



Testimony of  
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Director of Communications

***Public Hearing on the  
Repeal of the District of Columbia Gun Ban  
by the U.S. Supreme Court***

Ward Four Advisory Neighborhood Commissions  
of the District of Columbia

September 20, 2008

Fort Stevens Recreation Center  
1327 Van Buren Street NW  
Washington, DC 20012  
12:00 PM – 5:00 PM

Good afternoon Chairman Sloan, Chairman Whatley, Chairman Lott, Secretary Beach, and to the other Ward Four Commissioners here today. I appreciate this opportunity to speak to you today on the critical issue of firearm laws in the District of Columbia.

My name is Ladd Everitt and I am the Director of Communications for the Coalition to Stop Gun Violence (CSGV). The Coalition is a national non-profit organization in Washington, D.C., that seeks to secure freedom from gun violence through research, strategic engagement and effective policy advocacy. From 2002-2007, I also served in a volunteer capacity as the President of the D.C. Chapter of the Million Mom March, a nonprofit organization dedicated to ensuring that all Americans are safe from gun violence in their homes, neighborhoods, schools, and places of work and worship. I have been a resident of the District of Columbia since 1993 and currently reside here in Ward 4.

On June 26, 2008, the U.S. Supreme Court ruled in the case of *District of Columbia v. Heller*, declaring the District's longstanding and popular handgun ban unconstitutional. Provisions governing the safe storage of firearms in the home were also overturned by the court. The case marked the first time in history that a federal court had struck down a gun law on Second Amendment grounds.

The 5-4 majority opinion written by Justice Antonin Scalia was narrow, however. While affirming that the Second Amendment provides an individual right to bear arms, Justice Scalia also made it clear that a wide range of gun control laws are both reasonable and constitutional, including the licensing and registration of gun owners, prohibitions on the possession of firearms by felons and the mentally ill, regulations concerning the carrying of concealed weapons in public, and laws governing the commercial sale of firearms. The Court merely required the District to allow residents to register handguns and use firearms for "immediate self defense" in the home.

The decision was the result of years of work by gun rights advocates. Since the 1990s, the National Rifle Association (NRA) and other gun lobby groups have targeted the District's laws for repeal in the U.S. Congress and our courts, shrewdly exploiting D.C. residents' lack of voting

representation on Capitol Hill. In addition to the Cato Institute's *Heller* case, the NRA had also filed a lawsuit in the D.C. Circuit Court in 2003 challenging the constitutionality of the District's gun laws. That case, *Seegars v. Ashcroft*, was dismissed in 2005. On Capitol Hill, NRA-drafted legislation which would repeal virtually all of the District's gun laws has appeared during every session of Congress in recent years. This repeal legislation has been stopped only through the determined and unanimous opposition of D.C.'s elected officials. D.C. residents also continue to support the city's tough gun laws in overwhelming numbers. In January 2008, a *Washington Post* poll found that 76% of D.C. residents supported the city's handgun ban and firearm storage laws.<sup>1</sup>

Nonetheless, facing the reality of the *Heller* decision, the D.C. Council and Mayor Adrian Fenty were quick to respond. On July 15, less than one month after the decision was issued, the D.C. government enacted temporary legislation that instituted a new handgun registration system and clarified existing law to allow for the use of firearms for self-defense in the home when there is a "reasonably perceived threat of immediate harm."

Sadly, this was not good enough for the gun lobby. On July 28, Dick Heller filed another lawsuit against the city, arguing that the District's new gun registration system was burdensome and continued to outlaw most semiautomatic pistols. Meanwhile, the NRA announced that it would be grading votes on its latest repeal bill in Congress, the "National Capital Security and Safety Act," for the upcoming November elections. This legislation would go way beyond the narrow requirements of the *Heller* decision by completely repealing D.C.'s firearm registration system, legalizing assault weapons, eradicating safe storage requirements for firearms in the home, and prohibiting the D.C. Council from enacting gun-related legislation in the future.

Earlier this week on September 15, the D.C. Council and Mayor Fenty made additional modifications to the city's gun laws.<sup>2</sup> D.C.'s new emergency legislation lets residents with valid firearm registration certificates carry firearms within their home or business without a license,

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<sup>1</sup> *Washington Post* telephone poll, January 3-8, 2008, <http://www.washingtonpost.com/wp-srv/metro/politics/district/fentyoneyear/011308dcpoll.html>

<sup>2</sup> Press Release from District of Columbia, "Mayor Fenty, Council Announce New Emergency Legislation to Amend the District's gun Laws," September 15, 2008, <http://dc.gov/mayor/news/release.asp?id=1380&mon=200809>

allows for the purchase and possession of semiautomatic firearms, replaces the registration limit of one pistol per person with a one pistol per person per month maximum, prohibits possession or transfer of large-capacity ammunition magazines with a capacity greater than 10 rounds, and amends the city's safe storage regulations for firearms by making them recommended as opposed to mandatory. The city also incorporated a Child Access Provision (CAP) law which would hold individuals legally accountable in the event of a minor gaining access to a firearm. The Council conducted a public hearing on Thursday to seek feedback on these provisions and will look to issue permanent and comprehensive firearms regulations sometime next month.

The National Rifle Association's response to these good faith gestures was to push for passage of the "National Capital Security and Safety Act" in the House of Representatives over the vocal and outright opposition of D.C. Congresswoman Eleanor Holmes Norton. On Wednesday, this effort was successful and the bill was approved by the House. It will now move to the Senate for consideration. One saving grace was that the NRA was pressured to remove language from the bill that would have allowed individuals to carry loaded assault rifles in public in the District.

As you consider what recommendations to make to the D.C. Council on these important matters, I would offer the following for consideration...

First, it is imperative that the future shape of our firearm and public safety laws be decided at the local level, and not by a Congress that is under pressure from the gun lobby during election season. To quote Congresswoman Norton, "The unprecedented action of stopping a local jurisdiction in the midst of writing a bill and depriving the city of the right to hold hearings is beyond the pale and serves no legitimate purpose for anyone except the NRA."<sup>3</sup> D.C. Council Member Carol Schwartz recently had a similar message for Congress, stating, "You do not interfere anywhere [else] in this country, you should not interfere here ... Leave us alone and let us do our

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<sup>3</sup> Press Release from Office of Congresswoman Eleanor Holmes Norton, "Norton Bill Seeks to Preempt Anti-Home Rule Gun Bill," September 4, 2008, [http://www.norton.house.gov/index.php?option=com\\_content&task=view&id=853](http://www.norton.house.gov/index.php?option=com_content&task=view&id=853)

job. We are perfectly capable of doing it.”<sup>4</sup> I therefore urge you to join Mayor Fenty, the D.C. Council, and Police Chief Cathy Lanier in opposing H.R. 6842, the “National Capital Security and Safety Act.” This extreme legislation goes far beyond the judgment of the Supreme Court in *D.C. v. Heller* and would make our city a more dangerous place if enacted. In recent testimony against the bill, Chief Lanier stressed the importance of “detection, deterrence, and prevention” in enforcing the city’s gun laws.<sup>5</sup> By eliminating virtually all the safeguards that the D.C. government has enacted to prevent firearms from falling into the hands of children, criminals and dangerous individuals, H.R. 6842 would totally defeat such a layered and comprehensive system of law enforcement and exacerbate the problems our city has experienced with gun violence.

The D.C. Council’s and Mayor’s Office are indeed perfectly capable of revising the city’s gun laws and they have done a competent and professional job to date in addressing both public safety and Second Amendment concerns through the legislative process.

Second, I would urge you to be a strong voice for voting rights in the District of Columbia. The National Rifle Association has repeatedly taken advantage of D.C.’s lack of voting representation in Congress, utilizing allies in Texas, Indiana, and Mississippi to impose their gun policies on a city that does not embrace their extreme views on this issue. These Members of Congress would never dare to dictate to other States in this manner. Consider, too, that the District has no Senator and therefore no input whatsoever into the confirmation process for the U.S. Court of Appeals for the D.C. Circuit, the court that originally declared the District’s gun laws unconstitutional. The bottom line is that partisan attacks on D.C.’s right to self-determination will never cease until the District has voting representation in Congress. I would encourage you to support Congresswoman Norton, DC Vote and the residents of the District in their efforts to enact the “D.C. House Voting Rights Act” into law. This legislation is a good first step on the road to full

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<sup>4</sup> Paul Duggan and Mary Beth Sheridan, “U.S. House, D.C. Council Wrestle Over Gun Control,” *Washington Post*, September 17, 2008,

<http://www.washingtonpost.com/wp-dyn/content/article/2008/09/16/AR2008091602223.html?hpid=moreheadlines>

<sup>5</sup> Metropolitan Police Department, “Hearing on the Impact of Proposed Legislation on the District of Columbia’s Gun Laws: Statement of Chief of Police Cathy L. Lanier,” September 9, 2008, <http://newsroom.dc.gov/show.aspx/agency/mpdc/section/4/release/14838>

## District representation on Capitol Hill.

Third, I would encourage you to address the epidemic of gun trafficking which has plagued the District since the enactment of our tough local gun laws in 1976. In its lobbying efforts on Capitol Hill, the NRA has repeatedly blamed the problem of gun violence in the District on the city's handgun ban. This strategy represents a deliberate attempt to obscure the primary role that illegal gun trafficking plays in contributing to gun violence in the District.

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) recently released data that demonstrated that a shocking 97% of crime guns recovered in the District in 2007 were trafficked in illegally from outside states.<sup>6</sup> More than 50% of these crime guns came from the neighboring states of Maryland and Virginia. Other leading source states were North Carolina, Georgia, Pennsylvania, South Carolina and West Virginia. For years, criminals and traffickers have exploited far weaker gun laws in these states to gain access to firearms which they then transport into the District.

Neither the *Heller* decision nor the NRA's repeal legislation address this critical problem. In fact, Congress has been so eager to appease the gun lobby that it has taken no action in over a decade to tighten loose federal gun laws that criminals and traffickers routinely exploit. The story is similar at the state level for the source states mentioned above. Despite D.C.'s tough gun regulations, the city will continue to be besieged by trafficked firearms from other jurisdictions as long as criminals find easy access to guns in these states. As Mayor Fenty has noted, "Local jurisdictions just can't solve the problem. You need to have the federal government have one standard for dealing with illegal guns."<sup>7</sup> We must raise awareness in the District about where crimes guns come from and then demand reform at the federal level.

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<sup>6</sup> Bureau of Alcohol, Tobacco, Firearms and Explosives, *ATF Firearms Trace Data – 2007 – District of Columbia*, [http://www.atf.gov/firearms/trace\\_data/2007/districtofcolumbia07.pdf](http://www.atf.gov/firearms/trace_data/2007/districtofcolumbia07.pdf)

<sup>7</sup> Elissa Silverman, "Fenty, Other Mayors Decry Gun Trafficking," *Washington Post*, January 24, 2007, <http://www.washingtonpost.com/wp-dyn/content/article/2007/01/23/AR2007012301318.html>

This is a decisive moment for the elected officials and the residents of the District of Columbia. For years, our democratic right to govern our city as we see fit has been under attack. We must now assert our right to self-determination and demand congressional representation for the taxes we pay, the juries we serve on, and the sacrifices our sons and daughters make while serving in America's military. Finally, I would urge you to be cognizant that it is our children, more than anyone else, who stand to suffer from weak gun laws and the proliferation of firearms on D.C.'s streets.

I thank you for conducting this hearing for the benefit of your constituents and other District residents and look forward to your questions.