various national advertising media, including magazines of national circulation; it maintains over 50 billboards and highway signs within the State, soliciting patronage for the motel; it accepts convention trade from outside Georgia and approximately 75% of its registered guests are from out of State.

Id. at 242. The unanimous Supreme Court found that Congress clearly possessed the power to prohibit the motel from refusing Black guests, because such refusal was a barrier to interstate travel.

The Court summarized congressional testimony and fact-finding that discrimination had "a qualitative as well as quantitative effect on interstate travel by Negroes. The former was the obvious impairment of the Negro traveler's pleasure and convenience that resulted when he continually was uncertain of finding lodging. As for the latter, there was evidence that this uncertainty stemming from racial discrimination had the effect of discouraging travel on the part of a substantial portion of the Negro community." *Id.* at 252-53.

Citing many precedents, the *Heart of Atlanta* Court said that the interstate commerce power included the power to protect interstate transportation of persons. Relying particularly on precedents from 1913, 1917, and 1946, the Court wrote: "Nor does it make any difference whether the transportation is commercial in character." *Id.* at 256.

The opinion concluded:

> It may be argued that Congress could have pursued other methods to eliminate the obstructions it found in interstate commerce caused by racial discrimination. But this is a matter of policy that rests entirely with the Congress not with the courts. How obstructions in commerce may be removed - what means are to be employed - is within the sound and exclusive discretion of the Congress. It is subject only to one caveat - that the means chosen by it must be reasonably adapted to the end permitted by the Constitution. We cannot say that its choice here was not so adapted. The Constitution requires no more.

Id. at 261-62.

Significantly, *Heart of Atlanta* is not a case which upheld congressional use of the interstate commerce power as a pretext for regulating something else. The original intended purpose of the grant of the power "to regulate Commerce. . .among the several States" was to enable to Congress to act against impediments to interstate commerce. There was ample evidence that racial discrimination by hotels and

motels which catered to interstate travelers was a "qualitative" and "quantitative" barrier to interstate travel.[7] That being established, Congress could choose the means with which to address the problem.

D. Application to H.R. 822

Forty-eight states have provisions for licensing the carrying of handguns in public places for lawful self-defense. Vermont does not issue licenses, but simply allows concealed carry by persons who can legally possess handguns. Illinois also has no licensing provision, and allows carry in a much more limited set of places.

The large majority of states have reciprocity agreements with other states, so that a carry permit issued to residents of state A may be used by those residents when they visit state B, and vice versa. These states are not the primary problem that H.R. 822 addresses. A few states—including California, New York, and New Jersey—refuse to enter into reciprocity agreements with any of their sister states, *and* they have no provision allowing a non-resident to apply for a permit.

These states impose "qualitative" impediments on interstate travel. They discriminate against travelers based on "the mere fact that they are citizens of other States." They deny the "right to be treated as a welcome visitor rather than an unfriendly alien when temporarily present in the second State."

As with Samuel Hoar, the government of the visited state is affirmatively interfering with the visitors' right to travel in safety and security.

Notably, the need to be prepared for self-defense is especially acute when one is traveling in a different state. At home, one will be familiar with the relative safety of different parts of town at different times of the day. A visitor will not have such familiarity, and could more easily end up in a dangerous, high-crime area.

Similarly, a person who goes out for a walk in her hometown will know that while there may be several ways to get from A to B, one particular route is well-lit, with busy streets, and many business that are open at night, in which one could seek refuge in case of trouble. A visitor will not have such detailed knowledge. Almost anyone who has traveled much can remember instances in which he unexpectedly

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[7] As the *Heart of Atlanta* Court pointed out, there was substantial support in Supreme Court precedent for viewing as within the scope of "interstate commerce" interstate travel even if that travel were not for commerce, and even if that travel were not by means of a common carrier. Whether that broad view of the relationship between the commerce clause and right of interstate travel was consistent with the original meaning of the word "commerce" in the interstate commerce clause is questionable. *See* Robert G. Natelson & David B. Kopel, *Commerce in the Commerce Clause: A Response to Jack Balkin*, 109 MICHIGAN LAW REVIEW FIRST IMPRESSIONS 55 (2010), http://www.michiganlawreview.org/articles/commerce-in-the-commerce-clause-a-response-to-jack-balkin. Strict originalists who are leery of any interpretative expansion of the commerce clause would probably be more comfortable relying on the original meaning of section 5 of the 14th Amendment, rather than the *Heart of Atlanta* line of cases, as justification for H.R. 822.

ended up in a part of some town which was significantly more menacing that he had expected.

Further, tourists and similar visitors are particularly targeted by criminals. Their style of dress or mannerisms may indicate that they are not familiar with local mores. Because they are not local residents, they are known to be less likely or able to make another trip to testify in court against the criminal, so the criminal has a greater sense of impunity in attacking a tourist.[8]

For the traveler who has been disarmed by the host state, the alternative to stay shut up in one's hotel room at night, for fear of making a wrong turn down a city block. Or to spend all one's time solely in a small tourist zone which has a heavy police presence. To be forced to do so is to be deprived of the constitutional right to travel freely and safely throughout the entire United States of America.

As in the *Heart of Atlanta* case, or almost every law enacted under section 5 of the 14th Amendment, H.R. 822 is not the only possible step that Congress could take to solve the problem. Congress could deploy tens of thousands of new federal law enforcement officers all over America, dedicated solely to the protection of interstate travelers. Congress has already enacted criminal laws against persons who attempt to interfere with a person's right to interstate travel,[9] and Congress could enact additional such statutes. Congress could under section 5 of the 14th Amendment create a civil cause of action on behalf of any interstate traveler who was injured because state action deprived her of the practical means of self-defense.

Congress can instead choose to enact H.R. 822, which is significantly less intrusive than the other alternatives. H.R. 822 puts no new federal officials into the states, does not force any state officials to do anything, and imposes no new federal criminal penalties on anyone. H.R. 822 simply requires that state and local officials not interfere with the lawful defensive carrying of handguns by interstate visitors, *provided that in carrying, the visitors follow precisely the same laws about the manner and places of carrying that are applicable to residents of the host state.*

Congress need not accumulate data about precisely how many people are criminally victimized because their constitutional rights are denied by some states. The denial of constitutional rights is in itself a tremendous harm. There is no more important purpose for congressional action than the protection of the national rights of citizenship guaranteed by the Constitution of the United States of America.

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[8] Ronald W. Glensor & Kenneth J. Peak, U.S. Department of Justice, *Crimes Against Tourists*, Office of Community Oriented Policing Services, Problem-Oriented Guides for Police, Problem-Specific Guides Series No. 26 (Aug.) 2004, available at www.cops.usdoj.gov.

[9] The modern application of this Reconstruction era civil rights statute is discussed in *United States v. Guest*, which is cited in footnote 1 of this testimony.

II. Congressional enforcement of the Right to Bear Arms

Even without the right to travel, H.R. 822 is constitutionally sound based on Congress's power under section 5 of the 14th Amendment to enforce the rest of that Amendment.

A. *Heller* and the Right to Bear Arms

The Second Amendment guarantees the pre-existing "right to keep and bear Arms." *District of Columbia v. Heller*, 554 U.S. 570 (2008). The full scope of the Second Amendment is protected from state or local government infringement by section 1 of the 14th Amendment. Section 1 declares, in part: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law...." Four Justices thought that the work of applying the Second Amendment to the states was done by the second clause (the "liberty" clause), while Justice Thomas thought that the work was done by the first clause ("privileges or immunities"). *McDonald v. Chicago*, 130 S.Ct. 3020 (2010). For purposes of H.R. 822, the relevant legal fact is that the Second Amendment is made fully applicable to the states by section 1.

Congress has broad powers under section 5 to enforce protection of the rights in section 1 of that Amendment. Congress may go further than the courts have by enacting prophylactic measures to protect a right, provided that they are "congruent and proportional" to the problem addressed. *E.g.*, *Tennessee v. Lane*, 541 U.S. 509 (2004). When courts have not defined the full contours of a constitutional right, Congress may use its section 5 powers to provide protections in gray areas.

What Congress may *not* do is defy a direct Supreme Court precedent about the scope of a right. Thus, when the Supreme Court ruled that a particular judicial standard of review should apply to cases involving the First Amendment right of free exercise of religion, Congress could not enact a statute which changed the standard of review. *City of Boerne v. Flores*, 521 U.S. 507 (1997).

Notably, the *Boerne* Court itself reaffirmed that Congress's powers under section 5 are not limited to practices which the Supreme Court has explicitly declared unconstitutional. For example, although the Supreme Court had ruled that literacy tests for voters, if fairly administered, are not unconstitutional,[10] Congress outlawed literacy tests in the Voting Rights Act of 1965. The Court upheld the ban.[11] *Boerne* cited the literacy test cases with approval, and stated that

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[10] Lassiter v. Northampton County Bd. of Elections, 360 U.S. 45 (1959).

[11] South Carolina v. Katzenbach, 383 U.S. 301 (1966); Katzenbach v. Morgan, 384 U.S. 641 (1966); Oregon v. Mitchell, 400 U.S. 112 (1970). As the *Boerne* Court pointed out, the Voting Rights Act was based mainly on Congress's enforcement power in section 2 of the 15th Amendment, and the doctrinal analysis for the 14th Amendment's enforcement power in section 5 is identical. (The two sections have only minor, non-substantive differences in wording.)

"Legislation which deters or remedies constitutional violations can fall within the sweep of Congress' enforcement power even if in the process it prohibits conduct which is not itself unconstitutional and intrudes into 'legislative spheres of autonomy previously reserved to the States.'" *Boerne* at 517-18.

H.R. 822 fits solidly within the zone of permissible section 5 legislation, and does not come close to violating *City of Boerne.*

What might constitute a violation of *City of Boerne*, in the context of H.R. 822? Let's imagine that the Supreme Court had handed down a decision which said that the Second Amendment right to "keep" arms is an absolute right for everyone to have guns at home for any purpose. And also imagine that in this hypothetical opinion, the Court also said that the right to use arms outside the home was solely for the militia. Then H.R. 822 would not be appropriate under section 5, because it protects arms use outside the home by all licensed citizens, not just the militia.

There indeed has been such a case, *Aymette v. Tennessee,* 2 Humphreys 154, decided in 1840 by the Tennessee Supreme Court. The Tennessee court was interpreting the right to arms clause in the Tennessee Constitution, and also said that the same interpretation applied to the federal Second Amendment.

Did *Heller* adopt the *Aymette* reading? No. First all, *Heller* was careful to remind that reader than the opinion does not attempt to delineate "the full scope of the Second Amendment." *Heller* at 626. Regarding *Aymette* in particular, the *Heller* Court wrote that "This odd reading of the right is, to be sure, not the one we adopt . . ." *Id.* at 613.

What *Heller* and *McDonald* both do is clearly indicate that the right to carry firearms for lawful self-defense in public is part of the Second Amendment right. Even if *Heller* and *McDonald* had been silent on the right to carry, H.R. 822 would be legitimate under section 5, because Congress would then be protecting rights in a gray zone left unclear by the Court.

While *Heller* and *McDonald* both involved handgun bans that even applied in the home, the Court, apparently aware of its duty to provide guidance to lower courts, explicated the Second Amendment to show that it includes the right of public carry.

The right to "bear Arms," explained the Court includes the right to "carry weapons in case of confrontation" for the "core lawful purpose of self-defense." *Heller*, at 592, 630.

The *Heller* opinion made it clear that not all gun controls are unconstitutional, and then listed some "presumptively lawful regulatory measures." According to the Supreme Court: "nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools

and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms." *Id.* at 626-27.

These are the exceptions that prove the rules. Under *Heller*, ordinary citizens (but not felons and the mentally ill) have Second Amendment rights to possess guns. The Second Amendment right includes the right to carry guns, but not to carry in "sensitive places."

Having rejected *Aymette*'s rule that the right in public places was constrained by the Second Amendment's preface extolling the militia, the *Heller* Court further explicated the right to bear arms by approvingly citing and discussing state cases involving the right. Each of these cases came to the same conclusion: a state could ban concealed carry of handguns, if and only if the state also allowed the *open* carry of handguns. Thus, a legislature could regulate the *mode* of carry as long law-abiding citizens could actually exercise the right to carry.

For example, *State v. Reid*, 1 Ala. 612, 616-17 (1840), upheld a ban on carrying a weapon concealed, but added: "A statute which, under the pretence of regulating, amounts to a destruction of the right, or which requires arms to be so borne as to render them wholly useless for the purpose of defence, would be clearly unconstitutional." This sentence is quoted in *Heller* as an accurate expression of the right to bear arms. *Heller*, at 629.

Likewise cited by the Supreme Court as an accurate reading of the Second Amendment was *Nunn v. State*, 1 Ga. 243 (1846), cited in *Heller* at 612-13. That case, relying on the Second Amendment struck down a general ban on carrying handguns for protection. *Nunn* upheld a ban on concealed carry, because open carry was allowed.

Heller also relied on *State v. Chandler*, 5 La. Ann. 489 (1850). As *Heller* put it: "the Louisiana Supreme Court held that citizens had a right to carry arms openly: 'This is the right guaranteed by the Constitution of the United States, and which is calculated to incite men to a manly and noble defence of themselves, if necessary, and of their country, without any tendency to secret advantages and unmanly assassinations.'" *Heller*, at 613.

To the exact same effect is *Andrews v. State*, 50 Tenn. 165 (1871), where the Tennessee Supreme Court equated the state constitutional provision to the Second Amendment, and struck down a law against carrying handguns "publicly or privately, without regard to time or place, or circumstances." *Heller*, at 629.

The *Heller* Court also approvingly cited several other legal authorities which stated that the right to arms included the right to carry defensive arms.[12]

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[12] William Hawkins, *A Treatise of the Pleas of the Crown* 72 (1716) (there is "no Reason why a Person, who without Provocation, is assaulted by another *in any Place whatsoever*, in such a Manner

The states which have caused the problem addressed by H.R. 822 have done exactly what *Reid*, *Chandler*, *Nunn*, and *Andrews*—and *Heller*'s adoption of all of them forbid: with regard to visitors, they have completely disabled them from being able to carry a functional handgun (or any other firearm) for lawful protection.

B. *McDonald* and the Right to Bear Arms

Right at the beginning of the discussion of the constitutional violations that the Fourteenth Amendment was designed to remedy, Justice Alito's opinion in *McDonald* pointed out that the Fourteenth Amendment was aimed at laws such as the Mississippi statute providing that "no freedman, free negro or mulatto, not in the military service of the United States government, and not licensed so to do by the board of police of his or her county, shall keep or carry fire-arms of any kind . . . ." *McDonald v. Chicago*, 130 S.Ct. 3020, 3038 (2010). *McDonald* then stated, "see also Regulations for Freedmen in Louisiana, in id.,[13] at 279-280." That disfavored law said: "No negro who is not in the military service shall be allowed to carry firearms, or any kind of weapons, within the parish, without the written special permission of his employers, approved and indorsed by the nearest and most convenient chief of patrol."

McDonald described a convention of black citizens in South Carolina who sent a petition to Congress stating that the Constitution "explicitly declares that the right to keep and bear arms shall not be infringed" and urging that "the late efforts of the Legislature of this State to pass an act to deprive us [of] arms be forbidden, as a plain violation of the Constitution." 130 S.Ct. at 3038 n.18, quoting STEPHEN. HALBROOK, FREEDMEN, THE FOURTEENTH AMENDMENT, AND THE RIGHT TO BEAR ARMS, 1866-1876, at 9 (1998). Rep. George Washington Julian (R-Ind.) described that South Carolina law and another in urging adoption of the Fourteenth Amendment:

> Although the civil rights bill[14] is now the law, . . . [it] is pronounced void by the jurists and courts of the South. Florida makes it a misdemeanor for colored men to carry weapons without a license to do so from a probate judge, and the punishment of the offense is whipping and the pillory. South Carolina has the same enactments; and a black man convicted of an offense who fails immediately to pay his fine is

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as plainly shews an Intent to murder him, . . .may not justify killing such an Assailant") (emphasis added), cited in *Heller*, at 582.

"The understanding that the Second Amendment gave freed blacks the right to keep and bear arms was reflected in congressional discussion of the bill, with even an opponent of it saying that the founding generation 'were for every man bearing his arms about him *and* keeping them in his house, his castle, for his own defense.' Cong. Globe, 39th Cong., 1st Sess., 362, 371 (1866) (Sen. Davis)." *Heller* at 615-16 (emphasis added).

[13] 1 DOCUMENTARY HISTORY OF RECONSTRUCTION 289 (W. Fleming ed.1950).

[14] The Civil Rights Act of 1866.

> whipped. . . . Cunning legislative devices are being invented in most of the States to restore slavery in fact.

CONG. GLOBE, 39th Cong., 1st Sess., 3210 (June 16, 1866).

"The most explicit evidence of Congress' aim" regarding the Fourteenth Amendment, *McDonald* continued, appeared in the recognition in the Freedmen's Bureau Act of 1866 of "the right . . . to have full and equal benefit of all laws and proceedings concerning personal liberty, personal security, and the acquisition, enjoyment, and disposition of estate, real and personal, including the constitutional right to bear arms . . . ." 130 S.Ct. at 3040.

Justice Thomas's concurrence referred to states that "enacted legislation prohibiting blacks from carrying firearms without a license," *Id.* at 3082, and quoted Frederick Douglass as stating that "the black man has never had the right either to keep or bear arms," a problem which would be remedied by adoption of the Fourteenth Amendment. *Id.* at 3083.

C. Concealed handguns

As accurately noted by *Heller*, many state courts have upheld bans on *concealed* carry.[15] H.R. 822 applies only to concealed carry. If H.R. 822 were applied to a state which banned visitors from carrying concealed, *and* if that state allowed open carrying by visitors, then there might be a serious question about whether H.R. 822 could be applied to such a state.[16]

However, there is no such state. The states such as New York and New Jersey which are obliterating the constitutional rights of visitors are not one iota more tolerant of open carry by visitors than they are of concealed carry.[17] For all practical purposes, all defensive carry is completely prohibited. Accordingly, Congress may in its discretion enact national reciprocity for concealed carry rather than for open carry. Like any legislature, Congress may make a choice between preferring one mode of carry over another. Further, Congress may, in enacting system based on interstate reciprocity of *licenses*, may take into account the fact that almost every

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[15] "[T]he majority of the 19th-century courts to consider the question held that prohibitions on carrying concealed weapons were lawful under the Second Amendment or state analogues." *Heller* at 629.

[16] In other words, there would be a question under the *Tennessee v. Lane* line of cases about whether the congressional remedy was "congruent and proportional."

[17] California does allow unlicensed open carry, but only for *unloaded* guns. The gun may only be loaded under the same type of circumstances under which it would be appropriate to call 911. This system is, at best, a shadow of the Second Amendment right to carry functional firearms for self-defense. *See* Amicus brief for the International Law Enforcement Educators and Trainers Association, and the Independence Institute, in *Peruta v. San Diego* (9th Cir., 2011), http://davekopel.org/Briefs/Peruta/Intl-Law-Enforcement-Educators-and-Trainers.pdf. Several cases involving the California system are currently before the 9th Circuit Court of Appeals.

state issues licenses to residents for concealed carry, but only a few issue licenses for open carry.[18]

III. Constitutionality based on the gun's having been shipped or transported in interstate commerce.

H.R. 822 is well justified by the text and original meaning of the Constitution, as applications of the congressional power to enforce the 14th Amendment right to keep and bear arms and the right to travel.

H.R. 822 also invokes another theory: the bill only applies to a gun which has previously shipped or transported in interstate commerce. The gun having once moved been an object of interstate commerce, it forever remains, supposedly, subject to Congress's interstate commerce power.[19]

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[18] Most states have statues that explicitly require the issuance of concealed carry licenses to law-abiding citizens based on objective standards. *See* Ark. Code Ann. § 5-73-309(a); Colo. Rev. Stat. Ann. § 18-12-203(1); Fla. Stat. Ann. § 790.06(2); Ga. Code Ann. § 16-11-129; Idaho Code Ann. § 18-3302(1); Ind. Code Ann. § 35-47-2-3(e), Iowa Code Ann. § 724.7; Kansas Stat. Ann. § 75-7c03; Ky. Rev. Stat. Ann. § 237.110(2); La. Rev. Stat. Ann. § 40:1379(A)(1); Me. Rev. Stat. Ann. tit. 25, § 2003; Mich. Comp. Laws Ann. § 28.422(2)(3); Minn. Stat. § 624.714, subdiv. 2(b); Miss. Code Ann. § 45-9-101(2); Mo. Ann. Stat. § 571.090(1); Mont. Code Ann. § 45-8-321(1); Neb. Rev. Stat. § 28-1202; Nev. Rev. Stat. Ann. § 202.3657(2); N.H. Rev. Stat. Ann. § 159.6; N.M. Stat. Ann. § 29-19-4 ; N.C. Gen. Stat. § 14-415.11(b); N.D. Cent. Code § 62.1-04-03; Ohio Rev. Code Ann. §2923.125(D)(1); Okla. Stat. Ann. tit. 21, § 1290.12(12); Or. Rev. Stat. Ann. § 166.291; 18 Pa. Cons. Stat. Ann. § 6109(e); S.C. Code Ann. § 23-31-215(A); S.D. Codified Laws § 23-7-7; Tenn. Code Ann. § 39-17- 1351(b); Tex. Gov't Code Ann. § 411.177(a); Utah Code Ann. § 53-5-704(1)(a); Va. Code Ann. § 18.2-308(D); Wash. Rev. Code Ann. § 9.41.070(1); W. Va. Code Ann. § 61-7-4(f). Wisconsin's similar law will take effect in November. The Alabama and Connecticut statutes nominally have more discretion, but in practice are applied so that all law-abiding adults can obtain permits. Alaska, Arizona, and Wyoming do not require concealed carry licenses, but will issue them to applicants based on objective criteria, so that the licensees can participate in interstate reciprocity. Vermont does not require permits, and does not issue them. Illinois has no procedure for issuing permits, but allows carrying one's own property, and in some other circumstances. The remaining 8 states have statutes giving arbitrary power to the licensing agent. In these capricious issue states, the possibility of obtaining a permit may vary widely from county to county (e.g., New York, California) or may usually be denied (e.g., New Jersey, Maryland).

[19] For some of the many criticisms of this theory, see United States v. Cortner, 834 F. Supp. 242, 243 (M.D. Tenn. 1993), rev'd sub nom. United States v. Osteen, 30 F.3d 135 (6th Cir. 1994) ("To say . . . that because something once traveled interstate it remains in interstate commerce after coming to rest in a given state, is sheer sophistry. This Court, at one time, owned a 1932 Ford which was manufactured in Detroit in the year 1931 and transported to the state of Tennessee. It remained in Tennessee thereafter. Now if this car were hijacked today, some sixty years later, is it still in interstate commerce?"); David E. Engdahl, *Casebooks And Constitutional Competency*, 21 SEATTLE UNIVERSITY LAW REVIEW 741, 783-85 (1998); David E. Engdahl , *The Necessary and Proper Clause as an Intrinsic Restraint on Federal Lawmaking Power*, 22 HARVARD JOURNAL OF LAW & PUBLIC POLICY 107, 120 (1998) ("theory that some lingering federal power infects whatever has passed through the federal dominion--a premise that is simply ridiculous."); Grant S. Nelson & Robert J. Pushaw, Jr., *Rethinking the Commerce Clause: Applying First Principles to Uphold Federal Commercial*

I have previously criticized this theory, which is plainly contrary to the original meaning of the interstate commerce clause, and to common sense.[20] The U.S. Supreme Court has interpreted statutes which rely on the theory,[21] but has never ruled on the constitutionality of the theory itself. The lower federal courts have upheld many federal gun control laws using the theory.

It should be noted that many other federal gun control laws contain the same jurisdictional element. These include:

- The statute barring various categories of persons from possessing firearms. Gun Control Act of 1968; 18 U.S.C. § 922(g). Notably, this law applies to persons whose own current possession of the gun—unlike gun possession by an interstate traveler—has not the slightest practical connection to interstate commerce.

- The version of the Gun-free School Zones Act which Congress enacted in 1995, after an earlier version of the GFZSA was ruled unconstitutional by the Supreme Court in *United States v. Lopez*. 18 U.S.C. 922(q). This law applies to gun carrying within a state regardless of whether the carrying really has anything to do with interstate commerce. As revised, the GFSZA and its theory have been upheld some courts.[22] Like H.R. 822, the GFSZA controls the conditions for carrying handguns in public places. Unhke H.R. 822, the GFSZA applies to everyone, not just interstate travelers.

- Law Enforcement Officers Safety Act. 18 U.S.C. § 926B&C. This law allows gun carrying by qualified active and retired law enforcement personnel. It at least has the virtue of applying almost entirely to gun carrying by interstate travelers (since all states already allowed gun carrying by resident active law enforcement, and for resident retired law enforcement, the states either issue permits, or do not require permits).

In short, as a practical matter, the limitation of H.R. 822 to guns that once moved in interstate commerce provides a further reason why federal courts are likely to uphold H.R. 822. But unlike some other federal gun laws, H.R. 822 has a solid basis in the use of congressional enforcement power for the 14th Amendment.

Regulations but Preserve State Control over Social Issues, 85 IOWA LAW REVIEW 1, 84, n. 391 (1999); Steven K. Balman, *Constitutional Irony: Gonzales v. Raich, Federalism and Congressional Regulation of Intrastate Activities under the Commerce Clause*, 41 TULSA L. REV. 125, 164 (2005).

[20] David B. Kopel, *The Second Amendment in the Tenth Circuit: Three Decades of (Mostly) Harmless Error*, 86 DENVER UNIVERSITY LAW REVIEW 901, 938 (2009); David B. Kopel & Glenn Harlan Reynolds, *Taking Federalism Seriously: Lopez and the Partial-Birth Abortion Ban*, 30 CONNECTICUT LAW REVIEW 59 (1997).

[21] *E.g.*, Scarborough v. United States, 431 U.S. 563 (1977).

[22] United States v. Dorsey, 418 F.3d 1038 (9th Cir., 2005); United States v. Danks, 221 F.3d 1037 (8tb Cir.1999).

IV. Public Safety

A. Social Science studies

In 1998, the first extensive and sophisticated study of the effect of objective, "shall issue" handgun carry licensing laws was published. Professor John Lott's research found statistically significant reductions in the rates of homicide, rape, robbery, and assault. JOIIN LOTT, MORE GUNS, LESS CRIME (1st ed. 1998). Early efforts to discredit Lott's findings were tendentious and unpersuasive.

More serious re-examination of Lott's findings were conducted by Stanford professor John Donohue, a fervent anti-gun advocate, but also a sophisticated econometrician. Donohue and his Ian Ayres corrected some errors in Lotts' coding, collected additional data, and reported that there were no statistically significant effects in any direction. Ian Ayres & John J. Donohue, III, *Shooting Down the "More Guns, Less Crime" Hypothesis*, 55 STANFORD LAW REVIEW 1193 (2003).

The National Research Council, a private research organization affiliated with the National Academy of Sciences, conducted a meta-study of all research on gun control.[23] The majority agreed that there was no persuasive research showing that shall issue laws resulted in a statistically significant increase or decrease in crime. NATIONAL RESEARCH COUNCIL, FIREARMS AND VIOLENCE: A CRITICAL REVIEW (2005). One of the seven panelists, UCLA's Prof. James Q. Wilson, partially dissented, arguing that the research did show a statistically significant decrease in homicide.

Professor Donahue, who was not on the panel, agreed with the NRC majority that the current state of the social science evidence did not support a finding that there were statistically significant effects.[24]

Several years after the NRC concluded its work, a new study reviewed the entire literature on the subject of concealed carry, and with additional years and variables added to the 2003 Ayers-Donohue analysis. That study found that the only statistically significant long-term effect is a reduction in assault. Carlisle E. Moody

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[23] The NRC reviewed approximately "253 journal articles, 99 books, 43 government publications, and some original empirical research." Don Kates and Gary Mauser, *Would Banning Firearms Reduce Murder and Suicide? A Review of International and Some Domestic Evidence*, 30 HARVARD JOURNAL OF LAW & PUBLIC POLICY 649, 654 (2007).

[24] A recent Donohue article concludes: "Finally, despite our belief that the NRC's [National Research Center's] analysis was imperfect in certain ways, we agree with the committee's cautious final judgment on the effects of RTC [Right to Carry] laws: —with the current evidence it is not possible to determine that there is a causal link between the passage of right-to-carry laws and crime rates." Abhay Aneja, John J. Donohue, III, & Alex Zhang, "The Impact of Right-to-Carry Laws and the NRC Report: Lessons for the Empirical Evaluation of Law and Policy," paper presented at 5th Annual Conference on Empirical Legal Studies, Johns Hopkins University, June 29, 2010, http://ssrn.com/abstract=1632599 (parentheticals added).

& Thomas B. Marvell, *The Debate on Shall-Issue Laws*, 5 ECON JOURNAL WATCH 269 (2008).

Although gun prohibition advocates sometimes claim that forcible resistance by victims is dangerous, the evidence does not support such claims. Studies based on data from the National Crime Victimization Survey and other sources show that "There is no sound empirical evidence that resistance does provoke fatal attacks."[25] Nor does resistance with a firearm increase the chance of victim injury.[26] Instead, "The use of a gun by the victim significantly reduces her chance of being injured...."[27]

The FBI reports that there an estimated 1,318,398 violent crimes in the United States in 2009.[28] A law which reduced the number of such crime by several hundred or several thousand might not be statistically significant. But it would be of the highest possible significance to the families of the people who were not murdered, to the women who were not raped, to the travelers who were not robbed, assaulted, and maimed.

Congress is not constitutionally required to exercise its powers only when social science unanimously indicates in advance that a proposed law will have statistically significant benefits. In the *Heart of Atlanta* case, Congress did not have any social science studies proving that prohibition of racial discrimination by businesses catering to interstate travelers would lead to a statistically significant increase in interstate travel by Blacks. When enacting the Civil Rights Acts during Reconstruction, Congress had no econometric studies about the potential net benefits of stopping state interference with the right of interstate travel and the right to bear arms. Protecting the national rights of citizenship is *constitutionally* significant, and there it is the most important duty of Congress.

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[25] Gary Kleck & Jongyeon Tark, *Resisting Crime: The Effects of Victim Action on the Outcomes of Crimes*. 42 CRIMINOL. 861, 903 (2005).

[26] Kleck, 35 SOC. PROBS. at 7-9; Gary Kleck & Miriam DeLone, *Victim Resistance and Offender Weapon Effects in Robbery*, 9 JOURNAL OF QUANTITATIVE CRIMINOLOGY 55, 73-77 (1993)(study of all NCVS robbery data from 1979-85; the most effective form of resistance, both for thwarting the crime, and for reducing the chance of victim injury, is resistance with a gun); Gary Kleck & Marc Gertz, 86 JOURNAL OF CRIMINAL LAW & CRIMINOLOGY 150, 174-75 (1995); William Wells, *The Nature and Circumstances of Defense Gun Use: A Content Analysis of Interpersonal Conflict Situations Involving Criminal Offenders,* 19 JUSTICE QUARTERLY 127, 152 (2002).

[27] Lawrence Southwick, *Self-Defense with Guns: The Consequences*, 28 JOURNAL OF CRIMINAL JUSTICE 351, 362, 367 (2000)(NCVS robbery data, pertaining to situations where the robber has a non-gun weapon; if the robber has a gun, or has no weapon, victim gun possession did not seem to affect injury rates. If 10% more victims had guns, serious victim injury would fall 3-5%).

[28] FBI Uniform Crime Reports 2009, "Violent Crime." http://www2.fbi.gov/ucr/cius2009/offenses/violent_crime/index.html.

B. Empirical evidence about permitees

Besides social science, another source of information about the public utility of laws allowing people, after proper licensing, to carry handguns for lawful self-defense is the behavior of people who have such licenses.

Not all states publish detailed reports on their handgun carry licensees. In a 2009 law review article, I collected all the data I could find from states which did publish such reports on the Internet. While the details of how the data are reported vary among the states, the reports unanimously show that almost all permitees are highly law-abiding. In particular:

- Minnesota. One handgun crime (broadly defined, such as driving while under the influence if a handgun is in the car) per 1,423 permitees.
- Michigan. 161 charges of misdeeds involving handguns (including duplicate charges for one event, and charges which did not result in a conviction) in 2007 and 2008 out of an approximate Michigan population of 190,000 permitees.
- Ohio. 142,732 permanent licenses issued since 2004, and 637 revocations for any reason, including moving out of state.
- Louisiana: Permitee gun misuse rate of less than 1 in 1,000.
- Texas: Concealed handgun licensees are 79% less likely to be convicted of crimes than the non-licensee population. Only 2/10 of 1% of licensees ever convicted of a violent crime or firearms regulation crime.
- Florida: The data show a rate of 27 firearms crimes per 100,000 licensed Florida residents.

David B. Kopel, *Pretend "Gun-free" School Zones: A Deadly Legal Fiction*, 42 CONNECTICUT LAW REVIEW 515, 564-69 (2009).

C. Claims about permitees by anti-gun groups

Florida's 1988 concealed handgun licensing law started a national trend, so that by 1995 the majority of the U.S. population lived in a state with such a law, and by 2011, only 9 states have laws which broadly infringe the rights of residents of carry handguns for lawful protection. If there were good evidence that laws allowing the exercise of the right to bear arms are harmful, it would have been found by now.

Some anti-gun advocates argue against lawful carry by pointing to the article Mark Duggan, *More Guns More Crime*, 109 JOURNAL OF POLITICAL ECONOMY 1086 (2001), whose title reveals its thesis. Yet the article proves nothing at all. Rather than

studying concealed handgun laws, the article studied the circulation of *Guns & Ammo* magazine. The article said that it found higher circulation for the magazine (which was used a proxy for gun ownership rates) to be associated with higher crime rates. However, the study failed to consider the circulation policy of *Guns & Ammo* during the study period. At the time, the magazine was attempting to meet certain circulation numbers, which it had guaranteed to advertisers, by giving away 5 to 20 percent of its circulation to doctors and dentists offices. The publisher deliberately concentrated its free magazine program in counties which were believed to have increasing crime rates, since they might be more interested in learning more about defensive guns. *See* Florenz Plassmann & John Lott, Jr., *More Readers of Gun Magazines, But Not More Crimes*, Social Science Research Network (July 2, 2002), http://ssrn.com/abstract=320107.

The Brady Campaign and the Violence Policy Center publish reports on their websites which claim that many crimes are committed by concealed handgun licensees. These reports are collections of supposed incidents which the organizations found by reading newspaper articles on the Internet. Yet when one reads the newspaper stories themselves, it become clear that the anti-gun advocates have engaged in considerable exaggeration.

For example, according to a 2007 report by the Brady Center, "thousands of people with CCW licenses have committed atrocious acts of gun violence."[29] Yet the only cited support for this claim was a *Los Angeles Times* article which reported on four individuals in Texas who had committed crimes, plus another Brady Center report on carry licensees in Florida.[30] The cross-cited Brady report on Florida listed the criminal offenses behind 105 Florida permit revocations in 1987–97.[31] Most of these listings provided no indication that the person whose permit was revoked had committed any crime with a gun, let alone an "atrocious act of gun violence."[32] To the contrary, only 13 out of the 105 listed offenses included use of a firearm as an element, such as "adjudication withheld on felony assault with a deadly weapon," "adjudication withheld on felony aggravated assault with a firearm," or "convicted of felony possession with intent to distribute cocaine, possession of a firearm during drug trafficking offense." Indeed, for the vast majority of the offenses—such as assault or drug sales—the absence of a firearms count would seem to indicate that a firearm was *not* used. Likewise, there was no indication that a firearm was used in the many offenses of simple possession of marijuana, passing fraudulent checks, or other non-violent crimes.

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[29] BRADY CENTER TO PREVENT GUN VIOLENCE, NO GUN LEFT BEHIND: THE GUN LOBBY'S CAMPAIGN TO PUSH GUNS INTO COLLEGES AND SCHOOLS, at iv (2007).
[30] *Id.* at 34–35.
[31] *See* CENTER TO PREVENT HANDGUN VIOLENCE (the previous name of the Brady Center), GUNS & BUSINESS DON'T MIX: A GUIDE TO KEEPING YOUR BUSINESS GUN-FREE, 1C–4C (1997).
[32] BRADY CENTER, NO GUN, at IV.

The 2007 Brady report asserted that a carry permit "can often be a license to kill."[33] An Appendix provided a litany of 29 incidents from around the country, presumably the most "atrocious acts of gun violence" it could find.[34]

Now, if every one of these involved a criminal homicide, these twenty-nine cases (out of a national CCW licensee population of several million), would mean that CCW licensees have a criminal homicide rate far below that of the general population. But most of the 29 most "atrocious" CCW stories that the Brady Center could find did not even involve conduct with a gun that was carried pursuant to a CCW permit.[35] Of those that did, not all of them are exactly the stuff of "a license to kill." For example, United States Representative John Hostettler forgot to take his licensed handgun out of his bag when going through airport security; he pleaded guilty to a misdemeanor.[36] A former judge made the same mistake and also pleaded guilty to a misdemeanor charge.[37]

In Virginia, a schoolteacher left a handgun locked in a car while the car was parked on school property; he was charged with violating the Virginia law against firearms on school property.[38] In Pennsylvania, the transportation director for a school district was suspended for several months for, among other things, what the district described as "unintentionally bringing a loaded firearm onto school property" when he left a handgun in a motorcycle saddlebag.[39]

The Brady Center listed some cases in which a person was arrested after a shooting, but almost never reported dispositions. The Brady Center thus treated a case that was not prosecuted, because an investigation established that the defendant acted in lawful self-defense, as equivalent to a case of criminal homicide. For example, the *Austin Examiner* quoted on Brady Center story:

> Fort Lauderdale, Florida, January 1, 2006. Rogelio Monero [sic], 49, allegedly shot and killed Victor Manuel Villanueva, 17, during a New Year's altercation as Moreno tried to stop a fight between Villanueva and a third party. Moreno was charged with manslaughter.[40]

Then the *Austin Examiner* telephoned the Fort Lauderdale Police Department, and

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[33] BRADY CENTER, NO GUN, at 22.
[34] *Id.* at 22–26.
[35] *Id.*
[36] *See id.* at 24 (citing Jason Riley, *Congressman Guilty in Gun Case*, LOUISVILLE COURIER-J., Aug. 11, 2004, at 1B).
[37] *Id.* at 25.
[38] *See id.* at 24 (citing Maria Glod, *Va. Teacher Accused of Taking Gun to School; Loaded Weapon Found in Locked Car*, WASHINGTON POST, Apr. 27, 2005, at B01).
[39] *Id.* at 25.
[40] Howard Nemerov, *Brady Campaign: Biased, Inaccurate Research*, AUSTIN EXAMINER, Apr. 12, 2009, http://www.examiner.com/x-2879-Austin-Gun-Rights-Examiner~y2009m4d12-Brady-Campaign-Biased-inaccurate-research (quoting BRADY CENTER, NO GUN).

found that the shooting had been determined to be a justifiable homicide.[41]

Another Brady Center story:

> Vancouver, WA, October 3, 2006. Jon W. Loveless, unemployed for ten years, daily marijuana smoker, and father of two children— said that he shot "until my gun was empty" at Kenneth Eichorn [sic, Eichhorn], because Eichorn [sic] had "a weird look" on his face. Loveless also claimed that Eichorn [sic] held a handgun, but the Eichorn [sic] family disputes the claim. Loveless was charged with one count of second-degree murder.

Missing from the Brady account was the conclusion to the story, which was reported October 5, 2006, in the same newspaper that the Brady Center had cited:

> Jon W. Loveless was exonerated Thursday on charges of second-degree murder and was to be released from the Clark County Jail. . . .
>
> On Wednesday, [Senior Deputy Prosecutor] Fairgrieve indicated he had yet to see evidence that would support a second-degree murder charge. He said the standards police use to arrest a suspect are lower than what prosecutors use to file charges, and by law charges against a person in custody must be filed within 72 hours of the suspect's first court appearance.[42]

Of the 29 incidents reported by the Brady Center, there are four cases of gun accidents, two of them fatal. As for criminal homicides by people who actually had concealed carry permits (not people whose permits had earlier been revoked, although the Brady Center lists these), there was only one that was committed in a public place (where the permit would even be relevant), and one more that was committed at home. There were three other cases of misusing a gun against another person (making an improper threat, carrying a gun while impersonating a police officer, and a robbery perpetrated by a police officer's wife).

In short, the Brady Center's claims about the dangerousness of licensees were grossly exaggerated, and some of exaggeration involved people who were determined by law enforcement to have acted in lawful self-defense.

Is every single handgun licensee perfect? No, but the overwhelming majority are highly law-abiding, and even very the few who are not almost never commit violent gun crimes.

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[41] *Id.*; Press Release, City of Fort Lauderdale Police Department, Shooting At New Year's Eve Party Leaves One Dead (Jan. 1, 2006), http://ci.ftlaud.fl.us/police/pdf/2006/january/06-01%20New%20Year%20shooting.pdf.

[42] *Loveless Exonerated in CB Shooting,* CLARK COUNTY COLUMBIAN, Oct. 5, 2006, http://www.accessmylibrary.com/article-1G1-152392929/loveless-exonerated-cb-shooting.html.

In sum, the social science evidence and the government data provide good reason for Congress to believe that the effect of H.R. 822 will be to save lives, thwart violent crimes, and deter criminals.

Conclusion

Samuel Hoar escaped before the criminals could injure or kill him. Many interstate travelers are not so lucky. Congress has the clear constitutional authority, and the responsibility, to protect national citizenship rights from infringements by state or local governments. H.R. 822 safeguards the constitutional right to travel and the constitutional right to bear arms, and enhances public safety.

Mr. SENSENBRENNER. Thank you very much.
Commissioner Ramsey?

TESTIMONY OF CHARLES H. RAMSEY, COMMISSIONER, PHILADELPHIA POLICE DEPARTMENT

Mr. RAMSEY. Good morning and thank you, Mr. Chairman, Ranking Member Scott, and distinguished Members of the Subcommittee, for inviting me to testify today.

This is an important opportunity to discuss a critical issue affecting law enforcement organizations across our Nation and our ability to serve the public.

Having had 42 years in policing and law enforcement, I have witnessed many important changes in public safety across police departments in three cities, first in Chicago for 30 years; and as chief here in Washington, D.C., for 9 years; and now as police commissioner in Philadelphia, the Nation's fourth-largest police department, for the past 3.5 years.

I also have the privilege of serving as both President of the Major City Chiefs Association, which represents the leadership of 63 of the largest municipalities in the United States, and the Police Executive Research Forum.

I am here today to urge Congress to oppose H.R. 822, the National Right-to-Carry Reciprocity Act. This bill would eliminate the right the States now have to set their own public safety laws in consultation with law enforcement professionals.

This legislation is not aligned with our vision for the future of policing. It is counter to what the field of law enforcement needs to create safer neighborhoods, towns, and cities.

The Federal Government, under this bill, will compel every State to honor every other State's permit to carry concealed and loaded guns, no matter how different their standards and criteria for securing a permit. H.R. 822 undermines the traditional authority of State and local governments to protect their citizens with reasonable, constitutional, and community-specific laws for carrying hidden loaded guns.

Every State legislature has intensely debated what minimum standards should apply within their borders, and has put the standards in place. If a State has decided that a person should demonstrate proficiency with a gun before carrying it loaded in public, Washington should not second-guess that decision.

In 2005 in Philadelphia, a man named Marqus Hill had his concealed carry permit revoked by the Philadelphia Police Department after he had been charged with attempted murder. He was able to receive a permit in Florida despite his record and then use his Florida permit to carry a loaded gun in Philadelphia. He eventually shot a teenager 13 times in the chest, killing him on the street.

H.R. 822 would nationalize the ill-conceived policy to put a gun in Marqus Hill's hands. Pennsylvania's current reciprocity agreement with 25 other States, including Florida, have demonstrated the difficulty and the impact that a national policy such as H.R. 822 would impose.

Consider the following situation, which could happen if this bill were to become law. A police officer in Brookfield, Wisconsin, has just pulled over a speeding driver who was a resident of Texas. The driver presents a concealed carry permit from Utah, which grants nonresident permits. There is no way for the Brookfield officer to verify that the permit is legitimate and up to date. He would sim-

ply be required to honor it. The consequences for our frontline police officers could be severe.

Congress should not consider a policy at the Federal level that has no implementation system. We as police leaders cannot leave our officers, whose safety is our first priority, without a mechanism to determine if the permit they hold in their hands is real and valid.

Today I represent countless uniformed officers across the Nation who oppose this bill, including the police chiefs who are members of the Major City Chiefs Association, the International Association of Chiefs of Police, and the Police Executive Research Forum, amongst others.

As we face the challenge of keeping our citizens and our officers safe, I ask Washington to partner with local law enforcement agencies and develop reasonable approaches that protect citizens, protect our officers, and support States rights to provide public safety for their communities.

And I am happy to answer any questions that you may have. Thank you again, and all Members of Committee, for providing me with the opportunity to testify this morning.

[The prepared statement of Mr. Ramsey follows:]

Hearing on H.R. 822 National Right-to-Carry Reciprocity Act of 2011
Before the House Judiciary Committee
Subcommittee on Crime, Terrorism, and Homeland Security
Tuesday, September 13, 2011, 10:00AM

Testimony from Charles H. Ramsey
Police Commissioner, Philadelphia Police Department
President, Major Cities Chiefs Association
President, Police Executive Research Forum

Good Morning and thank you, Mr. Chairman, Ranking Member Scott, and distinguished Members of the Subcommittee for inviting me to testify today.

This is an important opportunity to discuss a critical issue affecting law enforcement organizations across our nation and our ability to serve the public.

Having had forty-two years in policing and law enforcement, I have witnessed many important changes in public safety across police departments in three cities: first in Chicago for 30 years, then as Chief of the Metropolitan Police Department here in Washington, DC, for nine years, and now as Police Commissioner in Philadelphia, the nation's fourth largest police department for the past three and half years.

I also have the privilege of serving as both the President of the Major Cities Chiefs Association (MCCA), which represents the leadership of 63 of the largest municipalities in the United States, and the Police Executive Research Forum (PERF), a national organization dedicated to improving policing and advancing professionalism through research and involvement in public policy debate.

Local police agencies across the nation have made significant gains in preventing and reducing crime in the past thirty years. During this time, we have seen improvements in our technology infrastructure, in our local, state and federal law enforcement partnerships, and in our ability to deliver a high level of police service.

Our strategies have become more evidence-based, more targeted and more effective; we have and we will continue to make progress with fewer resources in an economy that has also dramatically shifted the landscape of policing, as it has every other part of society.

Let us continue to make progress, and do so in a way that is reasonable, based on sound policy, and with the highest commitment to both officer and community safety.

I am here today to urge Congress to oppose H.R.822, the "National Right-to-Carry Reciprocity Act." This bill would eliminate the right that states now have to set their own public safety laws, in consultation with law enforcement professionals. This legislation is not aligned with our vision for the future of policing. It is counter to what the field of law enforcement needs to create safer neighborhoods, towns and cities.

The federal government under this bill would compel every state to honor every other state's permit to carry concealed, loaded guns—no matter how different their standards and criteria for securing a permit. H.R. 822 undermines the traditional authority of state and local governments to protect their citizens with reasonable, constitutional and community-specific laws for carrying hidden, loaded guns.

Every state legislature has intensely debated what minimum standards should apply within their borders and has put those standards in place. For example, thirty-eight states will not grant permits to people convicted of certain violent misdemeanors, such as assault, stalking or sex offenses. Thirty-six states do not issue permits to people under the age of twenty-one. Twenty-nine states deny permits to alcohol abusers, including—in many states—people convicted of driving under the influence. And thirty-five states require some type of gun safety training or live-fire practice.

We have a uniquely diverse nation. What works where I currently serve as Commissioner in Philadelphia, and the Commonwealth of Pennsylvania, does not work for our neighbor across the river in New Jersey. Our laws for obtaining a permit are vastly different, based on well-debated decisions made at the state level. This bill would allow people to carry concealed and loaded guns in every state, without consideration for the minimum standards created by their governments.

It is true that some states have decided to enter into voluntary reciprocity agreements and others have not. Today, states have the choice to cancel an agreement when the state no longer meets their minimum standards. For example, New Mexico and Nevada both terminated reciprocity agreements with Utah in part because Utah does not include live-fire instruction as part of its training requirement.

If a state has decided that a person should demonstrate proficiency with a gun before carrying it loaded in public, Washington should not second-guess that decision.

As Police Commissioner in Philadelphia, I don't need hypothetical examples to show you why this bill is a dangerous idea, one that already gets played out in the daily challenges that our Philadelphia Police Officers and our citizens face.

In 2005, a man named Marqus Hill had his concealed carry permit revoked by Philadelphia Police after he had been charged with attempted murder. During the revocation hearing, he attacked an officer. But later, he got a new permit from Florida despite his record. Hill then used his Florida permit to carry a loaded gun in Philadelphia. He eventually shot a teenager thirteen times in the chest, killing him in the street.

Cases such as Marqus Hill, unfortunately, are becoming more ordinary, as more people whose desire is to cause harm, use the current system to circumvent Pennsylvania's process.

H.R.822 would nationalize the ill-conceived policy that put a gun in Marqus Hill's hands. Pennsylvania's current reciprocity agreements with 25 other states, including Florida, have demonstrated the difficulty and the impact that a national policy such as H.R. 822 would impose.

Consider the following situation, which could happen if this bill were to become law. A police officer in Brookfield, Wisconsin has just pulled over a speeding driver who is a resident of Texas. Through conversation with the driver, the officer learns that he has a gun, and the driver presents a concealed carry permit from Utah, which grants non-resident permits.

How is the Brookfield officer supposed to verify that the Utah permit is real and up-to-date? And to what degree does the out-of-state and non-resident permit give the officer confidence that the individual is responsible, well-trained and thoroughly vetted?

This is all happening in the context of a traffic stop where tensions may already be running high. The officer is faced with an individual who has a loaded gun, and the officer is unable to verify whether the person is carrying that gun legally. With this law in effect, police would see an out-of-state permit, and simply be required to honor it. The consequences for our front-line police officers could be severe and dire.

Inspecting a concealed carry permit is often the only tool an officer has to determine whether an individual is legally carrying a concealed firearm.

Congress should not consider a policy at the federal level that has no implementation system. We as police leaders cannot leave our officers, whose safety is our first priority, without a mechanism to determine if the permit they hold in their hands is real and valid.

The right-to-carry a concealed and loaded gun is already a highly contested debate. I ask Congress to leave this debate where it should remain, as a decision for each state. Today I represent countless uniformed officers across the nation, who oppose this bill, including the police chiefs who are members of the Major Cities Police Chiefs Association, the International Association of Chiefs of Police, and the Police Executive Research Forum, amongst others.

As we face the challenge of keeping our citizens and our officers safe, I ask Washington to partner with local law enforcement agencies, and develop reasonable approaches that protect citizens, protect our officers, and support states' rights to provide public safety for their communities.

I am happy to answer any questions that you may have. Thank you to all members of the Committee for providing me with the opportunity to testify before you today.

Mr. SENSENBRENNER. Thank you, Commissioner.

I will yield myself 5 minutes to start the questioning out.

Commissioner Ramsey, I think you have a good point, relative to not knowing the legitimacy of a concealed carry permit that is issued by a foreign jurisdiction, what it looks like, and the like. Say this bill passes and a police officer makes a traffic stop and somebody pulls out a concealed carry permit of questionable legitimacy. What would the officer do in Philadelphia, if that happened?

Mr. RAMSEY. If it was questionable now, they would seize it and bring the individual in and check further to see whether or not it was legitimate. Now that is if it is obviously forged. Some of these forgeries are so good, you honestly cannot tell the difference unless you have certain equipment in order to be able to tell.

Many of the permits from other States do not even have photographs on the permit. In Pennsylvania, we do. But in many jurisdictions, it is just simply a card with writing on it. And there is no way to really verify. If it is 3 o'clock in the morning and you have a traffic stop, there is not even a database. You can't even contact radio to determine whether or not this is a valid permit, because you can't run it through a database like you can a driver's license.

Mr. SENSENBRENNER. Okay, so the person who used that type of document would be detained for at least some period of time while the legitimacy of the document is checked out, either at a police station or elsewhere? Are you clear on that?

Mr. RAMSEY. I understood your question to be if it looked suspicious. In other words, it looked like it had been forged. That's different. If you have no reasonable suspicion that it is anything other than a legitimate permit, you wouldn't do that. You would simply allow the person to go.

Mr. SENSENBRENNER. Okay.

Professor Kopel, what do you think about this hypothetical?

Mr. KOPEL. Well, I would say, in the Supreme Court, I have represented the International Law Enforcement Educators and Trainers Association, which is the main organization that trains law enforcement in firearms use. And I think the levels of police training are capable of addressing different types of identification from other States.

It used to be, in the olden days, not all drivers' licenses had photographs on them, and it was certainly true that, in previous decades, if someone was in Colorado, say, with a New York driver's license, and they were speeding at 11 o'clock at night, the police officer in Denver couldn't call up the New York State Department of Motor Vehicles to test the validity of that license. And things still worked out all right anyway.

I think this is something that is addressable by police training.

Mr. SENSENBRENNER. Okay, I yield back the balance of my time.

The gentleman from Virginia, Mr. Scott?

Mr. SCOTT. Thank you.

Professor Malcolm, you mentioned the debate about whether or not more guns would increase or decrease crime. Do you think more firearms would increase crime or decrease crime?

Ms. MALCOLM. More firearms has not increased violent crime. We have had more firearms over the last few years, millions more,

and violent crime has been going down dramatically. And the murder rate has been going down dramatically.

Mr. SCOTT. So if we had more firearms, the crime rate in your judgment, would go down? Is that what I am hearing?

Ms. MALCOLM. It has gone down.

Mr. SCOTT. Okay.

Ms. MALCOLM. I should say that, obviously, when crime goes down, there is more than one reason for that. I mean, good policing is also important.

Mr. SCOTT. Do any States prohibit open carry, kind of Wild West, strap it to your waste, unconcealed—do any States prohibit open carry?

Mr. KOPEL. Approximately half the States prohibit open carry.

Mr. SCOTT. Half the States prohibit open carry.

Commissioner Ramsey, what kind of standards are usually imposed in order to get a concealed weapons permit?

Mr. RAMSEY. Well, in Philadelphia, for example, we will do a background check on an individual, looking for a criminal record. If they have a criminal record, certain misdemeanor offenses, such as stalking, for an example, some domestic violence, luring a child into a building, impersonating a police officer, certainly felonies, DUI convictions, those kinds of things, would make a person ineligible for a permit.

In fact, we have had circumstances where we have denied a permit, but that same individual gets a permit from Florida, where we have reciprocity with the State Florida, and they are able to carry a gun in Pennsylvania, even though we have denied them the permit in Philadelphia.

Mr. SCOTT. You don't have to be a resident in order to get a concealed weapons permit?

Mr. RAMSEY. Well, you do in Pennsylvania, but there are States where a nonresident permit is allowable.

Mr. SCOTT. Do you have to be physically present to get a concealed weapons permit?

Mr. RAMSEY. There are some I am told you can get online.

Mr. KOPEL. If I could just elaborate a little on that?

Florida is one of several States that issues permits to nonresidents. So for example, when I knew I was going to Florida on a business trip, you cannot walk into a Florida police station on Tuesday morning and then get a permit that same day. It is a process that takes weeks, including going to your local sheriff's department to get fingerprinted, and then the sheriff's department sends those fingerprints to——

Mr. SCOTT. Do any States allow this to be done online?

Mr. KOPEL. There may be parts of the application process—instead of writing your name and address on a piece of paper, there may be some States that allow you to do that online. But a completed application would require your in-person fingerprints taken by local law enforcement and then sent to the Florida Department of Law enforcement, for example.

Mr. SCOTT. Is that the case in every State?

Mr. KOPEL. In Colorado?

Mr. SCOTT. In every State.

If this bill were to pass, and a State were to adopt fairly lax standards, like, you know, type it online and they will mail you your permit, would it be valid everywhere under this legislation?

Mr. KOPEL. Actually, for professional interests, I have tried—I have done applications for almost every State that issues nonresident permits, on a regular basis. And I have never seen States with anything lax like that, where you could just fill in a form and they wouldn't even verify your identity.

Mr. SCOTT. Is there anything in the legislation that prohibits that? If they just charged enough, it could be a great revenue-raiser.

Mr. KOPEL. It is basically following the same system as with drivers' licenses, where some States, at least in the olden days, used to issue drivers' licenses to 14-year-olds, and others to older people, and they had different requirements for the amount of training you would have. And States were comfortable having reciprocity with each other for their licenses.

Mr. SCOTT. Do all States prohibit access to a concealed weapons permit for someone on the terrorist watchlist?

Mr. KOPEL. I don't know of any State that formally does that, because the terrorist watchlist is a secret government list that people don't even have access to. I mean, that is really McCarthyism at its most extreme, to say somebody——

Mr. SCOTT. What about domestic abuse?

Mr. KOPEL. Pardon?

Mr. SCOTT. Domestic abuse. Domestic violence.

Mr. KOPEL. Federal law prohibits gun possession by anyone convicted of a domestic violence misdemeanor. So no State would or could issue a carry permit to a person with a domestic violence misdemeanor conviction.

Mr. SCOTT. And, Commissioner Ramsey, if a person presented an out-of-state permit, would there be any probable cause to do anything?

Mr. RAMSEY. If there is a State, and we have 25 States where we have a reciprocity agreement, then they would be legitimate in terms of being able to carry that firearm.

The problem is that different States have different criteria. Now, it has been mentioned, drivers' licenses. You can't just go to a car dealership, buy a car, and start driving. The step in between is called getting a license. You have to be tested, have certain knowledge of rules of the road. You have to show proficiency in being able to drive a car. There are certain standards that are in place.

That is not the case with concealed—with gun permits right now.

Some States require a person to show a level of proficiency with a firearm and go through certain steps to do that. There are other States that don't allow that at all. In fact, I believe it was Nevada that recently terminated their agreement with both Florida and Utah, but previously they had reciprocity agreements, because their standards did not match what they considered to be appropriate, and they, therefore, withdrew their reciprocity agreement, which a State ought to have the right to do that.

Mr. SENSENBRENNER. The time of the gentleman has expired.

The gentleman from California, Mr. Lungren?

Mr. LUNGREN. Thank you very much, Mr. Chairman.

Commissioner Ramsey, thank you for your service in the various positions of responsibility you have had.

Let me ask you this. In the past, one of the arguments, strong arguments, has been, over the last 20 years, that if we were to allow more carry permits, or, generally speaking, if we were to allow more people to have access to personal weapons, it would cause the crime rate to go up, that is particularly the violent crime rate. The facts seem to be the opposite of that.

And I listened to law enforcement, respected law enforcement, was a part of law enforcement as attorney general of California when these arguments were made. But I always said I would look at the facts as they were presented when people said there is a different side to it.

In your opinion, both representing the group that you are here representing and in your personal experience, how do we explain the drop in the violent crime rate at the same time we have evidence of more weapons available to individuals? And there appears to be, over the last 20 years, a larger number of concealed permits given by the various States?

Mr. RAMSEY. Thank you, sir.

Let me just say that the vast majority of people that purchase handguns legally are decent, law-abiding citizens that do not commit crime. They have no intention of committing crime. There is no question in my mind about that.

In fact, in Philadelphia, for an example, we took a look at our homicides just for the first 6 months of this year. More than 80 percent of the people who were victims of homicide in Philadelphia had previous criminal records that would have barred them from buying a gun legitimately or getting a concealed permit to carry. Some 88 percent of the offenders, same thing.

So the population that is committing the crime isn't necessarily the same population, to a large extent, buying the handguns.

The issue I have is the lax nature of some of the laws of certain States that then I would have to accept in my jurisdiction should a national concealed carry law be passed. There are no standards in place at all for that.

Mr. LUNGREN. So you are not against the idea of individual citizens having carry permits for concealed weapon?

Mr. RAMSEY. Well, that is a different issue. Personally, I don't like it, personally. But I am also a realist, and if you already have a jurisdiction——

Mr. LUNGREN. Let me ask you that question. Personally, you don't like it. At least in my experience, most law enforcement people I know that have retired have a right to continue to carry.

Mr. RAMSEY. Right.

Mr. LUNGREN. So it is good enough for them, but not good enough for the average citizen?

Mr. RAMSEY. Well, sir, the average law enforcement—in fact, all law enforcement officers, we are trained in the use of force. We are trained in how to use a firearm. We undergo constant training in that area.

The average citizen that buys a gun, there is no requirement in most jurisdictions that they know how to load the gun or how to properly use it. There needs to be checks.

As you get older, I mean, you get physical disabilities that can afflict you. Do you want someone with advanced stages of Parkinson's with a handgun firing——

Mr. LUNGREN. No, I wouldn't, but it seems to me if someone is older and has less ability to physically defend themselves, perhaps the use of a weapon in their own home, or as they are going to their car, or in their own business, might be a means by which they are able to defend themselves despite age.

Mr. RAMSEY. Well, I am not arguing the in the home part. The carry and conceal is a danger to law enforcement. As we stop these individuals, we are the ones who have to make the stops on the street, sir. We are the ones that have to do that.

Mr. LUNGREN. No, I understand.

Mr. RAMSEY. We do it at all hours of the night, 3 and 4 in the morning, with individuals, some very dangerous individuals that could be carrying falsified, forged documents. We just don't need to make it easier for them.

If a State decides they will allow concealed carry for the residents, that is the right to do so. But to have a national concealed carry, without any kind of standards——

Mr. LUNGREN. Okay, let me ask you about that.

Mr. RAMSEY [continuing]. Is a problem.

Mr. LUNGREN. If the legislation had some minimum standards, could you support it at that point in time?

Mr. RAMSEY. It depends on the standards, sir. Registration, showing proficiency in the use of it, there are a lot of standards that would have to be present before I would sign off and say that it is a good bill.

Mr. LUNGREN. But if we had standards that to your satisfaction met the standards you have Pennsylvania for example——

Mr. RAMSEY. Pennsylvania, I think, has a terrible law as it relates to concealed carry.

Mr. LUNGREN. Oh, really?

Mr. RAMSEY. Way to lax. I happen to live in Pennsylvania and work in Pennsylvania; it doesn't mean I like the law in Pennsylvania. I think it is one of the weaker laws in the country.

Mr. LUNGREN. Is there any State that you would suggest has the proper standards?

Mr. RAMSEY. Sir, I am not a proponent of concealed carry.

Mr. LUNGREN. No, I understand. That is obvious.

Mr. RAMSEY. But from your question, then I would have to recognize a State, saying that I think that that is the right way to go.

I realize there is a debate on this issue, and I respect the opinion of those that have a contrary opinion. But I personally do not like the idea of people carrying guns with no training, with no understanding of when it is appropriate to use force, get lost in a quote, unquote, "bad neighborhood," everyone who lives in that neighborhood is not a criminal, and just because you were afraid, you turn around and shoot somebody. I have a problem with that.

Mr. LUNGREN. I have a problem with that whether you have a permit or not.

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

The gentleman from Illinois, Mr. Quigley?

Mr. QUIGLEY. Thank you, Mr. Chairman.

I will address my comments to the professors here. I have only been here a little over 2 years. What I have learned from about States' rights is that people are for them if they agree with the issue.

My questions to you are, where do we draw the line?

Professor, you made a reference to Justice Scalia's opinion in the Heller case, creating the exceptions to the rule, as you said. Basically, what the justice seemed to be saying is that this isn't an unlimited right and not everybody can have a gun of any type anywhere they want, which is appropriate.

But not all States even take it to that limit, as you understand. The Court was saying you can restrict on these issues.

Mr. KOPEL. Yes.

Mr. QUIGLEY. Not every State does that. So what you are saying is, those States don't have a right to make their own laws, even within the bounds of that Supreme Court decision, which I am sure you thought was an appropriate decision.

So at what point do we draw the line? At what point do we say these States rights are important, they follow the Supreme Court, and these aren't, because we want uniformity. Does that apply to—let's just recognize something else.

This isn't the only issue in which there is no uniformity. Extraordinary issues, which the Court has upheld in many cases, those people's fundamental right to have. Are we talking about uniformity in laws now that the Federal Government is going to dictate about marriage licenses, particularly when it comes to an issue like same-sex marriage? Are we talking about alcohol laws being uniform? Are we talking about abortion rights being uniform? Are we talking about smoking laws?

You know better than most of us in this room, maybe 20 or 30 other real sensitive issues, of which there are people who are passionate about those rights. Are you saying, well, I care about guns, so we are going to create a niche for guns to be uniform and dictate from the Federal level, but I don't care about the other rights.

Where do we draw the line?

Mr. KOPEL. I appreciate your concern for federalism, and I think you, Representative, are absolutely right that there are many people in Congress or elsewhere who sort of switch sides on these States rights vs. federalism issues, depending on the particular topic.

I think the principal way to do it is to go back to the 14th Amendment. The 14th Amendment was created for the purpose of giving Congress the power to protect national citizenship rights. Now, when they were debating the 14th Amendment in Congress, they weren't talking about saying, well, this is terrible because one State has one rule on smoking and another State has another rule on smoking, or States have different policies on alcohol. They had very different policies back then.

Mr. QUIGLEY. You are saying they weren't concerned about uniformity?

Mr. KOPEL. On issues like smoking or alcohol, for example, which you raised. But they were concerned about protecting the minimum baseline of the national citizenship rights on travel and on the Bill of Rights, including the Second Amendment. And we know that ex-

pressly from the congressional debates, and that is with the *McDonald* decision was founded on.

In terms of what you talked about, the Heller decision says that States can restrict gun carrying in sensitive places, you are exactly right that some States go as far as possible on that, and other States don't really have those restrictions.

Mr. QUIGLEY. At all.

Mr. KOPEL. Exactly. This bill appropriately matches that, because it says when the visitor is carrying in the second State, the visitor must carry only in those places according to the rules of the host State.

So, for example, in Colorado, we say someone with a concealed handgun permit could have a gun in the car when he is picking up his kids from a K-12 school. Other States wouldn't allow that. Whatever State you are in, you have to follow the rules about that, as that State defines sensitive places. That is what in H.R. 822 right now.

Mr. QUIGLEY. Professor?

Ms. MALCOLM. Yes, I agree. I think there is a great deal of difference between rules on drinking and something that affects one of the rights in the Bill of Rights.

Mr. QUIGLEY. What about the right to be married? You don't tie to any constitutional right, that people have a right to get married? Or the Supreme Court hasn't ruled on marriage rights again and again a constitutional right, Loving and other cases such as that?

Ms. MALCOLM. That is a very hot issue. The Supreme Court has——

Mr. QUIGLEY. So is this issue. They are all hot issues to the person who cares about them.

Ms. MALCOLM. The Federal Government has a Defense of Marriage Act, which supports States rights in this area, so it has——

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

The gentleman from South Carolina, Mr. Gowdy?

Mr. GOWDY. Thank you, Mr. Chairman.

Professor Kopel, you agree that the first eight amendments apply to the States?

Mr. KOPEL. I think there is substantial evidence from the original enactment of the 14th Amendment that was the intention. The Supreme Court hasn't taken it all the way for all eight, but it has taken it all the way for most of——

Mr. GOWDY. Well, that would certainly create a very curious result, if some applied to the States and some did not. Agreed?

Mr. KOPEL. Certainly, but, for example, the grand jury right doesn't currently apply, nor does the Eighth Amendment prohibition on excessive fines.

Mr. GOWDY. Do you agree that there is a constitutional right to travel?

Mr. KOPEL. Yes, that is clear. It is one of those things that dozens of court decisions have said is necessarily implicit in our structure as a national union, and is one of the things that the 14th Amendment was specifically intended to——

Mr. GOWDY. Do you agree that there is a constitutional right to defend yourself?

Mr. KOPEL. Yes, the Heller decision recognizes a right of self-defense.

Mr. GOWDY. Commissioner Ramsey, while I disagree with you on this point, I respect your service and that of others who wear the uniform.

Mr. RAMSEY. Thank you.

Mr. GOWDY. Do you agree that there is a constitutional right to defend yourself?

Mr. RAMSEY. Well, I am, unlike the two professors here, not an expert in the Constitution. But I would say yes.

Mr. GOWDY. If there is a constitutional right to defend yourself, and the Second Amendment applies to the States, do you agree that New York cannot have a different variation of the First Amendment than Nevada?

Mr. RAMSEY. Yes.

Mr. GOWDY. Do agree that Vermont cannot have a different Miranda application than North Carolina?

Mr. RAMSEY. I would agree.

Mr. GOWDY. So you are willing to concede the need for uniformity in the administration of certain constitutional rights?

Mr. RAMSEY. Yes, sir.

Mr. GOWDY. Do you agree that there is a constitutional right to bear arms?

Mr. RAMSEY. Yes, sir.

Mr. GOWDY. Professor Kopel, what is the constitutional right analysis by which you would limit that right to bear arms? 922(g). What is the constitutional construct that one would go through to limit your right?

Mr. KOPEL. In the terms of 922(g), you mentioned that, the section of volume 18 of the United States Code which creates the Federal list of prohibited persons, such as collected felons——

Mr. GOWDY. Right.

Mr. KOPEL. Domestic violence misdemeanors.

Mr. GOWDY. Right. I know what it is. I was asking what is the constitutional construct that you use to support Congress's ability to limit the Second Amendment application?

Mr. KOPEL. The argument would be that it is——

Mr. GOWDY. It is a fundamental right?

Mr. KOPEL. Yes.

Mr. GOWDY. Would you use strict scrutiny?

Mr. KOPEL. Well, when the Supreme Court says something is a fundamental right in the sense that it must apply to the States via the 14th Amendment, that is not the same as every part of that right getting strict scrutiny.

Mr. GOWDY. What level of scrutiny which you use?

Mr. KOPEL. The courts are still working that out. And I think what that right answer is shown, for example, by the Seventh Circuit in the Ezell case, which said Chicago couldn't ban target ranges entirely in the city, which if you have strict scrutiny or something close to it, for things that involve the primary exercise of the right, and you might have, as by analogy, if the government tried to restrict the content of speech, that would have strict scrutiny.

On the other hand, when the government sets regulations about speech in public places, such as permitting regulations to have a parade, things like that, those hit intermediate scrutiny. And I think similar——

Mr. GOWDY. Do you think there can be 50 different variations of the First Amendment?

Mr. KOPEL. No. As the Supreme Court articulates First Amendment doctrine, of course, every State has to obey that as a baseline.

Mr. GOWDY. Can some States opt out of the requirement that you provide legal counsel for people who are facing a term of imprisonment?

Mr. KOPEL. Absolutely not.

Mr. GOWDY. Can they opt out of Miranda?

Mr. KOPEL. Certainly not.

Mr. GOWDY. Can they interpret cruel and unusual punishment differently?

Mr. KOPEL. No.

Mr. GOWDY. Then why is there no national standard for the Second Amendment?

Mr. KOPEL. Because the Supreme Court has—it took them about a century and a half to start protecting the First Amendment through judicial decisions, and it took them even longer to get around to the Second Amendment. And so the Supreme Court has not yet articulated the detailed rules.

Mr. GOWDY. So we are waiting on them.

All right, I have a little bit of time. I want to Professor Malcolm, have you done any studies or are aware of any studies with respect to the crime rate among concealed weapon permit holders?

Ms. MALCOLM. The studies among permit holders show that there are very few permit holders that ever commit a crime.

Mr. GOWDY. With respect to officer-involved shootings, have you done any—respect to whether or not there are any concealed weapons permit holders who have been involved in officer-involved shootings?

Ms. MALCOLM. There aren't any that I know of.

I should say that people that are interested in committing a crime are not likely to go ahead and register a gun and get a permit.

Mr. GOWDY. Amen to that.

Mr. SENSENBRENNER. The time of the gentleman has expired.

The gentlewoman from California, Ms. Chu?

Ms. CHU. Thank you.

Before I begin with my questions, I want to mention that Mayors Against Illegal Guns, a bipartisan coalition of more than 600 U.S. mayors, has launched a national campaign called "Our Lives, Our Laws," along with major national police organizations, domestic violence prevention advocates, and faith leaders, to express their opposition to this bill. In just 5 days, 45,000 grassroots supporters have signed this petition.

And my first question is to Commissioner Ramsey. In your testimony, you mentioned that laws for obtaining permits in Pennsylvania might not work in New York. Now, I was in the California State Legislature before, and I know how much we debated these laws and passed laws that were specific to our State. Can you

speak a little more on how States should be allowed to create permitting standards that best address the needs of that State and its safety concerns?

Mr. RAMSEY. Yes, ma'am. I think that just like, as it is now, it is not an issue of the right to bear arms. I mean, that is covered by the Second Amendment. But this issue of concealed carry, a part of that, is being decided on an individual basis, state-by-state, as to whether or not they will allow residents to carry a weapon concealed, in some cases open carry, outside of their home in different places.

I mean, some jurisdictions have some restrictions as to where that can be. Others may not have the same restrictions.

I think that a State ought to make that decision for themselves based on their knowledge of their State, their residents, and so forth, and that a national policy in this regard is not needed.

And let me just comment on one thing that was said earlier about the right to defend yourself. I believe a person has a right to defend themselves. However, we are talking about the potential use of deadly force when we are talking about having a firearm. This is not the same as getting in a fistfight, or whatever.

And at what level is it acceptable to shoot and kill a person? I mean, police, we are trained constantly on use of force issues. If a person breaks into your house and is running away from you, down the street, can you shoot them in the back and kill them?

I mean, there are circumstances in which use of deadly force is not permitted. I don't know if 300 million Americans are going to get that same lesson and understand it the same way.

And I have some serious concerns about people, some circumstances in a bar, have a drink, or you get heated in a domestic situation, in regards to a permit to carry person using it—this past weekend, we had a police-involved shooting. The person that was shot by police had a permit to carry, got involved in a situation waving a gun around, got himself shot. I mean, these things can happen.

Is it the norm? No. But is it a concern? Absolutely, it is a concern for me, because, again, it is the use of deadly force. You can't take it back. You cannot take it back. And that concerns me a great deal, and I think it puts a lot of people unnecessarily at risk.

Ms. CHU. Thank you for that.

Professor Kopel, a few minutes ago, when Congress Member Scott asked you whether individuals convicted of domestic violence could legally obtain a permit, you said no. However, people are still obtaining concealed carry permits, and here are a couple examples.

In 2009, Clinton Gallagher pled guilty to misdemeanor domestic violence, for which he lost his Missouri permit to carry concealed weapons. Gallagher then sued the county sheriff to have his permit reinstated and won the case. The court held that a misdemeanor domestic battery conviction does not prevent someone from possessing firearms in Missouri, even though a misdemeanor domestic violence conviction disqualifies a person from possessing a gun under Federal law.

In December 2010, Gallagher shot and killed his 6-year-old son and then killed himself.

A second example, Jason Kenneth Hamilton was arrested in December 2005 for attempted strangulation of his on-again, off-again girlfriend, which led to his conviction for misdemeanor domestic battery in June 2006. He was still able to obtain an Idaho permit to carry a handgun. And in May 2007, Hamilton shot and killed his wife, a police officer, and a church sexton before killing himself.

The county sheriff confirmed that Hamilton had a concealed weapon permit despite the domestic violence conviction that should have barred him from owning firearms.

How do you respond to that?

Mr. KOPEL. Well, I would say—have you investigated those cases yourself, Representative? Or did you get them from an organization?

Ms. CHU. I got this from an organization.

Mr. KOPEL. Those cases are new to me, so I can't tell you much in depth about them. I will certainly look them up and find out what I can. I know that sometimes organizations have misreported situations, for example, saying that somebody was one of these concealed killers when in fact the police and law enforcement determined they acted in lawful self-defense.

But hypothesizing of those facts, if the organization provided the facts to you accurately, certainly nobody should—if a person is ineligible by Federal law to possess a gun, local law enforcement or whoever is issuing the permits would be making a terrible error to issue a carry permit to a person who by Federal law can't even possess a gun, let alone carry one.

Mr. SENSENBRENNER. The gentlewoman's time has expired.

The gentleman from Texas, Mr. Poe?

Mr. POE. Thank you, Mr. Chairman.

Thank you for being here, Commissioner. I appreciate your service——

Mr. RAMSEY. Thank you, sir.

Mr. POE [continuing]. As a peace officer. Having been a prosecutor and judge for a long time, I saw a lot of men and women come in blue to the courthouse to testify. I appreciate your service.

May I ask the professors this question? The Second Amendment, the basis of the Second Amendment, is it a right of self-defense or is it, based upon historical precedent, a right to protect us from government intrusion? Which of those theories, or both, do you believe? Just your personal opinion.

Professor Kopel first.

Mr. KOPEL. I think if you go back to the origins of the Second Amendment and its early interpretation, for which probably the fullest exposition as St. George Tucker's treatise, which was the leading American law treatise for about the first quarter century after the Constitution. He described the Second Amendment right as including both of those important purposes you said, as well as other purposes, such as hunting.

The First Amendment has multiple purposes in it of the communication that people enjoy with each other just for fun as well as finding out information about the government or preventing tyranny that way, by speech about what the government is doing. So likewise, I would say the Second Amendment has many salutary purposes.

Mr. POE. Those are at least two of the purposes, historically.

Mr. KOPEL. Yes.

Mr. POE. As well as hunting, a militia as well.

Professor Malcolm?

Ms. MALCOLM. Yes, I would agree with that. The two main purposes are the right of individual self-defense and also this notion that should the government ever become tyrannical and deprive you of your rights, that this right would enable you to recover them.

But, you know, it is sometimes called I guess a suicide clause, but I think that originally that that was the idea, that people would be able to vindicate their right.

Mr. POE. Thank you.

Commissioner, when somebody comes into your State and they have a foreign driver's license, I should say out-of-State driver's license, from Utah or Texas or wherever, set aside the issue of fraud, you generally accept that driver's license?

Mr. RAMSEY. Yes, sir. We are able to run it through our communications center. We can to a name check. We can see if it is a valid license or not.

Mr. POE. Even though States have different rules on who can get drivers' licenses? Some require more stricter standards than others.

Mr. RAMSEY. Some do, but they do have some standards. I mean, driving test, certain age, they can suspend for drunk driving. I mean, each one is slightly different, but there are some standards in place.

Mr. POE. Some have different ages on who can drive, put a limit on who can drive. Some States even allow people illegally in the country to get a driver's license. You would let that person—you wouldn't treat that person with a driver's license from some State that is illegally in the country any different than you would somebody else in another State, because his driver's license on its face, if checked out, is presumed to be correct.

Mr. RAMSEY. Well, that would apply whether or not they are written for driving without a license. Whatever violation they committed that caused the contact to begin with, we would proceed with.

Mr. POE. I understand.

Mr. RAMSEY. I mean, so traffic as an example, I mean, it is not the—I mean, there is a specific charge for driving without a license, but they would have been stopped for something——

Mr. POE. But you always check their driver's license?

Mr. RAMSEY. We would have, yes.

Mr. POE. You always check their driver's license.

Mr. RAMSEY. Yes, sir. Yes, sir.

Mr. POE. If he stopped for——

Mr. RAMSEY. Everybody should have a driver's license.

Mr. POE [continuing]. Speeding or run a red light.

Mr. RAMSEY. Yes, sir.

Mr. POE. Make a left turn without a signal, you know, one of those.

Mr. RAMSEY. Yes.

Mr. POE. In Houston, or in Texas, before we had permits to carry, we had this phenomena. We had a tremendous amount, in

my opinion, of carjackings. It was a simple procedure. It was usually a woman that was the victim at night, driving alone. A car would pull in front of her. She would pull behind it at an intersection. Another car would pull behind her, block her in. She is carjacked.

Those almost stopped overnight, when they got the right to carry, because criminals believed that lone female and that gun was packing, and she probably was, since there are 461,000 permits in the State of Texas.

So that is a self-defense issue. It affects the crime rate on that particular type of crime, carjacking, which was, I thought, an epidemic.

Let me ask you this, Commissioner, you have drivers' licenses that are little different from State to State. But you also have permits that are little different from State to State. Do you see the analogy between the two? Or do you still think that there should be a difference with permits, firearm permits as opposed to drivers' licenses?

Mr. RAMSEY. Well, one, I mean, I personally think that if there were going to be, you know, concealed carry—of course, there are concealed carry laws, that there ought to be standards in place by that particular State.

But here is where the example that you are using, I kind of get lost. If I make a mistake and let a person drive with a driver's license that is expired or a forged driver's license, that is just a person operating a motor vehicle illegally. If I let a person leave with a gun that shouldn't have a gun, they potentially can go out and do far greater harm.

So, you know, I mean, I don't disagree. The carjacking is a question of whether or not use of deadly force is justified. There are some cases where it is justified. It would be appropriate to use it. I just don't think everybody has that training to make those distinctions.

The two neighbors arguing over something between them, and someone gets shot, the domestic violence situation, the bar where somebody is carrying a gun and it escalates, I mean, those are the kind of things that I get concerned about. And when you have lax standards, and we have got people—I have examples in Philadelphia where a guy attempted murder in Philly. He goes to Florida and gets a permit, comes back and commits a homicide in Philadelphia.

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

The gentleman from Arizona, Mr. Quayle?

Mr. QUAYLE. Thank you, Mr. Chairman.

Professor Malcolm, you have done a lot of research and writing, comparing the crime statistics from the United States as compared to Great Britain. In Great Britain, basically, they have prohibited handguns pretty much across the board. How does the U.S. violent crime rate compare with Great Britain's?

Ms. MALCOLM. Their violent crime rate is much higher than ours. The only thing that is different is the murder rate. But for all other types of contact crime, their violent crime is much higher.

Mr. QUAYLE. So after the ban in 1997, violent crimes committed with firearms, did they drop or disappear after that ban?

Ms. MALCOLM. No, they doubled. They doubled after they banned handguns and retrieved all of them from people who had bought them and registered them. The amount of crime with those very same weapons that had been banned doubled.

It really was not a very useful exercise. In fact, their Olympic team is not—shooting team is not allowed to practice or have their guns in the country. They have to practice in Switzerland.

Mr. QUAYLE. Okay.

Do you think that concealed carry laws will actually have an effect on property crimes as well, not just violent crimes?

Ms. MALCOLM. I think so. I mean, certainly thefts, it makes a big difference, or burglary. In Britain, most burglaries are live burglaries where the people are home, because the burglars aren't afraid anybody will be armed, whereas in this country, it's about 13 percent with the people home, because the burglars are more worried about armed homeowners than they are about the police. So it really is a deterrent.

Mr. QUAYLE. Okay, thank you.

Commissioner Ramsey, earlier in the Q&A portion, we were talking about concealed carry for former police officers. Now, what would be the reasoning behind a former police officer for wanting to carry a concealed arm?

Mr. RAMSEY. Well, I will be honest with you, sir, when that law was before Congress, I was not a proponent. I mean, you know, listen, when I take his uniform off, that is it. If I never see another gun, it is okay with me. That is my personal opinion. I had nothing to do with that.

But again, you are talking about people that have for however many years undergone extensive training in not only the handling of a firearm, but use-of-force policy. When is it appropriate to use a firearm? This bill doesn't contain any of those safeguards.

I mean, the debate about whether or not we should have gun registration, should we even report a gun lost or stolen? We can't get laws on that.

I mean, so we pass some shallow law that says that you can carry concealed anywhere you want, as long as you get it from a State, and Lord only knows what their requirements would be. And you don't want to put in anything around safeguards about registration, the kinds of crimes that would prohibit you from being able to carry a gun, provisions for revocation of that permit.

I mean, all those kinds of things are very, very important. But just to say because this State issued a gun, I ought to be able to carry it anywhere I want, we have States right now whose gun laws are so lax it is scary. And all we are going to do is extend that, and you will have this situation where you have all these different things. Police officers are not going to know all 50 States and their individual laws.

And as you travel, sir, from one part of the country to another, every time you cross the border, do you know whether or not that gun in that unlocked glove compartment is legal or illegal? I doubt it. I mean, if you go from one State to another, you look at a sign that tells you have gone from a speed limit from 65 to 55, you kind of know. Are you going to have a big sign with all the gun laws on it, that as you are driving, you are going to read it and under-

stand what the laws are? It is not practical, the way it is being proposed.

Mr. QUAYLE. Well, ignorance of the law is never a defense in actual committing a crime or not abiding by the various laws that are put in place for concealed carry within the different jurisdictions.

But do you think, if a former police officer wanted to carry a concealed handgun, wouldn't that go along the lines of he is wanting to look out for his own personal protection and the protection of his own family?

Mr. RAMSEY. Well, that is a law that was passed by Congress, the Federal law that allows retired police officers to carry a firearm. Everyone has their own rationale. I didn't push that law. I didn't support it. It was probably the FOP or some others that were able to get that bill through.

But again, you know, if you are getting at a double standard, getting in this building you have to walk through all kinds of security and machines and so forth. We are not going to allow people to conceal carry in this building, and I understand that. I was the police chief here in July 1998 when two cops got shot right in the Capitol. I understand all that.

Well, give us the same safeguards. That is all I am asking. Give us the same safeguards.

Mr. QUAYLE. Thank you very much.

I yield back.

Mr. SENSENBRENNER. The gentleman from Arkansas, Mr. Griffin?

Mr. GRIFFIN. Thank you, Mr. Chairman.

Professor Malcolm, I want to follow-up on my colleague Mr. Quayle's question. I think he referred to some of the statistics and research you have done with regard to the U.K.

Ms. MALCOLM. Yes.

Mr. GRIFFIN. Have you looked at other European countries? Have you seen similar data? Have you seen similar data from the other countries?

Ms. MALCOLM. Most of them have stricter gun laws than we do. But I think the British laws are probably the strictest, and they certainly now have the worst record of violent crime than any other country in Europe.

Mr. GRIFFIN. So the statistics that you have seen with regard to burglaries and homes, where the occupants have firearms vs. those that don't, the statistics, the numbers are about the same, in terms of the Netherlands and some of the other countries in Europe?

Ms. MALCOLM. I don't really have an exact statistic about that. I don't know whether Professor Kopel does.

Mr. KOPEL. If I could jump in, Representative Griffin, I wrote a law journal article on this, and it is hard to get from most countries data about—you can get total burglaries, but then breaking that down into how many are in the home, and then of the ones that were in the home, how many were hot burglaries with the victims there vs. how many were, like the American pattern, where they cased the joint to try to make sure that there is nobody there.

To the extent that there is data, and the Netherlands is actually one of those places, and the Republic of Ireland would be another,

these other countries seem to have much higher rates of home invasions, hot burglaries, than the United States does.

Mr. GRIFFIN. I wanted to ask you one more question, Professor Malcolm. Could you comment, and then any of you can comment on this, can you comment on the role of the right to self-defense in the Heller case and the reasoning of the Heller case?

Ms. MALCOLM. Yes. Actually, the majority opinion was very careful in going through the history of the meaning of the Second Amendment. And the basic right to self-defense was very much a part of what the Founders had in mind. They were preserving their right to self-defense that they had had as Englishmen and continuing it. And also there was a very strong belief, which remains, that it is sort of a fundamental law of nature, that a person should be able to defend himself, that it is not very much comfort for the law to come in afterward and pick up the pieces. Locke has written about that and Blackstone.

So self-defense was, you know, rightly found, I think, to be the primary purpose of it. And I was actually at the oral argument before the Supreme Court, and I remember, I think it was Justice Roberts asking about whether, under the Washington, D.C., law, you know, there was some possibility that you might be able to put your disassembled gun together in the middle of the night in the dark if somebody entered.

You know, I think that self-defense was really uppermost in their minds, and it is very, very basic. And it is only one of our Bill of Rights that actually makes a point of that.

Mr. GRIFFIN. So it is fair to say it is an underpinning of the Heller decision, is it not?

Ms. MALCOLM. It is the main finding of the Heller decision that people have a right to have a handgun in their homes for their self-defense, yes.

Mr. GRIFFIN. Okay, thank you.

Professor, do you have anything to add?

Mr. KOPEL. I would add that the D.C. law that was found unconstitutional, one part of it banned acquiring handguns. Another part—and it was found unconstitutional. Another part of the law said that even if you had a lawfully possessed rifle or shotgun in your home, you couldn't use it for self-defense. That was against the law in D.C., and that was also found to be unconstitutional.

So the Court was not saying just that you have a right to have a gun. But it was also saying that prohibiting self-defense is itself something that is unconstitutional.

Mr. GRIFFIN. Thank you.

I have no further questions, Mr. Chairman.

Mr. SENSENBRENNER. The gentleman from Michigan, Mr. Conyers?

Mr. CONYERS. Thank you, Mr. Chairman.

This is the most insane bill I have heard of in—well, I can't think of one that was less rational than this one.

I just want to start off our very friendly discussion with you about the subject.

But I do agree with David Kopel in one area, and I am glad that you are here today, sir, because you have maintained that we might reach a mutual agreement with the National Rifle Associa-

tion and gun control advocates by having mandatory safety training and licenses renewable every few years with fingerprinting, background checks, and disqualifications for people that may have accumulated records of drug abuse or alcoholism. Do you still stand by that?

Mr. KOPEL. I am not quite sure what you are quoting from or where I have said of that. That is not something in my testimony. But I think what you just described is something like the concealed handgun licensing system in Colorado that another one of my clients I sometime represent, the Colorado State Sheriffs Association, drafted, and it is now the law in Colorado. Yes, so I think what you just said approximates the Colorado law, and I think that is a good law.

Mr. CONYERS. Okay.

Mr. KOPEL. But I haven't said anything about whether that should be nationalized at all.

Mr. CONYERS. Now we have three witnesses here. How many know that almost 300 African-American youths between the age of 15 and 24 are injured or killed by gunfire each week?

Do you know that? Have you ever read that from the Center for Disease Control?

Ms. MALCOLM. I also know that——

Mr. CONYERS. I just said, "do you."

Ms. MALCOLM. That particular——

Mr. CONYERS. Yes, yes or no.

Ms. MALCOLM. Yes.

Mr. CONYERS. Okay, now, what else do you want to add?

Ms. MALCOLM. I want to add that most of the people who are injured with gun violence have a record of previous crimes, or are part of a gang. So usually, this isn't something——

Mr. CONYERS. So that makes it kind of——

Ms. MALCOLM. I am not saying it makes it okay, but——

Mr. CONYERS. Okay, all right.

Okay, let me ask you, have you heard of that before, Professor?

Mr. KOPEL. I have similar statistics presented in my book, "Guns: Who Should Have Them?"

Mr. CONYERS. All right.

And do you know that, Commissioner Ramsey?

Mr. RAMSEY. Yes, sir. I am Philadelphia now, so I live it on a fairly regular basis, dealing with gun violence amongst young people of color.

Mr. CONYERS. What about, Professor Malcolm, nine children and teens die every day from gunfire, one every 2 hours and 45 minutes. And in 2006, more preschool children—namely, 63—were killed by firearms than law enforcement officers—48—were killed in the line of duty?

Ms. MALCOLM. I must say, I don't see how denying law-abiding citizens a right to be armed is going to help that situation, because this violence isn't occurring with registered guns.

Mr. CONYERS. So the more guns we bring in, the lower these figures might become?

Ms. MALCOLM. Guns in the hands of law-abiding citizens to protect themselves, so that elderly people can protect themselves, so that women alone can protect themselves——

Mr. CONYERS. Preschool children don't normally have a way of legally acquiring guns.

Ms. MALCOLM. Well, I agree that some of our schools are very violent, and I am not against trying to limit illegal guns.

Mr. CONYERS. Well, let me approach it—I like talking with you. Let me approach it this way——

Ms. MALCOLM. Okay.

Mr. CONYERS. We have 65 million or more guns out in the public right now. Would you say 165 million would help things?

Mr. SENSENBRENNER. The time of the gentleman has expired.

Mr. CONYERS. Could I get 1 additional minute?

Mr. SENSENBRENNER. Without objection.

Mr. CONYERS. Yes or no?

Ms. MALCOLM. Oh, I think that guns in the hands of law-abiding people will prevent crime, but it is very, very difficult to get illegal guns out of circulation and these——

Mr. CONYERS. That isn't what I asked you.

What is your response?

Mr. KOPEL. Representative Conyers, we have a test for that, because according to the Bureau of Alcohol, Tobacco, Firearms and Explosives, we actually now have in this country approximately 280 million guns, so as we went from 65 million 165 million to 280 million, we had a natural experiment about what would happen. And the gun crime rate went down, not up.

Mr. CONYERS. So then what about 380 million instead of 280 million?

Mr. KOPEL. I don't think that the number matters that much. It is whose hands they are in. Guns in the hands of criminals are extremely dangerous and should be dealt with by law enforcement and by the laws. Guns in the hands of law-abiding people enhance public safety.

Mr. SENSENBRENNER. The time of the gentleman has once again expired.

Mr. CONYERS. Thank you, Chairman Sensenbrenner.

Mr. SENSENBRENNER. Thank you.

The gentlewoman from Florida, Ms. Adams?

Ms. ADAMS. Thank you, Mr. Chairman.

Commissioner, is Pennsylvania's information when someone purchases a firearm, is it the same test or background check or whatever as every other State in the United States?

Mr. RAMSEY. No, ma'am.

Ms. ADAMS. So if someone was to purchase a firearm in your State, there would be different requirements for an NCIC check——

Mr. RAMSEY. Oh, so legally purchase?

Ms. ADAMS. Yes.

Mr. RAMSEY. Oh, I am sorry——

Ms. ADAMS. I said "purchase." I know that there has been some blurring of the lines here, but I am talking about purchasing a firearm.

Mr. RAMSEY. I don't know if it is the same in every State. I imagine if not, it is pretty close. You have to do the NCIC checks. There is a waiting period. There is a process.

Ms. ADAMS. I will, in full disclosure, let you know that I am a former police officer from Florida.

Mr. RAMSEY. Yes.

Ms. ADAMS. And I worked on this a lot. I was actually one of those who had to go out when that failed and had to retrieve firearms from felons who weren't supposed to have them. So I understand the system quite well.

And I have listened, as it seems that it has blurred between gun ownership and gun purchasing. So I wanted to ask you that, when you have your records expunged in your State, what does that mean?

Mr. RAMSEY. Well, that means that all official records of an individual's arrest would be removed from whatever files we have.

Ms. ADAMS. Could they then get a firearm permit in your State?

Mr. RAMSEY. They could get one. If the records have been expunged and you ran the records, you wouldn't have anything to go on.

Ms. ADAMS. So in 2009, when this—I believe it was Mr. Hill you mentioned. When he had—in '05, he had his altercation with you. But in '09, I believe it was when he went to Florida. And at that time, his records were expunged; is that correct?

Mr. RAMSEY. I don't know if his records were expunged or not in '09. Eventually—I am not certain.

Ms. ADAMS. Okay. Well, that is what the report says.

So Florida would not have known about the revocation unless your State would have notified them.

Do you notify other States that you have reciprocity with when you revoke someone's permit?

Mr. RAMSEY. We do send out notices when we revoke an individual. I don't know if all 25 States, if it is done electronically, because not every State has that capacity, or if it is done by telephone or letter. And I don't know what they do with information once they got it.

Ms. ADAMS. Well, I can tell you that we would have paid close attention to it in our agency.

So, you know, the reason I am asking these questions is because, as a former law-enforcement officer, I have heard the description of a 3 a.m. stop. I will tell you that I would be happy to know that someone has a concealed firearm permit with them, so that I can then ask them to come away from the vehicle, ask where their weapon is, actually know if they are actually caring.

It is a lot easier for me to determine the threat based on if someone is carrying or not. If they tell me upfront they are carrying, at least I know that they are carrying. And then I can go forward with whether or not it is a legal permit or not a legal permit, but I need to be able to determine if I am going to be safe in doing my duties. Wouldn't you agree?

Mr. RAMSEY. Well, if they tell you.

Ms. ADAMS. Well, you are saying if they produce this permit, it may be false, it may not, and you felt that that would be more of a danger to your police officer, whereas I feel like if they produce a permit, then they are telling me that there could possibly be a weapon within their vicinity, and that I am now aware of that. And I felt like that would make me feel a little bit more knowledgeable

about the stop at 3 a.m. in the morning, because I have done many of those.

Mr. RAMSEY. Well, my issue was, how do you verify whether or not it is a legitimate permit? There is no database——

Ms. ADAMS. Well, at that time in the morning, wouldn't you be more likely to be verifying where that weapon is and what kind of custody there is to it?

Mr. RAMSEY. Well, ma'am, I have probably made more stops than you. I have been on the job longer. But at some point in time, you are going to be making—at least attempting to verify whether or not the permit is legitimate. And it might or might not be legitimate.

Ms. ADAMS. But the description you gave me, it seemed like it was more on the safety of the police officer. And I am for safety of police officers. My late husband is on the wall here at Judiciary Square, so I really understand what law enforcement does and does not do, as being part of law enforcement community for over 17.5 years before being elected.

So the difference that we have heard today, where we have seen the lines blurred, is more along the lines of gun ownership vs. a permit. If you are not legally allowed to own a gun, whether you have a permit or not, you are not supposed to be able to purchase that gun; is that not correct?

Mr. RAMSEY. If you are not legally allowed, if you can go to another State whose laws are different from your own jurisdiction and get a permit——

Ms. ADAMS. I am talking about purchasing the gun.

Mr. SENSENBRENNER. The gentlewoman's time has expired.

The gentleman from Tennessee, Mr. Cohen?

Mr. COHEN. Thank you, Mr. Chairman.

This is an interesting bill, and I am a sponsor. My name appears probably as the one you would say is which one doesn't belong.

I passed the right-to-carry bill in Tennessee many, many, many years ago, under the belief, as Professor Malcolm says, that law-abiding folks who can hit a target, haven't had a criminal record in the past, et cetera, and the standards that we have, are not the problem. It is the criminals. And the criminals are always going to get the guns.

I have friends that are gunophiles, and they want to carry their pistol everywhere. I remember the Saturday Night Live, show me your pistol instead of show me your Lark pack or whatever, and they are like that.

And so they talk to me about traveling to different States and having a right-to-carry. And I think that makes sense.

But I do understand a little problem. If you have some State that has really lax restrictions, limitations, maybe don't even—they wouldn't even necessarily have to have a criminal background check. I mean, that is not required by a State or some other—is there some way this could be tailored in a way that it facilitates people that travel and may be temporary, but not necessarily people that forum shop and go to another State and get a gun.

Professor Kopel, Professor Malcolm, do you think there is a way to tailor it to the interests——

Mr. KOPEL. Well, I think that is a very reasonable question. And the starting point would be to instead of having these hypotheticals about State practices would be to identify what State is the problem, would be allegedly causing this problem.

Of the States—I don't know of States that, in practice, where they issue concealed handgun permits to anyone without whoever is in charge doing a background check. If there is some—some State laws, the standard like they have in Tennessee or Colorado, has a very particular process to follow, and it would mandate the background check. Other States that have sort of older laws that haven't been brought up to date like the Tennessee and Colorado laws, and New York State might be an example of that, might not have something formal in their statute that says before issuing the permit to a background check.

But my bet would be that in New York, the background checks are done, too. So I think it would make sense to say—to first find out is there any State where, in real life, permits are issued without background checks.

And I suspect that there——

Mr. COHEN. Well, we are talking about background checks. We are saying you don't get the permit if you have been convicted of a gun offense——

Mr. KOPEL. Or anything that makes you ineligible to possess a gun——

Mr. COHEN. The Federal law.

Mr. KOPEL [continuing]. Under the law, or whatever other requirements there might be in the State.

Mr. COHEN. Well, of the States that have carry permits, which would you say is—a couple of them, the loosest laws, the least restrictions?

Alaska, I think they give you one at birth, don't they? They give you a gun?

Mr. KOPEL. Along with a check from oil fund.

There are four States that do not require a permit to carry a concealed handgun for protection, if you are a person who can lawfully possess a gun in the first place. Now, of course, that doesn't do anything—have any application to this bill.

In Alaska, you don't need a permit. You can get a permit, which would be valid and does have the mandatory background check and then the fingerprints and all that.

Mr. COHEN. But which are the loosest States other than those four? And why—what is the minimum requirements they have?

Mr. KOPEL. Most States formally required training and most of their rest that don't formally require it do it—have more discretionary-type statutes and tend to require it in practice.

Pennsylvania is one of the States that doesn't have an explicit training requirement.

Mr. COHEN. So, like somebody from Alabama that couldn't get a license, they could have gone up to Pennsylvania maybe—do you have to be a resident up there?

Mr. KOPEL. Yes, Pennsylvania will not issue to nonresidents, but Pennsylvania is one of the many States that is reasonable about doing reciprocity agreements with other States.

Mr. COHEN. Well, maybe if the bill was amended to say that you had to be a resident of the State at least to get the permit, at least that would stop people from shopping in other States, if you had to be a resident.

Do they all require residency?

Mr. KOPEL. There are about I think a half-dozen States that will issue to nonresidents. So for example, some States—Maine, for example, has only a very few reciprocity agreements with other States, but they will allow a nonresident to apply. So I as a Coloradoan who might to go to Maine, my Colorado permit isn't valid in Maine, but Maine will allow me to apply for a permit in Maine.

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

The gentleman from Virginia, Mr. Goodlatte?

Mr. GOODLATTE. Thank you, Mr. Chairman.

I appreciate your holding this hearing.

Professor, is it "Kopel"?

Mr. KOPEL. Kopel.

Mr. GOODLATTE. Kopel, sorry.

Just to be clear, H.R. 822 does not affect a State's regulations regarding how, where, and when a concealed weapon can be carried, right?

Mr. KOPEL. Absolutely right.

Mr. GOODLATTE. And each State's laws regarding carrying and use will still apply to everyone within their State lines, regardless of whether the person is a resident or not?

Mr. KOPEL. That is right.

Mr. GOODLATTE. Don't most States have pretty broad concealed carry laws, often referred to as shall issue or constitutional carry?

Mr. KOPEL. That is the norm in the United States. Basically, in 41 States, law-abiding adults can either with a permit, and a few without needing one, can carry a firearm for lawful purposes.

Mr. GOODLATTE. My understanding is that as of next month, when apparently one or two States' laws will change, 36 States will have shall-issue laws and three will have constitutional carry.

Also, don't most States currently recognize the concealed carry permits of other States?

Mr. KOPEL. Yes.

Mr. GOODLATTE. Fourteen have outright recognition, 10 States automatically recognize permits, and 16 States will recognize another State's concealed carry permit, if certain conditions are met. So in essence, this bill largely recognizes and makes a little more consistent the current state of affairs?

Mr. KOPEL. Yes, while also addressing some of those States which are the outliers, such as New York or California, which do not have any—in New York, there is no way a visitor of New York, to New York State, can carry a handgun for lawful protection. New York has no reciprocity and New York will not issue permits to nonresidents.

Mr. GOODLATTE. Is there evidence that by lowering violent crime rates, concealed carry laws help to save money?

Mr. KOPEL. Anything that lowers violent crime rates of course will probably save money for the public in the long run. Some academic researchers say that there are statistically significant reductions in at least some categories of violent crime after the shall-

issue laws are enacted. Other academic researchers say that, at the level of statistical significance, that they can't find any statistically significant effects one way or the other.

Mr. GOODLATTE. Professor Malcolm, do you have anything to add to that?

Ms. MALCOLM. No, I thought the——

Mr. GOODLATTE. You might to get used closer to the microphone.

Ms. MALCOLM. Sorry about that.

No. Could you just repeat the question?

Mr. GOODLATTE. Just is there evidence that by lowering violent crime rates, concealed carry laws help to save money for individuals, for governments, for what have you?

Ms. MALCOLM. I think that they probably do indirectly by having less crime.

One thing that hasn't been brought up is the amount of defensive actions with guns, where people, for the most part, just need to brandish the gun to prevent a crime. So there is a great deal of saving in that sense.

But of course, I mean, I think financial issues aren't a major thing here. It is, you know, human safety.

Mr. GOODLATTE. Of course. But as Professor Kopel notes, if, indeed, you prevent a crime from occurring, you are probably also——

Ms. MALCOLM. You save, yes.

Mr. GOODLATTE [continuing]. Resulting in savings in terms of the cost of various aspects of our society, the loss to the victims, the cost of law enforcement and so on.

Ms. MALCOLM. Oh, yes.

Mr. GOODLATTE. Commissioner Ramsey, are you aware of any evidence of crime increasing as a result of jurisdiction liberalizing, of any jurisdiction liberalizing its right-to-carry laws?

Mr. RAMSEY. I am not personally aware of that, sir. When I came to Pennsylvania, they already had a concealed carry law, so I have no history there. I came from both Chicago and Washington that had pretty strict gun laws. So I don't know personally if it has had any effect one way or the other.

Mr. GOODLATTE. Do you have experience with Pennsylvania's citizens who have concealed carry permits being more likely to engage in criminal activity than those who do not?

Mr. RAMSEY. The ones that have concealed carry permits and that have gone through the process are not, for the most part, people that we have an issue with, although we just had a shooting this past weekend that involved an individual with a concealed carry permit. One of our officers, unfortunately, had to shoot. But that is not the norm. I mean, that—but it does happen on occasion. But it is not the norm.

Mr. GOODLATTE. Thank you.

Thank you, Mr. Chairman.

Mr. SENSENBRENNER. The gentleman from Virginia, Mr. Forbes?

Mr. FORBES. Thank you, Mr. Chairman.

And I apologize I wasn't here to hear all of your testimony, because I was in the Armed Services Committee in a hearing that we have going over there now.

But as many of my colleagues have said, our big concern is to make sure, especially when we have constitutional rights, that we are protecting those rights of our citizens, and we are doing so in as consistent a manner as possible.

My colleague from Virginia raised one of my big concerns, which was that I have not seen or read or heard of any evidence where concealed carries have increased the amount of crime that we have had in those States. And it is my understanding from listening to your testimony that none of you have heard of any such increases either.

Would that be an accurate statement?

Ms. MALCOLM. Yes.

Mr. FORBES. The second thing is that concerns me, obviously, is I know if you look at the inconsistency of these laws, I am always concerned about an innocent citizen getting caught up in something we never intended, not because they were bad or wrong, but just because they didn't know what the law was at that particular point in time. And it is certainly not what our goals are, and we shouldn't be doing that.

And the last question that I would ask is there any evidence we have that, whether or not we have a concealed carry law, it is going to have an impact on violent criminals? I mean, do we have anything at all that says that it deters them, if we don't have it? Or that they use it and manipulate it in some way, if we pass these, to increase their violent actions?

Ms. MALCOLM. Okay, I will go first.

In regard to your comment about innocent people getting caught up in doing something that they hadn't realized was wrong, one of my colleagues has been doing studies along with other people on overcriminalization in our laws. And I think that is a real problem and one that one would hope that this legislation would help resolve.

As far as the impact on violent criminals, there is a real deterrent impact if criminals do not know who is armed. And I think that is one of the benefits of concealed carry, those people who are carrying concealed give a benefit to those people who don't, because the criminal is not going to know who is armed and who isn't, and so they will have to be much more cautious. And I think in that sense that it is a really serious deterrent.

And there have been studies, actually, of violent criminals or burglars in jail who say that they have been more worried about armed homeowners than they have been worried about the police. So I think that that is a real impact.

Mr. FORBES. And you may have given those to us. But could you just give us some of the studies to look at, so that we can——

Ms. MALCOLM. Yes, they are in my testimony.

Mr. FORBES. Wonderful. That's great, to be able—anyone else have different——

Mr. RAMSEY. Well, I would just like to suggest a different point of view. We handle a lot of shootings that are the result of robberies gone bad. And a lot of times it is because the person being robbed, in the description given by the offender who was arrested, made a sudden movement, and they believed that movement is toward a gun.

Well, if you are getting robbed, he has got his gun out. You have to get to yours. It can make him shoot quicker than they would normally would do. So we can have this debate all we want about whether or not it prevents—you never know what you prevent.

But the reality is, we have more and more people being shot as part of a robbery where the offender just shoots right off the bat or shoots if they make the slightest move, believing that perhaps they are armed, because we do have concealed carry in Pennsylvania.

Whether that is the motive or not, I don't know. But it just cuts both way. And I just think it is important to get that out there, that, you know, this isn't something that, you know, I am more afraid to break in a house—they don't want to break in a house if nobody's home, period, armed or not. I have gone to more crime scenes over 40 years where I have found kids that found a gun and shot themselves or a sibling than I have finding a person who is trying to break in as a homicide victim. That is just a fact over 40 years of service in three different cities.

Mr. FORBES. Commissioner, if I could just——

Mr. Chairman, one last question?

Mr. Commissioner, you know, when we asked the professor if she had any studies, she said yes and she would give us the studies, and they were in her testimony. Are you suggesting that if you did not have a concealed carry law, that someone in a robbery would be less inclined to shoot someone who was making up movement quicker?

Mr. RAMSEY. That is not exactly what I am—what I am suggesting is this, sir. I am not an academic. I haven't spent my life doing studies. I have just been on the street for 40 years. So I see what actually happens out there on the street, and all of it is not captured in studies. There is no—you can't say that it makes a difference if you have it or it makes difference if you don't.

All I am saying is that it cuts both ways. I mean, I can tell you incidents where a person thought he had a gun and he shot a little quicker than he normally would do, and there are others where a person had a gun and was able to defend himself.

My problem isn't that. My problem is a very broad law with absolutely no teeth and regulation in it that is going to bring some standardization to the issue, so that we can make sure that people properly handle guns, they understand use of force, when it is appropriate to use deadly force, because that is what we are talking about, not just because you are afraid, but because you actually think your life is in jeopardy, or the life of another. If you fire a weapon, what does the background look like? The same training that we get as police officers, I didn't see that in this. All I see is, you will just honor everybody else's agreement, irrespective of how weak or how poor it is written.

And we have some that are pretty poor.

Mr. SENSENBRENNER. The time of the gentleman has expired.

Mr. FORBES. Thank you, Mr. Chairman.

Mr. SENSENBRENNER. I would like to thank all of our witnesses for their testimony today.

Without objection, all Members will have 5 legislative days to submit to the Chair additional written questions for the witnesses,

which we will forward and ask the witnesses to respond as promptly as they can, so that their answers may be part of the record.

Without objection, all Members will have 5 legislative days to submit any additional materials for inclusion in the record.

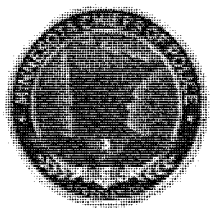
And with that, again, I would like to thank the witnesses.

And, without objection, this hearing is adjourned.

[Whereupon, at 11:37 a.m., the Subcommittee was adjourned.]

APPENDIX

Material Submitted for the Hearing Record



MINNESOTA CHIEFS OF POLICE ASSOCIATION

DEDICATED TO THE IDEALS OF PROFESSIONAL POLICING

September 12, 2011

The Honorable Lamar Smith
Chairman, House Committee of the Judiciary
c/o Crime Subcommitte Clerk Lindsay Hamilton
U.S. House of Representatives
Washington, D.C. 20510

Dear Chairman Smith:

On behalf of the Minnesota Chiefs of Police Association (MCPA), I am writing to express our opposition to HR 822 – the National Right-to-Carry, Reciprocity Act of 2011.

Minnesota: The Impact of Stearns bill (H.R. 822) on Concealed Carry Permitting

- **Bottom line: This bill would override the laws of almost every state by obliging each to accept concealed handgun carry permits from every other state, even if the permit holder would not be allowed to carry or even possess a handgun in the state where he or she is traveling. That policy would undercut states' rights and create serious problems for law enforcement. For those reasons, major national police organizations oppose national concealed carry reciprocity and Congress rejected similar legislation in 2009.**

- **Minnesota has a robust handgun concealed carry framework.**
  - Federal law places baseline restrictions on gun possession. Minnesota requires higher standards for concealed carry privileges than are covered by federal law or the laws of a number of other states, including:
    - Prohibitions on carrying by dangerous individuals, such as:
      - Individuals who have been convicted of certain violent misdemeanor crimes, such as assault motivated by bias, child neglect or endangerment, stalking, and crimes committed for the benefit of a gang, in the 3 years prior to the application.1
      - Individuals whose names appear in a statewide database of suspected gang members.2
    - Firearm safety training requirement: Applicants must complete a firearms training course that is required to include live fire and instruction in firearms laws.3
    - Age restriction: Applicants must be at least 21 years of age.4
    - Law enforcement discretion: Local law enforcement has limited discretion to approve or deny a carry permit if there is a "substantial likelihood that the applicant is a danger" to self or others.5
- **The Stearns bill will effectively overturn Minnesota concealed carry laws by allowing concealed carrying by non-residents who cannot meet Minnesota standards.**

- Non-Resident Carrying: Minnesota currently honors the permits of 15 other states.6 The Stearns bill would override Minnesota's decisions and allow concealed gun carrying in Minnesota by people from 32 additional states7 – many of which issue permits to people with violent misdemeanor criminal convictions, no firearms safety training, who are under the age of 21 or who are suspected of being a gang member, or which do not grant any discretion to law enforcement to approve or deny carry permits.

- **The Stearns bill would create serious and potentially life threatening situations for law enforcement officers.**
  - **Danger Posed to Law Enforcement at Traffic Stops:**
    - By making it more difficult to verify the validity of permits and distinguish legal from illegal handgun possession, H.R. 822 would expose police to additional danger, especially when stopping cars. For example, H.R. 822 would enable criminal traffickers to travel to out of state gun markets with loaded handguns in the glove compartment, exposing police to unnecessary danger.
  - **Weakens Law Enforcement's Ability to Detect Criminals:**
    - **Inability to prevent gun trafficking:** Gun traffickers who have concealed carry permits would be able to bring cars or backpacks full of guns into destination states and present their permit if stopped. As a practical matter, to arrest the traffickers, police would have to observe them in the act of selling guns.
    - **Inability to determine if individuals are in compliance with laws of other states:** H.R. 822 would make it almost impossible for law euforcement to know who is allowed to carry a concealed weapon. Police would have to recognize every state's concealed carry permits. Criminals could exploit the law by forging permits from distant states.

- **In 2009, the Senate defeated the Thune Amendment, a similar legislative proposal to preempt state concealed carry laws.**
  - **Who Opposes National Concealed Carry Reciprocity?**
    - **Mayors:** Over 600 members of the bipartisan coalition of Mayors Against Illegal Guns, including the following Minnesota Mayors:
      Mayor Don Ness - Duluth, MN
      Mayor R.T. Rybak - Minneapolis, MN
      Mayor Chris Coleman - St. Paul, MN
    - **Law Enforcement:** Minneapolis Police Chief Timothy Dolan and major national law enforcement organizations, including: International Association of Chiefs of Police, National Latino Peace Officers Association and National Organization of Black Law Enforcement Organizations, and the Major Cities Chiefs Association, representing the police chiefs of 56 major U.S. cities.

Sincerely,

Executive Director
Minnesota Chiefs of Police Association

MAJOR CITIES CHIEFS ASSOCIATION

Albuquerque, New Mexico
Arlington, Texas
Atlanta, Georgia
Austin, Texas
Baltimore City, Maryland
Baltimore Co., Maryland
Boston, Massachusetts
Buffalo, New York
Calgary, Alberta
Charlotte-Mecklenburg, North Carolina
Chicago, Illinois
Cincinnati, Ohio
Cleveland, Ohio
Colorado Springs, Colorado
Dallas, Texas
Denver, Colorado
Detroit, Michigan
Edmonton, Alberta
El Paso, Texas
Fairfax County, Virginia
Fort Worth, Texas
Fresno, California
Honolulu, Hawaii
Houston, Texas
Indianapolis, Indiana
Jacksonville, Florida
Kansas City, Missouri
as Vegas Metro, Nevada
ong Beach, California
Los Angeles, California
Los Angeles Co., California
Louisville, Kentucky
Memphis, Tennessee
Mesa, Arizona
Miami-Dade, Florida
Milwaukee, Wisconsin
Minneapolis, Minnesota
Montgomery Co., Maryland
Montreal, Quebec
Nashville, Tennessee
Nassau Co., New York
New Orleans, Louisiana
New York City, New York
Newark, New Jersey
Oakland, California
Oklahoma City, Oklahoma
Ottawa, Ontario
Philadelphia, Pennsylvania
Phoenix, Arizona
Pittsburg, Pennsylvania
Portland, Oregon
Prince George's Co., Maryland
Raleigh, North Carolina
Sacramento, California
Salt Lake City, Utah
San Antonio, Texas
San Diego, California
San Francisco, California
San Jose, California
Seattle, Washington
St. Louis, Missouri
Suffolk Co., New York
oronto, Ontario
ucson, Arizona
Tulsa, Oklahoma
Vancouver, British Columbia
Virginia Beach, Virginia
Washington, DC
Winnipeg, Manitoba

June 30, 2011

The Honorable John Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515
Fax: 202-225-0704

The Honorable Nancy Pelosi
Minority Leader
U.S. House of Representatives
Washington, DC 20515
Fax: 202-225-8259

Dear Speaker Boehner and Leader Pelosi:

On behalf of the Major Cities Chiefs Association, I am writing to express our strong opposition to H.R. 822, the National Right-to-Carry Reciprocity Act of 2011. As the officials responsible for public safety in the largest metropolitan areas, we recognize that this legislation would be an enormous mistake.

This misguided legislation would undermine efforts by law enforcement agencies across the Nation and thwart measures already enacted by the States. Please know that we stand with the more than 400 Mayors who have objected to this ill-conceived proposal that intrudes upon the sovereign authority of State and local governments.

An oversimplification of carefully reasoned standards and licensing provisions, the proposed measure would arbitrarily overturn laws which have been tailored to the needs of regions and local communities. Passage of this legislation would be an affront to Federalism as it would force a state to accept permits from other jurisdictions - whether or not the permits comport with the laws of that state.

We are confident that members of Congress will respect the authority of states, counties and cities to adopt their own regulations regarding weapons and will not act with disregard for the many reasonable and prudent laws already in place across the Nation.

Chiefs of Police call upon you to vote against this dangerous and unconstitutional legislation.

Sincerely,

Charles H. Ramsey
Police Commissioner, City of Philadelphia
President, Major Cities Chiefs' Association

March 11, 2011

The Honorable John Boehner
Office of the Speaker
H-232, U.S. Capitol
Washington, D.C. 20515

The Honorable Nancy Pelosi
Office of the Democratic Leader
H-204, U.S. Capitol
Washington, D.C. 20515

Re: More than 550 Mayors Call on Congress to Respect Local Law Enforcement Prerogatives by Voting NO on "Concealed Carry Reciprocity" (H.R. 822)

Dear Speaker Boehner and Democratic Leader Pelosi:

As members of Mayors Against Illegal Guns, a bi-partisan coalition of more than 550 mayors representing more than 50 million Americans, we write to express our strong opposition to H.R. 822, introduced by Rep. Cliff Stearns (R-Fl), which would impose national "concealed carry reciprocity" for handguns.

If passed, this bill would roll back the authority of state and local governments to protect their citizens with sensible, constitutional, community-specific laws for carrying hidden guns. At the same time, the legislation would empower gun traffickers, making it easier for them to secretly transport the guns they sell to criminals. The Stearns bill would also threaten the safety of our law enforcement officers by making it far more difficult to distinguish between legal and illegal firearm carrying.

Because of those problems, a broad national coalition successfully opposed similar concealed-carry reciprocity legislation when it was proposed by Sen. John Thune in 2009 (S.Amdt. 1618 to S.1390). That coalition included our coalition of mayors; seven state attorneys general; major domestic violence prevention organizations; prosecutors; the International Association of Chiefs of Police; the Major Cities Chiefs Association, representing the police chiefs of 56 major U.S. cities; the National Black Police Association; the National Latino Peace Officers Association; the National Organization of Black Law Enforcement Executives; many individual law enforcement officials across the country, and others.

Mayors Against Illegal Guns continues to oppose this attempt to eviscerate states' rights. We have long believed that the issue of concealed carry regulation is one best left to cities and states to decide. Our coalition understands that what state officials, law enforcement and legislators decide are the best crime-fighting policies for rural areas may not fit the needs of big cities – and vice-versa.

States often set standards for carrying handguns on city streets that include criteria beyond an applicant's ability to pass a federal background check. For example, many states, including those with strong gun rights traditions, have enacted common-sense concealed-carry laws that prohibit concealed handgun carrying by teenagers and by persons who have an alcohol abuse problem, who pose a danger to others, who have been convicted of certain misdemeanors or who have not completed basic safety training. In particular:

- At least 31 states prohibit youths age 20 and under from obtaining a concealed carry permit, including one – Missouri – which sets a minimum age of 23.
- At least 29 states prohibit alcohol abusers from obtaining a concealed carry permit, including South Carolina, which prevents "habitual drunkard[s]" from carrying guns.
- At least 21 states grant law enforcement agencies discretion to deny carry permits to people who appear especially dangerous, including Alabama, which allows sheriffs to grant or deny licenses based on whether "it appears that the applicant . . . has any . . . proper reason for carrying a pistol, and [whether] he or she is a suitable person to be so licensed."
- At least 35 states prohibit persons convicted of certain misdemeanor crimes from carrying concealed firearms, including Pennsylvania, which bars carrying by those who have been convicted of impersonating a law enforcement officer and other misdemeanor offenses. Research supports these restrictions. One study found handgun buyers who have been convicted of just one misdemeanor are almost five times as likely to be convicted of a serious violent crime as handgun buyers with no criminal record.
- At least 30 states require the completion of a gun safety program or other proof of competency prior to the issuance of a permit, including Nevada, which requires a written exam and live fire training from three different positions with a certified instructor as components of their required gun safety course.

This legislation would eliminate all of these standards, reducing concealed carry permitting to a new federal lowest common denominator. Incredibly, it would even allow persons ineligible for a carry permit in their own state to shop around for lower standards in the many states that offer permits to out-of-state residents. That stratagem would allow a criminal to circumvent laws that would otherwise render him ineligible to carry a concealed handgun. While H.R. 822 would not let people carry in their own state of residence using an out-of-state permit, it would allow them to abuse reciprocity to carry concealed handguns in almost every other state.

Criminals are already exploiting concealed carry reciprocity, with deadly consequences. For example, a recent investigation by the Philadelphia Daily News revealed that as of February 2010, 2,651 Pennsylvania residents had obtained Florida permits, including many individuals who would have been or were actually denied a permit in Pennsylvania. In one case, a Pennsylvania man obtained a Florida carry license even though his Pennsylvania license had been revoked and went on to use the gun to murder a teenager. The number of Texans who obtained permits from Utah, where the safety training requirements are significantly more lax than Texas', more than doubled from 2,173 in 2009 to 5,678 in 2010. In fact, in 2010, more than 70 percent of Utah's carry permits were issued to non-residents.

In response to such abuses of concealed carry reciprocity, several states have tightened the requirements for their residents to obtain out-of-state carry permits. For example, New Mexico has stopped recognizing concealed carry permits issued by Utah, and Nevada has stopped recognizing carry permits issued by both Utah and Florida.

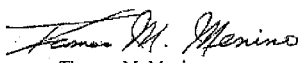
These standards continue to vary from state to state, as they should, because each state should have the ability to decide whether to accept concealed carry permits issued in other states. Seven states have chosen to honor concealed carry permits issued in any other state and three states allow carrying by nonresidents without a permit. Eight states, however, choose not to recognize any out-of-state permits. And 30 states recognize permits only from selected states – typically from states with equivalent or higher standards. Any of these options should be available – and it should be each state's choice to make.

This legislation would also aid and abet gun traffickers. In September 2010, Mayors Against Illegal Guns issued a groundbreaking report illustrating how traffickers already rely on states with weak laws as a source for the guns they sell illegally. In fact, 43,254 guns (30 percent of those found at crime scenes) crossed state lines before they were recovered. Traffickers often purchase guns in one state and then drive them hundreds of miles to other states to be resold to criminals. H.R. 822 would allow gun traffickers who hold an out-of-state permit to walk city streets with a backpack full of loaded guns, enjoying impunity from police unless they were caught in the act of selling a firearm.

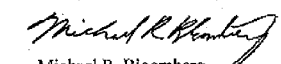
Finally, this law would endanger law enforcement officers as they work to keep us safe. Policing our streets and making traffic stops are already perilous enough without increasing the number of guns officers encounter. H.R. 822 would make it vastly more difficult to determine whether someone carrying a gun is doing so illegally. Officers would have to distinguish between real and fake carry permits issued not only by their own state, but by every state. And in many cases, whether a person is entitled to carry a gun would depend on their state of residence, which is impossible to verify rapidly. Such ambiguities would lead to confusion among police officers, with tragic consequences that can result in lost lives. Congress should support law enforcement by making their jobs more safe – not less.

We urge every member of Congress who respects states' rights, wishes to shield communities from gun trafficking, and respects our nation's police officers to oppose this legislation.

Sincerely,



Thomas M. Menino
Mayor of Boston
Coalition Co-Chair



Michael R. Bloomberg
Mayor of New York City
Coalition Co-Chair

Members of Mayors Against Illegal Guns:

Mayor Samuel L. Jones, Mobile, Alabama
Mayor Ron Davis, Prichard, Alabama
Mayor Omar Neal, Tuskegee, Alabama
Mayor Carolyn Floyd, Kodiak, Alaska
Mayor Patrick Hays, North Little Rock, Arkansas
Mayor Carl A. Redus, Pine Bluff, Arkansas
Mayor Jane P. Kennedy, Campbell, California
Mayor Cheryl Cox, Chula Vista, California
Mayor Robert Wasserman, Fremont, California
Mayor Sukhee Kang, Irvine, California
Mayor Antonio Villaraigosa, Los Angeles, California
Mayor Rob Schroder, Martinez, California
Mayor Paul Eaton, Montclair, California
Mayor Jennifer Hosterman, Pleasanton, California
Mayor Gayle McLaughlin, Richmond, California
Mayor Kevin Johnson, Sacramento, California
Mayor Dennis Donohue, Salinas, California
Mayor Patrick J. Morris, San Bernardino, California
Mayor Jerry Sanders, San Diego, California
Mayor Chuck Reed, San Jose, California
Mayor Miguel Pulido, Santa Ana, California
Mayor Helene Schneider, Santa Barbara, California
Mayor Richard Bloom, Santa Monica, California
Mayor Susan Gorin, Santa Rosa, California
Mayor Ann Johnston, Stockton, California
Mayor Melinda Hamilton, Sunnyvale, California
Mayor Christopher Cabaldon, West Sacramento, California
Mayor Bill Finch, Bridgeport, Connecticut
Mayor April Capone Almon, East Haven, Connecticut
Mayor Pedro E. Segarra, Hartford, Connecticut
Mayor John DeStefano, New Haven, Connecticut
Mayor Richard A. Moccia, Norwalk, Connecticut
Mayor Scott Slifka, West Hartford, Connecticut
Mayor John M. Picard, West Haven, Connecticut
Mayor Michael J. Smith, Blades, Delaware
Mayor John W. Martin, Delaware City, Delaware
Mayor James L. Ford III, Lewes, Delaware
Mayor Kenneth Branner, Middletown, Delaware
Mayor Donald Minyon, Millville, Delaware
Mayor John Klingmeyer, New Castle, Delaware
Mayor James M. Baker, Wilmington, Delaware
Mayor Manny Fernandez, Atlantis, Florida
Mayor Susan Gottlieb, Aventura, Florida
Mayor Jean Rosenfield, Bal Harbour, Florida
Mayor Kenneth Weinstein, Bay Harbor Islands, Florida
Mayor Perry Knight, Bowling Green, Florida
Mayor Debby Eisinger, Cooper City, Florida
Mayor Scott J. Brook, Coral Springs, Florida
Mayor Juan Carlos Bermudez, Doral, Florida
Mayor Glenn Singer, Golden Beach, Florida
Mayor Charles Sanders, Greenwood, Florida
Mayor Joy Cooper, Hallandale Beach, Florida
Mayor Peter J. M. Bober, Hollywood, Florida
Mayor Kenneth M. Shultz, Hypoluxo, Florida
Mayor John Peyton, Jacksonville, Florida
Mayor Mary Lou Hildreth, Keystone Heights, Florida
Mayor Gow B. Fields, Lakeland, Florida
Mayor Patricia Gerard, Largo, Florida
Mayor Barrington Russell, Lauderdale Lakes, Florida
Mayor Richard Kaplan, Lauderhill, Florida
Mayor Tomas Regalado, Miami, Florida
Mayor Matti H. Bower, Miami Beach, Florida
Mayor Carlos Alvarez, Miami-Dade County, Florida
Mayor Bill Barnett, Naples, Florida
Mayor Harriet Pruette, Neptune Beach, Florida
Mayor Andre Pierre, North Miami, Florida
Mayor Myron Rosner, North Miami Beach, Florida
Mayor Darla Lauer, Oak Hill, Florida
Mayor Buddy Dyer, Orlando, Florida
Mayor Frank C. Ortis, Pembroke Pines, Florida
Mayor Norman S. Edelcup, Sunny Isles Beach, Florida
Mayor Robert Wishner, Sunrise, Florida
Mayor Daniel Dietch, Surfside, Florida
Mayor John Marks, III, Tallahassee, Florida
Mayor Beth Talabisco, Tamarac, Florida
Mayor Pam Iorio, Tampa, Florida
Mayor Lois Frankel, West Palm Beach, Florida
Mayor Kasim Reed, Atlanta, Georgia
Mayor Earnestine D. Pittman, East Point, Georgia
Mayor James Thomas, Jr., Hinesville, Georgia
Mayor Jere Wood, Roswell, Georgia
Mayor Otis Johnson, Savannah, Georgia
Mayor Peter Carlisle, Honolulu, Hawaii
Mayor Richard Daley, Chicago, Illinois
Mayor Elizabeth Tisdahl, Evanston, Illinois
Mayor Henderson Yarbrough, Sr., Maywood, Illinois
Mayor Christopher Koos, Normal, Illinois
Mayor John A. Spring, Quincy, Illinois
Mayor Lawrence J. Morrissey, Rockford, Illinois
Mayor Richard Hickman, Angola, Indiana
Mayor Fred L. Armstrong, Columbus, Indiana
Mayor Tom C. Henry, Fort Wayne, Indiana
Mayor Stephen Luecke, South Bend, Indiana
Mayor William E. Gluba, Davenport, Iowa
Mayor T.M. Franklin Cownie, Des Moines, Iowa
Mayor Clausie W. Smith, Bonner Springs City, Kansas
Mayor Larry G. Meeker, Lake Quivira, Kansas
Mayor Kenneth W. Bernard, Lansing, Kansas
Mayor Melvin "Kip" Holden, Baton Rouge, Louisiana
Mayor Mitchell J. Landrieu, New Orleans, Louisiana
Mayor Rodney A. Grogan, Patterson, Louisiana
Mayor Cedric B. Glover, Shreveport, Louisiana
Mayor Arthur Verow, Brewer, Maine
Mayor Charlotte M. Warren, Hallowell, Maine
Mayor Laurent F. Gilbert Sr., Lewiston, Maine
Mayor Nick Mavodones Jr., Portland, Maine
Mayor Roland Michaud, Saco, Maine
Mayor Stephanie Rawlings-Blake, Baltimore, Maryland

Mayor Craig A. Moe, Laurel, Maryland
Mayor Phyllis Marcuccio, Rockville, Maryland
Mayor James Ireton, Jr, Salisbury, Maryland
Mayor Thatcher W. Kezer, III, Amesbury, Massachusetts
Mayor Thomas Menino, Boston, Massachusetts
Mayor Lisa A. Wong, Fitchburg, Massachusetts
Mayor Richard C. Howard, Malden, Massachusetts
Mayor Scott Lang, New Bedford, Massachusetts
Mayor Clare Higgins, Northampton, Massachusetts
Mayor Thomas G. Ambrosino, Revere, Massachusetts
Mayor Kimberley Driscoll, Salem, Massachusetts
Mayor Joseph A. Curtatone, Somerville, Massachusetts
Mayor Domenic Sarno, Springfield, Massachusetts
Mayor Susan M. Kay, Weymouth, Massachusetts
Mayor Joseph C. O'Brien, Worcester, Massachusetts
Mayor Dave Bing, Detroit, Michigan
Mayor Karen Majewski, Hamtramck, Michigan
Mayor Brenda L. Lawrence, Southfield, Michigan
Mayor Don Ness, Duluth, Minnesota
Mayor R.T. Rybak, Minneapolis, Minnesota
Mayor Chris Coleman, Saint Paul, Minnesota
Mayor Johnny DuPree, Hattiesburg, Mississippi
Mayor Harvey Johnson, Jackson, Mississippi
Mayor Michael Pembleton Jr, Sunflower, Mississippi
Mayor Mark Funkhouser, Kansas City, Missouri
Mayor Francis Slay, St. Louis, Missouri
Mayor Shelley Welsch, University City, Missouri
Mayor Chris Beutler, Lincoln, Nebraska
Mayor Jim Suttle, Omaha, Nebraska
Mayor Donald A. Groesser, Ralston, Nebraska
Mayor Ronald Jones, Beachwood, New Jersey
Mayor Jason J. Varano, Berkeley Township, New Jersey
Mayor Dana L. Redd, Camden, New Jersey
Mayor Sophie Heymann, Closter, New Jersey
Mayor Bernie Platt, Cherry Hill, New Jersey
Mayor Carol Foster, Corbin City, New Jersey
Mayor Joseph R. Smith, East Newark, New Jersey
Mayor Robert L. Bowser, East Orange, New Jersey
Mayor Antonia Ricigliano, Edison, New Jersey
Mayor J. Christian Bollwage, Elizabeth, New Jersey
Mayor John F. Bencivengo, Hamilton, New Jersey
Mayor Meryl Frank, Highland Park, New Jersey
Mayor Dawn Zimmer, Hoboken, New Jersey
Mayor Timothy McDonough, Hope, New Jersey
Mayor Paul Anzano, Hopewell, New Jersey
Mayor Wayne Smith, Irvington, New Jersey
Mayor Jerramiah Healy, Jersey City, New Jersey
Mayor Frank W. Minor, Logan Township, New Jersey
Mayor Nicholas Russo, Longport, New Jersey
Mayor Michael Fressola, Manchester Twnship, New Jersey
Mayor Victor DeLuca, Maplewood, New Jersey
Mayor Frank M. North, Merchantville, New Jersey
Mayor James A. Gallos, Milford, New Jersey
Mayor Jerry Fried, Montclair, New Jersey
Mayor Cory Booker, Newark, New Jersey
Mayor Peter C. Massa, North Arlington, New Jersey
Mayor Francis M. Womack, III, N. Brunswick, New Jersey
Mayor Randy George, North Haledon, New Jersey
Mayor James R. Barberio, Parsippany-Troy Hills, New Jersey
Mayor Jeffrey Jones, Paterson, New Jersey
Mayor Wilda Diaz, Perth Amboy, New Jersey
Mayor Harry L. Wyant, Phillipsburg, New Jersey
Mayor Sharon M. Robinson-Briggs, Plainfield, New Jersey
Mayor Gary Giberson, Port Republic, New Jersey
Mayor Tony F. Mack, Trenton, New Jersey
Mayor Betty Simmons, Victory Gardens, New Jersey
Mayor Robert Romano, Vineland, New Jersey
Mayor Shing-Fu Hsueh, West Windsor, New Jersey
Mayor John E. McCormac, Woodbridge, New Jersey
Mayor Kenneth D. Miyagishima, Las Cruces, New Mexico
Mayor David Coss, Santa Fe, New Mexico
Mayor Gerald Jennings, Albany, New York
Mayor James Gaughan, Altamont, New York
Mayor Ann Thane, Amsterdam, New York
Mayor Jeff Roderick, Arkport, New York
Mayor Steve Gold, Beacon, New York
Mayor Donna Sherrer, Bellerose, New York
Mayor Matthew T. Ryan, Binghamton, New York
Mayor Eugene Christopher, Broadalbin, New York
Mayor Byron Brown, Buffalo, New York
Mayor Leigh Fuller, Canajoharie, New York
Mayor Jerome Kobre, Chestnut Ridge, New York
Mayor John A. Lane, Clinton, New York
Mayor John McDonald, Cohoes, New York
Mayor Sally E. Burns, Delanson, New York
Mayor Barbara Alberti, Depew, New York
Mayor Paul Rickenbach, East Hampton, New York
Mayor Jeffrey Kaplan, Ellenville, New York
Mayor Mark Olson, Fayetteville, New York
Mayor Charles Weiss, Flower Hill, New York
Mayor Andrew Hardwick, Freeport, New York
Mayor John Diamond, Glens Falls, New York
Mayor Dorothy Vorce, Gouverneur, New York
Mayor Ralph J. Kreitzman, Great Neck Village, New York
Mayor Barbara Moore, Greenwood Lake, New York
Mayor Martin Natoli, Hagaman, New York
Mayor Emery Cummings Jr., Hammondsport, New York
Mayor Michael Kohut, Haverstraw, New York
Mayor Wayne J. Hall Sr., Hempstead, New York
Mayor Bernard Jackson, Hillburn, New York
Mayor Michael McDermott, Homer, New York
Mayor Shawn Hogan, Hornell, New York
Mayor Richard Scalera, Hudson, New York
Mayor Carolyn Peterson, Ithaca, New York
Mayor Samuel Teresi, Jamestown, New York
Mayor Susan Lopatkin, Kensington, New York
Mayor James Sottile, Kingston, New York
Mayor Robert Blais, Lake George, New York
Mayor Ronald S. Cooper, Lake Success, New York
Mayor Anthony Caprino, Lakewood, New York
Mayor Joshua Mandell, Larchmont, New York
Mayor Carl Luft, Lima, New York
Mayor Robert Peters, Little Falls, New York
Mayor Corrine Kleisle, Lyons, New York
Mayor Barbara Clark, Madison, New York
Mayor Patricia McDonald, Malverne, New York
Mayor Mark-Paul Serafin, Manlius, New York
Mayor Michael T. Meehan, Manorhaven, New York
Mayor Dennis Leahy, Maybrook, New York
Mayor Anthony Sylvester, Mechanicville, New York
Mayor Elizabeth Schrader, Middleville, New York
Mayor Jeffrey Oppenheim, Montebello, New York
Mayor Gordon Jenkins, Monticello, New York
Mayor Clinton Young, Mount Vernon, New York

Mayor Don Braun, Naples, New York
Mayor Peter M. Blandino, Newark, New York
Mayor Nicholas Valentino, Newburgh, New York
Mayor Noam Bramson, New Rochelle, New York
Mayor Michael Bloomberg, New York, New York
Mayor Paul A. Dyster, Niagara Falls, New York
Mayor Marvin Natiss, North Hills, New York
Mayor Joseph Maiurano, Norwich, New York
Mayor Linda L. Witte, Olean, New York
Mayor Richard P. Miller Jr., Oneonta, New York
Mayor Brian Wona, Otisville, New York
Mayor Victoria W. Daly, Palmyra, New York
Mayor Mary Foster, Peekskill, New York
Mayor Anthony Fratto, Phoenix, New York
Mayor Christopher Sanders, Piermont, New York
Mayor Donald M. Kasprzak, Plattsburgh, New York
Mayor Robert Weitzner, Port Washington, New York
Mayor John Tkazyik, Poughkeepsie, New York
Mayor John Bruno, Ravena, New York
Mayor Daniel J. Dwyer, Rensselaer, New York
Mayor Kevin Neary, Richmondville, New York
Mayor Susan Ben-Moshe, Roslyn Estates, New York
Mayor Matthew Bloomfield, Russell Gardens, New York
Mayor Leonard Wurzel, Sands Point, New York
Mayor Carolyn Stevens, Scarsdale, New York
Mayor Brian U. Stratton, Schenectady, New York
Mayor Diana Smith, Seneca Falls, New York
Mayor John Patterson, Sherman, New York
Mayor Joseph P. Shay, Sherrill, New York
Mayor Carl Wright, Sloatsburg, New York
Mayor Karen Strickland, South Dayton, New York
Mayor Patricia DuBow, South Nyack, New York
Mayor Mark Epley, Southampton, New York
Mayor Neil McGovern, Speculator, New York
Mayor Noramie F. Jasmin, Spring Valley, New York
Mayor Edward Stewart III, Sylvan Beach, New York
Mayor Stephanie A. Miner, Syracuse, New York
Mayor Ronald Pilozzi, Tonawanda, New York
Mayor John Fitzpatrick, Tuckahoe, New York
Mayor Beth Greenwood, Tully, New York
Mayor David R. Roefaro, Utica, New York
Mayor Brian Maher, Walden, New York
Mayor Michael P. Manning, Watervliet, New York
Mayor David Carr, Westfield, New York
Mayor John Ramundo Jr., West Haverstraw, New York
Mayor David Goldsmith, Wesley Hills, New York
Mayor Scott M. Burto, West Carthage, New York
Mayor Brenda D. Gilberti, Whitesboro, New York
Mayor Ludwig Odierna, Williston Park, New York
Mayor John W. Monson, Wolcott, New York
Mayor Philip Amicone, Yonkers, New York
Mayor Anthony C. Leone, Jr., Yorkville, New York
Mayor Mark Kleinschmidt, Chapel Hill, North Carolina
Mayor John R. Bost, Clemmons, North Carolina
Mayor Bill Bell, Durham, North Carolina
Mayor John L. Cowan, East Spencer, North Carolina
Mayor Patricia C. Dunn, Greenville, North Carolina
Mayor Charles Meeker, Raleigh, North Carolina
Mayor Victor Varela, Ronda, North Carolina
Mayor Dennis Walaker, Fargo, North Dakota
Mayor Dan Pillow, Addyston, Ohio
Mayor Donald Plusquellic, Akron, Ohio
Mayor Toni E. Middleton, Alliance, Ohio
Mayor Lynn E. McGill, Aurora, Ohio
Mayor Merle S. Gorden, Beachwood, Ohio
Mayor Daniel Pocek, Bedford, Ohio
Mayor Fletcher Berger, Bedford Heights, Ohio
Mayor John M. Brennan, Bexley, Ohio
Mayor John Licastro, Bratenahl, Ohio
Mayor Samuel J. Alai, Broadview Heights, Ohio
Mayor David Seagraves, Brookville, Ohio
Mayor John Grogan, Canal Fulton, Ohio
Mayor William J. Healy II, Canton, Ohio
Mayor Mark Mallory, Cincinnati, Ohio
Mayor Chuck Taylor, Circleville, Ohio
Mayor Frank Jackson, Cleveland, Ohio
Mayor Edward Kelley, Cleveland Heights, Ohio
Mayor Michael Coleman, Columbus, Ohio
Mayor David Sharrock, Crestline, Ohio
Mayor William Armentrout, Creston, Ohio
Mayor Gary D. Leitzell, Dayton, Ohio
Mayor Terry L. Lindeman, Doylestown, Ohio
Mayor Gary Norton, East Cleveland, Ohio
Mayor James P. Swoger, East Liverpool, Ohio
Mayor Bill Cervenik, Euclid, Ohio
Mayor Theodore Shannon, Fairfax, Ohio
Mayor Dennis E. Shaffer, Fort Shawnee, Ohio
Mayor Terry Overmyer, Fremont, Ohio
Mayor Joseph C. Hubbard, Glendale, Ohio
Mayor Alan Zafflro, Golf Manor, Ohio
Mayor Ray E. DeGraw, Grandview Heights, Ohio
Mayor Larry Haver, Hicksville, Ohio
Mayor William A. Currin, Hudson, Ohio
Mayor Jerry Fiala, Kent, Ohio
Mayor Deborah Neale, Lakeline, Ohio
Mayor Michael A. Kolomichuk, Lakemore, Ohio
Mayor LaVerne Mitchell, Lincoln Heights, Ohio
Mayor Jo Ann Toczek, Linndale, Ohio
Mayor Patricia A. Fallot, Louisville, Ohio
Mayor Joseph M. Cicero Jr., Lyndhurst, Ohio
Mayor Donald Kuchta, Macedonia, Ohio
Mayor Cornelia M. Dettmer, Manchester, Ohio
Mayor Bruce G. Rinker, Mayfield Village, Ohio
Mayor Gary Starr, Middleburg Heights, Ohio
Mayor James B. Waller, Minerva, Ohio
Mayor Domenic Chappano, Mingo Junction, Ohio
Mayor Susan Renda, Moreland Hills, Ohio
Mayor Mike Porter, Mt. Gilead, Ohio
Mayor Bob Diebold, Newark, Ohio
Mayor Daniel R. Brooks, North College Hill, Ohio
Mayor David L. Koontz, Norton, Ohio
Mayor Larry C. Collins, Ontario, Ohio
Mayor Kathy Mulcahy, Orange Village, Ohio
Mayor David T. Handwerk, Orrville, Ohio
Mayor Martin Zanotti, Parma Heights, Ohio
Mayor Bruce H. Akers, Pepper Pike, Ohio
Mayor Daniel J. Ursu, Richmond Heights, Ohio
Mayor William R. Flaute, Riverside, Ohio
Mayor Earl M. Leiken, Shaker Heights, Ohio
Mayor John Smith, Silverton, Ohio
Mayor Georgine Welo, South Euclid, Ohio
Mayor Matthew Brett, South Russell, Ohio
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Mayor David Wonderling, Brookville, Pennsylvania
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July 1, 2011

The Honorable Lamar Smith
Chairman
Committee on the Judiciary
United States House of Representatives
Washington, DC 20510

Dear Chairman Smith:

On behalf of the International Association of Chiefs of Police (IACP), I am writing to express our strong opposition to H.R. 822, the National Right-to-Carry Reciprocity Act of 2011. This bill would weaken existing state laws by allowing an individual to carry concealed firearms when visiting another state or the District of Columbia as long as the individual was entitled to carry concealed firearms pursuant to the laws of his or her home state.

It is the IACP's belief that H.R. 822 would severely undermine state concealed carry licensing systems by allowing out of state visitors to carry concealed firearms even if those visitors have not met the standards for carrying a concealed weapon in the state they are visiting. For example, some states require a person to show that they know how to use a firearm or meet minimum training standards before obtaining a concealed carry license. These states would be forced to allow out of state visitors to carry concealed weapons even if they do not meet that state's concealed licensing standards.

It is the IACP's belief that states and localities should have the right to determine who is eligible to carry firearms in their communities. It is essential that state, local and tribal governments maintain the ability to legislate concealed carry laws that best fit the needs of their communities—private citizens as well as active and former law enforcement personnel.

The IACP urges you to act quickly and take all necessary steps to defeat this dangerous and unacceptable legislation. Thank you for your attention to this matter. Please let me know how we can be of assistance.

Sincerely,

Mark A. Marshall
President