

IN THE
Supreme Court of the United States

DISTRICT OF COLUMBIA and
ADRIAN M. FENTY, Mayor of the District of Columbia,
Petitioners,
v.
DICK ANTHONY HELLER,
Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

**BRIEF OF THE AMERICAN ACADEMY OF PEDIATRICS, THE SOCIETY
FOR ADOLESCENT MEDICINE, THE CHILDREN'S DEFENSE FUND,
WOMEN AGAINST GUN VIOLENCE AND YOUTH ALIVE!
AS AMICI CURIAE IN SUPPORT OF PETITIONERS**

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**BRIEF OF THE AMERICAN ACADEMY OF
PEDIATRICS, THE SOCIETY FOR ADOLESCENT
MEDICINE, THE CHILDREN’S DEFENSE FUND,
WOMEN AGAINST GUN VIOLENCE AND
YOUTH ALIVE! AS AMICI CURIAE
IN SUPPORT OF PETITIONERS**

This amicus curiae brief is submitted on behalf of the American Academy of Pediatrics (“AAP”), The Society for Adolescent Medicine (“SAM”), the Children’s Defense Fund (“CDF”), Women Against Gun Violence (“WAGV”), and Youth Alive! (“YA!”) in support of the Petitioner.¹

**STATEMENT OF INTEREST OF AMICI CURIAE
THE AMERICAN ACADEMY OF PEDIATRICS,
THE SOCIETY FOR ADOLESCENT MEDICINE,
THE CHILDREN’S DEFENSE FUND, WOMEN
AGAINST GUN VIOLENCE AND YOUTH ALIVE!**

These *amici* are not-for-profit organizations united by a commitment to protecting the health, safety and well-being of America’s children and youth. Each is dedicated to preventing youth violence and injury by removing handguns from homes and communities across the country.

1. Pursuant to Supreme Court Rule 37.3(a), the amici curiae state that the parties have consented to the filing of this brief and have filed letters of consent in the office of the Clerk. Pursuant to Supreme Court Rule 37.6, the amici curiae state that no counsel for a party authored this brief in whole or in part, and no party made a monetary contribution intended to fund the preparation or submission of this brief. Amici curiae further state that no one other than AAP, SAM, CDF, WAGV, YA! and their counsel made a monetary contribution to the preparation or submission of this brief.

The American Academy of Pediatrics represents a membership of 60,000 primary care physicians, pediatric medical subspecialists, and pediatric surgical specialists. In connection with its goals of preventing violence against children and reducing accidental injury to children, AAP believes that the absence of guns from children's homes and communities is the most reliable and effective measure to prevent firearms-related injuries to children and youth.²

The Society for Adolescent Medicine's membership consists of health care professionals specializing in the field of adolescent health. Consistent with its objective of improving adolescent health, SAM advocates that reducing the availability of firearms in general, and handguns in particular, will reduce the frequency of youth gun violence.³

The Children's Defense Fund provides a strong, effective voice for America's children and encourages preventive investment in children's health. CDF monitors gun violence against children in its annual report, *Protect Children Not Guns*, which reported that 2,825 children and teens died from gunfire in the United States in 2004. CDF believes that it is up to adults to protect children from firearms in our homes, schools, communities, and nation by supporting common sense

2. See Am. Acad. of Pediatrics, Comm. on Inj. & Poison Prevention, *Firearm-Related Injuries Affecting the Pediatric Population*, 105 *Pediatrics* 888, 888 (2000).

3. See Naomi Duke et al., Soc'y for Adolescent Med., *Adolescent Firearm Violence: Position Paper of the Society for Adolescent Medicine*, 37 *J. of Adolescent Health* 171, 173 (2005).

gun safety measures, removing guns from homes, and focusing public attention on child gun deaths.⁴

Youth ALIVE! is a public health agency dedicated to preventing adolescent violence and generating youth leadership through counseling, education and mentoring. Youth Alive! trains youth about the causes and effects of violence, particularly the menacing effects of handgun violence, and provides crisis intervention to youth who are hospitalized due to violent injuries in order to help break the cycle of violence. YA! actively assisted the community of Oakland, California in banning 113 gun dealers operating in residential neighborhoods.⁵

Women Against Gun Violence is a California-based coalition of individuals and organizations that work to reduce gun violence through outreach and education. WAGV's programs include an "Empowerment Group," a group of individuals who have experienced the devastation of gun violence and who visit schools and community organizations to share their personal stories. WAGV also distributes data about gun violence in its online memorials and publications.

Due to their long-standing and continuing commitment to protecting children and youth, and their recognition that handguns pose a particular threat to America's young people, AAP, SAM, CDF, WAGV, and YA! are actively involved in developments that seek to

4. See Children's Defense Fund, *Protect Children Not Guns* 2-4 (2007), http://www.childrensdefense.org/site/DocServer/gunrpt_revised06.pdf?docID=1761.

5. See <http://www.youthalive.org/index.html>.

control access to all firearms, most importantly handguns. These *amici* firmly believe that the absence of handguns from children's homes and communities is the most reliable and effective method to prevent firearms-related injuries to children and adolescents.

SUMMARY OF THE ARGUMENT

Handgun-related injuries and fatalities to children are significant public health problems in terms of both impact on children's physical and mental health, and impact on the cost to the public health system. Because of their accessibility, manageability, and physical appeal, handguns in the home pose a unique threat to children and youth. Moreover, the dangers of handguns cannot be overcome by gun safety instruction, as studies show that such instruction has little effect in preventing children from handling guns. Statistics also reveal that the presence and accessibility of handguns stunningly increase the rates of suicide, accidental injury and death among children and youth. As set forth fully below, these considerations further establish that the District of Columbia's handgun law is a reasonable restriction.

Accordingly, regardless of whether the Second Amendment protects the right to possess guns for private purposes, for the reasons described below, and based on their collective interest in preventing handgun injuries to children and youth nationwide, AAP, SAM, CDF, WAGV, and YA! respectfully urge the Court to reverse the decision of the Court of Appeals for the District of Columbia Circuit.

ARGUMENT

The District of Columbia reasonably has enacted legislation to attempt to curtail death among its children and adolescents by preventing lawful access to a principal means of the cause of death: handguns. The prohibition of access to a young person's death delivery system reflects the multiple realities of the fascination handguns hold for children, the proven failure of gun safety education, and the lethal character of those weapons.

Consistent with the responsibilities of municipal government confronted with a public health crisis among its most vulnerable, the District of Columbia enacted narrow legislation to staunch the contagion. Moreover, available statistics demonstrate the success of the District of Columbia's legislative formula among the youthful group most affected. No less restrictive alternative could reasonably be expected to be as successful in controlling the health crisis among the afflicted youthful group. Nothing in the jurisprudence of this Court, or in the intentions of the Framers, can mandate a reading of the Second Amendment to require a municipality to abandon a successful, reasonable public health measure and substitute a policy certain to increase the risk that the most vulnerable will be the most harmed.

I. Handguns Are More Lethal Than Other Types of Firearms and Are Particularly Dangerous to Children and Youth

Handguns are strikingly more lethal than other types of firearms. Of the one million Americans who died by firearms violence between 1962 and 1994, more than two out of three were killed by handguns—a total of more than 670,000 unnecessary deaths. Robin M. Ikeda et al., *Fatal Firearm Injuries in the United States, 1962-1994* (Nat'l Ctr. for Inj. Prevention & Control 1997). Yet, although handguns are responsible for approximately two-thirds of all deaths by firearms violence, handguns only account for one-third of the 192 million firearms owned in America, Philip J. Cook & Jens Ludwig, U.S. Dep't of Justice, Nat'l Inst. of Justice, *Guns in America: National Survey on Private Ownership and Use of Firearms*, May 1997, at 4, available at <http://www.ncjrs.gov/pdffiles/165476.pdf>. Thus, the majority of American gun owners own either a rifle or a shotgun. As these statistics demonstrate, while fewer in number, handguns are more lethal than other types of firearms and disproportionately responsible for firearms deaths in America.

Handguns are more likely than any other type of gun to be used in interpersonal violence and crime, as well as self-directed injury. Firearm & Inj. Ctr. at Penn, *Firearm Injury in the U.S.*, at 7 (Oct. 2006), <http://www.uphs.upenn.edu/ficap/resourcebook/pdf/monograph.pdf>. Indeed, handguns are used in nearly 70 percent of firearms suicides and 75 percent of firearms homicides in the United States. See Garen J. Wintemute et al., *The Choice of Weapons in Firearm Suicides*, 78

Am. J. Pub. Health 824, 825 (1988), *available at* <http://www.ajph.org/cgi/reprint/78/7/824>; Stephen W. Hargarten et al., *Characteristics of Firearms Involved in Fatalities*, 275 JAMA 42 (1996).⁶ Further, handguns account for 77 percent of all traced guns used in crime. Firearm & Inj. Ctr. at Penn, *supra*, at 8.

While these statistics reflect the devastating impact of handguns on people of all ages, handguns pose a unique danger to children and adolescents. Handguns are light, portable, and easy to handle—they are also accessible, romanticized in media accessible to adolescents, and fascinating to children. Seventy-five percent of 8-12 year old boys will handle a gun when they find one, and approximately half of those will pull the trigger—even if they have been told about gun safety. Geoffrey A. Jackman et al., *Seeing Is Believing: What Do Boys Do When They Find A Real Gun?*, 107 Pediatrics 1247, 1250 (2001), *available at* <http://pediatrics.aappublications.org/cgi/reprint/107/6/1247.pdf>. There is simply no way to make guns “safe” for children—gun safety programs have little effect in reducing firearms death and injury. Josh Sugarman, *Every Handgun Is Aimed at You: The Case for Banning Handguns* 113 (New Press 2001) (citing Joseph F. Sheley & James D. Wright, Nat’l Inst. of Justice, *High School Youths, Weapons, and Violence: A National Survey*, Oct. 1998, at 6). Death of and injury to America’s children and youth are undeniably linked to the presence and availability of handguns, particularly in America’s homes.

6. For additional data, see U.S. Dep’t of Justice, Fed. Bureau of Investigation, *Crime in the United States, 2005*, at Table 7 (Murder Victims by Weapon, 2001-2005) (2006), *available at* http://www.fbi.gov/ucr/05cius/offenses/expanded_information/data/shrtable_07.html.

A. Handguns in the Home Are Deadly to Children

A study conducted in 2005 revealed that over 1.69 million children under age 18 are living in homes with *loaded* and *unlocked* firearms. Catherine A. Okoro et al., *Prevalence of Household Firearms and Firearm-Storage Practices in the 50 States and the District of Columbia: Findings from the Behavioral Risk Factor Surveillance System, 2002*, 116 *Pediatrics* e370, e371-72 (2005), available at <http://pediatrics.aappublications.org/cgi/content/full/116/3/e370>. In fact, an estimated one out of three handguns is kept loaded and unlocked. Cook & Ludwig, *supra*, at 7.⁷ In one 2006 study, 73 percent of children under age 10 reported knowing the location of their parents' firearms and 36 percent admitted that they had handled the weapons. Frances Baxley & Matthew Miller, *Parental Misperceptions About Children and Firearms*, 160 *Archives of Pediatric & Adolescent Med.* 542, 544-45 (2006), available at <http://archpedi.ama-assn.org/cgi/reprint/160/5/542.pdf>. Accordingly, it is not surprising that 89 percent of childhood unintentional shooting deaths occur in the home, or that most of these deaths occur when children are playing with a loaded gun in their parents' absence. Guohua Li et al., *Factors Associated with the Intent of Firearm-Related Injuries in Pediatric Trauma Patients*, 150 *Archives of Pediatric & Adolescent Med.* 1160, 1162 (1996).

7. A 2006 study found that 28.8 percent of parents with children 12 years or younger—and 41.7 percent of parents with children ages 13 to 17—kept an unlocked firearm in the home. Renee M. Johnson et al., *Are Household Firearms Stored Less Safely in Homes with Adolescents*, 160 *Archives of Pediatric & Adolescent Med.* 788, 789 (2006).

Moreover, contrary to the popular myth that guns are necessary in the home for self-defense, one study found that there are four unintentional shootings, seven criminal assaults or homicides, and 11 attempted or completed suicides for every time a gun kept in the home is used in self-defense. *See* Arthur L. Kellermann et al., *Injuries and Deaths Due to Firearms in the Home*, 45 *J. Trauma, Infection, & Critical Care* 263 (1998).

It is simply undeniable that access to firearms in the home increases the risk of both accidental injuries as well as intentional shootings. A study of youth suicide found that more than 75 percent of guns used by youth in suicide attempts and unintentional injuries were kept in the home of the victim, a relative, or a friend. David C. Grossman et al., *Self-Inflicted and Unintentional Firearm Injuries Among Children and Adolescents: The Source of the Firearm*, 153 *Archives of Pediatric & Adolescent Med.* 875, 875 (1999), available at <http://archpedi.ama-assn.org/cgi/reprint/153/8/875>. Another study, published by the U.S. Secret Service, of 37 school shootings in 26 states found that, in more than 65 percent of the cases, the shooter got the gun from his or her home or that of a relative. United States Dep't of the Treasury, U.S. Secret Service, *An Interim Report on the Prevention of Targeted Violence in Schools*, Oct. 2000, at 6, available at http://www.eric.ed.gov/ERICDocs/data/ericdocs2sql/content_storage_01/0000019b/80/16/a6/d6.pdf.⁸

8. The jurisprudence of this Court offers no support for the notion that the ban of handguns offends the constitutional right to privacy. *See Quilici v. Morton Grove*, 695 F.2d 261 (7th Cir.

Handguns are also undeniably the “firearm of choice” among teens. A 1996 survey of high school students by the National Institute of Justice found that high-school aged youth who carried guns outside the home most frequently carried an automatic or semiautomatic *handgun* (50 percent) and next most likely carried a revolver (30 percent). Joseph F. Sheley & James D. Wright, U.S. Dep’t of Justice, Nat’l Inst. of Justice, *High School Youths, Weapons, and Violence: A National Survey*, Oct. 1998, at 3, Ex. 2, available at <http://www.ncjrs.gov/pdffiles/172857.pdf>. In addition, of those students who admitted to carrying a gun, 43 percent

(Cont’d)

1982) (Coffey, J. dissenting). Indeed, government regularly limits the manner in which occupants of homes may act within the home. *See, e.g., Gonzales v. Raich*, 545 U.S. 1 (2005) (upholding federal regulation of home-consumption of marijuana); *Osborne v. Ohio*, 495 U.S. 103 (1990) (upholding child pornography statutes). Government-imposed restrictions on the sale and distribution of certain goods, regardless of whether these goods are privately consumed, also have been upheld. *See, e.g., Purity Extract & Tonic Co v. Lynch*, 226 U.S. 192 (1922) (recognizing broad police powers regarding intoxicating beverage laws); *Gabree v. King*, 614 F.2d 1, 2 (1st Cir. 1980) (upholding Massachusetts age restrictions on alcohol, noting “[t]hat Massachusetts has a legitimate interest in controlling alcohol use and abuse among adults and minors is beyond dispute.”). Thus, the maxim that a “man’s home is his castle” provides no constitutional sustenance for a “free fire” zone where handgun owners are exempted from reasonable health and safety restrictions that routinely govern conduct within and without the home on the supposition that, despite all empirical evidence to the contrary, handguns render the home and its occupants “safe.” The lack of factual or constitutional basis explains why this rogue doctrine—that a privacy right prevents reasonable gun control legislation—has never been adopted by an American court.

indicated that they were carrying a gun as protection, while 36 percent boasted to carrying a gun to “scare someone” or “get back at someone.” *Id.* at 6. Most significantly, 52 percent of the armed youth stated that they had received or borrowed a gun from a family member or had taken it from their home without their parent’s permission. *See id.* at 4.

B. The District of Columbia Handgun Law Is a Reasonable Restriction Because Children Cannot be Taught Gun Safety

Because of the inherent developmental and behavioral vulnerabilities of adolescents—such as belief in invincibility, curiosity, and impulsiveness—researchers have determined that gun safety education is not likely to prevent firearms death and injury in teenagers and younger children. *See* Katherine Kaufer Christoffel, *Toward Reducing Pediatric Injuries from Firearms: Charting a Legislative and Regulatory Course*, 88 *Pediatrics* 294, 299 (1994). The simple and frightening truth is, when children find guns, they play with them. *See* Marjorie S. Hardy et al., *A Firearm Safety Program for Children: They Just Can’t Say No*, 17 *J. Dev. & Behav. Pediatrics* 216 (1996).

In 1988, the National Rifle Association launched the Eddie Eagle GunSafe Program to teach children in pre-K through third grade four important steps to take if they find a gun. *See* Nat’l Rifle Ass’n website at <http://www.nrahq.org/safety/eddie/>. The program’s mascot, Eddie Eagle, informs children what to do if they see a gun: (1) STOP!; (2) Don’t Touch; (3) Leave the Area; and (4) Tell an Adult. *Id.* Evaluations of the Eddie Eagle

GunSafe Program found that while the campaign may teach 4-7 year olds to repeat safety messages, the messages do not lead to actual changes in the children's behavior. *See generally* Michael B. Himle et al., *An Evaluation of Two Procedures for Training Skills to Prevent Gun Play in Children*, 113 *Pediatrics* 70 (2004), available at <http://pediatrics.aappublications.org/cgi/reprint/113/1/70>; Brian J. Gatheridge et al, *Comparison of Two Programs to Teach Firearm Injury Prevention Skills to 6- and 7-Year-Old Children*, 114 *Pediatrics* e294 (2004), <http://pediatrics.aappublications.org/cgi/reprint/114/3/e294>.

In another study, boys aged 9-15 were warned not to touch guns. When left alone, however, approximately 25 percent picked up the gun and played with it, while none of the boys touched any other item that they had been instructed not to touch. Marjorie S. Hardy, *Effects of Gun Admonitions on the Behaviors and Attitudes of School-Aged Boys*, 24 *J. Dev. & Behav. Pediatrics* 352, 354 (2003). The researchers concluded that “guns hold a unique allure and cast further doubt on the ability of gun admonitions to keep children safe around guns.” *Id.* at 352.

A 1996 study analyzed the behavior of 48 preschool children aged 4- to 6-years before and after a lecture by a law enforcement officer on firearms-safety. The officer warned the children of the dangers of guns and told them that they should *never* touch a gun without their parents' supervision and permission. Immediately following the lecture, the children were sent to a playroom containing both real and toy guns—most of the children found a real gun and played with it. Hardy et al., *A Firearm*

Safety Program for Children: They Just Can't Say No, supra, at 218. These researchers concluded that instructing a child not to touch guns is ineffective in preventing gun injury. *Id.* at 220. The researchers also found that, although children with access to firearms are better able to distinguish between real and toy guns, this knowledge does not deter them from playing with the real guns. *Id.* In fact, in the study, 19 percent of the children whose parents owned a firearm had played with the gun without their parents' knowledge. *Id.*

Other pediatric researchers similarly have concluded:

There is no evidence that safety lessons are retained by children at the critical times when they confront a loaded weapon. Indeed, the combination of the high stakes involved, death or disability, and the propensity of children to forget rules while playing or upset makes this [safety education] a dubious approach at best. Because children cannot be made "gun safe," their environments must be made safe by removing the most dangerous guns [*i.e.*, handguns].

Judith Cohen Dolins and Katherine Kaufer Christoffel, *Reducing Violent Injuries: Priorities for Pediatrician Advocacy*, 94 *Pediatrics* 638, 646 (1994).

Gun-safety messages also must compete with the sensationalized portrayal of handguns in the American media. Television, movies, videos, and computer games "normalize carrying and using weapons and glamorize

them as a source of personal power.” Robert H. DuRant et al., *Violence and Weapon Carrying in Music Videos: A Content Analysis*, 151 *Archives of Pediatric & Adolescent Med.* 443 (1997). According to Nielsen Media Research data, in 1998, the average child or adolescent watched an average of nearly 3 hours of television per day. See Flaura Koplun Winston et al., *Actions Without Consequences: Injury-Related Messages in Children’s Programs*, 154 *Archives of Pediatric & Adolescent Med.* 366, 366 (2000), available at <http://archpedi.ama-assn.org/cgi/reprint/154/4/366>, (citing Nielsen Media Research, *1998 Report on Television* (1998)). Another study estimated that, in 1999, American children between the ages of two and 18 years spent an average of six hours and 32 minutes each day engaged with some form of media (television, video, movies, video games, print, radio, recorded music, computer, and the Internet). See The Henry J. Kaiser Family Foundation, *Kids and Media at the New Millennium: A Kaiser Family Foundation Report* (1999), available at <http://www.kff.org/entmedia/upload/Kids-Media-The-New-Millennium-Report.pdf>. Studies also show that children and adolescents are particularly vulnerable to the messages conveyed through television. George Gerbner et al., *Growing Up with Television: The Cultivation Perspective in Media Effects: Advances in Theory and Research* 17-41 (Jennings Bryant & Dolf Zillmann, eds., Lawrence Erlbaum Assocs. 1994). In effect, gun safety messages are literally overwhelmed by the alluring messages about handguns and violence delivered through the most popular and accessible channels of entertainment.

In sharp contrast to the wealth of data demonstrating that gun safety messages are ineffective in preventing children from handling guns, 87 percent of parents believe their children would not touch a gun if they found one. Susan M. Connor & Kathryn L. Wesolowski, *They're Too Smart for That: Predicting What Children Would Do in the Presence of Guns*, 111 Pediatrics e109 (2003), available at <http://pediatrics.aappublications.org/cgi/reprint/111/2/e109>. Researchers concluded that parents' beliefs and unrealistic expectations of children's developmental levels and impulse control may influence storage decisions or the inclination to address gun safety issues. *Id.*

Linda Erwin, M.D., an experienced trauma surgeon at a Level One trauma center in Portland, Oregon, observes:

I think one of the big issues when we talk about handguns is how uninformed most adults are about the nature of children, even the children right in front of them that they see every day. They're unaware of how [children's] brains work, how they think, what they can and can't do intellectually, what they can and can't do in terms of good judgment. We know that most children are pre-rational creatures until about age 12. They're pretty impulsive and curious and have to hear something over and over and over for it to sink in. They need protecting and they need adults to create a safe environment for them. And even though adults will protect children from other dangers they see in the environment, they will ignore the danger that

a handgun represents by living in denial about how their child is going to interact with that weapon. Sugarman, *supra*, at 11-12.

C. The District of Columbia Handgun Law Is a Reasonable Restriction Because Handguns Make Suicide More Likely and Suicide-Attempts More Injurious to Children and Adolescents.

Access to firearms, and handguns in particular, increases the risk that children will die in a firearms-related suicide. In 2004, 846 children committed suicide using a firearm, and 46 percent of all suicides in adolescents 15 through 19 years of age were committed with a firearm. U.S. Dep't of Health & Human Servs., Ctrs. for Disease Control & Prevention, Nat'l Vital Statistics Sys., Nat'l Ctr. for Health Statistics, Web-Based Injury Statistics Query and Reporting System (WISQARS), <http://www.cdc.gov/ncipc/wisqars/>. In 1996, handguns were involved in 70 percent of teenage suicides in which a firearm was used. Am. Acad. of Pediatrics, *supra* n.2, at 889; *see also* Wintemute et al., *supra*, at 824, Fig. 1 (case study of types of weapons used in firearm suicides indicating that handguns are the more frequently used type of firearm across all groups).

Case studies reveal that suicide by firearms is strongly associated with the presence of a gun in the home of the victim. *See generally* Matthew Miller et al., *Household Firearm Ownership and Suicide Rates in the United States*, 13 *Epidemiology* 517 (2002); Arthur L. Kellermann et al., *Suicide in the Home in Relation to Gun Ownership*, 327 *New Eng. J. Med.* 467 (1992). In

fact, the risk of suicide is five times greater in households with guns. David A. Brent et al., *Firearms and Adolescent Suicide*, 147 *Am. J. of Diseases of Child.* 1066, 1068 (1993). A study on adolescent suicide and firearms found that while 87.8 percent of suicide victims who lived in a home with a gun died by firearms, only 18.8 percent of suicide victims that did not have a gun died by firearms. *Id.* Even more telling is that homes with handguns have a risk of suicide almost twice as high as the risk in homes containing only long guns. Kellermann et al., *Suicide in the Home in Relation to Gun Ownership*, *supra*, at 470.

Given these statistics, it is not surprising that the restrictions on access to handguns in the District of Columbia have been found to significantly reduce the incidence of suicides by firearms. Colin Loftin et al., *Effects of Restrictive Licensing of Handguns on Homicide and Suicide in the District of Columbia*, 325 *New Eng. J. Med.* 1615, 1617 (1991). A study by the Institute of Criminal Justice and Criminology at the University of Maryland showed a decline of 23 percent in the number of suicides by firearms in the District of Columbia from 1968 to 1987. *Id.* at 1616, Table 1. Tellingly, the number of non-firearms-related suicides in the District of Columbia during that same time frame did not decline; nor did the number of firearms-related suicides in neighboring communities that were not subject to a similar ban on handguns. *Id.* at 1617-18. Additionally, the reduction in the number of suicides by firearms in the District during this time did not result in a corresponding increase in the incidents of suicides by other means. *See id.* at 1619. Thus, researchers

concluded from the study that restricting access to firearms reduced the number of suicides committed: “restrictions on access to guns in the District of Columbia prevented an average of 47 deaths each year after the law was implemented.” *Id.*

In addition, between 2000 and 2002, no child under the age of 16 died from suicide by firearms in the District of Columbia. In contrast, states without handgun bans (and less restrictive guns laws generally), such as Alaska, Montana, and Idaho, led the country with 14, 15, and 15 firearms suicide deaths respectively in the same population in the same time period. Violence Policy Ctr., Press Release, *New Study Shows District of Columbia’s Tough Gun Laws Work to Prevent Youth Suicide—No Child 16 Years of Age or Younger in DC Was the Victim of Firearm Suicide According to Most Recent Federal Data*, July 12, 2005, <http://www.vpc.org/press/0507dc.htm>. Given that in 2004, the third leading cause of death nationwide among youth aged 10 to 24 was suicide and that the risk of suicide is five times greater in homes with guns, invalidation of the law will almost certainly increase the number of children that die from suicide. U.S. Dep’t of Health & Human Servs. (WISQARS), *supra*, <http://webappa.cdc.gov/sasweb/ncipc/leadcaus10.html>.

D. The District of Columbia's Handgun Law Is a Reasonable Restriction Because Handguns Increase the Likelihood and Deadliness of Accidents Involving Children.

The increased accessibility to handguns that will result if the District of Columbia handgun ban is struck down will increase the number of children who will be harmed in accidents involving firearms. Studies have shown that fewer than half of United States families with both firearms and children maintain the firearms separate from ammunition. *See, e.g.*, Mark A. Schuster et al., *Firearm Storage Patterns in U.S. Homes with Children*, 90 *Am. J. of Pub. Health* 588, 590-91 (2000), available at <http://www.rand.org/news/Press/588-594.schuster.pdf>. This practice is especially troubling because children as young as three are able to pull the trigger of most handguns. Sara M. Naureckas et al., *Children's and Women's Ability to Fire Handguns*, 149 *Archives of Pediatric & Adolescent Med.* 1318, 1320 (1995). Approximately 70 percent of all unintentional firearms injuries and deaths are a result of handguns. *See Am. Acad. of Pediatrics, supra* n.2, at 889.

Unintentional firearms death disproportionately affects children: In 2004, firearms accounted for 27 percent of the unintentional deaths among youth aged 10-19, while accounting for only 22 percent of unintentional deaths among the population as a whole. *See U.S. Dep't of Health & Human Servs. (WISQARS), supra*, <http://www.cdc.gov/ncipc/wisqars/>.⁹ Additionally,

9. Compare search for unintentional firearm deaths for all ages to search for unintentional firearm deaths for ages 10-19.

between 2000 and 2004, 143 to 193 children were killed each year from unintentional shootings. *See id.* Most unintentional firearms-related deaths among children occur in or around the home—50 percent at the home of the victim and 40 percent at the home of a friend or relative—and occur when children play with loaded and accessible guns. Children’s Hospital Boston, *Firearm Safety, 2005-2006*, <http://www.childrenshospital.org/az/Site905/printerfriendlypageS905P0.html>. Moreover, between 2000 and 2004, 22,864 children sustained unintentional, non-fatal firearms-related injuries. *See* U.S. Dep’t of Health & Human Servs. (WISQARS), *supra*, <http://www.cdc.gov/ncipc/wisqars/>.

The more guns a jurisdiction has, the more likely children in that jurisdiction will die from a firearm accident. In a study of accidental firearms deaths that occurred between 1979 and 1999, children aged four and under were 17 times more likely to die from a gun accident in the four states with the most guns versus the four states with the fewest guns. Matthew Miller et al., *Firearm Availability and Unintentional Firearm Deaths*, 333 *Accident Analysis & Prevention* 477, 481, Table 3 (2001). Thus, if the handgun ban in the District of Columbia is struck down, the number of children who will die or be injured by handguns accidentally will increase significantly.

E. The District of Columbia Handgun Law Is a Reasonable Restriction Because Firearms and Especially Handguns Increase Homicide and Nonfatal Assault Rates Among America's Youth.

Firearms-related homicides and assaults affect children, adolescents, and young adults in staggering measure. Between 1987 and 1992, adolescents aged 16 to 19 had the highest rate of handgun crime victimization, nearly three times the average rate. Michael R. Rand, U.S. Dep't of Justice, Bureau of Justice Statistics, *Guns and Crime: Handgun Victimization, Firearm Self-Defense, and Firearm Theft*, NCJ 147003 (Apr. 1994, rev. Sept. 2002), available at <http://www.ojp.usdoj.gov/bjs/pub/ascii/hvfsdaft.txt>. Between 1993 and 1997, those aged 19 and younger accounted for 20 percent of firearms homicide victims and 29 percent of victims of nonfatal firearms injury from assault. Marianne W. Zavitz & Kevin J. Strom, U.S. Dep't of Justice, Bureau of Justice Statistics, *Firearm Injury and Death from Crime, 1993-1997*, at 3, NCJ 182993 (Oct. 2000), available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/fide9397.pdf>. For the period 1993-2001, of the average 847,000 violent victimizations committed with firearms each year, 87 percent were committed with handguns. Craig Perkins, U.S. Dep't of Justice, Bureau of Justice Statistics, *Nat'l Crime Victimization Survey, 1993-2001: Weapon Use and Violent Crime*, at 3, NCJ 194820 (Sept. 2003), available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/wuvc01.pdf>. In 2005, 25 percent of the nation's 10,100 firearms homicide victims were under the age of 22, and handguns were responsible for 75 percent of those homicides. U.S. Dep't of Justice, Fed. Bureau of

Investigation, *Crime in the United States, 2005*, at Table 7 (Murder Victims by Weapon, 2001-2005), available at http://www.fbi.gov/ucr/05cius/offenses/expanded_information/data/shrtable_07.html, and Table 8 (Murder Victims by Age by Weapon, 2005) (2006), available at http://www.fbi.gov/ucr/05cius/offenses/expanded_information/data/shrtable_08.html.

Moreover, nationally, children and young adults are killed by firearms more frequently than almost any other cause of death. In 2004, firearms homicide was the second leading cause of injury death for persons 15 to 24 years of age, second only to motor vehicle crashes. U.S. Dep't of Health & Human Servs., Ctrs. for Disease Control & Prevention, Nat'l Ctr. for Injury Prevention and Control, Web-Based Injury Statistics Query and Reporting System (WISQARS), *Leading Causes of Death Reports, 2004*, available at <http://webappa.cdc.gov/sasweb/ncipc/leadcaus10.html>. Incredibly, in that same year, firearms homicide—not car accidents—was the leading cause of death for African American males between the ages of 15 and 34. *Id.*

Children and youth are murdered with handguns more often than by all other weapons combined. Violence Policy Ctr., *Kids in the Line of Fire: Children, Handguns, and Homicide*, Nov, 2001, at Introduction, available at <http://www.vpc.org/studies/firecont.htm>. And, for every child murdered by a gun, four more sustain firearm assault injury. See U.S. Dep't of Health & Human Servs. (WISQARS), *supra*, <http://www.cdc.gov/ncipc/wisqars/>.

Firearms (particularly handguns) also represent the leading weapon utilized by both children and adults in the commission of homicide. *See* Fox Butterfield, *Guns Blamed for Rise in Homicides by Youths in the 80's*, N.Y. Times, Dec. 10, 1998, at 29.¹⁰ Between 1985 and 2002, the firearms homicide death rate increased 36 percent for homicides committed by 15 to 19 year olds nationwide. *See* U.S. Dep't of Health & Human Servs. (WISQARS), *supra*, <http://www.cdc.gov/ncipc/wisqars/>.¹¹ In each year after 1985, handguns have been the most used homicide weapon by juveniles (those age 17 and under) nationwide. Alfred Blumstein, *Youth, Guns, and Violent Crime*, 12 *The Future of Child*. 39, at Figure 5 (2002), *available at* http://www.futureofchildren.org/usr_doc/tfoc_12-2d1.pdf. Scholars note that the dramatic increase in the rate of homicide committed by juveniles is attributable largely to the increase in attacks with firearms. Alan Lizotte, *Guns & Violence: Patterns of Illegal Gun Carrying Among Young Urban Males*, 31

10. The article cites statistics from Professor James Alan Fox, Dean of the College of Criminal Justice at Northeastern University, demonstrating that “the rate of homicide by juveniles 14 to 17 years old jumped from 8.5 per 100,000 in 1984 to 30.2 per 100,000 in 1993, then declined to 16.5 per 100,000 in 1997” and emphasizing that “virtually all the increase in homicides by juveniles in the late 1980’s was attributable to crimes committed with handguns, not to a change in the nature of teen-agers.”

11. Compare search for homicide firearm deaths for 15-19 year olds in 1985 to search for homicide firearm deaths for 15-19 year olds in 2002, which shows increase in death rate from 5.68 deaths per 100,000 in 1985 to 7.69 deaths per 100,000 in 2002.

Val. U. L. Rev. 375, 375 (1998).¹² University of California, Berkeley law professor Franklin Zimring has observed, “the most important reason for the sharp escalation in homicide [among offenders thirteen to seventeen] was an escalating volume of fatal attacks with firearms.” Franklin E. Zimring, *American Youth Violence* 35-36 (Oxford Univ. Press 1998).

Importantly, researchers at the Institute of Criminal Justice and Criminology at the University of Maryland found that gun-related homicides in the District of Columbia dropped 25 percent after the enactment of the ban. Loftin et al., *supra*, at 1616, Table 1. Statistics also reveal that on America’s elementary and secondary school campuses, where guns are banned, relatively low incidence of gun-related violence is reported. For example, in each year between 1992 and 2000, children and youth aged five to 19 were at least 70 times more likely to be murdered away from school than at school. Jill F. DeVoe et al., U.S. Dep’t of Justice, Bureau of Justice Statistics & U.S. Dep’t of Education, Nat’l Ctr. for Ed. Statistics, *Indicators of School Crime and Safety: 2004*, at 1, NCES 2005-002/NCJ 205290 (2005), available at <http://nces.ed.gov/pubs2005/2005002.pdf>. College campuses also reflect similarly lower rates for on-campus as compared to off-campus violence. Katrina Baum & Patsy Klaus, U.S. Dep’t of Justice, Bureau of Justice Statistics, *Violent Victimization of College Students*

12. Lizotte found that, “[s]ince the mid-1980s the homicide rate for those fifteen to twenty-one years of age has increased rather substantially . . . This increase has, for the most part, been due to the dramatic rise in homicides in which a firearm was used.”

1995-2002, at 1, NCJ 206836 (2005) (finding that 93% of violence against college students occurs off-campus), available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/vvcs02.pdf>.

II. Comparing the Experience of Children and Youth in Foreign Countries

The firearms death rate in the United States far surpasses that of other democratic nations. A 1997 study analyzing firearms deaths for children aged 14 or under in 26 industrialized countries found that 86 percent of all deaths occurred in the United States. Sugarmann, *supra*, at 111 (citing *Rates of Homicide, Suicide, and Firearm-Related Death Among Children—26 Industrialized Countries*, 46 *Morbidity & Mortality Weekly Report* 101, 103 (1997)). The rate for firearms homicide alone was 16 times higher in the United States, while the firearms suicide rate was 11 times higher and the firearms unintentional death rate was nine times higher. *Id.*

In 1995, the firearms death rate in the United States was 13.7 per 100,000. Lois A. Fingerhut et al., *International Comparative Analysis of Injury Mortality*, *Advance Data* No. 303, October 7, 1998, at 15, available at <http://www.cdc.gov/NCHS/data/ad/ad303.pdf>. In comparison, the firearms death rates in countries that severely limit access to handguns were significantly lower. For example, in 1995, Canada had a firearms death rate of 3.9 per 100,000; Australia had a rate of 2.9 per 100,000; and England and Wales had rates of 0.4 per 100,000. *Id.* One of the most glaring distinctions between these countries and the United States is the

significantly lower incidents of lethal violence caused by handguns. Sugarman, *supra*, at 17-18. For instance, handgun homicide rates are 15.3 times higher in the United States than in Canada. Firearms Research Unit, Canada Firearms Centre, *Firearms: Canada/United States Comparison*, June 1998, http://www.cfc-cafc.gc.ca/pol-leg/res-eval/other_docs/notes/canus_n_e.asp. For 1989-95, the average handgun homicide rate was 4.8 per 100,000 in the U.S., compared to 0.3 per 100,000 in Canada. *Id.*

In addition, while adolescents in other industrialized countries are just as likely as adolescents in the United States to engage in violent behavior, such as fighting and weapon carrying, violence related mortality in the United States is substantially higher than that of other industrialized countries. Eleanor Smith-Khuri et al., *A Cross-National Study of Violence-Related Behaviors in Adolescents*, 158 *Archives of Pediatric & Adolescent Med.* 539, 543 (2004), available at <http://archpedi.ama-assn.org/cgi/reprint/158/6/539>. This can be explained, in large part, by the ease with which adolescents in the United States have access to firearms compared to adolescents in other such countries.¹³ For example, in 2007, Canada had approximately 31 firearms per 100 persons compared to approximately 90 firearms per 100 persons in the United States. Geneva Graduate Inst. of Int'l Studies, *Small Arms Survey 2007: Guns and the City*, 47 (Cambridge Univ. Press 2007), available at http://www.smallarmssurvey.org/files/sas/publications/year_b_pdf/2007/CH2%20Stockpiles.pdf.

13. Despite having less than 5% of the world's population, the United States has nearly half of the world's civilian-owned firearms. Geneva Graduate Inst. of Int'l Studies, *Small Arms Survey 2007: Guns and the City*, 46 (Cambridge Univ. Press 2007), available at http://www.smallarmssurvey.org/files/sas/publications/year_b_pdf/2007/CH2%20Stockpiles.pdf.

Thus, even where behavior patterns are similar, access to handguns increases the mortality rate of incidents involving youth by making violent interactions more deadly.

Although other nations have lower incidence of handgun violence, these weapons remain a problem worldwide, and the continued threat posed by firearms has caused several countries to impose a series of gun control measures. For example, in Australia, a series of mass killings in 1996 prompted federal and state governments to ban semiautomatic and pump action shot guns and rifles. S. Chapman et al., *Australia's 1996 Gun Law Reforms: Faster Falls in Firearm Deaths, Firearm Suicides, and a Decade Without Mass Shootings*, 12 *Inj. Prevention* 365, 365 (2006), available at <http://injuryprevention.bmj.com/cgi/reprint/12/6/365>. The government also funded a gun buyback program where more than 700,000 guns were surrendered by Australia's adult population of 12 million. *Id.* at 365.

The Australian gun control measures have been successful. A 2006 study by the University of Sydney School of Public Health found that the gun control laws and government buyback programs coincided with an end to mass shootings and dramatic decreases in shooting deaths in Australia. *Id.* at 367. Specifically, the report found that gun-related deaths per capita had been declining 3 per cent annually in the 18 years before the new gun laws were announced and that the rate of decline doubled to 6 percent in the seven years after the new laws were introduced. *Id.* at 365. As a result, the annual reduction in firearms homicides accelerated from 3 to 7.5 percent annually and firearms suicides from 3 to 7.4 percent. *Id.*

Japan represents another powerful example of gun control effectiveness. Japan has one of the most stringent gun laws in the democratic world. The weapons law begins by stating “No-one shall possess a fire-arm or fire-arms or a sword or swords,” and very few exceptions are allowed. *Law Controlling Possession, Etc. of Fire-Arms and Swords*, Law No 6, Art 3, EHS Law Bulletin Series, No 3920 (1978), available at http://www5.cao.go.jp/otodb/english/houseido/hou/lh_05050.html. Civilians can never own handguns. *Id.* Tellingly, in 2005, Japan had a total of 19 firearms-related homicides, of which only five were non-gang related. Mark Schreiber, *Japan Holds the Line Against Gun Violence*, Japan Times, May 3, 2007, available at <http://search.japantimes.co.jp/cgi-bin/eo20070503a2.html>. More importantly, none of the victims was under the age of 18. *Id.*

III. The District’s Handgun Law Is A Reasonable Restriction Because of the Economic, Societal and Psychological Costs of Handgun Violence Upon Children.

For every person killed by a firearm, nearly three others require medical treatment for nonfatal wounds. Joseph L. Annet et al., *National Estimates of Nonfatal Firearm-Related Injuries: Beyond the Tip of the Iceberg*, 273 JAMA 1749, 1751 (1995). Between 2000 and 2004, 337 children age 14 or younger died from unintentional shootings. See U.S. Dep’t of Health & Human Servs. (WISQARS), *supra*, <http://www.cdc.gov/ncipc/wisqars/>. More than eighteen times that number were treated for nonfatal injuries relating to firearms, many of which may result in permanent disability or disfigurement. *Id.* On average, each American loses 104 days of life because of firearms deaths. Eliminating firearms deaths would

increase male life expectancy more than the eradication of all colon and prostate cancers. Jean Lemaire, *The Cost of Firearm Deaths in the United States: Reduced Life Expectancies and Increased Insurance Costs*, 72 *J. Risk & Ins.* 359 (2005).

One conservative estimate places the annual cost of immediate medical care for all gunshot wounds at \$4 billion. Kenneth W. Kizer et al., *Hospitalization Charges, Costs, and Income for Firearm-Related Injuries at a University Trauma Center*, 273 *JAMA* 1768, 1773 (1995). Other estimates that take into account lifetime care and long-term economic loss, place the overall cost of gun violence in excess of \$20 billion per year. Wendy Max & Dorothy P. Rice, *Shooting in the Dark: Estimating the Costs of Firearm Injuries*, *Health Affairs* 171, 181 (Winter 1993), available at <http://content.healthaffairs.org/cgi/reprint/12/4/171.pdf>.

As demonstrated above, handguns are directly responsible for increasing the number of deaths and injuries to children and families from violent crime, suicide and accidents. The most serious harm resulting from youth violence is caused by firearms; most firearms-related injuries, in turn, involve handguns.

The economic, societal and psychological costs of youth violence also are well established. According to the Centers for Disease Control and Prevention, the consequences of youth violence include:

- Direct and indirect costs of youth violence (e.g., medical, lost productivity, quality of life) exceed \$158 billion every year. U.S. Dep't of Health & Human Servs., Ctrs. for Disease Control &

Prevention, *Youth Violence: Fact Sheet*, <http://www.cdc.gov/ncipc/factsheets/yvfacts.htm> (citing Children's Safety Network Econ. & Data Analysis Res. Ctr., *State Costs of Violence Perpetrated By Youth* (2000)).

- In a nationwide survey of high school students, about six percent reported not going to school on one or more days in the 30 days preceding the survey because they felt unsafe at school or on their way to and from school. U.S. Dep't of Health & Human Servs., Ctrs. for Disease Control & Prevention, *Youth Risk Behavior Surveillance—United States, 2005*, 55 *Morbidity & Mortality Weekly Report*, June 9, 2006, at 8, available at <http://www.cdc.gov/mmwr/PDF/SS/SS5505.pdf>.
- In addition to causing injury and death, youth violence affects communities by increasing the cost of health care, reducing productivity, and disrupting social services. U.S. Dep't of Health & Human Servs., Ctrs. for Disease Control & Prevention, *Youth Violence: Fact Sheet*, *supra*, (citing James A. Mercy et al., *Youth Violence*, in *The World Report on Violence and Health* 25 (James A. Mercy et al., eds., World Health Org. 2002)).

The public bears the majority of these costs. A recent study found that, in 2000, the average cost for each: (i) homicide was \$4,906 in medical costs, and \$1.3 million in lost productivity; (ii) non-fatal assault resulting in hospitalization was \$24,353 in medical costs and \$57,209 in lost productivity; (iii) suicide was \$2,596 in medical costs

and \$1 million lost productivity; and (iv) non-fatal self inflicted injury was \$7,234 in medical costs and \$9,726 in lost productivity. *See* Phaedra S. Corso et al., *Medical Costs and Productivity Losses Due to Interpersonal Violence and Self-Directed Violence*, 32 *Am. J. of Preventive Med.* 474 (2007), *available at* http://www.cdc.gov/ncipc/factsheets/images/Medical_Costs.pdf; *see also* Philip J. Cook et al., *The Medical Costs of Gunshot Injuries in the United States*, 281 *JAMA* 451, 451-52 (1999) (finding that private insurance pays less than 20 percent of the costs associated with gunshot injuries), *available at* <http://jama.ama-assn.org/cgi/reprint/282/5/447>. For both men and women, firearms and gunshot-related injuries caused the greatest burden on productivity. Corso et al., *supra*, at 476. Moreover, the study found that slightly over 50 percent of the total economic costs of injuries due to violence are associated with fatalities among males aged 15 to 44 years, a majority of which are inflicted by firearms. *Id.* at 478.

Economic costs provide, at best, an incomplete measure of the toll of violence and injuries caused by handguns. Children, like all victims of violence, are more likely to experience a broad range of mental and physical health problems not reflected in these estimates resulting from post-traumatic stress disorder, depression, cardiovascular disease, and diabetes. *See generally* Corso et al., *supra*; Carole Goguen, U.S. Dep't of Veterans Affairs, Nat'l Ctr. for Posttraumatic Stress Disorder, *The Effects of Community Violence on Children and Adolescents*, http://www.ncptsd.va.gov/ncmain/ncdocs/fact_shts/fs_child_com_viol.html (last updated May 22, 2007).

CONCLUSION

Because of the proven harm attributable to handguns and especially because of the unique risk handguns create for children and adolescents, the District of Columbia reasonably enacted legislation to mitigate a pervasive public health crisis. The reasonableness of the District of Columbia's attempt to preserve the public's health is confirmed by both domestic and foreign data. Neither the precedents of this Court, nor the intention of the Framers of the Constitution support striking down the District of Columbia's ordinance. These *amici* respectfully request that the Judgment of the Court of Appeals be reversed and judgment be entered for Petitioners.

Respectfully submitted,

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