

**Testimony of Prof. David B. Kopel**  
**before the**  
**District of Columbia Council,**  
**Committee on the Judiciary**

**Testimony on**  
**Bill 19-614, Firearms Amendment Act of 2011**

Written Testimony, Feb. 13, 2012, for Committee hearing held Jan. 30, 2012

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Attachments:

Bureau of Alcohol, Tobacco, Firearms & Explosives, 2010 Firearms Trace Reports for the District of Columbia (#113605), Maryland (#113579), and Virginia (#113610).

FBI, Uniform Crime Reports, Table 20. For 2009 and for 2010.

Bill 19-614 contains many improvements in the District’s firearms registration law. These are commendable, and bring the District closer to compliance with the Second Amendment of the Constitution of the United States of America. There are some provisions, however, in which the Bill does not go far enough in reforming inappropriate provisions of existing statutes.

## **I. Discrimination against people with visual impairments**

The Council is considering eliminating the law that forbids gun ownership by people whose eyesight is not good enough to obtain a driver’s license.<sup>1</sup> This is commendable, and eliminates an irrational law. In order to drive safely, a person must be able to read road signs and to see objects that may be dozens or hundreds of yards away. A person engaged in long-distance hunting, without any guide or companion, might need similar visual acuity in order to shoot safely at a target that might be 500 yards away, and might be partially concealed by vegetation.

### **A. Vague and excessive standard for vision**

Unfortunately, there is a proposal to replace the first visual ban with a narrower, but still inappropriate, visual ban: on persons who are defined as “blind” according to D.C. law.

To understand the defects of the D.C. definition, particularly as applied to firearms owners in the home, let us start with the federal definition, which is precise:

[T]he term “blindness” means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied

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<sup>1</sup> The District’s firearms registration law currently provides that to register a firearm an applicant must demonstrate “vision better than or equal to that required to obtain a valid driver’s license under the laws of the District of Columbia . . .” § 7-2502.03(a)(11).

A common line of argument is that issuance of a driver’s license requires a vision test, so registration of firearms should be limited to persons who meet vision requirements. The analogy is inapt. A driver’s license is required to *operate* a motor vehicle. There is no vision requirement in order to *own* or *possess* a motor vehicle, and any such requirement would surely be discriminatory and illegal. As noted above, there will be many instances in which residents of the District have a perfectly legitimate reason to *own* or *possess* a firearm in the home, but may never have any reason or intention to fire it.

by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes in this paragraph as having a central visual acuity of 20/200 or less.

42 U.S.C. § 416(i)(1)(B).

In other words, the person sees at 20 feet about as well as a person with perfect vision would see at more than 200 feet. There are nearly one million Americans aged 40 or over in this category.<sup>2</sup> Of the persons defined as “legally blind,” only about 10% have no vision (that is, they are “blind” in the common usage of the word). “The rest have some vision, from light perception alone to relatively good acuity.”<sup>3</sup>

The proposed D.C. amendment to § 7-2502.03(a)(11) adopts the definition of “blind” contained in § 7-1009(1):

“The term ‘blind person’ means, and the term ‘blind’ refers to, a person who is totally blind, has impaired vision of not more than 20/200 visual acuity in the better eye and for whom vision cannot be improved to better than 20/200, or who has loss of vision due wholly or in part to impairment of field vision or to other factors which affect the usefulness of vision to a like degree.”

The D.C. and federal definitions have the same standards for a person who has trouble seeing things clearly at a distance. The D.C. and federal definitions diverge for persons whose distance vision is fine, but who have a narrow field of vision. The federal definition is that “legally blind” includes people whose field of vision is 20 degrees or less. The D.C. definition fails to specify what field of vision is so narrow that a person will lose her Second Amendment rights.

For a person with perfect eyesight, the total field of vision is commonly said to be 160 to 208 degrees. What if a person has a 100 degree field of vision? Can that person be refused a D.C. firearm registration? The proposed language does not tell us.

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<sup>2</sup> National Eye Institute, National Institutes of Health, *Prevalence of Blindness Data*, [http://www.nei.nih.gov/eyedata/pbd\\_tables.asp](http://www.nei.nih.gov/eyedata/pbd_tables.asp).

<sup>3</sup> *When are you Legally Blind*, Disability World (2007/12/06), <http://www.disabled-world.com/artman/publish/legally-blind.shtml>.

Peripheral vision is very important for driving. It is of much less significance for firearm defense in the home, because focusing on the gun's sights and on the target takes place in the center of the field of vision.

The proposed language about "other factors which affect the usefulness of vision to a like degree" is also vague, and does not provide the registering officials with appropriate guidance.

## **B. The Americans with Disabilities Act**

Discrimination against individuals who have the misfortune to be actually or "legally" blind is a straightforward violation of the Americans with Disabilities Act ("ADA"), and perhaps of other laws aimed at securing to disabled persons the full enjoyment of societal rights—of which the most important are, by definition, "fundamental" constitutional rights. Advocates of a law to completely outlaw the exercise of constitutional rights by a person merely because the person has a physical handicap carry a very heavy burden of proof.

The ADA, 42 U.S.C. ch. 26, comprehensively prohibits discrimination against disabled individuals by state and local governments, including the District of Columbia. In Subchapter II of the ADA, relating to public services, 42 U.S.C. § 12132 provides that "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of services, programs, or activities of a public entity, or *be subjected to discrimination by any such entity.*" Yet that is what the District of Columbia is currently doing, and what some propose to continue doing.

Individuals who are legally blind are clearly protected by the ADA. Section 12102(1) of the ADA defines "disability" as "a physical or mental impairment that substantially limits one or more major life activities of such individual," and defines "major life activities" to include "seeing." Presumably, the District has prohibited blind or visually impaired persons from possessing firearms precisely because they are "disabled," in the sense that their impairment "limits" their ability to perform life activities such as "seeing," and thus, by inference, they are assumed to be unable to safely own a firearm. There would seem to be no other reason for enacting such a prohibition.

The District’s ban against the mere possession of firearms by visually impaired persons is absolute: “no person...in the District shall possess or control any firearm, unless the person...holds a valid registration certificate for the firearm...” § 7-2502.01(a). The current ban on possession is for anyone who cannot pass the vision test for driving, and under the Act would still include many individuals protected by the ADA.

The District’s current, and proposed, discrimination against persons with visual disabilities is a particular easy case under the ADA. No-one is requesting that the District make any “reasonable accommodation” in its employment practices, or make any modification of its buildings or other facilities. The only request is that the District *not* practice deliberate, targeted discrimination against the visually handicapped *regarding something in their own home, and not in public*.

It is well-established that the ADA provides statutory federal protection against state or local government policies which discriminate against the disabled based on stereotypes or generalizations. The assertion that the District discrimination against the visually handicapped is necessary for public safety, is ludicrous. Not a single state in the Union prohibits firearms ownership in the home by the legally blind. Over the course of three centuries—from the early colonial period to the present—not one state has *ever* discriminated against the visually impaired regarding gun ownership in the home. After three centuries, in fifty states, in a nation of more than 300 million people and just as many firearms, the D.C. City Council has not been presented with a scintilla of evidence that non-discrimination against the visually disabled has harmed public safety.

Of course under the ADA, it takes considerably more than a scintilla in order to make discrimination lawful. Putting the ADA aside, discriminating against the disabled simply because of “vague, undifferentiated fears” is a violation of the Fourteenth Amendment. *City of Cleburne v. Cleburne Living Center, Inc.*, 473 U.S. 432 (1985).

### **C. Prohibition on various forms of firearms ownership or use**

The discrimination seems premised on the notion that the only possible reason to own a firearm is to shoot someone with it in self-defense. This reason is the “core” of the Second Amendment right, according to *District of*

*Columbia v. Heller* and *McDonald v. Chicago*; but according to those same cases, the right is not limited to defensive shooting, but instead compasses legitimate uses in general, including hunting.

Many individuals own firearms without ever firing them for any purpose, and without any intention of ever firing them. Some of these individuals are heavily engaged in the hobby of gun collecting. Others simply enjoy owning their firearms, showing them to visitors to their home, and so on. By analogy, the First Amendment protects people who buy the leatherbound editions of the *Library of America*, regardless of whether those people read any of those books, or simply enjoy owning them.

Like leather-bound books, firearms are often handed down from generation to generation; they may be financially valuable, have sentimental value, or simply be part of the family's inheritance. Although Grandpa may never read his leather-bound edition of Frederick Douglass's autobiography (and even if he cannot read it because he is totally blind), he keeps it in the family for his children and grandchildren, who may read it one day. The same is true for a firearm. Merely because an individual does not want to or cannot use something today is no reason to outlaw his ownership of it for his descendants.

It is not unusual that when an individual passes away, any firearms he possessed will remain in possession of the surviving spouse. Should the surviving spouse be automatically barred from such possession, and be subject to financial loss and criminal penalties, solely because he or she happens to be visually impaired or blind? By banning mere ownership or possession because of disability, the District's law cuts far too wide a swath.

Additionally, people who are legally blind can and do *use* firearms safely and responsibly. With appropriate assistance, they can engage in target shooting at a range, or in another safe location. Some states have programs so that legally blind persons can hunt—if accompanied by someone to provide visual assistance. Persons in the District of Columbia have the right to own firearms so that they can use them in states where they can lawfully practice target shooting or hunting.

## D. Defensive Use

In addition, firearms are highly useful in connection with the core Second Amendment right of self-defense, even if they are not fired. Indeed, in the large majority of defensive uses, they are *not* fired. Professor Gary Kleck has conducted numerous studies regarding the use of firearms for self-defense. While there are academic disputes about Kleck's findings regarding *how often* guns are used defensively, there has never been a dispute regarding his findings about *how* guns are used defensively. Kleck's research about the *how* of defensive gun use has not even been disputed by the gun prohibition lobbies.

Kleck found that in approximately 76% of defensive gun uses (DGUs), no shot is fired. Merely displaying the gun (or the criminal hearing the distinctive sound of shotgun being racked, or the hammer of a gun being cocked) was sufficient to frighten away the attacker. Gary Kleck & Marc Gertz, *Armed Resistance to Crime: The Prevalence and Nature of Self-Defense with a Gun*, 86 JOURNAL OF CRIMINAL LAW & CRIMINOLOGY 150 (1995).

Thus, even if defensive gun use were the *only* lawful purpose for gun ownership, the data show even for the 10% of the "legally blind" population which is totally blind, that in 3/4 of the cases when *they* would use guns, no shot is fired, and hence there is no issue of public safety.

As for that minority of situations in which a shot is fired, the person who is legally blind will be in her home (pursuant to District law), and therefore in familiar surroundings. She will not be a police sniper who has to pick someone out of a crowd at a distance. To the contrary, she will be reacting to a sudden, violent, entry into the home by an intruder. Her defensive gun use will be against a target just a few feet away. The vast majority of defensive gun uses take place at distances of five feet or less. Even a person with very poor eyesight (who can see at 20 feet what a person with perfect vision can see at 200) can see well enough to aim at a violent attacker five feet away.

The notion that a legally blind person would fire wildly at targets he or she could not properly identify is supported by no evidence. It is mere prejudice and fear. The ADA and the Constitution both stand firm against irrational fears that because a person has a physical handicap, he must be morally or emotionally defective, and therefore dangerous. Simply because an individual is blind or visually challenged does not mean that he or she is careless, irresponsible, negligent, or lacking in good judgment. Such persons

are aware of their disabilities and as responsible citizens would no more start firing a weapon at an unidentified target than a person with perfect vision would fire when lighting conditions did not permit proper identification.

When Congress passed the ADA, it expressly found that “individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, . . . overprotective rules and policies, failure to make modifications to existing facilities and practices, [and] exclusionary qualification standards and criteria. . . .” 42 U.S.C. § 12101(a)(5). The “exclusionary qualification standards and criteria” in both the current and proposed versions of § 7-2502.03(a)(11) are “overprotective rules and policies” which fail to recognize that persons who are blind or visually challenged are capable of responsible firearm ownership, and that they cannot be discriminated against as a class in the exercise of their fundamental constitutional rights.

Putting the ADA aside, it is irrational and unconstitutional under the Fourteenth Amendment for governments motivated by fear and prejudice to discriminate against people with disabilities. *Cleburne Living Center, supra*.

Putting aside the Fourteenth Amendment, it is a violation of the Second Amendment for a city government to completely law-abiding, responsible citizens from exercising a “fundamental” constitutional right when there is *no* factual predicate to indicate that such persons are a menace to society, and especially when the experience of centuries in the rest of the United States of America proves that such persons are, as a class, responsible and safe, rather than dangerous and wild.

## **II. The Registration System is Aberrational, Extreme, and Calculated to Suppress the Exercise of Constitutional Rights**

The District’s current law, and Bill 19-614’s failure to sufficiently reform the current law, force one to address the question raised by Justice Breyer in *McDonald*: “When do registration requirements become severe to the point that they amount to an unconstitutional ban?”



## **A. Repetitive Re-registration**

Not one state in the Union requires that gun owners periodically –re-register their firearms, and that they pay an additional tax/fee for doing so. Every state which has some form of gun registration requires that the gun be re-registered only when ownership is transferred to another person.

A very few cities, most notably Chicago, do require periodic re-registration. To state the obvious, Chicago is not exactly a model for cities which are trying to enact gun laws compliant with the Constitution of the United States of America. *See McDonald v. Chicago*, 561 U.S. 3025 (2010); *Ezell v. Chicago*, 651 F.3d 684 (7<sup>th</sup> Cir., 2011).

To require a registered owner to re-register over and over again, and pay a fee every time he does so, amounts to unending bureaucratic harassment for its own sake. The repetitive charges for registration amount to a tax particularly aimed at the exercise of constitutional rights, rather than a generally-applicable tax for raising revenue for government operations. As such, the current law's unending collection of money from gun-owners simply for continuing to own their already-registered guns is unconstitutional. *Grosjean v. American Press Co.*, 297 U.S. 233 (1936) (special tax on First Amendment rights).

## **B. Long gun registration in the United States**

The only state in the Union which registers long guns as a general class is Hawaii. California will start doing so in July 1, 2012—simply by retaining data on dealer sales from that date forward. The state was already collecting that data as part of its background checks. Thus, no action is required on the part of the gun purchaser to complete the registration.<sup>4</sup>

So as of early 2012, the only evidence, based on experience, about the benefits of comprehensive long gun registration in the United States, would be those from Hawaii.

Notably, not a single witness at the January 30 Committee hearing presented *any* evidence specifically about Hawaii. If there were data showing that Hawaiian long gun registration were beneficial to public safety, one may

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<sup>4</sup> Cal. Penal Code §§ 11106, 26905, as amended by Assembly Bill 809 (2011).

presume that at least one witness from the many gun control organizations which testified would have presented that data.

Not one state in America today, nor ever in the history of the United States, has required long gun purchasers to make multiple trips to a police station for every single long gun purchase. To the extent that any local governments, such as Chicago, have done so, they have done so based on the explicit and incorrect premise that the Second Amendment did not apply to their anti-gun laws.

In *Lamont v. Postmaster General*, 381 U.S. 301 (1965), the Supreme Court held that requiring a person to go to the post office to pick up “communist political propaganda”, rather than have the propaganda delivered to his home, was too great a burden on freedom of the press. Surely under the Constitution today, a person who wishes to acquire a firearm for lawful self-defense is not supposed to be treated far worse than a person who wishes to acquire communist political propaganda.

### **III. Empirical Information**

#### **A. Trace Data**

If the instructions for a computer printer warn “Do not submerge the printer in water,” then a reasonable person will not put the printer in his bathtub. Printed warnings and cautions exist for a reason.

Some advocates of the long gun registration plan, however, do not seem to pay attention to printed warnings.

The Bureau of Alcohol, Tobacco, Firearms & Explosives provides a printed warning to accompany its firearms tracing information:

“Firearms selected for tracing are not chosen for purposes of determining which types, makes or models of firearms are used for illicit purposes. The firearms selected do not constitute a random sample and should not be considered representative of the larger universe of all firearms used by criminals, or any subset of that universe.”

In other words, just because a type of firearm appears in a particular number or percentage in the ATF report does not mean that those firearms were used for an illicit purpose, or that the percentage is representative of use in crime.

Yet surprisingly, some of the oral testimony about long gun registration at the Committee's hearing on January 30 was apparently based on BATFE traces—heedless of BATFE's own warnings. A prudent person should not take advice about how to use guns from a person who ignores the printed warnings in the owner manual that comes with the gun. A prudent legislator should not take advice about gun policy from a person who ignores BATFE's printed warning about gun traces.

One witness, Mr. Daniel Webster, of the Center for Gun Policy and Research, presented some testimony about the percentage of firearms "recovered" by the Metropolitan Police Department (MPD) in the "past year" were long guns. Although he provided no citation in his oral testimony, his figures appear to be based on BATFE traces in 2010. (Which is not technically the "past year.")<sup>5</sup>

As such, his testimony makes precisely the error which BATFE warned about: conflating traced guns with illicit or criminal guns. His figure that 17% of "recovered" guns in the District were long guns is actually the percentage of *traced* guns that were long guns. But about a third of the guns "recovered" by the MPD were never submitted for tracing.<sup>6</sup>

Moreover, just because a firearm is "traced" (or "recovered") does not mean that it is an illicit or criminal gun. In fact, most of the recovered firearms were not reported as being associated with any of the categories of crimes of violence specifically listed in the ATF report. The largest category was "possession of weapon" (571 firearms), which is not a crime in most states, but is a crime in the District if the gun is not registered, is of a type that the District bans, or is possessed outside the home (possession by felons or other

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<sup>5</sup> Mr. Webster said that 17% of guns recovered in the past year in D.C. were long guns, as were 40% in Maryland, and 34% in Virginia. These figures are close to the BATFE 2010 data (the most recent available) on the types of firearms traced in the respective jurisdictions: 16.8% for the District, 40.6% for Maryland, and 33.9% for Virginia. The BATFE reports for the three jurisdictions for 2010 are attached to this testimony.

<sup>6</sup> According to ATF, 1,545 firearms from the District were recovered and submitted for tracing in 2010. That is significantly different from total firearms recovered, because not all recovered guns are submitted to the ATF for tracing (the MPD Annual Report for 2010, at page 23, shows 2,248 firearms recovered). Of the 1,545 submitted to ATF, 260 were shotguns or rifles, or approximately 17%.

disqualified persons is a federal offense). Citing violation of restrictive registration and possession requirements as a reason to support restrictive registration and possession requirements is circular reasoning.

The next two largest categories were “firearm under investigation” (433 firearms) and “found firearm” (318 firearms). Only 206 recovered firearms submitted for tracing were associated with the categories “dangerous drugs, aggravated assault, homicide, robbery, family offense, burglary, and simple assault.” It is unknown what percentage of these were rifles or shotguns, but other evidence, discussed below, indicates that the number of long guns actually used in violent crimes in the District is minimal.

## **B. Police and FBI Data on long gun use in crime in the District**

According to the FBI’s Uniform Crime Reports (“UCR”), the number of shotguns and rifles used in the commission of homicides in the District in 2010 was zero. Table 20 of the UCR for 2010 is attached. For 2009, according to the UCR, there was one homicide committed in the District with a rifle and one with a shotgun. Table 20 of the UCR for 2009 is attached. For the years 1995-2008, the UCR did not provide a breakdown of the use of handguns or long guns in homicides in the District, because the District did not submit that supplemental data, the data was incomplete, or it did not meet UCR guidelines. The UCR does record one homicide with a shotgun in the District in 1997. See summary with links, attached. For both 2009 and 2010, according to the UCR, the number of homicides in the District committed with knives or cutting weapons exceeds the number of long gun homicides. For both years, the number of homicides using weapons other than firearms or knives exceeds the number of long gun homicides. For both years, the number of homicides committed using hands, fists, and feet exceeds the number committed using shotguns and rifles combined. See Table 20 for each year.

## **C. Anecdotes**

The rarity of use of long guns in crime in the District is underscored by Chief Lanier’s testimony. Rather than presenting statistics on the use of long

guns in crime, Chief Lanier offered some anecdotes of long gun misuse. These anecdotes do not have anything to do with the D.C. registration system:

- The Holocaust museum shooter was James W. von Brunn, an 88 year old man who was a mentally deranged, anti-Semitic, white supremacist. He was a convicted felon, and was thus legally forbidden from possessing a firearm. He was a resident of Maryland, not the District.<sup>7</sup> It is thus unclear how registration of long guns in the District would have prevented this shooting, through verifying Von Brunn's eligibility to possess the firearm, or tracking the firearms after the crime was committed, or otherwise helping solve the crime.
- The individual who fired a rifle at the White House last fall was Oscar Ortega-Hernandez, a resident of Idaho.<sup>8</sup> Again, a requirement to register rifles in the District, which is already in effect, did not prevent and could not have prevented this shooting, through verifying Ortega-Hernandez's eligibility to possess the firearm, or tracking the firearms after the crime was committed, or otherwise helping solve the crime
- The person who shot at military facilities five times was Yonathan Melaku, a naturalized citizen from Ethiopia, who was a resident of Virginia, and who shouted "God is great" in Arabic as he fired at military facilities, all of which were located in Virginia.<sup>9</sup> It is again unclear how this incident supports registration requirements for long guns in the District of Columbia.
- A shotgun was used several years ago in a street battle several years ago on E Street, and in a robbery in the 4<sup>th</sup> District. Chief Lanier's testimony did not explain whether either of these shotguns was registered, or how registration would have prevented or led to the solution of these two crimes.

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7 Nafeesa Syeed & David Espo, *Holocaust Museum Shooting In Washington D.C.*, HUFFINGTON POST, June 11, 2009; [http://www.huffingtonpost.com/2009/06/10/holocaust-museum-shooting\\_n\\_213831.html](http://www.huffingtonpost.com/2009/06/10/holocaust-museum-shooting_n_213831.html); *Guard killed during shooting at Holocaust museum*, CNN.com, June 10, 2009, [http://articles.cnn.com/2009-06-10/justice/museum.shooting\\_1\\_holocaust-museum-von-brunn-security-guard?s=PM:CRIME](http://articles.cnn.com/2009-06-10/justice/museum.shooting_1_holocaust-museum-von-brunn-security-guard?s=PM:CRIME).

8 *Accused White House shooter pleads not guilty*, REUTERS, Jan. 24, 2012, <http://www.reuters.com/article/2012/01/24/us-usa-security-whitehouse-idUSTRE80N24I20120124>.

9 Associated Press, *Pentagon shooter pleads guilty, agrees to 25 years*, FOXNEWS.COM, Jan. 26, 2012, <http://www.foxnews.com/us/2012/01/26/accused-pentagon-shooter-former-marine-melaku-pleads-guilty/>.

## D. Social Science

Mr. Webster is the author of a comparative state-level study which concludes that state gun licensing and registration laws are associated with lower crime levels. Taking the study at face value, the study offers nothing to bolster the District's odd laws. At the time of the study, Hawaii was the only state which had long gun registration. Accordingly, whatever the study found about registration was a finding about *handgun* registration, which, as the Court of Appeals observed in *Heller II*, is much more prevalent than long gun registration.

More relevant to the purposes of Bill 19-614 is another study which actually included the District of Columbia, and compared its laws to other cities. The largest, most detailed comparative study of the effects of various firearms laws was conducted by Florida State University criminologist Gary Kleck, and published in his book *Point Blank: Guns and Violence in America*. That book was awarded the highest honor by the American Society of Criminology: the Michael Hindelang Book Award "for the greatest contribution to criminology in a three-year period."

The Kleck study examined many years for crime data for the 75 largest cities in the U.S., including the District of Columbia. The study controlled for numerous variables such as poverty, race, arrest rates, and so on. Kleck's study found *no* crime-reductive benefits from gun registration.<sup>10</sup>

Another study examined the overall strength of gun control in the 50 states and D.C., and its effects on crime. The measure for control strength was a

"comprehensive index, published by the Open Society Institute, covering 30 different facets of state gun laws, enforcement effort, and the stringency of local gun ordinances. The index weights upstream measures such as gun registration more heavily than downstream measures such as safe storage laws. It also weights regulations governing handguns more heavily than those on long guns."

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<sup>10</sup> This is not a novel finding. A 1958 comparative examination (although much less sophisticated than Kleck's), also found no benefits from registration. William C. Shead, Comment, *Do Laws Requiring Registration of Privately Owned Firearms Lower Murder Rate?* 3 S. TEX. L.J. 317 (1957-1958).

At the time of the study, the District of Columbia's handgun ban and ban on home self-defense was in effect.

The multivariate study found no crime reductive benefits from a higher score on the gun control index. John C. Moorhouse and Brent Wanner, *Does Gun Control Reduce Crime Or Does Crime Increase Gun Control?* 26 CATO JOURNAL 103 (Winter 2006). Unlike the Kleck study, the Moorhouse and Wanner study did not specifically examine registration in isolation; but it did find that in a scoring system in which many points were awarded for registration, high scores did not yield positive results for public safety.

The Centers for Disease Control, and the National Academies of Science each conducted comprehensive meta-studies of firearms control laws. (A meta-study is a study of a collection of studies on a topic.) Examining all the research, both studies reported that there was insufficient evidence to determine that gun control in general, and, specifically, firearm registration, had beneficial effects. NATIONAL RESEARCH COUNCIL OF THE NATIONAL ACADEMIES, FIREARMS AND VIOLENCE: A CRITICAL REVIEW (National Academies Press 2004); Task Force on Community Preventive Services, Centers for Disease Control, *First Reports Evaluating the Effectiveness of Strategies for Preventing Violence: Firearms Laws*, 52 MORBIDITY AND MORTALITY WEEKLY REPORT 11 (OCT. 3, 2003).

## **E. Long gun registration in other nations.**

There are substantial differences between the United States and other nations, including the fact that gun laws in other nations do not have to comply with the Second Amendment. Even so, they are of some interest because they illustrate the great potential for failure for the long gun registration project on which the District is embarking.

### **1. Canada**

Across the spectrum of Canadian political observers, it is widely expected that Canada's long run registration system is going to be repealed. The system was enacted in 1995, with the promise that the registry would cost only \$2 million (Canadian). Instead, the cost has reached over \$2 billion and

is still climbing.<sup>11</sup> (To put this in perspective, the total annual expenditures on policing nationwide are less than 8 billion.) The \$2 billion that was wasted on the registry could have been spent on putting police on the street (rather than shuffling paperwork). Or it could have upgraded forensics laboratories. Or it could have paid for social worker outreach to potentially violent people.

Rather than improving public safety, the long gun registry has been a gigantic waste of limited resources, a notorious fiasco. Allan Rock, then Justice Minister, claimed that universal firearm registration would reduce criminal violence, total suicides, and domestic abuse. He spoke forcefully against the use firearms for self-defense, except by police and military, and said that the strict gun laws would distinguish Canada from the US. (Put another way, Mr. Rock was saying that his long gun registry was the opposite of the Second Amendment.)

The Canadian gun prohibition lobby contends that the registry helps police know when they are entering a home that contains a firearm. But since violent criminals rarely register their guns, a prudent police officer must assume that any home could contain an unregistered gun.

## ***2. New Zealand***

New Zealand's Arms Act of 1983, enacted at the request of the police, abolished the registration of rifles and shotguns. Rifle registration had been the law since 1920, and shotgun registration since 1968. The New Zealand Police explained that long gun registration was expensive and impractical, and that the money could be better spent on other police work. The New

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11 Auditor General of Canada, *Costs of Implementing the Canadian Firearms Program* (2002), <http://www.oag-bvg.gc.ca/domino/reports.nsf/html/20021210ce.htm>; Philip C. Stenning, *Long Gun Registration: A Poorly Aimed Longshot*, 45 CANADIAN JOURNAL OF CRIMINOLOGY AND CRIMINAL JUSTICE (no. 4, October 2003); Gary A. Mauser, *The Failed Experiment: Gun Control and Public Safety in Canada, Australia, England and Wales*, 71 PUB. POL'Y SOURCES 4 (2003), <http://www.fraserinstitute.ca/admin/books/files/FailedExperiment.pdf> ("The final costs are unknown but, if the costs of enforcement are included, the total cost could easily reach \$3 billion."); Gary A. Mauser, *After the Gun Registry*, FRASER FORUM (May 2006): 18-20; Gary Mauser & W.T. Stanbury, *Can the Canadian Firearm Registry Reduce Gun Deaths?* FRASER FORUM (July 2003): 26-27; Jason Fekete, *Redirect Gun Registry Funds*, THE OTTAWA CITIZEN, July 8, 2003, available at [http://lufa.ca/news/news\\_item.asp?NewsID=2226](http://lufa.ca/news/news_item.asp?NewsID=2226) ("The federal government should abolish the \$2-billion firearms registry for long guns and redirect the tax dollars to municipalities, health care, education and law enforcement, says a report to be presented to a city committee.").



Zealand Police pointed out that data base management is an enormously difficult and expensive task, that the long gun registration data base was a mess, and that it yielded virtually nothing of value to the police. Superintendent A.G. McCallum, *Firearm registration in New Zealand*, NZ Police, Sept. 1982.

Instead, New Zealand now has a system for the licensing of gun owners (as do a few U.S. states). Once the license is issued, the police do not waste their time, or the gun owners' time, trying to keep a record of every single long gun possessed by the licensed owner.

Although some gun control advocates began pushing in 1997 to revive the registry, since, supposedly, computers would make it work this time, the plan was rejected after extensive debate and analysis over several years.

## **Conclusion**

From 2008 until the present, advocates of the District's onerous system of long gun registration have failed to produce what they have failed to produce a single example, from anywhere in the world, in which a long gun registration system like that in the District has been shown to reduce crime.

According to the Constitution, when a substantial burden (such as D.C.'s onerous and aberrational registration system) is imposed on the exercise of fundamental constitutional rights, that there be substantial benefits, not speculative ones, and not ones that are contrary to present body of social science evidence and of experience. After four years of trying, the advocates of highly repressive gun laws in the District have still failed to demonstrate what *Heller II* called "a close fit between those requirements" and important or compelling governmental interests.