

1 C. D. Michel - S.B.N. 144258
Glenn S. McRoberts - S.B.N. 144852
2 Clinton B. Monfort - S.B.N. 255609
Anna M. Barvir - S.B.N. 268728
3 MICHEL & ASSOCIATES, P.C.
180 E. Ocean Boulevard, Suite 200
4 Long Beach, CA 90802
Telephone: 562-216-4444
5 Facsimile: 562-216-4445
Email: cmichel@michellawyers.com

6 Attorneys for Plaintiffs
7

8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN FRANCISCO DIVISION**

11 ESPANOLA JACKSON, PAUL COLVIN,) **CASE NO. C09-2143-RS**
THOMAS BOYER, LARRY BARSETTI,)
12 DAVID GOLDEN, NOEMI MARGARET) **PLAINTIFFS' REQUEST FOR JUDICIAL**
ROBINSON, NATIONAL RIFLE) **NOTICE IN SUPPORT OF MOTION FOR**
13 ASSOCIATION OF AMERICA, INC., SAN) **PARTIAL JUDGMENT ON THE**
FRANCISCO VETERAN POLICE) **PLEADINGS; DECLARATION OF**
14 OFFICERS ASSOCIATION,) **CLINTON B. MONFORT IN SUPPORT**
15 Plaintiffs) **PART 1 OF 2; EXHIBITS A - I**
16 vs.)
17 CITY AND COUNTY OF SAN) **Hearing: July 12, 2012**
FRANCISCO, THE MAYOR OF) **Time: 1:30 p.m.**
18 SAN FRANCISCO, AND THE CHIEF) **Place: Courtroom 3 - 17th Floor**
OF THE SAN FRANCISCO POLICE) **450 Golden Gate Ave.**
19 DEPARTMENT, in their official capacities,) **San Francisco, CA 94102**
and DOES 1-10,)
20 Defendants.)
21)
22)
23)
24)
25)
26)
27)
28)

REQUEST FOR JUDICIAL NOTICE

1
2 Plaintiffs Espanola Jackson, Paul Colvin, Thomas Boyer, Larry Barsetti, David Golden,
3 Noemi Margaret Robinson, National Rifle Association of America, Inc., San Francisco Veteran
4 Police Officers Association, through their attorney of record, hereby request the Court to take
5 judicial notice of the following documents attached as Exhibits A through T. This request is made
6 in connection with Plaintiffs' Motion for Partial Judgment on the Pleadings, and supported by
7 Federal Rule of Evidence 201, the authorities cited below, and the Declaration of Clinton B.
8 Monfort attached hereto.

- 9 1. Attached hereto and marked as "Exhibit A" is a true and correct copy of Order,
10 *Bateman v. Perdue*, No. 5:10-265 (E.D. N.C. Mar. 29, 2012);
- 11 2. Attached hereto and marked as "Exhibit B" is a true and correct copy of Oral
12 Argument Transcript, *District of Columbia v. Heller*, 554 U.S. 570 (2008) (No. 07-
13 290), available at [http://www.supremecourt.gov/oral_](http://www.supremecourt.gov/oral_arguments/argument_transcripts/07-290.pdf)
14 [transcripts/07-290.pdf](http://www.supremecourt.gov/oral_arguments/argument_transcripts/07-290.pdf) (last accessed May 16, 2012);
- 15 3. Attached hereto and marked as "Exhibit C" is a true and correct copy of Bureau of
16 Justice Statistics, U.S. Dep't of Justice, National Crime Victimization Survey:
17 Victimization During Household Burglary 6 tbl.9 (2010), available at
18 <http://www.bjs.gov/content/pub/pdf/vdhh.pdf> (last accessed May 16, 2012);
- 19 4. Attached hereto and marked as "Exhibit D" is a true and correct copy of Letter from
20 California Rifle & Pistol Association, to San Francisco Board of Supervisors (Sept.
21 26, 2011);
- 22 5. Attached hereto and marked as "Exhibit E" is a true and correct copy of Clifford
23 Krauss, *Experts Support Hollow Point Bullets*, N.Y. Times, Mar. 6, 1997;
- 24 6. Attached hereto and marked as "Exhibit F" is a true and correct copy of Statement of
25 Martin Fackler, M.D. (Sept. 23, 2011);
- 26 7. Attached hereto and marked as "Exhibit G" is a true and correct copy of Statement of
27 Stephen Helsley (Sept. 23, 2012);
- 28 8. Attached hereto and marked as "Exhibit H" is a true and correct copy of Transcript,
San Francisco Board of Supervisors, Public Safety Committee Hearing (Sept. 15,
2011), available at http://sanfrancisco.granicus.com/ViewPublisher.php?view_id=44
(Click "Caption Notes" for Sept. 15, 2011) (last accessed May 16, 2012);
9. Attached hereto and marked as "Exhibit I" is a true and correct copy of Transcript, San
Francisco Board of Supervisors, Board of Supervisors Hearing (Sept. 27, 2011),
available at http://sanfrancisco.granicus.com/ViewPublisher.php?view_id=10 (Click
"Caption Notes" for Sept. 27, 2011) (last accessed May 16, 2012);
10. Attached hereto and marked as "Exhibit J" is a true and correct copy of Transcript, San
Francisco Board of Supervisors, Board of Supervisors Hearing (Oct. 4, 2011),
available at http://sanfrancisco.granicus.com/ViewPublisher.php?view_id=10 (Click

1 “Caption Notes” for Oct. 4, 2011) (last accessed May 16, 2012);

- 2 11. Attached hereto and marked as “Exhibit K” is a true and correct copy of Lisa Steele,
3 *Ballistics*, in *Science for Lawyers* (Eric York Drogin ed., A.B.A. Sec. of Sci. & Tech.
4 Law 2008);
- 5 12. Attached hereto and marked as “Exhibit L” is a true and correct copy of Kit. R. Roane,
6 *In Many Cities, New Bullets Have Not Brought Complaints*, N.Y. Times, July 9, 1998,
7 *available at* [http://www.nytimes.com/1998/07/09/nyregion/in-many-](http://www.nytimes.com/1998/07/09/nyregion/in-many-cities-new-bullets-have-not-brought-complaints.html)
8 [cities-new-bullets-have-not-brought-complaints.html](http://www.nytimes.com/1998/07/09/nyregion/in-many-cities-new-bullets-have-not-brought-complaints.html) (last accessed May, 10, 2012);
- 9 13. Attached hereto and marked as “Exhibit M” is a true and correct copy of Stephen J.
10 Lynton & Alfred E. Lewis, *More Powerful Ammo Studied By D.C. Police*, Wash. Post,
11 Nov. 5, 1976 at A1, A4;
- 12 14. Attached hereto and marked as “Exhibit N” is a true and correct copy of Early Byrd &
13 Zofia Smardz, *District Police Moving To Get Bullets With More Stopping Action*,
14 Wash. Star., Nov. 27, 1976;
- 15 15. Attached hereto and marked as “Exhibit O” is a true and correct copy of Report of the
16 Committee on Hollow-Point Bullets Presented to the Civilian Complaint Review
17 Board on July 8, 1998, *available at* <http://www.nyc.gov/html/ccrb/pdf/hollow.pdf> (last
18 accessed May, 14, 2012);
- 19 16. Attached hereto and marked as “Exhibit P” is a true and correct copy of *Certain*
20 *Firearms and Ammunition Prohibited During Modern Gun Deer Seasons*, 002 Ark.
21 Code R. § 6.02, *available at* [http://www.agfc.com/enforcement/Documents/agfc](http://www.agfc.com/enforcement/Documents/agfc_code_of_regulations.pdf)
22 [_code_of_regulations.pdf](http://www.agfc.com/enforcement/Documents/agfc_code_of_regulations.pdf) (last accessed May 16, 2012);
- 23 17. Attached hereto and marked as “Exhibit Q” is a true and correct copy of N.J. Admin.
24 Code § 7:25-5:23, *available at* [http://www.michie.com/newjersey/lpext.dll?f=](http://www.michie.com/newjersey/lpext.dll?f=templates&fn=main-h.htm&cp=)
25 [templates&fn=main-h.htm&cp=](http://www.michie.com/newjersey/lpext.dll?f=templates&fn=main-h.htm&cp=) (last accessed May 16, 2012);
- 26 18. Attached hereto and marked as “Exhibit R” is a true and correct copy of N.M. Dep’t of
27 Game & Fish, *New Mexico Big-Game and Furbearer Rules & Information 2012-2013*
28 *License Year 16* (2012), *available at* [http://www.wildlife.state.nm.us/publications/](http://www.wildlife.state.nm.us/publications/documents/rib/2012/2012BIGGame.pdf)
[documents/rib/2012/2012BIGGame.pdf](http://www.wildlife.state.nm.us/publications/documents/rib/2012/2012BIGGame.pdf) (last accessed May 16, 2012);
- 19 19. Attached hereto and marked as “Exhibit S” is a true and correct copy of Ohio Admin.
20 Code 901.12-1-04, *available at* <http://codes.ohio.gov/oac/901%3A12-1> (last accessed
21 May 16, 2012);
- 22 20. Attached hereto and marked as “Exhibit T” is a true and correct copy of Wash. Admin.
23 Code § 16-24-040, *available at* [http://apps.leg.wa.gov/wac/default.aspx?cite=16-](http://apps.leg.wa.gov/wac/default.aspx?cite=16-24-040)
24 [24-040](http://apps.leg.wa.gov/wac/default.aspx?cite=16-24-040) (last accessed May 16, 2012).

24 BASIS FOR REQUESTING JUDICIAL NOTICE

25 When considering a motion for judgment on the pleadings, the “court may consider facts
26 that are contained in materials of which the court may take judicial notice” without converting the
27 motion for judgment on the pleadings into one for summary judgment. *Heliotrope General, Inc. v.*
28 *Ford Motor Co.* 189 F.3d 971, 981 n.18 (9th Cir. 1999). That is to say, the court may consider

1 documents outside of the complaint that are capable of accurate and ready determination by resort
2 to sources whose accuracy cannot be reasonably questioned. Fed. R. Evid. 201(d). For the reasons
3 discussed below, the Court may take judicial notice of Exhibits A through T.

4 **I. EXHIBITS A AND B: PROCEEDINGS OF OTHER COURTS**

5 Courts may take judicial notice of proceedings in other courts. *U.S. ex rel Robinson*
6 *Rancheria Citizens Council v. Borneo, Inc.*, 971 F.2d 244, 248 (9th Cir. 1992) (citing *St. Louis*
7 *Baptist Temple, Inc. v. FDIC*, 605 F.2d 1169 (10th Cir. 1979) (“[W]e ‘may take notice of
8 proceedings in other courts, both within and without the federal judicial system, if those
9 proceedings have a direct relation to matters at issue.’”). And more specifically, courts may take
10 judicial notice of orders or decisions entered in any federal or state court. *Holder v. Holder*, 305
11 F.3d 854, 866 (9th Cir. 2002).

12 Exhibit A, Order, *Bateman v. Perdue*, No. 5:10-265 (E.D. N.C., Mar. 29, 2012), is an order
13 from the file of another federal court. Exhibit B, Oral Argument Transcript, *District of Columbia*
14 *v. Heller*, 554 U.S. 570 (2008) (No. 07-290), is a transcript of public statements made by Supreme
15 Court Justices and counsel for the parties during oral argument before the United States Supreme
16 Court. The contents of these documents are a matter of public record that are “not subject to
17 reasonable dispute [and are] capable of accurate and ready determination by resort to sources
18 whose accuracy cannot reasonably be questioned.” *See* Fed. R. Evid. 201(b)(2).

19 **II. EXHIBIT C: SURVEY CONDUCTED AND PUBLISHED BY FEDERAL AGENCY**

20 Courts may also take judicial notice of matters that are indisputable because they are
21 capable of immediate and accurate verification through reliable sources. Fed. R. Evid. 201(b). For
22 instance, in *Taylor v. Otter Tail Corp.*, 484 F.3d 1016, 1020 n.7, the district court took judicial
23 notice of National Vital Statistics Reports, United States Life Tables, to instruct jury that plaintiff
24 had life expectancy of 39.2 years.

25 Similarly, Exhibit C, Bureau of Justice Statistics, U.S. Department of Justice, National
26 Crime Victimization Survey: Victimization During Household Burglary is the proper subject of a
27 request for judicial notice to show that, from 2003 to 2007, an estimated 61.3 percent of robberies
28 of occupied dwellings occurred between 6 p.m. and 6 a.m. The content of this document is a

1 matter of public record and “not subject to reasonable dispute.” *See* Fed. R. Evid. 201(b)(2).

2 **III. EXHIBITS D THROUGH J: LEGISLATIVE HISTORY OF SAN FRANCISCO**
3 **POLICE CODE SECTION 613.10(g)**

4 The Court may take judicial notice of “undisputed matters of public record.” *Lee v. City of*
5 *Los Angeles*, 250 F.3d 668, 690. Exhibit D is a true and accurate copy of the letter submitted to
6 the City and County of San Francisco Board of Supervisors by the California Rifle & Pistol
7 Association (CRPA) regarding its opposition to City’s findings ordinance (i.e., Ordinance 0206-
8 11 (File No. 110901)) passed to provide support for San Francisco Police Code sections 4512 and
9 613.10(g). CRPA’s opposition letter also includes, in Appendix B, a list of 26 sources attached to
10 the letter evidencing the benefits of using the types of ammunition banned for sale by section
11 613.10(g)(2)-(3). The letter is a matter of public record and part of the file on Ordinance 0206-11
12 (File No. 110901). Its existence is “not subject to reasonable dispute.” *See* Fed. R. Evid.
13 201(b)(2).

14 Exhibits E through G are true and accurate copies of relevant attachments to CRPA’s
15 opposition letter described above. The documents are public records and part of the file on
16 Ordinance 0206-11 (File No. 110901), and their existence as part of that record is “not subject to
17 reasonable dispute.” *See id.*

18 Exhibits H through J are true and accurate copies of the transcripts of public statements
19 made by members of the City and County of San Francisco Board of Supervisors and witnesses
20 testifying in favor of Ordinance 0206-11 (File No. 110901) before the Public Safety Committee
21 and the full Board of Supervisors. The contents of these transcripts are a matter of public record
22 that are “not subject to reasonable dispute [and they are] capable of accurate and ready
23 determination by resort to sources whose accuracy cannot reasonably be questioned.” Fed. R.
24 Evid. 201(b).¹

25 _____
26 ¹ Public Safety Committee transcripts are available on the San Francisco Government Television
27 website at http://sanfrancisco.granicus.com/ViewPublisher.php?view_id=44 (Click “Caption
28 Notes” by the relevant hearing date). Board of Supervisors hearing transcripts are available on
the San Francisco Government Television website at [http://sanfrancisco.granicus.com/
ViewPublisher.php?view_id=10](http://sanfrancisco.granicus.com/ViewPublisher.php?view_id=10) (Click “Caption Notes” by the relevant hearing date).

1 Plaintiffs request that this Court take judicial notice of Exhibits D through J to demonstrate
2 the existence and contents of those documents, and not for the truth of their contents.

3
4 **IV. EXHIBITS K THROUGH T: EXPANDING AND FRAGMENTING AMMUNITION
IS IN COMMON USE FOR LAWFUL PURPOSES**

5 The court should also take judicial notice of an adjudicative fact provided the requesting
6 party sustains its burden of showing that the fact is proper for judicial notice, and the requesting
7 party supplies the court with source material whose accuracy cannot be reasonably questioned as
8 needed to determine whether the request is justified. Fed. R. Evid. 201(b); *United States v.*
9 *Mariscal*, 285 F.3d 1127, 1131 (9th Cir. 2002). Plaintiffs here request the Court take judicial
10 notice of the fact that ammunition designed to expand or fragment upon impact is in common use
11 for lawful purposes.

12 Exhibit K is a true and accurate copy of relevant pages of *Science for Lawyers*, a
13 publication of the American Bar Association's Section of Science and Technology Law. The
14 document expresses the common understanding among those who own firearms for self-defense
15 that:

16 Hollow-point ammunition is commonly used by police officers, federal agents, and
17 citizens for self-defense. By expanding, the bullet increases its drag and tends to
18 remain inside the target – this is believed to increase the chance that the wound will
19 stop an aggressor, although medical examiners have been unable to show any
20 difference in lethality between hollow-point and traditional round-nosed lead bullets.
Also, the bullet is less likely to go through standard building materials if it misses the
target and more likely to be stopped by police body armor if an officer gets in the way
of a round fired by another officer. (Body armor is not commonly used by criminals.)

21 Lisa Steele, *Ballistics*, in *Science for Lawyers* 11 (Eric York Drogin ed., A.B.A. Sec. of Sci. &
22 Tech. Law 2008). The book's passage reflects public beliefs regarding the use of hollow point
23 (expanding) ammunition, which is a proper subject for judicial notice. *See Carpenter v. City and*
24 *County of San Francisco*, 803 F. Supp. 337 (N.D. Cal.1992) (taking judicial notice of commercial
25 advertisements, books, and maps depicting the existence of San Francisco landmarks), *rev'd on*
26 *other grounds*, *Carpenter v. City and County of San Francisco*, 93 F. 3d 627 (1996); *Microsoft*
27 *Corp. v. BEC Computer Co., Inc.*, 818 F. Supp.1313, 1319 (C.D. Cal. 1992) (taking judicial
28

1 notice of existence of magazine article stating that a product called DR-DOS competes with MS-
2 DOS).

3 Exhibits L through N are true and accurate copies of widely distributed newspaper articles
4 touting the defense benefits of ammunition that is designed to expand on impact. Each article is a
5 neutral reporting of the debate surrounding the defensive use of such ammunition. And they
6 reflect information in the public realm and the common understanding of the risks and benefits of
7 using expanding ammunition, especially in urban areas. As such, judicial notice of the articles and
8 their content is proper. *See Von Saher v. Norton Simon Museum of Art at Pasadena*, 592 F.3d
9 954, 960 (9th Cir. 2009) (taking judicial notice of publications introduced to “indicate what was
10 in the public realm at the time, not whether the contents of those articles were in fact true.”).

11 Exhibit O is a true and accurate copy of the Report of the Committee on Hollow-Point
12 Bullets Presented to the Civilian Complaint Review Board on July 8, 1998. It summarizes the
13 findings of a New York City commission established to review the risks and benefits of hollow
14 point ammunition and to examine public concerns over their use. The contents of this document
15 are a matter of public record that are “not subject to reasonable dispute [and they are] capable of
16 accurate and ready determination by resort to sources whose accuracy cannot reasonably be
17 questions.” Fed. R. Evid. 201(b). Judicial notice of this document is thus proper.

18 Exhibits P through T are true and accurate copies of various state regulations that mandate
19 the use of soft nose or hollow point (expanding) or fragmenting ammunition in the taking of
20 certain game and/or humane slaughter of livestock. It is proper to take judicial notice of agency
21 regulations, administrative rules, and records of administrative agencies; and doing so does not
22 convert a Rule 12 motion to a motion for summary judgment. *Barron v. Reich*, 13 F.3d 1370 (9th
23 Cir.1994) (handbook of Wage and Hour Division); *DCIPA, LLC v. Lucile Slater Packard*
24 *Children’s Hosp.*, __ F. Supp. 2d __, 2011 WL 5141505, at *3 (D. Or. Oct.20, 2011)
25 (administrative rules); *Jensen v. County of Sonoma*, No. 08-3440, 2008 WL 5048203, at *3 (N.D.
26 Cal. Nov. 25, 2008) (administrative decision and order); *Citizens For a Better*
27 *Environment-California v. Union Oil Co.*, 861 F. Supp. 889, 897 (N.D. Cal. 1994).

28

1 **V. CONCLUSION**

2 For the foregoing reasons, Plaintiffs request the Court take judicial notice of Exhibits A
3 through T and consider those exhibits in ruling on Plaintiffs' Motion for Partial Judgment on the
4 Pleadings.

5 Date: May 17, 2012

MICHEL & ASSOCIATES, P.C.

6
7 s/ C. D. Michel
8 C. D. Michel
9 Attorney for Plaintiffs

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DECLARATION OF CLINTON B. MONFORT

I, Clinton B. Monfort, declare as follows:

1. I am over the age of eighteen and not a party to this action. I am an attorney licensed to practice law before all district courts in the State of California. I am an associate attorney at the law firm Michel & Associates, P.C., attorneys of record for Plaintiffs in this action.

2. On or about May 16, 2012, I visited the CM\ECF document filing system of the U.S. District Court for the Eastern District of North Carolina. From that website, I reviewed and printed a copy of a court order granting in part and denying in part plaintiff’s motion for summary judgment in *Bateman v. Perdue*, Case No. 5:10-265. Attached to Plaintiffs’ Request for Judicial Notice and marked as “Exhibit A” is a true and correct copy of Order, *Bateman v. Perdue*, No. 5:10-265 (E.D. N.C. Mar. 29, 2012).

3. On or about May 16, 2012, I visited the official website of the U.S. Supreme Court, on which transcripts of oral argument before the Supreme Court are posted for public viewing. From that website, I reviewed and printed a copy of the March 18, 2008, transcript of oral argument in *District of Columbia v. Heller*, 554 U.S. 570 (2008). Attached to Plaintiffs’ Request for Judicial Notice and marked as “Exhibit B” is a true and correct copy of Oral Argument Transcript, *District of Columbia v. Heller*, 554 U.S. 570 (No. 07-290), available at http://www.supremecourt.gov/oral_arguments/argument_transcripts/07-290.pdf (last accessed May 16, 2012).

4. On or about May 16, 2012, I visited the official website of the U.S. Department of Justice, Bureau of Justice Statistics, on which publications of the Bureau of Justice Statistics are posted. From that website, I reviewed and printed a copy of National Crime Victimization Survey: Victimization During Household Burglary. Attached to Plaintiffs’ Request for Judicial Notice and marked as “Exhibit C” is a true and correct copy of Bureau of Justice Statistics, U.S. Dep’t of Justice, National Crime Victimization Survey: Victimization During Household Burglary 6 tbl.9 (2010), available at <http://www.bjs.gov/content/pub/pdf/vdhb.pdf> (last accessed May 16, 2012).

5. On or about September 7, 2011, my office sent a request for public records to the City and County of San Francisco Clerk of the Board of Supervisors, pursuant to the California

1 Public Records Act, Government Code section 6250, et seq., and the San Francisco Sunshine
2 Ordinance, Chapter 67 of the San Francisco Administrative Code. The request sought all writings
3 concerning the drafting and consideration of Ordinance No. 206-11 (File No. 110901). On or
4 about September 16, 2011, Ms. Madeleine Licavoli, Deputy Director, responded to our request on
5 San Francisco Board of Supervisors letterhead. Enclosed with her response was a copy of
6 correspondence from the California Rifle & Pistol Association (CRPA) to the San Francisco
7 Board of Supervisors regarding CRPA's opposition to Ordinance No. 201-11 (File No. 110901).
8 Attached to Plaintiffs' Request for Judicial Notice and marked as "Exhibit D is a true and correct
9 copy of Letter from California Rifle & Pistol Association, to San Francisco Board of Supervisors
10 (Sept. 26, 2011) provided to my office by Ms. Licavoli.

11 6. On or about September 7, 2011, my office sent a request for public records to the
12 City and County of San Francisco Clerk of the Board of Supervisors, pursuant to the California
13 Public Records Act, Government Code section 6250, et seq., and the San Francisco Sunshine
14 Ordinance, Chapter 67 of the San Francisco Administrative Code. The request sought all writings
15 concerning the drafting and consideration of Ordinance No. 206-11 (File No. 110901). On or
16 about September 16, 2011, Ms. Madeleine Licavoli, Deputy Director, responded to our request on
17 San Francisco Board of Supervisors letterhead. Enclosed with her response was a copy of a *New*
18 *York Times* article by Clifford Krauss, entitled *Experts Support Hollow Point Bullets*. Attached to
19 Plaintiffs' Request for Judicial Notice and marked as "Exhibit E" is a true and correct copy of
20 Clifford Krauss, *Experts Support Hollow Point Bullets*, N.Y. Times, Mar. 6, 1997, provided to my
21 office by Ms. Licavoli.

22 7. On or about September 7, 2011, my office sent a request for public records to the
23 City and County of San Francisco Clerk of the Board of Supervisors, pursuant to the California
24 Public Records Act, Government Code section 6250, et seq., and the San Francisco Sunshine
25 Ordinance, Chapter 67 of the San Francisco Administrative Code. The request sought all writings
26 concerning the drafting and consideration of Ordinance No. 206-11 (File No. 110901). On or
27 about September 16, 2011, Ms. Madeleine Licavoli, Deputy Director, responded to our request on
28 San Francisco Board of Supervisors letterhead. Enclosed with her response was a copy of the

1 Statement of Martin Fackler, M.D. submitted to the San Francisco Board of Supervisors in
2 opposition to Ordinance No. 206-11 (File No. 110901). Attached to Plaintiffs' Request for
3 Judicial Notice and marked as "Exhibit F" is a true and correct copy of Statement of Martin
4 Fackler, M.D. (Sept. 23, 2011) provided to my office by Ms. Licavoli.

5 8. On or about September 7, 2011, my office sent a request for public records to the
6 City and County of San Francisco Clerk of the Board of Supervisors, pursuant to the California
7 Public Records Act, Government Code section 6250, et seq., and the San Francisco Sunshine
8 Ordinance, Chapter 67 of the San Francisco Administrative Code. The request sought all writings
9 concerning the drafting and consideration of Ordinance No. 206-11 (File No. 110901). On or
10 about September 16, 2011, Ms. Madeleine Licavoli, Deputy Director, responded to our request on
11 San Francisco Board of Supervisors letterhead. Enclosed with her response was a copy of the
12 Statement of Stephen Helsley submitted to the San Francisco Board of Supervisors in opposition
13 to Ordinance No. 206-11 (File No. 110901). Attached to Plaintiffs' Request for Judicial Notice
14 and marked as "Exhibit G" is a true and correct copy of Statement of Stephen Helsley (Sept. 23,
15 2011) provided to my office by Ms. Licavoli.

16 9. On or about May 7, 2012, I visited the official website of San Francisco
17 Government Television, on which videos and transcripts of the hearings of the San Francisco
18 Board of Supervisors, Public Safety Committee, are posted for public viewing. From that website,
19 I reviewed and printed a copy of the September 15, 2011, transcript of testimony before the Public
20 Safety Committee. Attached to Plaintiffs' Request for Judicial Notice and marked as "Exhibit H"
21 is a true and correct copy of Transcript, San Francisco Board of Supervisors, Public Safety
22 Committee Hearing (Sept. 15, 2011), *available at* [http://sanfrancisco.granicus.com/](http://sanfrancisco.granicus.com/ViewPublisher.php?view_id=44)
23 [ViewPublisher.php?view_id=44](http://sanfrancisco.granicus.com/ViewPublisher.php?view_id=44) (Click "Caption Notes" for Sept. 15, 2011) (last accessed May
24 16, 2012).

25 10. On or about May 14, 2012, I visited the official website of San Francisco
26 Government Television, on which videos and transcripts of the hearings of the San Francisco
27 Board of Supervisors are posted for public viewing. From that website, I reviewed and printed a
28 copy of the September 27, 2011, transcript of testimony before the San Francisco Board of

1 Supervisors. Attached to Plaintiffs' Request for Judicial Notice and marked as "Exhibit I" is a
2 true and correct copy of Transcript, San Francisco Board of Supervisors, Board of Supervisors
3 Hearing (Sept. 27, 2011), *available at* [http://sanfrancisco.granicus.com/ViewPublisher.php?](http://sanfrancisco.granicus.com/ViewPublisher.php?view_id=10)
4 [view_id=10](http://sanfrancisco.granicus.com/ViewPublisher.php?view_id=10) (Click "Caption Notes" for Sept. 27, 2011) (last accessed May 16, 2012).

5 11. On or about May 14, 2012, I visited the official website of San Francisco
6 Government Television, on which videos and transcripts of the hearings of the San Francisco
7 Board of Supervisors are posted for public viewing. From that website, I reviewed and printed a
8 copy of the October 4, 2011, transcript of testimony before the San Francisco Board of
9 Supervisors. Attached to Plaintiffs' Request for Judicial Notice and marked as "Exhibit J" is a
10 true and correct copy of Transcript, San Francisco Board of Supervisors, Board of Supervisors
11 Hearing (Oct. 4, 2011), *available at* [http://sanfrancisco.granicus.com/ViewPublisher.php?](http://sanfrancisco.granicus.com/ViewPublisher.php?view_id=10)
12 [view_id=10](http://sanfrancisco.granicus.com/ViewPublisher.php?view_id=10) (Click "Caption Notes" for Oct. 4, 2011) (last accessed May 16, 2012).

13 12. On or about May 16, 2012, I visited the official website of the American Bar
14 Association (ABA), on which sample products and publications of the ABA are posted for free
15 public viewing. From that website, I reviewed and printed a copy of Chapter 1 of *Science for*
16 *Lawyers*, a publication of the ABA Section of Science and Technology Law. Attached to
17 Plaintiffs' Request for Judicial Notice and marked as "Exhibit K" is a true and correct copy of
18 Lisa Steele, *Ballistics*, in *Science for Lawyers* (Eric York Drogin ed., A.B.A. Sec. of Sci. &
19 Tech. Law 2008), *available at* [http://apps.americanbar.org/abastore/products/books/abstracts/](http://apps.americanbar.org/abastore/products/books/abstracts/5450051chap1_abs.pdf)
20 [5450051chap1_abs.pdf](http://apps.americanbar.org/abastore/products/books/abstracts/5450051chap1_abs.pdf) (last accessed May 16, 2012).

21 13. On or about May 10, 2012, I visited the official website of the *New York Times*, on
22 which archived copies of articles from the *New York Times* are posted for public viewing. From
23 that website, I reviewed and printed a copy of Kit R. Roane's article, *In Many Cities, New Bullets*
24 *Have Not Brought Complaints*. Attached to Plaintiffs' Request for Judicial Notice and marked as
25 "Exhibit L" is a true and correct copy of Kit. R. Roane, *In Many Cities, New Bullets Have Not*
26 *Brought Complaints*, N.Y. Times, July 9, 1998, *available at* [http://www.nytimes.com/1998/07/09/](http://www.nytimes.com/1998/07/09/nyregion/in-many-cities-new-bullets-have-not-brought-complaints.html)
27 [nyregion/in-many-cities-new-bullets-have-not-brought-complaints.html](http://www.nytimes.com/1998/07/09/nyregion/in-many-cities-new-bullets-have-not-brought-complaints.html) (last accessed May, 16,
28 2012).

1 14. On or about September 7, 2011, my office sent a request for public records to the
2 City and County of San Francisco Clerk of the Board of Supervisors, pursuant to the California
3 Public Records Act, Government Code section 6250, et seq., and the San Francisco Sunshine
4 Ordinance, Chapter 67 of the San Francisco Administrative Code. The request sought all writings
5 concerning the drafting and consideration of Ordinance No. 206-11 (File No. 110901). On or
6 about September 16, 2011, Ms. Madeleine Licavoli, Deputy Director, responded to our request on
7 San Francisco Board of Supervisors letterhead. Enclosed with her response was a copy of a
8 *Washington Post* article, entitled *More Powerful Ammo Studied By D.C. Police*. Attached to
9 Plaintiffs' Request for Judicial Notice and marked as "Exhibit M" is a true and correct copy of
10 Stephen J. Lynton & Alfred E. Lewis, *More Powerful Ammo Studied By D.C. Police*, Wash. Post,
11 Nov. 5, 1976, provided to my office by Ms. Licavoli.

12 15. On or about September 7, 2011, my office sent a request for public records to the
13 City and County of San Francisco Clerk of the Board of Supervisors, pursuant to the California
14 Public Records Act, Government Code section 6250, et seq., and the San Francisco Sunshine
15 Ordinance, Chapter 67 of the San Francisco Administrative Code. The request sought all writings
16 concerning the drafting and consideration of Ordinance No. 206-11 (File No. 110901). On or
17 about September 16, 2011, Ms. Madeleine Licavoli, Deputy Director, responded to our request on
18 San Francisco Board of Supervisors letterhead. Enclosed with her response was a copy of a
19 *Washington Star* article, entitled *District Police Moving To Get Bullets With More Stopping*
20 *Action*. Attached to Plaintiffs' Request for Judicial Notice and marked as "Exhibit N" is a true
21 and correct copy of Early Byrd & Zofia Smardz, *District Police Moving To Get Bullets With More*
22 *Stopping Action*, Wash. Star., Nov. 27, 1976, provided to my office by Ms. Licavoli.

23 16. On or about May 16, 2012, I visited the official website of New York City, New
24 York, which provides public access to hundreds of City services, forms, jobs, and resources.
25 Certain official public records are also posted for public viewing. From that website, I reviewed
26 and printed a copy of Report of the Committee on Hollow-Point Bullets Presented to the Civilian
27 Complaint Review Board on July 8, 1998. Attached to Plaintiffs' Request for Judicial Notice and
28 marked as "Exhibit O" is a true and correct copy of Report of the Committee on Hollow-Point

1 Bullets Presented to the Civilian Complaint Review Board on July 8, 1998, *available at*
2 <http://www.nyc.gov/html/ccrb/pdf/hollow.pdf> (last accessed May, 16, 2012).

3 17. On or about May 16, 2012, I visited the official website of the Arkansas State
4 Game and Fish Commission, on which the Commission's Code Book is posted for public
5 viewing. From that website, I reviewed and printed a copy of *Certain Firearms and Ammunition*
6 *Prohibited During Modern Gun Deer Seasons*, 002 Arkansas Code of Regulations section 6.02.
7 Attached to Plaintiffs' Request for Judicial Notice and marked as "Exhibit P" is a true and correct
8 copy of *Certain Firearms and Ammunition Prohibited During Modern Gun Deer Seasons*, 002
9 Ark. Code R. § 6.02, *available at* [http://www.agfc.com/enforcement/Documents/agfc_code_](http://www.agfc.com/enforcement/Documents/agfc_code_of_regulations.pdf)
10 [of_regulations.pdf](http://www.agfc.com/enforcement/Documents/agfc_code_of_regulations.pdf) (last accessed May 16, 2012).

11 18. On or about May 14, 2012, I reviewed Michie's Legal Resources at
12 www.michie.com, a product of LexisNexis.com, on which the New Jersey Administrative Code is
13 posted for free public viewing. From that website, I reviewed and printed a copy of New Jersey
14 Administrative Code section 7:25-5:23. Attached to Plaintiffs' Request for Judicial Notice and
15 marked as "Exhibit Q" is a true and correct copy of N.J. Admin. Code § 7:25-5:23, *available at*
16 <http://www.michie.com/newjersey/lpext.dll?f=templates&fn=main-h.htm&cp=> (last accessed
17 May 16, 2012).

18 19. On or about May 16, 2012, I visited the official website of the New Mexico
19 Department of Game & Fish, on which official notices and publications of the Department are
20 posted for public viewing. From that website, I reviewed and printed a copy of *New Mexico Big-*
21 *Game and Furbearer Rules & Information 2012-2013 License Year*. Attached to Plaintiffs'
22 Request for Judicial Notice and marked as "Exhibit R" is a true and correct copy of N.M. Dep't of
23 Game & Fish, *New Mexico Big-Game and Furbearer Rules & Information 2012-2013 License*
24 *Year 16 (2012)*, *available at* [http://www.wildlife.state.nm.us/publications/documents/rib/2012/](http://www.wildlife.state.nm.us/publications/documents/rib/2012/2012BIgGame.pdf)
25 [2012BIgGame.pdf](http://www.wildlife.state.nm.us/publications/documents/rib/2012/2012BIgGame.pdf) (last accessed May 16, 2012).

26 20. On or about May 14, 2012, I visited LAWriter® Ohio Laws and Rules, a website
27 on which the Ohio Revised and Ohio Administrative Codes are posted for free public viewing.
28 From that website, I reviewed and printed a copy of Ohio Administrative Code section 901.12-1-

1 04. Attached to Plaintiffs' Request for Judicial Notice and marked as "Exhibit S" is a true and
2 correct copy of Ohio Admin. Code 901.12-1-04, *available at* [http://codes.ohio.gov/oac/
3 901%3A12-1](http://codes.ohio.gov/oac/901%3A12-1) (last accessed May 16, 2012).

4 21. On or about May 14, 2012, I visited the official website of the Washington State
5 Legislature, on which the Washington Administrative Code (WAC) is posted for free public
6 viewing. From that website, I reviewed and printed a copy of WAC section 16-24-040. Attached
7 to Plaintiffs' Request for Judicial Notice and marked as "Exhibit T" is a true and correct copy of
8 Wash. Admin. Code § 16-24-040, *available at* [http://apps.leg.wa.gov/wac/default.aspx?cite=
9 16-24-040](http://apps.leg.wa.gov/wac/default.aspx?cite=16-24-040) (last accessed May 16, 2012).

10 I declare under penalty of perjury that the foregoing is true and correct. Executed on May
11 17, 2012.

12
13 
14 _____
Clinton B. Monfort

EXHIBIT “A”

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:10-CV-265-H

MICHAEL BATEMAN, VIRGIL GREEN,)
FORREST MINGES, JR., GRNC/FFE,)
INC., and SECOND AMENDMENT)
FOUNDATION, INC.,)

Plaintiffs,)

v.)

BEVERLY PERDUE, REUBEN F.)
YOUNG, STOKES COUNTY, and)
CITY OF KING,)

Defendants.)

ORDER

This matter is before the court on motions to dismiss filed by defendant Stokes County [DE #27], defendant City of King [DE #32], and the State of North Carolina on behalf of defendants Beverly Perdue and Reuben F. Young [DE #29]. Appropriate responses and replies have been filed, and the time for further filings has expired.

BACKGROUND

At issue in this case are North Carolina statutory provisions restricting or authorizing the restriction of firearms during declared states of emergency. North Carolina General Statute § 14-288.7 makes it a Class 1 misdemeanor "for

any person to transport or possess off his own premises any dangerous weapon or substance in any area" in which a state of emergency has been declared by the Governor, a municipality or a county. A state of emergency is defined as

The condition that exists whenever, during times of public crisis, disaster, rioting, catastrophe, or similar public emergency, public safety authorities are unable to maintain public order or afford adequate protection for lives or property, or whenever the occurrence of any such condition is imminent.

N.C. Gen. Stat. § 14-288.1(10). Declarations of states of emergency may also contain "prohibitions and restrictions . . . [u]pon the possession, transportation, sale, purchase, storage, and use of dangerous weapons and substances." N.C. Gen. Stat. § 14-288.12(b) (municipal declarations); see also N.C. Gen. Stat. § 14-288.13(b) (county declarations); N.C. Gen. Stat. § 14-288.15(d) (gubernatorial declarations). Violation of any such prohibition or restriction is punishable as a Class 2 misdemeanor if declared by the Governor and as a Class 3 misdemeanor if declared by a municipality or county.

Plaintiffs filed this action seeking declaratory and injunctive relief prohibiting the enforcement of these firearm restrictions. Plaintiffs assert that these statutory provisions violate their Second Amendment right to keep and bear arms. Defendants each move to dismiss plaintiffs' complaint pursuant to Rule 12(b)(6) for failure to state a claim upon which relief

can be granted. The State of North Carolina also moves to dismiss for lack of subject matter jurisdiction.

COURT'S DISCUSSION

I. Plaintiffs' Claim

Plaintiffs' sole claim for relief is for permanent injunctive relief pursuant to 42 U.S.C. § 1983. Plaintiffs allege that

North Carolina Gen. Stat. § 14-288.7, forbidding the carrying of firearms and ammunition during declared states of emergency, is unconstitutional, in that it forbids the exercise of Second Amendment rights, damaging plaintiffs in violation of 42 U.S.C. § 1983.

(Compl. ¶ 32.) Additionally, plaintiffs claim N.C. Gen. Stat. §§ 14-288.12(b)(4), 14-288.13(b), 14-288.14(a), and 14-288.15(d) are unconstitutional

to the extent they enable government officials to prohibit the purchase, sale, and possession of firearms and ammunition . . . in that they forbid the exercise of Second Amendment rights, damaging plaintiffs in violation of 42 U.S.C. § 1983.

(Compl. ¶ 33.)

II. Standard of Review

A federal district court confronted with a motion to dismiss for failure to state a claim should view the allegations of the complaint in the light most favorable to the plaintiff. See Ibarra v. United States, 120 F.3d 472, 474 (4th Cir. 1997). The intent of Rule 12(b)(6) is to test the sufficiency of a complaint. Edwards v. City of Goldsboro, 178 F.3d 231, 243 (4th

Cir. 1999). A Rule 12(b)(6) motion “does not resolve contests surrounding the facts, the merits of a claim, or the applicability of defenses.” Id. (quoting Republican Party v. Martin, 980 F.2d 943, 952 (4th Cir. 1992)). “[O]nce a claim has been stated adequately, it may be supported by showing any set of facts consistent with the allegations in the complaint.” Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 563 (2007).

“[A] complaint need not ‘make a case’ against a defendant or ‘forecast evidence sufficient to prove an element’ of the claim.” Chao v. Rivendell Woods, Inc., 415 F.3d 342, 349 (4th Cir. 2005) (quoting Iodice v. United States, 289 F.3d 270, 281 (4th Cir. 2002)). However, it must provide more than “an unadorned, the-defendant-unlawfully-harmed-me accusation.” Ashcroft v. Iqbal, 129 S. Ct. 1937, 1949 (2009). “To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” Id. (quoting Twombly, 550 U.S. at 570). The court need not accept as true legal conclusions couched as factual allegations. Twombly, 550 U.S. at 555.

III. Motions to Dismiss Stokes County and the City of King

The court first addresses the motions to dismiss filed by defendants Stokes County and the City of King. They assert they are not proper defendants to plaintiffs’ § 1983 claim and should be dismissed from the action.

"[T]he touchstone of the § 1983 action against a government body is an allegation that official policy is responsible for a deprivation of rights protected by the Constitution [or laws of the United States]." Monell v. Dep't of Social Services of City of New York, 436 U.S. 658, 690 (1978). Absent "official . . . policy of some nature," a local governmental body is simply not liable under § 1983. Id. (noting that "official policy" may include governmental custom).

In this case, plaintiffs challenge North Carolina statutes that restrict or authorize the restriction of firearms during declared states of emergency. Under North Carolina law, Stokes County and the City of King are authorized to declare states of emergency, as well as to impose restrictions of firearms during declared states of emergency. See N.C. Gen. Stat. § 14-288.12, -288.13. The existence of this statutory authority is not enough, however, to state a claim for relief pursuant to § 1983. To impose liability against either Stokes County or the City of King, there must have been some "deliberate action attributable to the [local governmental body]" that is the "moving force" behind a deprivation of the plaintiffs' federal rights. Bd. of County Comm'rs v. Brown, 520 U.S. 397, 400 (1997). Because plaintiffs are challenging only the state statutes and not any ordinance, regulation, policy or custom of either of these

governmental bodies, plaintiffs' § 1983 claim against them fails.

IV. Motion to Dismiss the State Defendants

Also before the court is a motion to dismiss filed by the State of North Carolina on behalf of defendants Beverly Perdue, the Governor of North Carolina, and Reuben F. Young, the Secretary of North Carolina's Department of Crime Control and Public Safety (collectively referred to as "the State Defendants"). Since the filing of the State Defendants' motion to dismiss, the parties have filed cross motions for summary judgment (See Plfs.' Mot. Summ. J. [DE #44]; Dfs.' Mot. Summ. J. [DE #52].) In their motion for summary judgment, the State Defendants incorporate by reference the arguments raised in the brief supporting their motion to dismiss, as well as their reply brief. (Dfs.' Brief Supp. Mot. Summ. J. [DE #53] at 2.) Plaintiffs have responded to the State Defendants' summary judgment motion, also referring to their previously filed brief opposing the State Defendants' motion to dismiss.

In light of these circumstances, the court construes the State Defendants' motion for summary judgment as a motion to dismiss or, in the alternative, for summary judgment. The court will rule on the parties' summary judgment motions in due course and in so doing will consider the briefs previously submitted in support and opposition of the State Defendants' motion to

dismiss, as well as the parties' summary judgment briefs. The State Defendants' motion to dismiss [DE #29] is DISMISSED as moot.

CONCLUSION

For the foregoing reasons, the motions to dismiss filed by defendant Stokes County [DE #27] and defendant City of King [DE #32] are GRANTED. The following motions are dismissed as moot: the motion for summary judgment filed by defendant Stokes County [DE #65]; the motion for summary judgment filed by defendant City of King [DE #62]; and the motion to dismiss filed by the State Defendants [DE #29]. Remaining before the court is plaintiffs' claim against the State Defendants.

This 31st day of March 2011.



MALCOLM J. HOWARD
Senior United States District Judge

At Greenville, NC
#31

EXHIBIT “B”

Official - Subject to Final Review

1 IN THE SUPREME COURT OF THE UNITED STATES

2 - - - - - x

3 DISTRICT OF COLUMBIA, :

4 ET AL., :

5 Petitioners :

6 v. : No. 07-290

7 DICK ANTHONY HELLER. :

8 - - - - - x

9 Washington, D.C.

10 Tuesday, March 18, 2008

11

12 The above-entitled matter came on for oral
13 argument before the Supreme Court of the United States
14 at 10:06 a.m.

15 APPEARANCES:

16 WALTER DELLINGER, ESQ., Washington, D.C.; on behalf
17 of the Petitioners.

18 GEN. PAUL D. CLEMENT, ESQ., Solicitor General,
19 Department of Justice, Washington, D.C.; on behalf
20 of the United States, as amicus curiae.

21 ALAN GURA, ESQ., Alexandria, Va.; on behalf of the
22 Respondent.

23

24

25

Official - Subject to Final Review

1	C O N T E N T S	
2	ORAL ARGUMENT OF	PAGE
3	WALTER DELLINGER, ESQ.	
4	On behalf of the Petitioners	3
5	GEN. PAUL D. CLEMENT, ESQ.	
6	On behalf of the United States,	
7	as amicus curiae	27
8	ALAN GURA, ESQ.	
9	On behalf of the Respondent	48
10	REBUTTAL ARGUMENT OF	
11	WALTER DELLINGER, ESQ.	
12	On behalf of the Petitioners	81
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

Official - Subject to Final Review

1 P R O C E E D I N G S

2 (10:06 a.m.)

3 CHIEF JUSTICE ROBERTS: We will hear
4 argument today in Case 07-290, District of Columbia
5 versus Heller.

6 Mr. Dellinger.

7 ORAL ARGUMENT OF WALTER DELLINGER

8 ON BEHALF OF THE PETITIONERS

9 MR. DELLINGER: Good morning, Mr. Chief
10 Justice, and may it please the Court:

11 The Second Amendment was a direct response
12 to concern over Article I, Section 8 of the
13 Constitution, which gave the new national Congress the
14 surprising, perhaps even the shocking, power to
15 organize, arm, and presumably disarm the State militias.
16 What is at issue this morning is the scope and nature of
17 the individual right protected by the resulting
18 amendment and the first text to consider is the phrase
19 protecting a right to keep and bear arms. In the
20 debates over the Second Amendment, every person who used
21 the phrase "bear arms" used it to refer to the use of
22 arms in connection with militia service and when Madison
23 introduced the amendment in the first Congress, he
24 exactly equated the phrase "bearing arms" with, quote,
25 "rendering military service." We know this from the

Official - Subject to Final Review

1 inclusion in his draft of a clause exempting those with
2 religious scruples. His clause says "The right of the
3 people to keep and bear arms shall not be infringed, a
4 well armed and well regulated militia being the best
5 security of a free country, but no person religiously
6 scrupulous of bearing arms shall be compelled to render
7 military service in person."

8 And even if the language of keeping and
9 bearing arms were ambiguous, the amendment's first
10 clause confirms that the right is militia-related.

11 CHIEF JUSTICE ROBERTS: If you're right,
12 Mr. Dellinger, it's certainly an odd way in the Second
13 Amendment to phrase the operative provision. If it is
14 limited to State militias, why would they say "the right
15 of the people"? In other words, why wouldn't they say
16 "state militias have the right to keep arms"?

17 MR. DELLINGER: Mr. Chief Justice, I believe
18 that the phrase "the people" and the phrase "the
19 militia" were really in -- in sync with each other. You
20 will see references in the debates of, the Federalist
21 Farmer uses the phrase "the people are the militia, the
22 militia are the people."

23 CHIEF JUSTICE ROBERTS: But if that's right,
24 doesn't that cut against you? If the militia included
25 all the people, doesn't the preamble that you rely on

Official - Subject to Final Review

1 not really restrict the right much at all? It includes
2 all the people.

3 MR. DELLINGER: Yes, I do believe it
4 includes all the people in the sense of
5 Verdugo-Urquidez, all those who are part of the polity.
6 What -- what defines the amendment is the scope and
7 nature of the right that the people have. It's, it is a
8 right to participate in the common defense and you have
9 a right invocable in court if a Federal regulation
10 interferes with your right to train for or whatever the
11 militia has established. So that --

12 JUSTICE KENNEDY: One of the concerns,
13 Mr. Dellinger, of the framers, was not to establish a
14 practice of amending the Constitution and its important
15 provisions, and it seems to me that there is an
16 interpretation of the Second Amendment differing from
17 that of the district court and in Miller and not
18 advanced particularly in the red brief, but that
19 conforms the two clauses and in effect delinks them.
20 The first clause I submit can be read consistently with
21 the purpose I've indicated of simply reaffirming the
22 existence and the importance of the militia clause.
23 Those were very important clauses. As you've indicated,
24 they're in Article I and Article II. And so in effect
25 the amendment says we reaffirm the right to have a

Official - Subject to Final Review

1 militia, we've established it, but in addition, there is
2 a right to bear arms. Can you comment on that?

3 MR. DELLINGER: Yes.

4 JUSTICE KENNEDY: And this makes, it does --
5 I think you're write right in the brief to say that the
6 preface shouldn't be extraneous. This means it's not
7 extraneous. The Constitution reaffirms the rights,
8 reaffirm several principles: The right of the people to
9 peaceably assemble, the right to be secure in their
10 homes, the Tenth Amendment reaffirms the rights, and
11 this is simply a reaffirmation of the militia clause.

12 MR. DELLINGER: Justice Kennedy, I think any
13 interpretation that delinks the two clauses as if they
14 were dealing with related but nonetheless different
15 subject matters has that to count against it, and what
16 you don't see in the debates over the Second Amendment
17 are references to, in those debates, the use of weapons
18 for personal purposes. What you see is the clause that,
19 that literally transposes to this: "Because a well
20 regulated militia is necessary to the security of a free
21 State, the right of the people to keep and bear arms
22 shall not be" --

23 JUSTICE KENNEDY: Well the subject is "arms"
24 in both clauses, as I've suggested is the common
25 subject, and they're closely related.

Official - Subject to Final Review

1 MR. DELLINGER: I think, as this Court
2 unanimously held in Miller, or at least noted in
3 Miller -- I'll leave aside the debate. The court
4 unanimously said in Miller that the Second Amendment
5 must be interpreted in light of its obvious purpose to
6 ensure the continuation and render possible the
7 effectiveness of the military forces.

8 JUSTICE SCALIA: I don't see how there's
9 any, any, any contradiction between reading the second
10 clause as a -- as a personal guarantee and reading the
11 first one as assuring the existence of a militia, not
12 necessarily a State-managed militia because the militia
13 that resisted the British was not State- managed. But
14 why isn't it perfectly plausible, indeed reasonable, to
15 assume that since the framers knew that the way militias
16 were destroyed by tyrants in the past was not by passing
17 a law against militias, but by taking away the people's
18 weapons -- that was the way militias were destroyed.
19 The two clauses go together beautifully: Since we need
20 a militia, the right of the people to keep and bear arms
21 shall not be infringed.

22 MR. DELLINGER: Yes, but once you assume
23 that the clause is designed to protect the militia, it
24 -- surely it's the militia that decides whether personal
25 possession is necessary. I mean, Miller -- what makes

Official - Subject to Final Review

1 no sense is for Miller to require the arm to be
2 militia-related if the right is not, and the key phrase
3 is "bear arms." If people --

4 JUSTICE KENNEDY: Well, do you think the
5 clause, the second clause, the operative clause, is
6 related to something other than the militia?

7 MR. DELLINGER: No. I think --

8 JUSTICE KENNEDY: All right. Well, then --

9 MR. DELLINGER: -- the second clause, the
10 phrase "keep and bear arms," when "bear arms" is
11 referred to -- is referred to in a military context,
12 that is so that even if you left aside --

13 JUSTICE KENNEDY: It had nothing to do with
14 the concern of the remote settler to defend himself and
15 his family against hostile Indian tribes and outlaws,
16 wolves and bears and grizzlies and things like that?

17 MR. DELLINGER: That is not the discourse
18 that is part of the Second Amendment. And when you read
19 the debates, the congressional debates, the only use of
20 the phrase "keep and bear arms" is a military phrase,
21 and --

22 JUSTICE SCALIA: Blackstone thought it was
23 important. Blackstone thought it was important. He
24 thought the right of self-defense was inherent, and the
25 framers were devoted to Blackstone. Joseph Story, the

Official - Subject to Final Review

1 first commentator on the Constitution and a member of
2 this Court, thought it was a personal guarantee.

3 MR. DELLINGER: When Blackstone speaks of
4 the personal guarantee, he describes it as one of the
5 use of weapons, a common law right. And if we're
6 constitutionalizing the Blackstonian common law right,
7 he speaks of a right that is subject to due restrictions
8 and applies to, quote "such weapons, such as are allowed
9 by law." So Blackstone builds in the kind of
10 reasonableness of the regulation that the District of
11 Columbia has. Now, the --

12 CHIEF JUSTICE ROBERTS: Well, that may be
13 true, but that concedes your main point that there is an
14 individual right and gets to the separate question of
15 whether the regulations at issue here are reasonable.

16 MR. DELLINGER: I don't dispute, Mr. Chief
17 Justice, that the Second Amendment is positive law that
18 a litigant can invoke in court if a State were to decide
19 after recent events that it couldn't rely upon the
20 Federal Government in natural disasters and wanted to
21 have a State-only militia and wanted to have everybody
22 trained in the use of a weapon, a Federal law that
23 interfered with that would be a law that could be
24 challenged in court by, by an individual. I mean, I
25 think the better --

Official - Subject to Final Review

1 JUSTICE GINSBURG: Mr. Dellinger --

2 MR. DELLINGER: Yes.

3 JUSTICE GINSBURG: -- short of that, just to
4 get your position clear, short of reactivating State
5 militias, on your reading does the Second Amendment have
6 any effect today as a restraint on legislation?

7 MR. DELLINGER: It would, Justice Ginsburg,
8 if the State had a militia and had attributes of the
9 militia contrary to a Federal law. And if it didn't --

10 JUSTICE GINSBURG: But it doesn't, as far as
11 I know.

12 MR. DELLINGER: As far as I know, today it
13 doesn't. And I'm not -- and the Respondents make that,
14 that argument that the amendment is without a use. But
15 you don't make up a new use for an amendment whose
16 prohibitions aren't being violated. I mean --

17 JUSTICE ALITO: Your argument is that its
18 purpose was to prevent the disarming of the organized
19 militia, isn't that correct?

20 MR. DELLINGER: That is correct.

21 JUSTICE ALITO: And if that was the purpose,
22 then how could they -- how could the Framers of the
23 Second Amendment have thought that it would achieve that
24 person, because Congress has virtually plenary power
25 over the militia under the militia clauses?

Official - Subject to Final Review

1 MR. DELLINGER: That is because, I think,
2 Justice Alito, that those who wanted to retake State
3 authority over the militia didn't get everything they
4 wanted. Madison actually did this somewhat reluctantly
5 and wanted to maintain national control.

6 JUSTICE SCALIA: They got nothing at all,
7 not everything they wanted. They got nothing at all.
8 So long as it was up to the Federal Government to
9 regulate the militia and to assure that they were armed,
10 the Federal Government could, could disband the State
11 militias.

12 MR. DELLINGER: Yes, but if -- well --

13 JUSTICE SCALIA: So what, what was the
14 function served by the Second Amendment as far as the
15 militia is concerned?

16 MR. DELLINGER: It is by no means clear that
17 the Federal Government could abolish the State militia.
18 It may be presupposed by the Article I, Section 8,
19 clauses 15 and 16, and by the Second Amendment that the
20 States may have a militia. That issue has been left
21 open as to whether you could do that, and it can be
22 called into Federal service but only in particular
23 circumstances.

24 Now I think the better argument for the
25 other side, if, if there is to be a militia relatedness

Official - Subject to Final Review

1 aspect of the Second Amendment, as we think clear from
2 all of its terms, then Heller's proposed use of a
3 handgun has no connection of any kind to the
4 preservation or efficiency of a militia and therefore
5 the case is over.

6 CHIEF JUSTICE ROBERTS: Well, but your
7 reading of the militia clause, the militia clause
8 specifically reserves concern rights to the States by
9 its terms. And as I understand your reading, you would
10 be saying the Second Amendment was designed to take away
11 or expand upon the rights that are reserved, rather than
12 simply guaranteeing what rights were understood to be
13 implicit in the Constitution itself.

14 MR. DELLINGER: I'm not sure I followed the,
15 the question exactly, but --

16 CHIEF JUSTICE ROBERTS: Well, the militia
17 clause, Article I, Section 8, says certain rights are
18 reserved to the States with respect to the militia. And
19 yet you're telling us now that this was a very important
20 right that ensured that they kept arms, but it wasn't
21 listed in the rights that were reserved in the militia
22 clause.

23 MR. DELLINGER: The debate over the militia
24 clause -- what is shocking about the militia clauses is
25 that this is a, a new national government that for the

Official - Subject to Final Review

1 first time has the power to create a standing army of
2 professionals. The militia were people who came from
3 the people themselves, put down their weapons of trade.
4 The States were devoted to the ides of their militia of
5 volunteers, and of all the powers granted to the Federal
6 Government one of the most surprising was to say that
7 Congress shall have the power to organize, arm, and
8 discipline the militia and to -- even though the
9 officers could be appointed by the State, the discipline
10 had to be according to Congress. And this was -- this
11 caused a tremendous negative reaction to the proposed
12 Constitution.

13 JUSTICE KENNEDY: But the Second -- the
14 Second Amendment doesn't repeal that. You don't take
15 the position that Congress no longer has the power to
16 organize, arm, and discipline the militia, do you?

17 MR. DELLINGER: No.

18 JUSTICE KENNEDY: So it was supplementing
19 it. And my question is, the question before us, is how
20 and to what extent did it supplement it. And in my view
21 it supplemented it by saying there's a general right to
22 bear arms quite without reference to the militia either
23 way.

24 MR. DELLINGER: It restricted in our view
25 the authority of the Federal Government to interfere

Official - Subject to Final Review

1 with the arming of the militia by the States. And the
2 word that caused the most focus was to "arm" and that is
3 to disarm.

4 Now, what I think is happening is that two
5 different rights are being put together. One was a
6 textual right to protect the militia. I think the
7 better argument for the -- for the other side, for
8 Mr. Heller, is that the amendment's purpose is militia
9 protective, but it was overinclusive in the way that
10 several of you have suggested, and that is that, as the
11 court below said, preserving the individual right,
12 presumably to have guns for personal use, was the best
13 way to ensure that the militia could serve when called.

14 But that right, this right of personal
15 liberty, the Blackstonian right, is an unregulated right
16 to whatever arm, wherever kept, however you want to
17 store it, and for the purposes an individual decides,
18 that is a libertarian ideal. It's not the text of the
19 Second Amendment, which is expressly about the security
20 of the State; it's about well-regulated militias, not
21 unregulated individual license, as is --

22 JUSTICE SOUTER: So what you are -- what you
23 are saying is that the individual has a right to
24 challenge a Federal law which in effect would disarm the
25 militia and make it impossible for the militia to

Official - Subject to Final Review

1 perform those functions that militias function. Isn't
2 that the nub of what you're saying?

3 MR. DELLINGER: Yes. That is correct.

4 JUSTICE SOUTER: Okay.

5 MR. DELLINGER: And if the Court --

6 JUSTICE STEVENS: May ask this question,
7 Mr. Dellinger? To what extent do you think the similar
8 provisions in State constitutions that were adopted more
9 or less at the same time are relevant to our inquiry?

10 MR. DELLINGER: I think they are highly
11 relevant to your inquiry because now 42 States have
12 adopted constitutional provisions.

13 JUSTICE STEVENS: I'm not talking about
14 those.

15 MR. DELLINGER: You're talking about at the
16 time.

17 JUSTICE STEVENS: I'm talking about the
18 contemporaneous actions of the States, before or at the
19 time of the adoption of the Second Amendment.

20 MR. DELLINGER: I think that the -- the
21 State amendments are generally written in different --
22 in different terms. If you're going to protect the kind
23 of right that is -- that is being spoken of here,
24 different from the militia right, the plain language to
25 do it would be "Congress or the States shall pass no law

Official - Subject to Final Review

1 abridging the right of any person to possess weapons for
2 personal use." And that's not the right that is created
3 here.

4 One of the troublesome aspects of viewing
5 this as a right of personal use is that that is the kind
6 of fundamental liberty interest that would create a real
7 potential for disruption. Once you unmoor it from -- or
8 untether it from its connection to the protection of the
9 State militia, you have the kind of right that could
10 easily be restrictions on State and local governments
11 and --

12 JUSTICE KENNEDY: Well, there's no question
13 that the English struggled with how to work this. You
14 couldn't conceal a gun and you also couldn't carry it,
15 but yet you had a right to have it.

16 Let me ask you this: Do you think the
17 Second Amendment is more restrictive or more expansive
18 of the right than the English Bill of Rights in 1689?

19 MR. DELLINGER: I think it doesn't address
20 the same subject matter as the English Bill of Rights.
21 I think it's related to the use of weapons as part of
22 the civic duty of participating in the common defense,
23 and it's -- and it's -- it's --

24 JUSTICE KENNEDY: I think that would be more
25 restrictive.

Official - Subject to Final Review

1 MR. DELLINGER: That -- that could well --
2 the answer then would be --

3 JUSTICE SOUTER: Well isn't it -- isn't it
4 more restrictive in the sense that the English Bill of
5 Rights was a guarantee against the crown, and it did not
6 preclude Parliament from passing a statute that would
7 regulate and perhaps limit --

8 MR. DELLINGER: Well --

9 JUSTICE SOUTER: Here there is some
10 guarantee against what Congress can do.

11 MR. DELLINGER: Parliament could regulate.
12 And Blackstone appears to approve of precisely the kinds
13 of regulations here. Now --

14 JUSTICE STEVENS: The Bill of Rights only
15 protected the rights of protestants.

16 MR. DELLINGER: This is correct.

17 JUSTICE STEVENS: And it was suitable to
18 their conditions then as allowed by law, so it was -- it
19 was a group right and much more limited.

20 MR. DELLINGER: I think that is -- that's
21 correct.

22 JUSTICE SCALIA: And as I recall the
23 legislation against Scottish highlanders and against --
24 against Roman Catholics did use the term -- forbade them
25 to keep and bear arms, and they weren't just talking

Official - Subject to Final Review

1 about their joining militias; they were talking about
2 whether they could have arms.

3 MR. DELLINGER: Well, the different kind of
4 right that you're talking about, to take this to the
5 question of -- of what the standard ought to be for
6 applying this, even if this extended beyond a
7 militia-based right, if it did, it sounds more like the
8 part of an expansive public or personal -- an expansive
9 personal liberty right, and if it -- if it is, I think
10 you ought to consider the effect on the 42 States who
11 have been getting along fine with State constitutional
12 provisions that do expressly protect an individual right
13 of -- of weapons for personal use, but in those States,
14 they have adopted a reasonableness standard that has
15 allowed them to sustain sensible regulation of dangerous
16 weapons. And if you --

17 CHIEF JUSTICE ROBERTS: What is -- what is
18 reasonable about a total ban on possession?

19 MR. DELLINGER: What is reasonable about a
20 total ban on possession is that it's a ban only on the
21 possession of one kind of weapon, of handguns, that's
22 been considered especially -- especially dangerous. The
23 --

24 CHIEF JUSTICE ROBERTS: So if you have a law
25 that prohibits the possession of books, it's all right

Official - Subject to Final Review

1 if you allow the possession of newspapers?

2 MR. DELLINGER: No, it's not, and the
3 difference is quite clear. If -- if you -- there is no
4 limit to the public discourse. If there is an
5 individual right to guns for personal use, it's to carry
6 out a purpose, like protecting the home. You could not,
7 for example, say that no one may have more than 50
8 books. But a law that said no one may possess more than
9 50 guns would -- would in fact be I think quite
10 reasonable.

11 CHIEF JUSTICE ROBERTS: The regulation --
12 the regulation at issue here is not one that goes to the
13 number of guns. It goes to the specific type. And I
14 understood your argument to be in your brief that
15 because rifles and shotguns are not banned to the staple
16 extent as handguns, it's all right to ban handguns.

17 MR. DELLINGER: That is correct because
18 there is no showing in this case that rifles and
19 handguns are not fully satisfactory to carry out the
20 purposes. And what -- and what the court below says
21 about -- about the elimination of this --

22 JUSTICE KENNEDY: The purposes of what?

23 MR. DELLINGER: I'm sorry.

24 JUSTICE KENNEDY: You said there is no
25 showing that rifles and handguns. I think you meant

Official - Subject to Final Review

1 rifles and other guns.

2 MR. DELLINGER: Yes, I'm sorry. Rifles and
3 handguns.

4 JUSTICE KENNEDY: Is necessary for the
5 purpose of what? What is the purpose?

6 MR. DELLINGER: The purpose -- if the
7 purpose -- if we are shifting and if we assume for a
8 moment arguendo that you believe this is a right
9 unconnected to the militia, then the purpose would be,
10 say, defense of the home. And where the government
11 here, where the -- where the correct standard has been
12 applied, which is where a State or the district has
13 carefully balanced the considerations of gun ownership
14 and public safety, has eliminated one weapon, the court
15 below has an absolutist standard that cannot be
16 sustained. The court below says that once it is
17 determined that handguns are, quote, "arms," unquote,
18 referred to in the Second Amendment, it is not open to
19 the District to ban them. And that doesn't promote the
20 security of a free State.

21 JUSTICE GINSBURG: But wasn't there a leeway
22 for some weapon prohibition? Let me ask you, in
23 relation to the States that do have guarantees of the
24 right to possess a weapon at home: Do some of those
25 States say there are certain kinds of guns that you

Official - Subject to Final Review

1 can't have, like machine guns?

2 MR. DELLINGER: Yes. And here what the
3 opinion below would do instead -- would -- it's hard to
4 see on the opinion below why machine guns or
5 armor-piercing bullets or other dangerous weapons
6 wouldn't be categorically protected --

7 JUSTICE BREYER: Could you go back to the --

8 MR. DELLINGER: -- in those States --

9 JUSTICE KENNEDY: If I could just have one
10 follow-on on Justice Ginsburg real quick. Do those
11 States -- Justice Ginsburg asked -- - that distinguish
12 among weapons, State constitutional provisions do not do
13 so?

14 MR. DELLINGER: No, it's not in the text of
15 the State constitutional provision; it's in their --

16 JUSTICE GINSBURG: It's in interpretation.

17 MR. DELLINGER: -- reasonable application.
18 And here, the question is how has the balance been
19 struck? The District allows law-abiding citizens to
20 have functioning firearms in the home. From the time it
21 was introduced in 1976, it has been the consistent
22 position that you're entitled to have a functioning
23 firearm. At issue is the one type of weapon --

24 JUSTICE SCALIA: Mr. Dellinger, let's come
25 back to your description of the opinion below as

Official - Subject to Final Review

1 allowing armor-piercing bullets and machine guns. I
2 didn't read it that way. I thought the opinion below
3 said it had to be the kind of weapon that was common for
4 the people --

5 MR. DELLINGER: That is --

6 JUSTICE SCALIA: -- that is common for the
7 people to have. And I don't know -- I don't know that a
8 lot of people have machine guns or armor-piercing
9 bullets. I think that's quite unusual. But having a
10 pistol is not unusual.

11 MR. DELLINGER: The number of machine guns,
12 I believe, is in excess of a hundred thousand that are
13 out there now, that are --

14 JUSTICE SCALIA: How many people in the
15 country?

16 MR. DELLINGER: Well, there are 300 million,
17 but whether that's common or not, but the --

18 JUSTICE SCALIA: I don't think it's common.

19 MR. DELLINGER: But it's the -- the court
20 protects weapons suitable for military use that are
21 lineal descendants. I don't know why an improved bullet
22 wouldn't be covered, unless you adopt the kind of
23 reasonableness standard that we suggest, where you look
24 to the fact that -- and I don't -- some people think
25 machine guns are more dangerous than handguns -- they

Official - Subject to Final Review

1 shoot a lot of people at once -- but a handgun is
2 concealable and movable. It can be taken into schools,
3 into buses, into government office buildings, and that
4 is the particular danger it poses in a densely populated
5 urban area.

6 CHIEF JUSTICE ROBERTS: Well, I'm not sure
7 that it's accurate to say the opinion below allowed
8 those. The law that the opinion, the court below, was
9 confronted with was a total ban, so that was the only
10 law they considered.

11 If the District passes a ban on machine guns
12 or whatever, then that law -- that law would be
13 considered by the court and perhaps would be upheld as
14 reasonable. But the only law they had before them was a
15 total ban.

16 JUSTICE SCALIA: Or a law on the carrying of
17 concealed weapons, which would include pistols, of
18 course.

19 MR. DELLINGER: Let me fight back on the
20 notion that it's a -- it's a total ban. It's not as if
21 every kind of weapon is useful.

22 CHIEF JUSTICE ROBERTS: Are you allowed to
23 carry the weapons that are allowed? I read the "carry
24 clause" to apply without qualification. So while you
25 say you might be able to have a shotgun in the home, you

Official - Subject to Final Review

1 can't carry it to get there.

2 MR. DELLINGER: No. You can -- you can with
3 a proper license. The District has made it clear that
4 there is no doubt that it interprets its laws to allow a
5 functioning gun. And to say that something is a total
6 ban when you own only one particular kind of weapon
7 would apply to a machine gun if it were or came into
8 common use and --

9 JUSTICE ALITO: But even if you have -- even
10 if you have a rifle or a shotgun in your home, doesn't
11 the code prevent you from loading it and unlocking it
12 except when it's being used for lawful, recreational
13 purposes within the District of Columbia? So even if
14 you have the gun, under this code provision it doesn't
15 seem as if you could use it for the defense of your
16 home.

17 MR. DELLINGER: That is not the city's
18 position, and we have no dispute with the other side on
19 the point of what the right answer should be.

20 It is a universal or near universal rule of
21 criminal law that there is a self-defense exception. It
22 goes without saying. We have no argument whatsoever
23 with the notion that you may load and have a weapon
24 ready when you need to use it for self- defense.

25 I'm going to reserve the remainder of my

Official - Subject to Final Review

1 time for rebuttal.

2 CHIEF JUSTICE ROBERTS: Why don't you
3 remain, Mr. Dellinger. We'll make sure you have
4 rebuttal.

5 JUSTICE KENNEDY: Because I did interrupt
6 Justice Breyer.

7 JUSTICE BREYER: I just wondered if you
8 could say in a minute. One possibility is that the
9 amendment gives nothing more than a right to the State
10 to raise a militia. A second possibility is that it
11 gives an individual right to a person, but for the
12 purpose of allowing people to have guns to form a
13 militia. Assume the second. If you assume the second,
14 I wanted you to respond if you -- unless you have done
15 so fully already, to what was the Chief Justice's
16 question of why, on the second assumption, this ban on
17 handguns, not the other part, of the District of
18 Columbia, a total ban, why is that a reasonable
19 regulation viewed in terms of the purposes as I
20 described them?

21 MR. DELLINGER: It's a reasonable regulation
22 for two kinds of reasons.

23 First, in order -- the amendment speaks of a
24 well-regulated militia. Perhaps it's the case that
25 having everybody have whatever gun they want of whatever

Official - Subject to Final Review

1 kind would advance a well- regulated militia, but
2 perhaps not. But, in any event --

3 JUSTICE SCALIA: It means "well trained,"
4 doesn't it?

5 MR. DELLINGER: When you -- when you have
6 one --

7 JUSTICE SCALIA: Doesn't "well regulated"
8 mean "well trained"? It doesn't mean -- it doesn't mean
9 "massively regulated." It means "well trained."

10 MR. DELLINGER: Well, every -- every phrase
11 of the amendment, like "well regulated," "security of
12 the State," is something different than a -- a
13 libertarian right. Here you have, I think, a fully --
14 on this, particularly on a facial challenge, there is no
15 showing that rifles and shotguns are not fully available
16 for all of the purposes of defense.

17 There is no indication that the District
18 militia is an entity that needs individuals to have
19 their own handguns. You -- you -- there is a step that
20 is -- that is missing here. The well-regulated militia
21 is not necessarily about everyone having a gun. A
22 militia may decide to organize -- be organized that way,
23 in which case you would have a different notion.

24 But here, I think, when you come down to
25 apply this case, if you look at about five factors, that

Official - Subject to Final Review

1 other weapons are allowed, important regulatory
2 interests of these particularly dangerous weapons are --
3 is clearly a significant regulatory, and important
4 regulatory, interest. In two respects this is removed
5 from the core of the amendment. Even if it is not
6 limited to militia service, even in the court below, no
7 one doubts that that was, as the court below said, the
8 most salient objective.

9 So this is in the penumbra or the periphery,
10 not the core. It was undoubtedly aimed principally, if
11 not exclusively, at national legislation which displaced
12 the laws in all of the States, rural as well as urban.

13 Here you've got local legislation responsive
14 to local needs, and this is local legislation in the
15 seat of the government where Congress, which was created
16 in order to protect the security of the national
17 government, and where it would be extraordinary to
18 assume that this is the one place that you're not going
19 to incorporate it, the one area in the United States
20 where no government, free of restrictions of the Second
21 Amendment, could control dangerous weapons.

22 CHIEF JUSTICE ROBERTS: Thank you,
23 Mr. Dellinger.

24 General Clement.

25 ORAL ARGUMENT OF GEN. PAUL D. CLEMENT

Official - Subject to Final Review

1 ON BEHALF OF THE UNITED STATES,

2 AS AMICUS CURIAE

3 GENERAL CLEMENT: Mr. Chief Justice, and may
4 it please the Court:

5 The Second Amendment to the Constitution, as
6 its text indicates, guarantees an individual right that
7 does not depend on eligibility for or service in the
8 militia.

9 JUSTICE STEVENS: May I ask you a
10 preliminary question. Do you think it has the same
11 meaning that it would have if it omitted the
12 introductory clause referring to militia?

13 GENERAL CLEMENT: I don't think so, Justice
14 Stevens, because we don't take the position that the
15 preamble plays no role in interpreting the amendment.
16 And we would point to this court's decision in Miller,
17 for example, as an example of where the preamble can
18 play a role in determining the scope --

19 JUSTICE STEVENS: So you think some weight
20 should be given to the clause. And also, the other
21 question I wanted to ask you is: Does the right to keep
22 and bear arms define one or two rights?

23 GENERAL CLEMENT: Oh, I suppose it probably
24 does define two rights that are closely related.

25 JUSTICE STEVENS: There's a right to keep

Official - Subject to Final Review

1 arms and a right to bear arms?

2 GENERAL CLEMENT: I think that's the better
3 view, and a number of State courts that have interpreted
4 analogous provisions have distinguished between the two
5 rights and looked at them differently.

6 And, obviously, the term "keep" is a word
7 that I think is something of an embarrassment for an
8 effort to try to imbue every term in the operative text
9 with an exclusively military connotation because that is
10 not one that really has an exclusive military
11 connotation. As Justice Scalia pointed out, "keep" was
12 precisely the word that authorities used in statutes
13 designed specifically to disarm individuals.

14 JUSTICE GINSBURG: It doesn't mean all. It
15 doesn't mean -- "keep," on your reading, at least if
16 it's consistent with Miller, keep and bear some arms,
17 but not all arms.

18 GENERAL CLEMENT: Absolutely, Justice
19 Ginsburg, and just -- I mean, to give you a clear
20 example, we would take the position that the kind of
21 plastic guns or guns that are specifically designed to
22 evade metal detectors that are prohibited by Federal law
23 are not "arms" within the meaning of the Second
24 Amendment and are not protected at all.

25 And that would be the way we would say that

Official - Subject to Final Review

1 you should analyze that provision of Federal law, as
2 those are not even arms within the provisions of the
3 Second Amendment.

4 I think to make the same argument about
5 machine guns would be a much more difficult argument, to
6 say the least, given that they are the standard-issue
7 weapon for today's armed forces and the State-organized
8 militia.

9 JUSTICE KENNEDY: So in your view this
10 amendment has nothing to do with the right of people
11 living in the wilderness to protect themselves, despite
12 maybe an attempt by the Federal Government, which is
13 what the Second Amendment applies to, to take away their
14 weapons?

15 GENERAL CLEMENT: Well, Justice Kennedy, I
16 wouldn't say that it has no application there. As I
17 say, I think the term "arms," especially if Miller is
18 going to continue to be the law, is influenced by the
19 preamble. But the way we would look at it --

20 JUSTICE KENNEDY: I agree that Miller is
21 consistent with what you've just said, but it seems to
22 me Miller, which kind of ends abruptly as an opinion
23 writing anyway, is just insufficient to subscribe -- to
24 describe the interests that must have been foremost in
25 the framers' minds when they were concerned about guns

Official - Subject to Final Review

1 being taken away from the people who needed them for
2 their defense.

3 GENERAL CLEMENT: Well, Justice Kennedy, we
4 would analyze it this way, which is we would say that
5 probably the thing that was foremost in the framers'
6 minds was a concern that the militia not be disarmed
7 such that it would be maintained as a viable option to
8 the standing army. But especially when you remember, as
9 Justice Alito pointed out, that the Constitution in
10 Article I, Section 8, clauses 15 and 16, the militia
11 clauses, as unamended, gave the Federal power -- the
12 Federal authorities virtually plenary authority to deal
13 with the organization and regulation of the militia.
14 The most obvious way that you could protect the militia
15 --

16 JUSTICE STEVENS: Not plenary authority.
17 Not plenary authority.

18 GENERAL CLEMENT: Except for that which is
19 reserved in --

20 JUSTICE STEVENS: Who appoints the officers?

21 GENERAL CLEMENT: Yes -- no, absolutely.
22 There is something reserved in clause 16.

23 But let me just say, if the Second Amendment
24 had the meaning that the District of Columbia ascribes
25 to it, one would certainly think that James Madison,

Official - Subject to Final Review

1 when he proposed the Second Amendment would have
2 proposed it as an amendment to Article I, Section 8,
3 clause 16.

4 He didn't. He proposed it as an amendment
5 to Article I, Section 9, which encapsulates the
6 individual rights to be free from bills of retainer and
7 ex post facto clauses.

8 JUSTICE STEVENS: Do you think he was guided
9 at all by the contemporaneous provisions in State
10 constitutions?

11 MR. DELLINGER: I am sure he was influenced
12 by that, although I think, honestly --

13 JUSTICE STEVENS: And how many of them
14 protected an individual right? Just two, right?

15 GENERAL CLEMENT: I think -- I think
16 Pennsylvania and Vermont are the ones that most
17 obviously protected.

18 JUSTICE STEVENS: And the others quite
19 clearly went in the other direction, did they not?

20 GENERAL CLEMENT: Well, I don't know about
21 quite clearly. The textual indication in the State
22 amendments that probably most obviously goes in the
23 other direction is the phrase "keep and bear arms for
24 the common defense." And, of course, there was a
25 proposal during the debate over the Second Amendment to

Official - Subject to Final Review

1 add exactly those words to the Second Amendment, and
2 that proposal was defeated, which does --

3 JUSTICE STEVENS: There was also a proposal
4 to make it clear there was an individual right, which
5 was also rejected.

6 GENERAL CLEMENT: I'm sorry, Justice
7 Stevens. Which aspect of that did you have in mind?

8 JUSTICE STEVENS: The Pennsylvania proposal.

9 GENERAL CLEMENT: Oh, but I don't think that
10 ever made it to the floor of the House or the Senate
11 that I'm aware of. And I think that this happened at
12 the actual Senate floor. There was a proposal to add
13 the words "in the common defense," and that was
14 rejected. I mean, but --

15 JUSTICE KENNEDY: You think Madison was
16 guided by the experience and the expressions of the
17 right in English law, including the Bill of Rights of
18 1689?

19 GENERAL CLEMENT: I do, Justice Kennedy, and
20 I think in that regard it is telling that -- I mean,
21 there are a variety of provisions in our Bill of Rights
22 that were borrowed from the English Bill of Rights. Two
23 very principal ones are the right to petition the
24 government and the right to keep and bear arms. I don't
25 think it's an accident --

Official - Subject to Final Review

1 JUSTICE GINSBURG: If we're going back to
2 the English Bill of Rights, it was always understood to
3 be subject to the control and limitation and restriction
4 of Parliament. And I don't think there's any doubt
5 about that. And that's what we're talking about here,
6 are legislative restrictions.

7 GENERAL CLEMENT: Well, Justice Ginsburg, I
8 think you could say the same thing for every provision
9 of the English Bill of Rights. And obviously, when
10 those were translated over to our system you had to make
11 adjustment for --

12 JUSTICE SOUTER: But isn't there one
13 difference? Not every provision of the English Bill of
14 Rights had an express reference to permission by law,
15 which is a reference to parliamentary authority. So
16 that there -- there -- there was a peculiar recognition
17 of parliamentary legislative authority on this subject.

18 GENERAL CLEMENT: That's exactly right,
19 Justice Souter. And the way I counted it, I only found
20 three provisions in the English Bill of Rights that had
21 a comparable reference to Parliament.

22 JUSTICE STEVENS: This provision has the
23 additional limitation to "suitable to their conditions,"
24 and a large number of people were not permitted to have
25 arms.

Official - Subject to Final Review

1 GENERAL CLEMENT: Again, that is also true
2 and is also relatively unique to this amendment. And if
3 I get to the point in the argument where I talk about
4 why we think that something less than strict scrutiny is
5 appropriate, I think I would point precisely to those
6 elements of the English Bill of Rights as being
7 relevant.

8 But what I was about to say is I think what
9 is highly relevant in considering the threshold question
10 of whether there's an individual right here at all is
11 that the parallel provisions in the English Bill of
12 Rights that were borrowed over included the right to
13 petition and the right to keep and bear arms. Both of
14 those appear with specific parallel references to the
15 people. They are both rights that are given to the
16 people.

17 And as this Court has made clear in
18 Verdugo-Urquidez, that's a reference that
19 appears throughout the Bill of Rights as a reference to
20 the entire citizenry.

21 JUSTICE SOUTER: May I go back to another
22 point, which is to the same point, and that is
23 consistent with your emphasis on the people was your
24 emphasis a moment ago on the distinction between keeping
25 and bearing arms. The "keep" part sounds in your, in

Official - Subject to Final Review

1 your mind at least, to speak of an individual right not
2 necessarily limited by, by the exigencies of military
3 service.

4 My question is, if that is correct and
5 "keep" should be read as, in effect, an independent
6 guarantee, then what is served by the phrase "and bear"?
7 In other words, if the people can keep them and they
8 have them there for use in the militia as well as to
9 hunt deer, why do we -- why do we have to have a further
10 reference in there to a right to bear as well as to keep
11 arms? And my point is it sounds to me as though "keep
12 and bear" forms one phrase rather than two. But I want
13 to know what your answer is to that.

14 GENERAL CLEMENT: The way I would read it,
15 Justice Souter, is that "keep" is really talking about
16 private possession in the home. And the way that I
17 would look at it is in order to exercise, for example,
18 an opportunity to hunt, that you would need to bear the
19 arms as well. And I would point you -- I think it's a
20 useful point --

21 JUSTICE SOUTER: But wait a minute. You're
22 not saying that if somebody goes hunting deer he is
23 bearing arms, or are you?

24 GENERAL CLEMENT: I would say that and so
25 would Madison and so would Jefferson, I would submit.

Official - Subject to Final Review

1 They use --

2 JUSTICE SOUTER: Somebody going out to -- in
3 the eighteenth century, someone going out to hunt a deer
4 would have thought of themselves as bearing arms? I
5 mean, is that the way they talk?

6 GENERAL CLEMENT: Well, I will grant you
7 this, that "bear arms" in its unmodified form is most
8 naturally understood to have a military context. But I
9 think the burden of the argument on the other side is to
10 make it have an exclusively military context. And as a
11 number of the briefs have pointed out, that's not borne
12 out by the framing sources.

13 In one place, although it's not bearing
14 arms, it's bearing a gun, I think it's highly relevant
15 that Madison and Jefferson with respect to this hunting
16 bill that Jefferson wrote and Madison proposed,
17 specifically used in the hunting context the phrase
18 "bear a gun," and so I do think in that context --

19 JUSTICE SOUTER: But it's "arms" that has
20 the kind of the military -- the martial connotation, I
21 would have thought.

22 JUSTICE SCALIA: Wasn't -- wasn't it the
23 case that the banning of arms on the part of the
24 Scottish highlanders and of Catholics in England used
25 the term, forbade them to "bear arms"? It didn't mean

Official - Subject to Final Review

1 that could just not join militias; it meant they
2 couldn't carry arms.

3 GENERAL CLEMENT: And again, I think various
4 phrases were, were used. I also think that some of the
5 disarmament provisions specifically used the word
6 "keep." And so I think there is some independent
7 meaning there, which is one point.

8 And then I do think that, even in the
9 context of bearing arms, I will grant you that "arms"
10 has a military connotation and I think Miller would
11 certainly support that, but I don't think it's an
12 exclusively military connotation.

13 JUSTICE STEVENS: Not only Miller, but the
14 Massachusetts declaration. "The right to keep and bear
15 arms for the common defense" is what is the normal
16 reading of it.

17 GENERAL CLEMENT: Oh, absolutely. And I
18 grant you if this, if the Second Amendment said "keep
19 and bear arms for the common defense" this would be a
20 different case. But --

21 JUSTICE STEVENS: --- the right to keep and
22 bear -- I'm sorry. It's one right to keep and bear, not
23 two rights, to keep and to bear.

24 GENERAL CLEMENT: Well, I mean it's -- it's
25 my friends from the District that are emphasizing that

Official - Subject to Final Review

1 no word in the Constitution is surplusage. So I would
2 say that in a context like this you might want to focus
3 both on "keep" and on "bear arms."

4 JUSTICE SOUTER: And you want to talk about
5 the standard, and your light's on.

6 (Laughter.)

7 GENERAL CLEMENT: Okay. I would like to
8 talk about the standard and my light is indeed on, so
9 let me do that.

10 I think there are several reasons why a
11 standard as we suggest in our brief rather than strict
12 scrutiny is an appropriate standard to be applied in
13 evaluating these laws. I think first and foremost, as
14 our colloquy earlier indicated, there is -- the right to
15 bear arms was a preexisting right. The Second Amendment
16 talks about "the right to bear arms," not just "a right
17 to bear arms." And that preexisting always coexisted
18 with reasonable regulations of firearms.

19 And as you pointed out, Justice Souter, to
20 be sure when you're making the translation from the
21 English Bill of Rights you always have to deal with
22 parliamentary supremacy. But it is very striking that,
23 as Justice Stevens said, the right was conditioned on
24 the conditions, which I think meant what class you were,
25 and also subject expressly to the Parliament, the laws

Official - Subject to Final Review

1 of Parliament.

2 JUSTICE SCALIA: The freedom of speech that
3 was referred to in the Constitution was also "the"
4 freedom of speech, which referred to the pre-existing
5 freedom of speech. And there were indeed some
6 restrictions on that such as libel that you were not
7 allowed to do. And yet we've never held that simply
8 because it was pre-existing and that there were some
9 regulations upon it, that we would not use strict
10 scrutiny. We certainly apply it to freedom of speech,
11 don't we?

12 GENERAL CLEMENT: Justice Scalia, let me
13 make two related points. One, even in the First
14 Amendment context, this Court has recognized -- and I
15 point you to the Court's opinion in Robertson against
16 Baldwin, which makes this point as to both the First and
17 the Second Amendment. This Court has recognized that
18 there are certain pre-existing exceptions that are so
19 well established that you don't really even view them as
20 Second Amendment or First Amendment infringement.

21 JUSTICE SCALIA: Like libel.

22 GENERAL CLEMENT: Like libel, and I would
23 say like laws barring felons from possessing handguns.
24 I don't think --

25 JUSTICE KENNEDY: Or would you say like

Official - Subject to Final Review

1 protecting yourself against intruders in the home?

2 GENERAL CLEMENT: Well, that gets to the
3 self-defense component and I don't know that I ever got
4 a chance to fully answer your question on that, Justice
5 Kennedy, which is we would say, notwithstanding the fact
6 that the preamble makes it clear that the preeminent
7 motive was related to ensuring that the militia remained
8 a viable option vis-a-vis the standing army, the
9 operative text is not so limited. And I think in that
10 regard it's worth emphasizing that the framers knew
11 exactly how to condition a right on militia service,
12 because they did it with respect to the grand jury
13 clause, and they didn't do it with respect to the Second
14 Amendment.

15 JUSTICE ALITO: If the amendment is intended
16 at least, in part to protect the right to self-defense
17 in the home, how could the District code provision
18 survive under any standard of review where they totally
19 ban the possession of the type of weapon that's most
20 commonly used for self-defense, and even as to long guns
21 and shotguns they require, at least what the code says
22 without adding a supposed gloss that might be produced
23 in a subsequent case, that even as to long guns and
24 shotguns they have to be unloaded and disassembled or
25 locked at all times, even presumably if someone is

Official - Subject to Final Review

1 breaking into the home?

2 GENERAL CLEMENT: Well, Justice Alito, let
3 me answer the question in two parts if I can, because I
4 think the analysis of the trigger lock provision may
5 well be different than the analysis of the other
6 provisions.

7 With respect to the trigger lock provision,
8 we think that there is a substantial argument that once
9 this Court clarifies what the constitutional standard
10 is, that there ought to be an opportunity for the
11 District of Columbia to urge its construction, which
12 would allow for a relatively robust self-defense
13 exception to the trigger lock provision. And this Court
14 could very well, applying Ashwan to prevent --
15 principles allow for that kind of --

16 JUSTICE SCALIA: I don't understand that.
17 What would that be -- that you can, if you have time,
18 when you hear somebody crawling in your -- your bedroom
19 window, you can run to your gun, unlock it, load it and
20 then fire? Is that going to be the exception?

21 GENERAL CLEMENT: If that's going to be the
22 exception, it could clearly be inadequate. And I think
23 that -- I mean the District of Columbia can speak to
24 this, but it seems to me that if, for example, the
25 police were executing a warrant at evening and had cause

Official - Subject to Final Review

1 for doing it at evening and saw somebody with a loaded
2 gun on their night stand, no children present without a
3 trigger lock, it seems to me that that would be a good
4 test case to decide whether or not their construction
5 would provide for an exception to the trigger lock
6 provision in that case.

7 JUSTICE GINSBURG: Can I interrupt for a
8 minute?

9 GENERAL CLEMENT: If it did, I think then
10 the statute might well be constitutional. If it didn't,
11 in my view, it probably wouldn't be.

12 JUSTICE GINSBURG: There is a lot of talk
13 about standards and stop words like strict scrutiny.
14 Does it make a practical difference whether we take your
15 standard or the strict scrutiny that was in the D.C.
16 Circuit's opinion? And specifically there is a whole
17 panoply of Federal laws restricting gun possession.
18 Would any of them be jeopardized under your standard?
19 And the same question with the District scrutiny, does
20 it make any difference?

21 GENERAL CLEMENT: In our view it makes a
22 world of difference, Justice Ginsburg, because we
23 certainly take the position, as we have since
24 consistently since 2001, that the Federal firearm
25 statutes can be defended as constitutional, and that

Official - Subject to Final Review

1 would be consistent with this kind of intermediate
2 scrutiny standard that we propose. If you apply strict
3 scrutiny, I think that the result would be quite
4 different, unfortunately.

5 CHIEF JUSTICE ROBERTS: Well, these various
6 phrases under the different standards that are proposed,
7 "compelling interest," "significant interest," "narrowly
8 tailored," none of them appear in the Constitution; and
9 I wonder why in this case we have to articulate an
10 all-encompassing standard. Isn't it enough to determine
11 the scope of the existing right that the amendment
12 refers to, look at the various regulations that were
13 available at the time, including you can't take the gun
14 to the marketplace and all that, and determine how
15 these -- how this restriction and the scope of this
16 right looks in relation to those?

17 I'm not sure why we have to articulate some
18 very intricate standard. I mean, these standards that
19 apply in the First Amendment just kind of developed over
20 the years as sort of baggage that the First Amendment
21 picked up. But I don't know why when we are starting
22 afresh, we would try to articulate a whole standard that
23 would apply in every case?

24 GENERAL CLEMENT: Well, Mr. Chief Justice,
25 let me say a couple of things about that, which is to

Official - Subject to Final Review

1 say that if this Court were to decide this case and make
2 conclusively clear that it really was focused very
3 narrowly on this case and it was in some respects
4 applying a sui generis test, we think that would be an
5 improvement over the court of appeals opinion, which is
6 subject to more than one reading, but as Justice
7 Ginsburg's question just said, it's certainly
8 susceptible to a reading that it embodies strict
9 scrutiny. In fact --

10 JUSTICE GINSBURG: Well, it did. It said
11 it's just like the First Amendment. First Amendment has
12 exceptions, but strict scrutiny applies. It says strict
13 scrutiny applies here too.

14 GENERAL CLEMENT: I --

15 JUSTICE SCALIA: But that opinion also, it
16 didn't use the militia prologue to say it's only the
17 kind of weapons that would be useful in militia, and
18 that are commonly -- commonly held today. Is there any
19 Federal exclusion of weapons that applies to weapons
20 that are commonly held today? I don't know what you're
21 worried about. Machine guns, what else? Armored
22 bullets, what else?

23 GENERAL CLEMENT: Well, Justice Scalia, I
24 think our principal concern based on the parts of the
25 court of appeals opinion that seemed to adopt a very

Official - Subject to Final Review

1 categorical rule were with respect to machine guns,
2 because I do think that it is difficult -- I don't want
3 to foreclose the possibility of the Government, Federal
4 Government making the argument some day -- but I think
5 it is more than a little difficult to say that the one
6 arm that's not protected by the Second Amendment is that
7 which is the standard issue armament for the National
8 Guard, and that's what the machine gun is.

9 CHIEF JUSTICE ROBERTS: But this law didn't
10 involve a restriction on machine guns. It involved an
11 absolute ban. It involved an absolute carry
12 prohibition. Why would you think that the opinion
13 striking down an absolute ban would also apply to a
14 narrow one -- narrower one directed solely to machine
15 guns?

16 GENERAL CLEMENT: I think, Mr. Chief
17 Justice, why one might worry about that is one might
18 read the language of page 53a of the opinion as
19 reproduced in the petition appendix that says once it is
20 an arm, then it is not open to the District to ban it.

21 Now, it seems to me that the District is not
22 strictly a complete ban because it exempts pre-1976
23 handguns. The Federal ban on machine guns is not,
24 strictly speaking, a ban, because it exempts pre --
25 pre-law machine guns, and there is something like

Official - Subject to Final Review

1 160,000 of those.

2 JUSTICE SCALIA: But that passage doesn't
3 mean once it's an arm in the dictionary definition of
4 arms. Once it's an arm in the specialized sense that
5 the opinion referred to it, which is -- which is the
6 type of a weapon that was used in militia, and it is --
7 it is nowadays commonly held.

8 GENERAL CLEMENT: Well --

9 JUSTICE SCALIA: If you read it that way, I
10 don't see why you have a problem.

11 GENERAL CLEMENT: Well, I -- I hope that you
12 read it that way. But I would also say that I think
13 that whatever the definition that the lower court
14 opinion employed, I do think it's going to be difficult
15 over time to sustain the notion -- I mean, the Court of
16 Appeals also talked about lineal descendants. And it
17 does seem to me that, you know, just as this Court would
18 apply the Fourth Amendment to something like heat
19 imagery, I don't see why this Court wouldn't allow the
20 Second Amendment to have the same kind of scope, and
21 then I do think that reasonably machine guns come within
22 the term "arms."

23 Now, if this Court wants to say that they
24 don't -- I mean -- I mean -- we'd obviously welcome that
25 in our -- in our obligation to defend the

Official - Subject to Final Review

1 constitutionality of acts of Congress.

2 The one other thing I would say is that this
3 is an opinion that is susceptible of different readings.
4 It's interesting that Respondents' amici have different
5 characterizations of it. The Goldwater Institute calls
6 it strict scrutiny; the State of Texas calls it
7 reasonable -- reasonableness review.

8 CHIEF JUSTICE ROBERTS: Thank you, General.

9 GENERAL CLEMENT: Thank you.

10 CHIEF JUSTICE ROBERTS: Mr. Gura.

11 ORAL ARGUMENT OF ALAN GURA

12 ON BEHALF OF THE RESPONDENTS

13 MR. GURA: Thank you, Mr. Chief Justice, and
14 may it please the Court:

15 All 50 states allow law-abiding citizens to
16 defend themselves and their families in their homes with
17 ordinary functional firearms including handguns. Now,
18 I'd like to respond to one point that was raised lately
19 by the General --

20 JUSTICE SCALIA: Talk a little slower; I'm
21 not following you.

22 MR. GURA: Okay. I'd like to respond --
23 certainly, Justice Scalia. I'd like to respond to the
24 point about the -- the District of Columbia's position
25 over the years with respect to the functional firearms

Official - Subject to Final Review

1 ban.

2 The Petitioners have had two opportunities
3 to urge courts to adopt this so-called self-defense
4 exception which they construed in the amendment. The
5 first opportunity came in 1978 in McIntosh versus
6 Washington, where the petitioners urged the Court of
7 Appeals of the District of Columbia to uphold the law
8 because it was irrational in their view to prohibit
9 self-defense in the home with firearms. They deemed it
10 to be too dangerous, and this was a legitimate policy
11 choice of the City Council, and they actually prevailed
12 in that view.

13 The second opportunity that the Petitioners
14 had to urge this sort of self-defense construction was
15 actually in this case in the district court. We had a
16 motion for summary judgment and we made certain factual
17 allegations in this motion, and on page 70a of the joint
18 appendix we see portions of our statement of undisputed
19 material facts. Fact number 29, which was conceded by
20 the District of Columbia, reads: The defendants
21 prohibit the possession of lawfully owned firearms for
22 self-defense within the home, even in instances when
23 self-defense would be lawful by other means under
24 District of Columbia law. The citation for that is a
25 functional firearms ban, and that point was conceded.

Official - Subject to Final Review

1 Certainly the idea that people can guess as
2 to when it is that they might render the firearm
3 operational is -- is not a one that the Court should
4 accept, because a person who hears a noise, a person who
5 perhaps is living in a neighborhood where there has been
6 a spate of violent crimes, has no idea of when the
7 District of Columbia would permit her to render the
8 firearm operational. And, in fact, there is a
9 prosecution history not under this specific provision,
10 but certainly other under gun prohibition -- laws that
11 we are challenging here today to prosecute people for
12 the possession or for the carrying of a prohibited
13 firearm even when the police ruled the shooting has been
14 lawful self-defense.

15 JUSTICE BREYER: You're saying that this is
16 unreasonable, and that really is my question because I'd
17 like you to assume two things with me, which you
18 probably don't agree with, and I may not agree with
19 them, either.

20 (Laughter.)

21 JUSTICE BREYER: But I just want you to
22 assume them for the purpose of the question. All right.

23 Assume that the -- that there is an
24 individual right, but the purpose of that right is to
25 maintain a citizen army; call it a militia; that that's

Official - Subject to Final Review

1 the basic purpose. So it informs what's reasonable and
2 what isn't reasonable.

3 Assume -- and this is favorable to you but
4 not as favorable as you'd like -- assume that we are
5 going to decide whether something is proportionate or
6 apply an intermediate standard in light of the purpose.
7 All right.

8 Now, focus on the handgun ban. As I read
9 these 80 briefs -- and they were very good, I mean
10 really good and informative on both sides -- and I'm
11 trying to boil down the statistics where there is
12 disagreement, and roughly what I get -- and don't
13 quarrel with this too much; it's very rough -- that
14 80,000 to 100,000 people every year in the United States
15 are either killed or wounded in gun-related homicides or
16 crimes or accidents or suicides, but suicide is more
17 questionable. That's why I say 80,000 to 100,000.

18 In the District, I guess the number is
19 somewhere around 200 to 300 dead; and maybe, if it's
20 similar, 1,500 to 2,000 people wounded. All right.

21 Now, in light of that, why isn't a ban on
22 handguns, while allowing the use of rifles and muskets,
23 a reasonable or a proportionate response on behalf of
24 the District of Columbia?

25 MR. GURA: Because, Your Honor, for the same

Official - Subject to Final Review

1 reason it was offered by numerous military officers at
2 the highest levels of the U.S. military in all branches
3 of service writing in two briefs, they agree with us
4 that the handgun ban serves to weaken America's military
5 preparedness. Because when people have handguns --
6 handguns are military arms, they are not just civilian
7 arms -- they are better prepared and able to use them.
8 And, certainly, when they join the military forces, they
9 are issued handguns.

10 And so if we assume that the sort of
11 military purpose to the Second Amendment is an
12 individual right, then the handgun ban, as noted by our
13 military amici, would impede that.

14 JUSTICE BREYER: Well, I didn't read -- I
15 read the two military briefs as focusing on the nature
16 of the right, which was quite a pretty good argument
17 there that the nature of the right is to maintain a
18 citizen Army.

19 And to maintain that potential today, the
20 closest we come is to say that there is a right for
21 people to understand weapons, to know how to use them,
22 to practice with them. And they can do that, you see,
23 with their rifles. They can go to gun ranges, I guess,
24 in neighboring States.

25 But does that make it unreasonable for a

Official - Subject to Final Review

1 city with a very high crime rate, assuming that the
2 objective is what the military people say, to keep us
3 ready for the draft, if necessary, is it unreasonable
4 for a city with that high crime rate to say no handguns
5 here?

6 JUSTICE SCALIA: You want to say yes.

7 JUSTICE BREYER: Now, why?

8 JUSTICE SCALIA: That's your answer.

9 JUSTICE BREYER: Well, you want to say yes,
10 that's correct, but I want to hear what the reasoning is
11 because there is a big crime problem. I'm simply
12 getting you to focus on that.

13 MR. GURA: The answer is yes, as Justice
14 Scalia noted, and it's unreasonable, and it actually
15 fails any standard of review that might be offered under
16 such a construction of individual rights because
17 proficiency with handguns, as recognized as a matter of
18 judicial notice by the First Circuit in Cases back in
19 1942 -- that was a handgun case where the First Circuit
20 examined the restriction on the carrying of the
21 30-caliber revolver. And the First Circuit accepted, as
22 a matter of judicial notice, that proficiency in use and
23 familiarity with the handgun at issue would be one that
24 would further a militia purpose. And so --

25 JUSTICE STEVENS: Let me ask this question:

Official - Subject to Final Review

1 In answering yes, do you attach any significance to the
2 reference to the militia in the Second Amendment?

3 MR. GURA: Yes, I do, Your Honor.

4 JUSTICE STEVENS: You think that is -- to
5 understand the amendment, you must pay some attention to
6 the militia requirement?

7 MR. GURA: Yes, Your Honor, we must --

8 CHIEF JUSTICE ROBERTS: So a conscientious
9 objector who likes to hunt deer for food, you would say,
10 has no rights under the Second Amendment. He is not
11 going to be part of the militia. He is not going to be
12 part of the common defense, but he still wants to bear
13 arms. You would say that he doesn't have any rights
14 under this amendment?

15 MR. GURA: No, Your Honor. I think that the
16 militia clause informs the purpose -- informs a purpose.
17 It gives us some guidepost as to how we look at the
18 Second Amendment, but it's not the exclusive purpose of
19 the Second Amendment. Certainly, the Founders cared
20 very much about --

21 JUSTICE GINSBURG: Is it a limitation? Is
22 it any limitation on the legislature? Is the first
23 clause any limitation on the legislature?

24 MR. GURA: It is a limitation to one extent,
25 Your Honor, the extent recognized in Miller where the

Official - Subject to Final Review

1 Miller Court asked whether or not a particular type of
2 arm that's at issue is one that people may individually
3 possess. It looked to the militia clause and,
4 therefore, adopted a militia purpose as one of the two
5 prongs of Miller.

6 And so, certainly, if there were -- if the
7 Court were to continue Miller -- and Miller was the only
8 guidance that the lower court had, certainly, as to what
9 arms are protected or unprotected by the Second
10 Amendment. And yet --

11 JUSTICE STEVENS: If it limits the kinds of
12 arms to be appropriate to a militia, why does it not
13 also limit the kind of people who may have arms?

14 MR. GURA: It does not eliminate the kind of
15 people, Your Honor, because the Second Amendment is the
16 right of the people. And it would certainly be an odd
17 right that we would have against the Congress, if
18 Congress could then redefine people out of that right.
19 Congress could tomorrow declare that nobody is in a
20 militia, and then nobody would have the right against
21 the government.

22 JUSTICE GINSBURG: If you were thinking of
23 "the people," what those words meant when the Second
24 Amendment was adopted, it was males between the ages of
25 what -- 17 and 45? People who were over 45 had no --

Official - Subject to Final Review

1 they didn't serve in the militia.

2 MR. GURA: Well, certainly, there were many
3 people who were not eligible for militia duty, or not
4 subject to militia service, who nevertheless were
5 expected to, and oftentimes did, in fact, have guns.

6 JUSTICE SCALIA: Which shows that maybe
7 you're being unrealistic in thinking that the second
8 clause is not broader than the first. It's not at all
9 uncommon for a legislative provision or a constitutional
10 provision to go further than is necessary for the
11 principal purpose involved.

12 The principal purpose here is the militia,
13 but the -- but the second clause goes beyond the militia
14 and says the right of the people to keep and bear arms.

15 Now, you may say the kind of arms is colored
16 by the militia. But it speaks of the right of the
17 people. So why not acknowledge that it's -- it's
18 broader than the first clause?

19 MR. GURA: Well, we do acknowledge that,
20 Your Honor.

21 JUSTICE SOUTER: Then why have the first
22 clause? I mean what is it doing -- I mean what help is
23 it going to be?

24 MR. GURA: Well, it was a way in which to
25 remind us -- the Framers certainly felt that a militia

Official - Subject to Final Review

1 was very important to the preservation of liberty. The
2 Framers had just fought a revolutionary war that relied
3 heavily on militia forces, and so they wanted to honor
4 that and remind us as to the purpose -- one purpose, not
5 the exclusive purpose, but a purpose -- of preserving
6 the right --

7 JUSTICE KENNEDY: Could it also be simply to
8 reaffirm that the provisions in the main text of the
9 Constitution remain intact?

10 MR. GURA: That's correct, Your Honor. In
11 fact, that view was taken by William Rawle in his 1828
12 treatise, view of the Constitution. Rawle was, of
13 course, a ratifier of the Second Amendment. He sat in
14 the Pennsylvania Assembly in 1790. And if you look at
15 his description of the Second Amendment, he bifurcates
16 it. First, he discusses the militia clause, and he
17 lavishes some qualified praise on it. And then --

18 JUSTICE KENNEDY: But you were about to tell
19 us before the course of the questioning began about the
20 other purposes that the amendment served. I'm -- I want
21 to know whether or not, in your view, the operative
22 clause of the amendment protects, or was designed to
23 protect in an earlier time, the settler in the
24 wilderness and his right to have a gun against some
25 conceivable Federal enactment which would prohibit him

Official - Subject to Final Review

1 from having any guns?

2 MR. GURA: Oh, yes. Yes, Justice Kennedy.
3 The right of the people to keep and bear arms was
4 derived from Blackstone. It was derived from the
5 common-law English right which the Founders wanted to
6 expand.

7 In fact, the chapter in which Blackstone
8 discusses this in his treatise, his fifth auxiliary
9 right to arms, is entitled --

10 JUSTICE BREYER: That brings me back to the
11 question because Blackstone describes it as a right to
12 keep and bear arms "under law." And since he uses the
13 words "under law," he clearly foresees reasonable
14 regulation of that right. And so does the case not
15 hinge on, even given all your views, on whether it is or
16 is not a reasonable or slightly tougher standard thing
17 to do to ban the handgun, while leaving you free to use
18 other weapons?

19 I mean, I notice that the militia statute,
20 the first one, spoke of people coming to report, in
21 1790, or whenever, with their rifles, with their
22 muskets, but only the officers were to bring pistols.
23 So that, to me, suggests they didn't see pistols as
24 crucial even then, let alone now.

25 MR. GURA: Well, certainly they saw --

Official - Subject to Final Review

1 JUSTICE BREYER: What's your response to the
2 question?

3 MR. GURA: Well, my response is that the
4 government can ban arms that are not appropriate for
5 civilian use. There is no question of that.

6 JUSTICE KENNEDY: That are not appropriate
7 to --

8 MR. GURA: That are not appropriate to
9 civilian use.

10 JUSTICE GINSBURG: For example?

11 MR. GURA: For example, I think machine
12 guns: It's difficult to imagine a construction of
13 Miller, or a construction of the lower court's opinion,
14 that would sanction machine guns or the plastic,
15 undetectable handguns that the Solicitor General spoke
16 of.

17 The fact is that this Court's Miller test
18 was the only guidance that we had below, and I think it
19 was applied faithfully. Once a weapon is, first of all,
20 an "arm" under the dictionary definition -- and Webster
21 has a very useful one -- then you look to see whether
22 it's an arm that is meant to be protected under the
23 Second Amendment, and we apply the two-pronged Miller
24 test. And usually one would imagine if an arm fails the
25 Miller test because it's not appropriate for common

Official - Subject to Final Review

1 civilian applications --

2 JUSTICE GINSBURG: But why wouldn't the
3 machine gun qualify? General Clement told us that's
4 standard issue in the military.

5 MR. GURA: But it's not an arm of the type
6 that people might be expected to possess commonly in
7 ordinary use. That's the other aspect of Miller.
8 Miller spoke about the militia as encompassing the
9 notion that people would bring with them arms of the
10 kind in common use supplied by themselves. And --

11 CHIEF JUSTICE ROBERTS: Is there any
12 parallel --

13 JUSTICE GINSBURG: At this time -- I would
14 just like to follow up on what you said, because if you
15 were right that it was at that time, yes; but that's not
16 what Miller says. It says that the gun in question
17 there was not one that at this time -- this time, the
18 time of the Miller decision -- has a reasonable
19 relationship to the preservation or efficiency of a
20 well-regulated militia. So it's talking about this
21 time.

22 MR. GURA: That's correct. The time frame
23 that the Court must address is always the present. The
24 framers wished to preserve the right to keep and bear
25 arms. They wished to preserve the ability of people to

Official - Subject to Final Review

1 act as militia, and so there was certainly no plan for,
2 say, a technical obsolescence.

3 However, the fact is that Miller spoke very
4 strongly about the fact that people were expected to
5 bring arms supplied by themselves of the kind in common
6 use at the time. So if in this time people do not have,
7 or are not recognized by any court to have, a common
8 application for, say, a machine gun or a rocket launcher
9 or some other sort of --

10 CHIEF JUSTICE ROBERTS: Is there any
11 parallel at the time that the amendment was adopted to
12 the machine gun? In other words, I understand your
13 point to be that, although that's useful in modern
14 military service, it's not something civilians possess.
15 Was there anything like that at the time of the
16 adoption, or were the civilian arms exactly the same as
17 the ones you'd use in the military?

18 MR. GURA: At the time that -- even at the
19 time Miller was decided, the civilian arms were pretty
20 much the sort that were used in the military. However,
21 it's hard to imagine how a machine gun could be a
22 "lineal descendent," to use the D.C. Circuit's wording,
23 of anything that existed back in 1791, if we want to
24 look to the framing era. Machine guns --

25 JUSTICE KENNEDY: It seems to me that

Official - Subject to Final Review

1 Miller, as we're discussing it now, and the whole idea
2 that the militia clause has a major effect in
3 interpreting the operative clause is both overinclusive
4 and underinclusive. I would have to agree with Justice
5 Ginsburg that a machine gun is probably more related to
6 the militia now than a pistol is. But that -- that
7 seems to me to be allowing the militia clause to make no
8 sense out of the operative clause in present-day
9 circumstances.

10 MR. GURA: Your Honor, even within the
11 militia understanding, the understanding of the militia
12 was always that people would bring whatever they had
13 with them in civilian life. So if a machine gun, even
14 though it may be a wonderful --

15 JUSTICE KENNEDY: My point is: Why is that
16 of any real relevance to the situation that faces the
17 homeowner today?

18 MR. GURA: It's only of relevance if the
19 Court wishes to continue reading the militia clause as
20 informing the type of weapon which is protected.

21 JUSTICE KENNEDY: Well, you're being
22 faithful to Miller. I suggest that Miller may be
23 deficient.

24 MR. GURA: I agree with Your Honor, and
25 certainly in our brief we suggest that the militia

Official - Subject to Final Review

1 emphasis of Miller is not useful as a limiting principle
2 to the type of arms that may be -- that may be
3 permitted. Because, on the one hand, there's a great
4 deal of weaponry that might be wonderful for military
5 duty but is not appropriate for common civilian use,
6 which would not be protected even under the Miller
7 test's first prong.

8 And, on the other hand, everything that
9 civilians today might wish to have in ordinary common
10 use -- handguns, rifles, and shotguns -- are militarily
11 useful weapons.

12 So we de-emphasize the military aspects of
13 Miller as being ultimately not very useful guidance for
14 courts. And the better guidance would be to emphasize
15 the commonsense rule that I think judges would have
16 really no trouble applying, and we do this all the time
17 in constitutional law: To simply make a decision as to
18 whether or not whichever arm comes up at issue is an arm
19 of the kind that you could really reasonably expect
20 civilians to have.

21 JUSTICE BREYER: Why -- now, when say "keep"
22 and "bear," I mean you are -- I think you're on to
23 something here. Because you say let's use our common
24 sense and see what would be the equivalent today. Fine.

25 If we know that at the time, in 1789,

Official - Subject to Final Review

1 Massachusetts had a law that said you cannot keep loaded
2 firearms in the house, right, and you have to keep all
3 of the bullets and everything and all of the powder
4 upstairs, why did they have that law? To stop fires
5 because it's dangerous? They didn't have fire
6 departments. Now we do -- or they weren't as good.

7 We now have police departments, and the
8 crime wave might be said similar to what were fires
9 then. And, therefore, applying the similar kind of
10 thing, you say: Fine, just as you could keep pistols
11 loaded but not -- not loaded. You had to keep powder
12 upstairs because of the risk of fire. So today,
13 roughly, you can say no handguns in the city because of
14 the risk of crime.

15 Things change. But we give in both
16 instances, then and now, leeway to the city and States
17 to work out what's reasonable in light of their
18 problems. Would that be a way of approaching it?

19 MR. GURA: The legislature has a great deal
20 of leeway in regulating firearms. There is no dispute
21 about that. However, I wouldn't draw a complete analogy
22 between the Boston fire ordinances that Your Honor notes
23 and the functional firearms ban.

24 First, even the Boston firearms ordinances
25 did not include handguns actually. At the time the word

Official - Subject to Final Review

1 "firearm" was not understood to include pistols.
2 General Gage's inventory of weapons seized from the
3 Americans in Boston included some 1800 or so firearms
4 and then 634 pistols. Nowhere in the Boston code do we
5 see a prohibition on keeping loaded pistols in the home.
6 And certainly the idea that -- that self-defense is a
7 harm is one that is --

8 JUSTICE BREYER: Not self-defense being the
9 harm. And I agree with you that this, the firearm
10 analogy, floats up there, but it isn't going to decide
11 this case, the Massachusetts statute. I agree with you
12 about that.

13 What you've suddenly given me the idea of
14 doing, which I'm testing, is to focus not just on what
15 the kind of weapon is -- don't just look to see whether
16 it's a cannon or a machine gun, but look to see what the
17 purpose of this regulation is, and does it make sense in
18 terms of having the possibility of people trained in
19 firearms?

20 Let's look at those military briefs. Let's
21 say that the generals have it right, there is some kind
22 of right to keep trained in the use of firearms subject
23 to regulation. We have regulation worried about crime,
24 back to my first question.

25 MR. GURA: Well, back to Your Honor's first

Official - Subject to Final Review

1 question, we don't agree that the military purpose is
2 the exclusive purpose of the Second Amendment. And we
3 also don't agree that it could be a reasonable
4 regulation or under any standard of review to prohibit
5 people from having functional firearms in their own home
6 for purposes of self-defense.

7 JUSTICE SCALIA: You don't even agree that
8 Massachusetts was subject to the Second Amendment.

9 MR. GURA: Well, originally it was not. But
10 what we've seen with the Fourteenth Amendment, and we've
11 seen --

12 JUSTICE SCALIA: But the time we're talking
13 about, the firearms in the home ordinance, when was
14 that?

15 MR. GURA: 1783 I believe was the statute.

16 JUSTICE STEVENS: How do you explain the
17 fact that you include self-defense, but only two States,
18 Pennsylvania and Vermont, did refer to self-defense as a
19 permissible justification and all of the others referred
20 to common defense or defense of the State, and in the
21 Articles of Confederation and the Constitution itself
22 there is no reference to self-defense?

23 MR. GURA: Your Honor, the State courts
24 interpreting those provisions that you reference had a
25 different interpretation. For example, in 1895

Official - Subject to Final Review

1 Massachusetts --

2 JUSTICE STEVENS: 1895. I'm talking about
3 contemporaneous with the adoption of the Second
4 Amendment.

5 MR. GURA: Well, at the time we haven't seen
6 State court decisions from exactly that era.

7 JUSTICE STEVENS: Just the text of the State
8 constitutional provisions, two of them refer to
9 self-defense. The rest refer only to common defense; is
10 that not correct?

11 MR. GURA: On their literal text, yes. But
12 judges did not interpret them that way, for example in
13 North Carolina --

14 JUSTICE STEVENS: I understand that judicial
15 interpretation sometimes is controlling and sometimes is
16 not. But the text itself does draw a distinction, just
17 as the Second Amendment does. It doesn't mention
18 self-defense.

19 MR. GURA: While it might not mention
20 self-defense, it was clear that the demands that the
21 States made at the ratifying conventions were for an
22 individual right, and Madison was interested in --

23 JUSTICE STEVENS: Well, if you look at the
24 individual rights I suppose you start back in 1689, the
25 Declaration of Rights in England. And the seventh

Official - Subject to Final Review

1 provision that they talked about said that: "The
2 subjects which are protestants may have arms for their
3 defense suitable to their conditions and as allowed by
4 law." Now do you think the term "suitable to their
5 conditions" limited the number of people who had access
6 to arms for self-defense?

7 MR. GURA: It was in England, but that was
8 criticized by the framers. St. George Tucker's edition
9 of Blackstone --

10 JUSTICE STEVENS: So you think that the
11 Second Amendment is a departure from the provision in
12 the Declaration of Rights in England?

13 MR. GURA: It's quite clearly an expansion
14 upon it.

15 JUSTICE STEVENS: So that's not really
16 your -- you would not confine the right the way the
17 English did then.

18 MR. GURA: I think the common law of England
19 is a guide, and it's always a useful guide because
20 that's where the -- where we -- where we look to, to
21 interpret --

22 JUSTICE SCALIA: It's useful for such
23 purposes as what "keep and bear arms" means and things
24 of that sort.

25 MR. GURA: It certainly is, Your Honor. And

Official - Subject to Final Review

1 it's also useful to see how --

2 JUSTICE SCALIA: They certainly didn't want
3 to preserve the kind of militia that America had, which
4 was a militia separate from the state, separate from the
5 government, which enabled the revolt against the
6 British.

7 MR. GURA: That's correct, Your Honor.

8 JUSTICE SOUTER: Is there any -- is there
9 any record evidence that the anti-Federalist objections
10 to the Constitution that ultimately resulted in the
11 Second Amendment were premised on any failure to
12 recognize an individual right of self-defense or hunting
13 or whatnot, as distinct from being premised on concern
14 about the power of the national government and the
15 militia clauses in Article 1?

16 MR. GURA: Yes, Justice Souter. If we look
17 to, for example, the -- the demands of the Pennsylvania
18 minority, the anti-Federalists there were extremely
19 influential. They couched their demands in unmistakably
20 self-defense terms. In fact, they added a provision --

21 JUSTICE SOUTER: No, but they didn't -- they
22 didn't limit it to self-defense. I mean, what provoked
23 it, as I understand it, was concern about the militia
24 clauses, and here I mean you're certainly correct. I
25 agree with you. Pennsylvania went beyond that. It

Official - Subject to Final Review

1 was -- it was one of three States, as I understand, that
2 did go beyond it. But the provocation for getting into
3 the subject, as I understand it, was, in each instance
4 including Pennsylvania, concern over the national
5 government's power over militias under Article 1.

6 MR. GURA: Justice Souter, we wouldn't see
7 the history that way. Certainly there is agreement that
8 the militia clauses in the Constitution were
9 controversial. And there were separate amendments that
10 were proposed and always rejected that would have
11 addressed that explicitly. In fact, if we look at
12 Virginia's proposals, it's agreed by the Petitioners
13 that Virginia was the model for the Bill of Rights and
14 specifically, of course, for the Second Amendment.

15 We saw one set of proposed amendments from
16 Virginia entitled Bill of Rights, and the Second
17 Amendment language comes from paragraph 17 of that Bill
18 of Rights. And then we see a list of other amendments,
19 and then we have the 11th proposed amendment, which
20 speaks exactly to the -- reverting control over the
21 militia back to the -- back to the States.

22 Now, there is no reason to suppose that
23 Virginia would have made the same demand twice, that
24 they would have, like all the other demands, it had
25 separate "keep and bear arms" provisions and separate

Official - Subject to Final Review

1 militia provisions, that people were being duplicative
2 for no reason. The fact is that the militia concerns
3 were heard and they were voted down, and the Second
4 Amendment concerns were the ones that the Federalists
5 were easily agreeable to because the right to keep and
6 bear arms by individuals was not controversial, it would
7 not have altered the structure of our Constitution, and
8 so those were agreed to quite readily.

9 CHIEF JUSTICE ROBERTS: Why isn't the
10 trigger-lock provisions that are at issue here, why
11 aren't they similar to the various provisions that
12 Justice Breyer mentioned like the gunpowder restriction?
13 In other words, for reasons of domestic safety, they
14 said you can't store the gunpowder anywhere but on the
15 top floor. Why isn't the modern trigger-lock provision
16 similar to those?

17 MR. GURA: Well, it's not similar because
18 the modern trigger-lock provisions are aimed squarely at
19 self-defense in the home. There is no risk today that
20 the kind of powder we use --

21 CHIEF JUSTICE ROBERTS: Well, there is
22 always a risk that the children will get up and grab the
23 firearm and use it for some purpose other than what the
24 Second Amendment was designed to protect.

25 MR. GURA: Oddly enough, a child can access

Official - Subject to Final Review

1 a firearm stored consistently with the District's law,
2 that is, a firearm which is disassembled and unloaded,
3 nothing would prevent a child --

4 CHIEF JUSTICE ROBERTS: Well, right. But, I
5 mean, you don't necessarily expect a young child to be
6 able to reassemble the pistol.

7 MR. GURA: That's true, Your Honor.
8 However, better safe storage approach is the one used by
9 the majority of jurisdictions, I believe, that do have
10 such laws, which is to require safe storage, for
11 example, in a safe. And that is a reasonable
12 limitation. It's a strict scrutiny limitation.
13 Whatever standard of view we may wish to apply, I think,
14 would encompass a safe storage provision.

15 But this is not a safe storage provision
16 because we have specific exceptions that allow you to
17 actually use the firearm in recreational shooting and
18 also in a place of business. And we have litigation
19 history from Washington, D.C., that tells us that we are
20 not supposed to have an operable firearm for purposes of
21 self-defense because they simply do not trust people to
22 defend themselves in our home. And -- and self-defense
23 is the heart of the Second Amendment right. That is
24 what Blackstone was getting at when he spoke of the
25 fifth auxiliary right to arms, because it protected the

Official - Subject to Final Review

1 right of personal preservation.

2 JUSTICE STEVENS: You say that the right of
3 self-defense was the heart of the Second Amendment, in
4 your view. Strangely that some provisions suggested
5 that and were not accepted by the authors of the Second
6 Amendment.

7 MR. GURA: Which provisions were those,
8 Justice Stevens?

9 JUSTICE STEVENS: Pennsylvania.

10 MR. GURA: Well, Pennsylvania's provision
11 was certainly influential. Remember, Madison was trying
12 to mollify the anti-Federalists' concerns. The Second
13 Amendment is clearly addressed to Pennsylvania and New
14 Hampshire and New York and all these other States that
15 were demanding a right to keep and bear arms, and there
16 was always understood to be an individual right because
17 that is the way in which the right that was violated by
18 the British in the war of revolution that occurred not
19 too long ago. And --

20 I'm finished.

21 JUSTICE BREYER: Thinking of your exchange
22 with the Chief Justice and think of the trigger lock in
23 your view and what the question was, do you want -- I
24 don't know how well trigger locks work or not -- but do
25 you want thousands of judges all over the United States

Official - Subject to Final Review

1 to be deciding that kind of question rather than the
2 city councils and the legislatures that have decided it
3 in the context of passing laws? I mean, isn't there an
4 issue here and a problem with respect to having courts
5 make the kinds of decisions about who is right or not in
6 that trigger-lock argument?

7 MR. GURA: When a fundamental right is at
8 stake, there is a role for judicial review, Your Honor.
9 We are not going to see a thousand judges review such
10 laws because Washington, D.C.'s is the only example of
11 it.

12 JUSTICE GINSBURG: If it's a fundamental
13 right, what about licensing? One piece -- we've talked
14 about trigger locks, we've talked about the ban on
15 handguns, but there is also a requirement that there be
16 a license for possession of a handgun. Assuming you're
17 right on the first question, that you couldn't flatly
18 ban handguns, what about a requirement that you obtain a
19 license to carry -- to have a handgun?

20 MR. GURA: Justice Ginsburg, that would
21 depend on the licensing law itself. We don't have a
22 problem with the concept of licensing so long as it's
23 done --

24 JUSTICE GINSBURG: What about this very law?
25 If you take out the ban -- there is a law on the books.

Official - Subject to Final Review

1 It's one of the ones that you challenged. It's section
2 22-4504(a). Wouldn't that be okay -- would that be
3 okay? It says that you have to have a license to carry.

4 MR. GURA: So long as the licensing law is
5 not enforced in an arbitrary and capricious manner, so
6 long as there are some hopefully objective standards and
7 hopefully some process for --

8 JUSTICE GINSBURG: It just says -- it says
9 you have to get a license if you want to possess a gun.
10 What kind of standard? It just says you have to have a
11 license.

12 MR. GURA: Well, the government could set
13 reasonable standards for that, Your Honor. The
14 government could require, for example, knowledge of the
15 State's use of force laws. They can require some sort
16 of vision test. They could require, perhaps,
17 demonstrated competency. And those are the types of
18 things that we sometimes see; background checks, of
19 course. Those are going to be reasonable licensing
20 requirements.

21 However, if the license requirement is we
22 only wanted to give licenses to people who look a
23 certain way or depends on how we feel or if the
24 licensing office is only open Thursdays at 3:00 in the
25 morning -- I mean, it all depends on the implementation.

Official - Subject to Final Review

1 And --

2 CHIEF JUSTICE ROBERTS: What about -- what
3 about age limits -- you've got to be over 18 or you've
4 got to be over 21 to get a license?

5 MR. GURA: Well, certainly the
6 age-of-majority issue is -- is an appropriate one. I
7 don't think there is a problem with requiring a majority
8 age 18 and then 21 for --

9 CHIEF JUSTICE ROBERTS: Is the age limit
10 necessarily the same nationwide? Maybe 16 in Wyoming
11 makes more sense but 21 in the District.

12 MR. GURA: Courts would have to examine
13 those at some point. The government would have to look
14 at the circumstances it confronted and enact, up to some
15 point, an age limit. I think it would be very difficult
16 to have an age limit that goes beyond 21, because that's
17 the majority age for most things in the United States.
18 And, in fact, we have the voting rights cases from the
19 late '60s where --

20 JUSTICE STEVENS: May I ask this question?
21 Are you, in effect, reading the amendment to say that
22 the right shall not be unreasonably infringed instead of
23 shall not be infringed?

24 MR. GURA: There is that inherent aspect to
25 every right in the Constitution.

Official - Subject to Final Review

1 JUSTICE STEVENS: So we can -- consistent
2 with your view, we can simply read this: "It shall not
3 be unreasonably infringed"?

4 MR. GURA: Well, yes, Your Honor, to some
5 extent, except the word "unreasonable" is the one that
6 troubles us because we don't know what this unreasonable
7 standard looks like.

8 JUSTICE SCALIA: You wouldn't put it that
9 way. You would just say it is not being infringed if
10 reasonable limitations are placed upon it.

11 MR. GURA: That's another way to look at it,
12 Your Honor. Certainly --

13 CHIEF JUSTICE ROBERTS: -- you would define
14 "reasonable" in light of the restrictions that existed
15 at the time the amendment was adopted.

16 MR. GURA: Those restrictions --

17 CHIEF JUSTICE ROBERTS: You know, you can't
18 take it into the marketplace was one restriction. So
19 that would be -- we are talking about lineal descendents
20 of the arms but presumably there are lineal descendents
21 of the restrictions as well.

22 MR. GURA: Framing our practices would
23 inform the kind of restrictions that would be accepted.
24 But even beyond that, they also inform the contours of
25 the right. In the Fifth Circuit, for example, we have

Official - Subject to Final Review

1 the Emerson decision now for seven years, and the way
2 that that court has examined the Second Amendment when
3 they get these felon and possession bans and drug addict
4 and possession challenges, what they say is, these
5 people simply are outside the right, as historically
6 understood in our country. And that's a very important
7 aspect to remember, that the Second Amendment is part of
8 our common law tradition, and we look to framing our
9 practices in traditional understandings of that right to
10 see both the reasonableness of the restrictions that are
11 available as well as the contours.

12 JUSTICE SOUTER: Can we also look to current
13 conditions like current crime statistics?

14 MR. GURA: To some extent, Your Honor, but
15 we have certainly --

16 JUSTICE SOUTER: Well, can they consider the
17 extent of the murder rate in Washington, D.C., using
18 handguns?

19 MR. GURA: If we were to consider the extent
20 of the murder rate with handguns, the law would not
21 survive any type of review, Your Honor.

22 JUSTICE SCALIA: All the more reason to
23 allow a homeowner to have a handgun.

24 MR. GURA: Absolutely, Your Honor.

25 JUSTICE BREYER: Whose judgment is that

Official - Subject to Final Review

1 to --

2 JUSTICE SOUTER: The question is whether
3 they may consider those statistics, and I take it your
4 answer is yes?

5 MR. GURA: Well, those statistics might be
6 considered in some way, the fact is that at some point
7 there is a role for judicial review. And you can't just
8 grab at statistics -- and some of the statistics that
9 were used here are very weak, and studies that have been
10 rejected by the National Academy of Sciences repeatedly.
11 I mean, we don't really have -- it's hard to say that
12 those laws --

13 JUSTICE SOUTER: But I think -- I don't want
14 you to misunderstand my question. My question is that
15 by looking to the statistics, I'm not suggesting that
16 there is only sort of one reasonable response to them.
17 I want to know whether -- whether the policymakers may
18 look to them; and I take it your answer is yes?

19 MR. GURA: To some degree, yes, policymakers
20 have to be informed by what's going on in order to make
21 policy. However, there are constitutional limitations
22 enforced by courts that are going to limit those
23 policies. And when you have a ban which bans 40 percent
24 of all weapons that are the type of weapons used by
25 civilians, 80 percent of all self-defense occurs with

Official - Subject to Final Review

1 handguns; when you have that kind of ban, functional
2 firearms ban, these are extreme measures --

3 JUSTICE SOUTER: They may be. I just want
4 to make sure you're not making the argument that because
5 there was not a comparable homicide rate, or for that
6 matter, a comparable need for self-defense from handgun
7 use in 1792, that there -- 1790 -- that therefore, the
8 statistics of today may not be considered? You're not
9 making that argument?

10 MR. GURA: No, Your Honor, the fact is that
11 we can always debate these things, but the object of the
12 Bill of Rights is to remove certain judgments from the
13 legislature, because we can make policy arguments,
14 normative arguments about many provisions of the
15 Constitution. But to make those arguments and say,
16 well, we've decided as a matter of policy that the right
17 to keep and bear arms is no longer a good idea and,
18 therefore, we are going to have restrictions that
19 violate that stricture in the Bill of Rights, that
20 shouldn't pass judicial review. At some point you have
21 to go to Article 5 if you think that the Constitution is
22 impractical.

23 JUSTICE KENNEDY: But Just to be clear --
24 and I don't want to misstate your position, but my
25 understanding, I at least inferred that you would

Official - Subject to Final Review

1 consider it reasonable to ban shipment of machine guns
2 and sawed-off shotguns in interstate commerce?

3 MR. GURA: Yes, Your Honor.

4 JUSTICE STEVENS: And how about a State
5 university wants to ban students having arms in the
6 dormitory?

7 MR. GURA: Certainly that creates some sort
8 of an evidentiary record. Conceivably that --

9 JUSTICE STEVENS: That's the bare fact.
10 That's what -- a State regulation prohibits students
11 from having arms on campus.

12 MR. GURA: We would have to do --

13 JUSTICE STEVENS: You'd have to think about
14 that.

15 MR. GURA: -- some fact finding. It's
16 something that might be doable, but again, that's so far
17 from what we have here. We have here a ban on all guns,
18 for all people, in all homes, at all times in the
19 Nation's capital. That questionably is too broad and
20 too sweeping under any level of review.

21 Thank you, Your Honor.

22 CHIEF JUSTICE ROBERTS: Thank you, Gura.

23 Mr. Dellinger, 10 minutes.

24 REBUTTAL ARGUMENT OF WALTER DELLINGER,

25 ON BEHALF OF THE PETITIONERS

Official - Subject to Final Review

1 MR. DELLINGER: Mr. Chief Justice, I want to
2 address first why this law is reasonable and should be
3 sustained, and why the judgement below has to be
4 reversed, however, whatever position you take on the
5 theories of the amendment. And in defending the eminent
6 reasonableness and careful balance of this law, I need
7 to start with the trigger law, about which Justice Alito
8 asked.

9 CHIEF JUSTICE ROBERTS: Well, before you
10 start with it, how many minutes does it take to remove a
11 trigger lock and load a gun? Because both the gun has
12 to be unloaded; it has to have a trigger lock under the
13 District laws.

14 MR. DELLINGER: Those are alternatives, Mr.
15 Chief Justice.

16 CHIEF JUSTICE ROBERTS: No, disassembled --

17 MR. DELLINGER: Just a trigger lock.

18 CHIEF JUSTICE ROBERTS: In either case it
19 has to be unloaded, correct?

20 MR. DELLINGER: There are some versions of
21 the trigger lock that allow you to put the trigger lock
22 on and then load the gun. But the piece that goes in
23 the trigger mechanism, even someone as clumsy as I could
24 remove it and effect it --

25 CHIEF JUSTICE ROBERTS: Well, the law, as I

Official - Subject to Final Review

1 understand it, says that the gun has to be unloaded. So
2 under your hypothetical, I assume that would violate the
3 District's law if the gun is still loaded.

4 MR. DELLINGER: You know, it's a question of
5 where you put the parenthesis. I read that as
6 disassembled and unloaded or under a trigger lock, and
7 that's the, that's the way the District --

8 CHIEF JUSTICE ROBERTS: So how long does it
9 take? If your interpretation is correct, how long does
10 it take to remove the trigger lock and make the gun
11 operable.

12 MR. DELLINGER: You -- you place a trigger
13 lock on and it has -- the version I have, a few -- you
14 can buy them at 17th Street Hardware -- has a code, like
15 a three-digit code. You turn to the code and you pull
16 it apart. That's all it takes. Even -- it took me 3
17 seconds.

18 JUSTICE SCALIA: You turn on, you turn on
19 the lamp next to your bed so you can -- you can turn the
20 knob at 3-22-95, and so somebody --

21 MR. DELLINGER: Well --

22 CHIEF JUSTICE ROBERTS: Is it like that? Is
23 it a numerical code?

24 MR. DELLINGER: Yes, you can have one with a
25 numerical code.

Official - Subject to Final Review

1 CHIEF JUSTICE ROBERTS: So then you turn on
2 the lamp, you pick up your reading glasses --

3 (Laughter.)

4 MR. DELLINGER: Let me tell you. That's
5 right. Let me tell you why at the end of the day this
6 doesn't -- this doesn't matter, for two reasons. The
7 lesson --

8 CHIEF JUSTICE ROBERTS: It may not matter,
9 but I'd like some idea about how long it takes.

10 MR. DELLINGER: It took me 3 seconds. I'm
11 not kidding. It's -- it's not that difficult to do it.
12 That was in daylight.

13 The other version is just a loop that goes
14 through the chamber with a simple key. You have the key
15 and put it together. Now, of course if you're going --
16 if you want to have your weapon loaded and assembled,
17 that's a different matter.

18 But here's where I want to address the
19 trigger lock. Here's why it doesn't matter for the
20 handgun law. The District believes that what is
21 important here is the ban on handguns. And it also
22 believes that you're entitled to have a functional,
23 usable weapon for self-defense in the home, and that's
24 why this is a very proportionate law.

25 CHIEF JUSTICE ROBERTS: Well, if

Official - Subject to Final Review

1 proportionate, in other words you're saying your
2 interest is allowing self-defense in the home --

3 MR. DELLINGER: Yes.

4 CHIEF JUSTICE ROBERTS: Does it really make
5 sense to say the best self-defense arm is a rifle, as
6 opposed to a pistol?

7 MR. DELLINGER: It is -- there has been no
8 showing here that a rifle or a shotgun is inadequate for
9 the purposes of self-defense in this facial challenge.

10 JUSTICE ALITO: Is there anything to show
11 that the District Council ever considered the issue of
12 self-defense? That -- because they banned handguns and
13 they had this provision on the trigger lock which -- and
14 the issue -- my question with the trigger lock doesn't
15 have to do with whether trigger locks are generally a
16 good idea. It's whether you're ever allowed to take it
17 off for purposes of defense. There's no -- is there
18 anything to show that the -- that the council actually
19 considered what sort of weapon is appropriate for
20 self-defense?

21 MR. DELLINGER: There are decisions in the
22 District of Columbia about the right of self-defense
23 that apply to this. But here's the most important
24 point. It cannot affect the validity of the handgun
25 law. If you disagree with us that my statements are not

Official - Subject to Final Review

1 sufficient to say that we believe that the law should be
2 read, given the self-defense compulsion, to allow
3 whatever use makes it functional, if you don't agree
4 with that and if you think there's a controversy on this
5 point, because we believe you should have a functional
6 firearm available in the home of law-abiding citizens
7 who wish one, if we are wrong about that and the trigger
8 lock is invalid, that has no effect on the handgun ban.

9 That is to say, the trigger lock applies to
10 all weapons. If it's valid and it means what they say
11 it does, none of the weapons would work. We don't need
12 a handgun; it's unusable. If it's invalid or if it has
13 the construction we believe, it cannot possibly affect
14 the handgun law. If you strike down the trigger lock
15 law, you're throwing us in the briar patch where we
16 think it's where we're happy to be if all we have to do
17 is to make clear in the trigger lock law what we have
18 said here today, that it's, it's available for
19 self-defense.

20 CHIEF JUSTICE ROBERTS: It's a related
21 point. Do you understand the ban -- the carry ban to
22 apply if you carry the firearm from one room in the
23 house to another?

24 MR. DELLINGER: That only applies if it's --
25 if it's unregistered. Now, you can't register a

Official - Subject to Final Review

1 handgun, you can't carry a handgun, but that's because
2 its both -- its possession is prohibited. That is to
3 say you can't carry marijuana or heroin from one room to
4 the other either, because you can't use it at all, I
5 think.

6 CHIEF JUSTICE ROBERTS: Why is the -- why is
7 the D.C. law phrased in those terms? In other words, if
8 you can't have a handgun at all, why do you have a
9 separate provision saying that you can't carry it
10 anywhere?

11 MR. DELLINGER: Well, it's -- it's -- the
12 carry provision, you cannot carry unregistered firearms.
13 That's just a general requirement, that firearms be
14 registered. You're not allowed to register handguns is
15 the mechanism by which they are prohibited.

16 Now, here is -- to address your question
17 about why a ban is unreasonable, the one thing we know
18 the Second Amendment is not about is it's not about the
19 interest of collectors. Some people collect guns the
20 way they do stamps, and if that were what the amendment
21 were about then prohibiting someone from having a
22 particular type of gun would prevent them from
23 completing the set. But the notion --

24 CHIEF JUSTICE ROBERTS: Why isn't that
25 covered by the provision that you have the right to keep

Official - Subject to Final Review

1 arms?

2 MR. DELLINGER: Well, the word "keep" would
3 encompass -- "keep" can encompass every use of an arm,
4 and that's why it provides no limit at all, unless you
5 read it in combination with "keep and bear" and that in
6 combination with "well-regulated militia."

7 JUSTICE SCALIA: You mean you can't have any
8 more arms than you would need to take with you to the
9 militia? You can't have a -- you can't have a -- you
10 know, a turkey gun and a duck gun and a 30.06 and a 270
11 and -- you know, different -- different hunting guns for
12 different --

13 MR. DELLINGER: Well --

14 JUSTICE SCALIA: You can't do that? I mean
15 a State could say you don't --

16 MR. DELLINGER: Of course you could do that.

17 JUSTICE SCALIA: You can have to have a 12
18 gauge and that's it.

19 MR. DELLINGER: And like the District that
20 allows that, as every State does. There are --

21 JUSTICE KENNEDY: I -- at least to me the
22 question is, what would be the constitutional basis for
23 insisting on Justice Scalia's suggestion that you need a
24 number of guns? You have argued, it seems to me, that
25 the District or a government could prohibit just what he

Official - Subject to Final Review

1 said, unless you needed one to take to the militia.

2 MR. DELLINGER: I do not know why that would
3 pass the reasonableness scrutiny, but this law would
4 because a powerful, overwhelming case could be made that
5 you're eliminating the one type of weapon -- this law is
6 -- is designed only for the weapon that is concealable
7 and movable, that can be taken into schools and onto the
8 Metro, can be easily stolen and transmitted among --

9 JUSTICE KENNEDY: I'm asking about the
10 constitutional standard you apply to a hypothetical
11 statute which would prohibit the guns Justice Scalia
12 described. What is your position as to the validity of
13 such a hypothetical law?

14 MR. DELLINGER: You would apply this
15 standard. You would ask whether the ban is one that's
16 carefully balanced considerations of gun ownership and
17 public safety. I don't see how, once we are in the land
18 where you -- where there is a right, there is a far
19 weaker case if there is any need for public safety to --
20 to limit the number of guns one has. Here there is an
21 overwhelming case and we are talking about local
22 legislation.

23 I know, Justice Kennedy, that you would be
24 concerned about a national government which sets a
25 single standard for rural and urban areas, for East and

Official - Subject to Final Review

1 West, North and South. Here you have legislation that
2 is adopted by a group of citizens in the District,
3 operating under the authority of Congress, but it is
4 local legislation. And if it's still good law, that
5 States and local governments across the country can
6 strike these balances, as they have, it would be deeply
7 ironic to preclude the District of Columbia as being the
8 only place that could enact legislation free of the
9 strictures of the Second Amendment.

10 And when you ask about the statistics, what
11 is critical here is not to apply the kind of categorical
12 standard the court below did or a kind of strict
13 scrutiny that would strike this law down. This is an
14 area, unlike areas where government regulation is
15 presumptively illegitimate, this text contemplates
16 regulation of inherently dangerous weapons. And where
17 the battle -- the great battle over methodology, to
18 which Justice Breyer replied, in these briefs --
19 indicates that this is the kind of right -- where you
20 have disputes among experts, it's a kind of right where
21 even if you recognize it, deference needs to be given to
22 the legislative resolution rather than have courts try
23 to decide how best to resolve the statistical and
24 methodological debates.

25 Thank you, Mr. Chief Justice.

Official - Subject to Final Review

1 CHIEF JUSTICE ROBERTS: Thank you,
2 Mr. Dellinger.

3 The case is submitted.

4 (Whereupon, at 11:43 a.m., the case in the
5 above-entitled matter was submitted.)

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Official - Subject to Final Review

A	18:14 55:4,24 61:11 77:15 90:2	allowing 22:1 25:12 51:22 62:7 85:2	82:5 87:18,20 90:9	39:12 59:19
ability 60:25	adoption 15:19 61:16 67:3	allows 21:19 88:20	amendments 15:21 32:22 70:9,15,18	applies 9:8 30:13 45:12,13 45:19 86:9,24
able 23:25 52:7 72:6	advance 26:1	all-encompass... 44:10	amendment's 4:9 14:8	apply 23:24 24:7 26:25 40:10 44:2,19,23 46:13 47:18 51:6 59:23 72:13 85:23 86:22 89:10,14 90:11
abolish 11:17	advanced 5:18	altered 71:7	America 69:3	applying 18:6 42:14 45:4 63:16 64:9
above-entitled 1:12 91:5	affect 85:24 86:13	alternatives 82:14	Americans 65:3	appointed 13:9 appoints 31:20
abridging 16:1	afresh 44:22	ambiguous 4:9	America's 52:4	approach 72:8
abruptly 30:22	age 76:3,8,9,15 76:16,17	amending 5:14	amici 48:4 52:13	approaching 64:18
absolute 46:11 46:11,13	ages 55:24	amendment 3:11,18,20,23 4:13 5:6,16,25 6:10,16 7:4 8:18 9:17 10:5 10:14,15,23 11:14,19 12:1 12:10 13:14 14:19 15:19 16:17 20:18 25:9,23 26:11 27:5,21 28:5 28:15 29:24 30:3,10,13 31:23 32:1,2,4 32:25 33:1 35:2 38:18 39:15 40:14,17 40:20,20 41:14 41:15 44:11,19 44:20 45:11,11 46:6 47:18,20 49:4 52:11 54:2,5,10,14 54:18,19 55:10 55:15,24 57:13 57:15,20,22 59:23 61:11 66:2,8,10 67:4 67:17 68:11 69:11 70:14,17 70:19 71:4,24 72:23 73:3,6 73:13 76:21 77:15 78:2,7	amicus 1:20 2:7 28:2	arm 3:15 8:1 13:7,16 14:2
absolutely 29:18 31:21 38:17 78:24	age-of-majority 76:6		analogous 29:4	
absolutist 20:15	ago 35:24 73:19		analogy 64:21 65:10	
Academy 79:10	agree 30:20 50:18,18 52:3 62:4,24 65:9 65:11 66:1,3,7 69:25 86:3		analysis 42:4,5	
accept 50:4	agreeable 71:5		analyze 30:1 31:4	
accepted 53:21 73:5 77:23	agreed 70:12 71:8		answer 17:2 24:19 36:13 41:4 42:3 53:8 53:13 79:4,18	
access 68:5 71:25	agreement 70:7		answering 54:1	
accident 33:25	aimed 27:10 71:18		ANTHONY 1:7	
accidents 51:16	AL 1:4		anti-Federalist 69:9	
accurate 23:7	ALAN 1:21 2:8 48:11		anti-Federalists 69:18 73:12	
achieve 10:23	Alexandria 1:21		anyway 30:23	
acknowledge 56:17,19	Alito 10:17,21 11:2 24:9 31:9 41:15 42:2 82:7 85:10		apart 83:16	
act 61:1	allegations 49:17		appeals 45:5,25 47:16 49:7	
actions 15:18	allow 19:1 24:4 42:12,15 47:19 48:15 72:16 78:23 82:21 86:2		appear 35:14 44:8	
acts 48:1	allowed 9:8 17:18 18:15 23:7,22,23 27:1 40:7 68:3 85:16 87:14		APPEARAN... 1:15	
actual 33:1,12			appears 17:12 35:19	
add 33:1,12			appendix 46:19 49:18	
added 69:20			application 21:17 30:16 61:8	
addict 78:3			applications 60:1	
adding 41:22			applied 20:12	
addition 6:1				
additional 34:23				
address 16:19 60:23 82:2 84:18 87:16				
addressed 70:11 73:13				
adjustment 34:11				
adopt 22:22 45:25 49:3				
adopted 15:8,12				

Official - Subject to Final Review

14:16 46:6,20 47:3,4 55:2 59:20,22,24 60:5 63:18,18 85:5 88:3 armament 46:7 armed 4:4 11:9 30:7 arming 14:1 Armored 45:21 armor-piercing 21:5 22:1,8 arms 3:19,21,22 3:24 4:3,6,9,16 6:2,21,23 7:20 8:3,10,10,20 12:20 13:22 17:25 18:2 20:17 28:22 29:1,1,16,17 29:23 30:2,17 32:23 33:24 34:25 35:13,25 36:11,19,23 37:4,7,14,19 37:23,25 38:2 38:9,9,15,19 39:3,15,16,17 47:4,22 52:6,7 54:13 55:9,12 55:13 56:14,15 58:3,9,12 59:4 60:9,25 61:5 61:16,19 63:2 68:2,6,23 70:25 71:6 72:25 73:15 77:20 80:17 81:5,11 88:1,8 army 13:1 31:8 41:8 50:25 52:18 Article 3:12 5:24,24 11:18 12:17 31:10 32:2,5 69:15 70:5 80:21	Articles 66:21 articulate 44:9 44:17,22 ascribes 31:24 Ashwan 42:14 aside 7:3 8:12 asked 21:11 55:1 82:8 asking 89:9 aspect 12:1 33:7 60:7 76:24 78:7 aspects 16:4 63:12 assemble 6:9 assembled 84:16 Assembly 57:14 assume 7:15,22 20:7 25:13,13 27:18 50:17,22 50:23 51:3,4 52:10 83:2 assuming 53:1 74:16 assumption 25:16 assure 11:9 assuring 7:11 attach 54:1 attempt 30:12 attention 54:5 attributes 10:8 authorities 29:12 31:12 authority 11:3 13:25 31:12,16 31:17 34:15,17 90:3 authors 73:5 auxiliary 58:8 72:25 available 26:15 44:13 78:11 86:6,18 aware 33:11 a.m 1:14 3:2 91:4	B back 21:7,25 23:19 34:1 35:21 53:18 58:10 61:23 65:24,25 67:24 70:21,21 background 75:18 baggage 44:20 balance 21:18 82:6 balanced 20:13 89:16 balances 90:6 Baldwin 40:16 ban 18:18,20,20 19:16 20:19 23:9,11,15,20 24:6 25:16,18 41:19 46:11,13 46:20,22,23,24 49:1,25 51:8 51:21 52:4,12 58:17 59:4 64:23 74:14,18 74:25 79:23 80:1,2 81:1,5 81:17 84:21 86:8,21,21 87:17 89:15 banned 19:15 85:12 banning 37:23 bans 78:3 79:23 bare 81:9 barring 40:23 based 45:24 basic 51:1 basis 88:22 battle 90:17,17 bear 3:19,21 4:3 6:2,21 7:20 8:3 8:10,10,20 13:22 17:25 28:22 29:1,16 32:23 33:24	35:13 36:6,10 36:12,18 37:7 37:18,25 38:14 38:19,22,22,23 39:3,15,16,17 54:12 56:14 58:3,12 60:24 63:22 68:23 70:25 71:6 73:15 80:17 88:5 bearing 3:24 4:6 4:9 35:25 36:23 37:4,13 37:14 38:9 bears 8:16 beautifully 7:19 bed 83:19 bedroom 42:18 began 57:19 behalf 1:16,19 1:21 2:4,6,9,12 3:8 28:1 48:12 51:23 81:25 believe 4:17 5:3 20:8 22:12 66:15 72:9 86:1,5,13 believes 84:20 84:22 best 4:4 14:12 85:5 90:23 better 9:25 11:24 14:7 29:2 52:7 63:14 72:8 beyond 18:6 56:13 69:25 70:2 76:16 77:24 bifurcates 57:15 big 53:11 bill 16:18,20 17:4,14 33:17 33:21,22 34:2 34:9,13,20 35:6,11,19	37:16 39:21 70:13,16,17 80:12,19 bills 32:6 Blackstone 8:22 8:23,25 9:3,9 17:12 58:4,7 58:11 68:9 72:24 Blackstonian 9:6 14:15 boil 51:11 books 18:25 19:8 74:25 borne 37:11 borrowed 33:22 35:12 Boston 64:22,24 65:3,4 branches 52:2 breaking 42:1 Breyer 21:7 25:6,7 50:15 50:21 52:14 53:7,9 58:10 59:1 63:21 65:8 71:12 73:21 78:25 90:18 briar 86:15 brief 5:18 6:5 19:14 39:11 62:25 briefs 37:11 51:9 52:3,15 65:20 90:18 bring 58:22 60:9 61:5 62:12 brings 58:10 British 7:13 69:6 73:18 broad 81:19 broader 56:8,18 buildings 23:3 builds 9:9 bullet 22:21 bullets 21:5 22:1
--	--	---	--	--

Official - Subject to Final Review

22:9 45:22 64:3 burden 37:9 buses 23:3 business 72:18 buy 83:14	37:24 cause 42:25 caused 13:11 14:2 century 37:3 certain 12:17 20:25 40:18 49:16 75:23 80:12 certainly 4:12 31:25 38:11 40:10 43:23 45:7 48:23 50:1,10 52:8 54:19 55:6,8 55:16 56:2,25 58:25 61:1 62:25 65:6 68:25 69:2,24 70:7 73:11 76:5 77:12 78:15 81:7 challenge 14:24 26:14 85:9 challenged 9:24 75:1 challenges 78:4 challenging 50:11 chamber 84:14 chance 41:4 change 64:15 chapter 58:7 characterizati... 48:5 checks 75:18 Chief 3:3,9 4:11 4:17,23 9:12 9:16 12:6,16 18:17,24 19:11 23:6,22 25:2 25:15 27:22 28:3 44:5,24 46:9,16 48:8 48:10,13 54:8 60:11 61:10 71:9,21 72:4	73:22 76:2,9 77:13,17 81:22 82:1,9,15,16 82:18,25 83:8 83:22 84:1,8 84:25 85:4 86:20 87:6,24 90:25 91:1 child 71:25 72:3 72:5 children 43:2 71:22 choice 49:11 Circuit 53:18,19 53:21 77:25 Circuit's 43:16 61:22 circumstances 11:23 62:9 76:14 citation 49:24 citizen 50:25 52:18 citizenry 35:20 citizens 21:19 48:15 86:6 90:2 city 49:11 53:1,4 64:13,16 74:2 city's 24:17 civic 16:22 civilian 52:6 59:5,9 60:1 61:16,19 62:13 63:5 civilians 61:14 63:9,20 79:25 clarifies 42:9 class 39:24 clause 4:1,2,10 5:20,22 6:11 6:18 7:10,23 8:5,5,5,9 12:7 12:7,17,22,24 23:24 28:12,20 31:22 32:3 41:13 54:16,23	55:3 56:8,13 56:18,22 57:16 57:22 62:2,3,7 62:8,19 clauses 5:19,23 6:13,24 7:19 10:25 11:19 12:24 31:10,11 32:7 69:15,24 70:8 clear 10:4 11:16 12:1 19:3 24:3 29:19 33:4 35:17 41:6 45:2 67:20 80:23 86:17 clearly 27:3 32:19,21 42:22 58:13 68:13 73:13 Clement 1:18 2:5 27:24,25 28:3,13,23 29:2,18 30:15 31:3,18,21 32:15,20 33:6 33:9,19 34:7 34:18 35:1 36:14,24 37:6 38:3,17,24 39:7 40:12,22 41:2 42:2,21 43:9,21 44:24 45:14,23 46:16 47:8,11 48:9 60:3 closely 6:25 28:24 closest 52:20 clumsy 82:23 code 24:11,14 41:17,21 65:4 83:14,15,15,23 83:25 coexisted 39:17 collect 87:19 collectors 87:19	colloquy 39:14 colored 56:15 Columbia 1:3 3:4 9:11 24:13 25:18 31:24 42:11,23 49:7 49:20,24 50:7 51:24 85:22 90:7 Columbia's 48:24 combination 88:5,6 come 21:24 26:24 47:21 52:20 comes 63:18 70:17 coming 58:20 comment 6:2 commentator 9:1 commerce 81:2 common 5:8 6:24 9:5,6 16:22 22:3,6 22:17,18 24:8 32:24 33:13 38:15,19 54:12 59:25 60:10 61:5,7 63:5,9 63:23 66:20 67:9 68:18 78:8 commonly 41:20 45:18,18 45:20 47:7 60:6 commonsense 63:15 common-law 58:5 comparable 34:21 80:5,6 compelled 4:6 compelling 44:7 competency
--	---	--	--	---

Official - Subject to Final Review

75:17 complete 46:22 64:21 completing 87:23 component 41:3 compulsion 86:2 conceal 16:14 concealable 23:2 89:6 concealed 23:17 conceded 49:19 49:25 concedes 9:13 conceivable 57:25 Conceivably 81:8 concept 74:22 concern 3:12 8:14 12:8 31:6 45:24 69:13,23 70:4 concerned 11:15 30:25 89:24 concerns 5:12 71:2,4 73:12 conclusively 45:2 condition 41:11 conditioned 39:23 conditions 17:18 34:23 39:24 68:3,5 78:13 Confederation 66:21 confine 68:16 confirms 4:10 conforms 5:19 confronted 23:9 76:14 Congress 3:13 3:23 10:24 13:7,10,15 15:25 17:10 27:15 48:1	55:17,18,19 90:3 congressional 8:19 connection 3:22 12:3 16:8 connotation 29:9,11 37:20 38:10,12 conscientious 54:8 consider 3:18 18:10 78:16,19 79:3 81:1 considerations 20:13 89:16 considered 18:22 23:10,13 79:6 80:8 85:11,19 considering 35:9 consistent 21:21 29:16 30:21 35:23 44:1 77:1 consistently 5:20 43:24 72:1 Constitution 3:13 5:14 6:7 9:1 12:13 13:12 28:5 31:9 39:1 40:3 44:8 57:9,12 66:21 69:10 70:8 71:7 76:25 80:15,21 constitutional 15:12 18:11 21:12,15 42:9 43:10,25 56:9 63:17 67:8 79:21 88:22 89:10 constitutionali... 48:1	constitutionali... 9:6 constitutions 15:8 32:10 construction 42:11 43:4 49:14 53:16 59:12,13 86:13 construed 49:4 contemplates 90:15 contemporane... 15:18 32:9 67:3 context 8:11 37:8,10,17,18 38:9 39:2 40:14 74:3 continuation 7:6 continue 30:18 55:7 62:19 contours 77:24 78:11 contradiction 7:9 contrary 10:9 control 11:5 27:21 34:3 70:20 controlling 67:15 controversial 70:9 71:6 controversy 86:4 conventions 67:21 core 27:5,10 correct 10:19,20 15:3 17:16,21 19:17 20:11 36:4 53:10 57:10 60:22 67:10 69:7,24 82:19 83:9 couched 69:19 council 49:11	85:11,18 councils 74:2 count 6:15 counted 34:19 country 4:5 22:15 78:6 90:5 couple 44:25 course 23:18 32:24 57:13,19 70:14 75:19 84:15 88:16 court 1:1,13 3:10 5:9,17 7:1 7:3 9:2,18,24 14:11 15:5 19:20 20:14,16 22:19 23:8,13 27:6,7 28:4 35:17 40:14,17 42:9,13 45:1,5 45:25 47:13,15 47:17,19,23 48:14 49:6,15 50:3 55:1,7,8 60:23 61:7 62:19 67:6 78:2 90:12 courts 29:3 49:3 63:14 66:23 74:4 76:12 79:22 90:22 court's 28:16 40:15 59:13,17 covered 22:22 87:25 crawling 42:18 create 13:1 16:6 created 16:2 27:15 creates 81:7 crime 53:1,4,11 64:8,14 65:23 78:13 crimes 50:6 51:16 criminal 24:21	critical 90:11 criticized 68:8 crown 17:5 crucial 58:24 curiae 1:20 2:7 28:2 current 78:12 78:13 cut 4:24 <hr/> D D 1:18 2:5 3:1 27:25 danger 23:4 dangerous 18:15,22 21:5 22:25 27:2,21 49:10 64:5 90:16 day 46:4 84:5 daylight 84:12 dead 51:19 deal 31:12 39:21 63:4 64:19 dealing 6:14 debate 7:3 12:23 32:25 80:11 debates 3:20 4:20 6:16,17 8:19,19 90:24 decide 9:18 26:22 43:4 45:1 51:5 65:10 90:23 decided 61:19 74:2 80:16 decides 7:24 14:17 deciding 74:1 decision 28:16 60:18 63:17 78:1 decisions 67:6 74:5 85:21 declaration 38:14 67:25 68:12
---	---	--	--	--

Official - Subject to Final Review

deemed 49:9	23:19 24:2,17	destroyed 7:16	disassembled	doubts 27:7
deeply 90:6	25:3,21 26:5	7:18	41:24 72:2	draft 4:1 53:3
deer 36:9,22	26:10 27:23	detectors 29:22	82:16 83:6	draw 64:21
37:3 54:9	32:11 81:23,24	determine 44:10	disasters 9:20	67:16
defeated 33:2	82:1,14,17,20	44:14	disband 11:10	drug 78:3
defend 8:14	83:4,12,21,24	determined	discipline 13:8,9	duck 88:10
47:25 48:16	84:4,10 85:3,7	20:17	13:16	due 9:7
72:22	85:21 86:24	determining	discourse 8:17	duplicative 71:1
defendants	87:11 88:2,13	28:18	19:4	duty 16:22 56:3
49:20	88:16,19 89:2	developed 44:19	discusses 57:16	63:5
defended 43:25	89:14 91:2	devoted 8:25	58:8	D.C 1:9,16,19
defending 82:5	demand 70:23	13:4	discussing 62:1	43:15 61:22
defense 5:8	demanding	de-emphasize	displaced 27:11	72:19 74:10
16:22 20:10	73:15	63:12	dispute 9:16	78:17 87:7
24:15,24 26:16	demands 67:20	DICK 1:7	24:18 64:20	E
31:2 32:24	69:17,19 70:24	dictionary 47:3	disputes 90:20	E 2:1 3:1,1
33:13 38:15,19	demonstrated	59:20	disruption 16:7	earlier 39:14
54:12 66:20,20	75:17	difference 19:3	distinct 69:13	57:23
67:9 68:3	densely 23:4	34:13 43:14,20	distinction	easily 16:10 71:5
85:17	Department	43:22	35:24 67:16	89:8
deference 90:21	1:19	different 6:14	distinguish	East 89:25
deficient 62:23	departments	14:5 15:21,22	21:11	edition 68:8
define 28:22,24	64:6,7	15:24 18:3	distinguished	effect 5:19,24
77:13	departure 68:11	26:12,23 38:20	29:4	10:6 14:24
defines 5:6	depend 28:7	42:5 44:4,6	district 1:3 3:4	18:10 36:5
definition 47:3	74:21	48:3,4 66:25	5:17 9:10	62:2 76:21
47:13 59:20	depends 75:23	84:17 88:11,11	20:12,19 21:19	82:24 86:8
degree 79:19	75:25	88:12	23:11 24:3,13	effectiveness 7:7
delinks 5:19	derived 58:4,4	differently 29:5	25:17 26:17	efficiency 12:4
6:13	descendants	differing 5:16	31:24 38:25	60:19
Dellinger 1:16	22:21 47:16	difficult 30:5	41:17 42:11,23	effort 29:8
2:3,11 3:6,7,9	descendent	46:2,5 47:14	43:19 46:20,21	eighteenth 37:3
4:12,17 5:3,13	61:22	59:12 76:15	48:24 49:7,15	either 13:22
6:3,12 7:1,22	descendents	84:11	49:20,24 50:7	50:19 51:15
8:7,9,17 9:3,16	77:19,20	direct 3:11	51:18,24 76:11	82:18 87:4
10:1,2,7,12,20	describe 30:24	directed 46:14	82:13 83:7	elements 35:6
11:1,12,16	described 25:20	direction 32:19	84:20 85:11,22	eligibility 28:7
12:14,23 13:17	89:12	32:23	88:19,25 90:2	eligible 56:3
13:24 15:3,5,7	describes 9:4	disagree 85:25	90:7	eliminate 55:14
15:10,15,20	58:11	disagreement	District's 72:1	eliminated
16:19 17:1,8	description	51:12	83:3	20:14
17:11,16,20	21:25 57:15	disarm 3:15	doable 81:16	eliminating 89:5
18:3,19 19:2	designed 7:23	14:3,24 29:13	doing 43:1 56:22	elimination
19:17,23 20:2	12:10 29:13,21	disarmament	65:14	19:21
20:6 21:2,8,14	57:22 71:24	38:5	domestic 71:13	embarrassment
21:17,24 22:5	89:6	disarmed 31:6	dormitory 81:6	29:7
22:11,16,19	despite 30:11	disarming 10:18	doubt 24:4 34:4	

Official - Subject to Final Review

embodies 45:8	ESQ 1:16,18,21	37:10 38:12	49:19 50:8	64:12,22
Emerson 78:1	2:3,5,8,11	executing 42:25	56:5 57:11	firearm 21:23
eminent 82:5	establish 5:13	exempting 4:1	58:7 59:17	43:24 50:2,8
emphasis 35:23	established 5:11	exempts 46:22	61:3,4 66:17	50:13 65:1,9
35:24 63:1	6:1 40:19	46:24	69:20 70:11	71:23 72:1,2
emphasize	ET 1:4	exercise 36:17	71:2 76:18	72:17,20 86:6
63:14	evade 29:22	exigencies 36:2	79:6 80:10	86:22
emphasizing	evaluating	existed 61:23	81:9,15	firearms 21:20
38:25 41:10	39:13	77:14	facto 32:7	39:18 48:17,25
employed 47:14	evening 42:25	existence 5:22	factors 26:25	49:9,21,25
enabled 69:5	43:1	7:11	facts 49:19	64:2,20,23,24
enact 76:14 90:8	event 26:2	existing 44:11	factual 49:16	65:3,19,22
enactment	events 9:19	expand 12:11	fails 53:15 59:24	66:5,13 80:2
57:25	everybody 9:21	58:6	failure 69:11	87:12,13
encapsulates	25:25	expansion 68:13	faithful 62:22	fires 64:4,8
32:5	evidence 69:9	expansive 16:17	faithfully 59:19	first 3:18,23 4:9
encompass	evidentiary 81:8	18:8,8	familiarity	5:20 7:11 9:1
72:14 88:3,3	ex 32:7	expect 63:19	53:23	13:1 25:23
encompassing	exactly 3:24	72:5	families 48:16	39:13 40:13,16
60:8	12:15 33:1	expected 56:5	family 8:15	40:20 44:19,20
ends 30:22	34:18 41:11	60:6 61:4	far 10:10,12	45:11,11 49:5
enforced 75:5	61:16 67:6	experience	11:14 81:16	53:18,19,21
79:22	70:20	33:16	89:18	54:22 56:8,18
England 37:24	examine 76:12	experts 90:20	Farmer 4:21	56:21 57:16
67:25 68:7,12	examined 53:20	explain 66:16	favorable 51:3,4	58:20 59:19
68:18	78:2	explicitly 70:11	Federal 5:9 9:20	63:7 64:24
English 16:13	example 19:7	express 34:14	9:22 10:9 11:8	65:24,25 74:17
16:18,20 17:4	28:17,17 29:20	expressions	11:10,17,22	82:2
33:17,22 34:2	36:17 42:24	33:16	13:5,25 14:24	five 26:25
34:9,13,20	59:10,11 66:25	expressly 14:19	29:22 30:1,12	flatly 74:17
35:6,11 39:21	67:12 69:17	18:12 39:25	31:11,12 43:17	floats 65:10
58:5 68:17	72:11 74:10	extended 18:6	43:24 45:19	floor 33:10,12
ensure 7:6 14:13	75:14 77:25	extent 13:20	46:3,23 57:25	71:15
ensured 12:20	exception 24:21	15:7 19:16	Federalist 4:20	focus 14:2 39:2
ensuring 41:7	42:13,20,22	54:24,25 77:5	Federalists 71:4	51:8 53:12
entire 35:20	43:5 49:4	78:14,17,19	feel 75:23	65:14
entitled 21:22	exceptions	extraneous 6:6,7	felon 78:3	focused 45:2
58:9 70:16	40:18 45:12	extraordinary	felons 40:23	focusing 52:15
84:22	72:16	27:17	felt 56:25	follow 60:14
entity 26:18	excess 22:12	extreme 80:2	fifth 58:8 72:25	followed 12:14
equated 3:24	exchange 73:21	extremely 69:18	77:25	following 48:21
equivalent	exclusion 45:19		fight 23:19	follow-on 21:10
63:24	exclusive 29:10	F	finding 81:15	food 54:9
era 61:24 67:6	54:18 57:5	faces 62:16	fine 18:11 63:24	forbade 17:24
especially 18:22	66:2	facial 26:14 85:9	64:10	37:25
18:22 30:17	exclusively	fact 19:9 22:24	finished 73:20	force 75:15
31:8	27:11 29:9	41:5 45:9	fire 42:20 64:5	forces 7:7 30:7

Official - Subject to Final Review

52:8 57:3	53:24 56:10	given 28:20 30:6	70:5	23:11 25:12
foreclose 46:3		35:15 58:15	grab 71:22 79:8	29:21,21 30:5
foremost 30:24	G	65:13 86:2	grand 41:12	30:25 41:20,23
31:5 39:13	G 3:1	90:21	grant 37:6 38:9	45:21 46:1,10
foresees 58:13	Gage's 65:2	gives 25:9,11	38:18	46:15,23,25
form 25:12 37:7	gauge 88:18	54:17	granted 13:5	47:21 56:5
forms 36:12	GEN 1:18 2:5	glasses 84:2	great 63:3 64:19	58:1 59:12,14
fought 57:2	27:25	gloss 41:22	90:17	61:24 81:1,17
found 34:19	general 1:18	go 7:19 21:7	grizzlies 8:16	87:19 88:11,24
Founders 54:19	13:21 27:24	35:21 52:23	group 17:19	89:11,20
58:5	28:3,13,23	56:10 70:2	90:2	gun-related
Fourteenth	29:2,18 30:15	80:21	guarantee 7:10	51:15
66:10	31:3,18,21	goes 19:12,13	9:2,4 17:5,10	Gura 1:21 2:8
Fourth 47:18	32:15,20 33:6	24:22 32:22	36:6	48:10,11,13,22
frame 60:22	33:9,19 34:7	36:22 56:13	guaranteeing	51:25 53:13
framers 5:13	34:18 35:1	76:16 82:22	12:12	54:3,7,15,24
7:15 8:25	36:14,24 37:6	84:13	guarantees	55:14 56:2,19
10:22 30:25	38:3,17,24	going 15:22	20:23 28:6	56:24 57:10
31:5 41:10	39:7 40:12,22	24:25 27:18	Guard 46:8	58:2,25 59:3,8
56:25 57:2	41:2 42:2,21	30:18 34:1	guess 50:1 51:18	59:11 60:5,22
60:24 68:8	43:9,21 44:24	37:2,3 42:20	52:23	61:18 62:10,18
framing 37:12	45:14,23 46:16	42:21 47:14	guidance 55:8	62:24 64:19
61:24 77:22	47:8,11 48:8,9	51:5 54:11,11	59:18 63:13,14	65:25 66:9,15
78:8	48:19 59:15	56:23 65:10	guide 68:19,19	66:23 67:5,11
free 4:5 6:20	60:3 65:2	74:9 75:19	guided 32:8	67:19 68:7,13
20:20 27:20	87:13	79:20,22 80:18	33:16	68:18,25 69:7
32:6 58:17	generally 15:21	84:15	guidepost 54:17	69:16 70:6
90:8	85:15	Goldwater 48:5	gun 16:14 20:13	71:17,25 72:7
freedom 40:2,4	generals 65:21	good 3:9 43:3	24:5,7,14	73:7,10 74:7
40:5,10	generis 45:4	51:9,10 52:16	25:25 26:21	74:20 75:4,12
friends 38:25	George 68:8	64:6 80:17	37:14,18 42:19	76:5,12,24
fully 19:19	getting 18:11	85:16 90:4	43:2,17 44:13	77:4,11,16,22
25:15 26:13,15	53:12 70:2	government	46:8 50:10	78:14,19,24
41:4	72:24	9:20 11:8,10	52:23 57:24	79:5,19 80:10
function 11:14	Ginsburg 10:1,3	11:17 12:25	60:3,16 61:8	81:3,7,12,15
15:1	10:7,10 20:21	13:6,25 20:10	61:12,21 62:5	81:22
functional 48:17	21:10,11,16	23:3 27:15,17	62:13 65:16	
48:25 49:25	29:14,19 34:1	27:20 30:12	75:9 82:11,11	H
64:23 66:5	34:7 43:7,12	33:24 46:3,4	82:22 83:1,3	Hampshire
80:1 84:22	43:22 45:10	55:21 59:4	83:10 87:22	73:14
86:3,5	54:21 55:22	69:5,14 75:12	88:10,10 89:16	hand 63:3,8
functioning	59:10 60:2,13	75:14 76:13	gunpowder	handgun 12:3
21:20,22 24:5	62:5 74:12,20	88:25 89:24	71:12,14	23:1 51:8 52:4
functions 15:1	74:24 75:8	90:14	guns 14:12 19:5	52:12 53:19,23
fundamental	Ginsburg's 45:7	governments	19:9,13 20:1	58:17 74:16,19
16:6 74:7,12	give 29:19 64:15	16:10 90:5	20:25 21:1,4	78:23 80:6
further 36:9	75:22	government's	22:1,8,11,25	84:20 85:24

Official - Subject to Final Review

86:8,12,14	20:24 21:20	illegitimate	9:14,24 14:11	interested 67:22
87:1,1,8	23:25 24:10,16	90:15	14:17,21,23	interesting 48:4
handguns 18:21	36:16 41:1,17	imagery 47:19	18:12 19:5	interests 27:2
19:16,16,19,25	42:1 49:9,22	imagine 59:12	25:11 28:6	30:24
20:3,17 22:25	65:5 66:5,13	59:24 61:21	32:6,14 33:4	interfere 13:25
25:17 26:19	71:19 72:22	imbue 29:8	35:10 36:1	interfered 9:23
40:23 46:23	84:23 85:2	impede 52:13	50:24 52:12	interferes 5:10
48:17 51:22	86:6	implementation	53:16 67:22,24	intermediate
52:5,6,9 53:4	homeowner	75:25	69:12 73:16	44:1 51:6
53:17 59:15	62:17 78:23	implicit 12:13	individually	interpret 67:12
63:10 64:13,25	homes 6:10	importance 5:22	55:2	68:21
74:15,18 78:18	48:16 81:18	important 5:14	individuals	interpretation
78:20 80:1	homicide 80:5	5:23 8:23,23	26:18 29:13	5:16 6:13
84:21 85:12	homicides 51:15	12:19 27:1,3	71:6	21:16 66:25
87:14	honestly 32:12	57:1 78:6	inferred 80:25	67:15 83:9
happened 33:11	honor 51:25	84:21 85:23	influenced	interpreted 7:5
happening 14:4	54:3,7,15,25	impossible	30:18 32:11	29:3
happy 86:16	55:15 56:20	14:25	influential 69:19	interpreting
hard 21:3 61:21	57:3,10 62:10	impractical	73:11	28:15 62:3
79:11	62:24 64:22	80:22	inform 77:23,24	66:24
Hardware 83:14	66:23 68:25	improved 22:21	informative	interprets 24:4
harm 65:7,9	69:7 72:7 74:8	45:5	51:10	interrupt 25:5
hear 3:3 42:18	75:13 77:4,12	improvement	informed 79:20	43:7
53:10	78:14,21,24	45:5	informing 62:20	interstate 81:2
heard 71:3	80:10 81:3,21	inadequate	informs 51:1	intricate 44:18
hears 50:4	Honor's 65:25	42:22 85:8	54:16,16	introduced 3:23
heart 72:23 73:3	hope 47:11	include 23:17	infringed 4:3	21:21
heat 47:18	hopefully 75:6,7	64:25 65:1	7:21 76:22,23	introductory
heavily 57:3	hostile 8:15	66:17	77:3,9	28:12
held 7:2 40:7	house 33:10	included 4:24	infringement	intruders 41:1
45:18,20 47:7	64:2 86:23	35:12 65:3	40:20	invalid 86:8,12
Heller 1:7 3:5	hundred 22:12	includes 5:1,4	inherent 8:24	inventory 65:2
14:8	hunt 36:9,18	including 33:17	76:24	invocable 5:9
Heller's 12:2	37:3 54:9	44:13 48:17	inherently 90:16	invoke 9:18
help 56:22	hunting 36:22	70:4	inquiry 15:9,11	involve 46:10
heroin 87:3	37:15,17 69:12	inclusion 4:1	insisting 88:23	involved 46:10
high 53:1,4	88:11	incorporate	instance 70:3	46:11 56:11
highest 52:2	hypothetical	27:19	instances 49:22	ironic 90:7
highlanders	83:2 89:10,13	independent	64:16	irrational 49:8
17:23 37:24		36:5 38:6	Institute 48:5	issue 3:16 9:15
highly 15:10	I	Indian 8:15	insufficient	11:20 19:12
35:9 37:14	idea 50:1,6 62:1	indicated 5:21	30:23	21:23 46:7
hinge 58:15	65:6,13 80:17	5:23 39:14	intact 57:9	53:23 55:2
historically 78:5	84:9 85:16	indicates 28:6	intended 41:15	60:4 63:18
history 50:9	ideal 14:18	90:19	interest 16:6	71:10 74:4
70:7 72:19	ides 13:4	indication 26:17	27:4 44:7,7	76:6 85:11,14
home 19:6 20:10	II 5:24	32:21	85:2 87:19	issued 52:9
		individual 3:17		

Official - Subject to Final Review

J				
James 31:25	28:25 29:11,14	84:8,25 85:4	killed 51:15	launcher 61:8
Jefferson 36:25	29:18 30:9,15	85:10 86:20	kind 9:9 12:3	lavishes 57:17
37:15,16	30:20 31:3,9	87:6,24 88:7	15:22 16:5,9	law 7:17 9:5,6,9
jeopardized	31:16,20 32:8	88:14,17,21,23	18:3,21 22:3	9:17,22,23
43:18	32:13,18 33:3	89:9,11,23	22:22 23:21	10:9 14:24
join 38:1 52:8	33:6,8,15,19	90:18,25 91:1	24:6 26:1	15:25 17:18
joining 18:1	34:1,7,12,19	Justice's 25:15	29:20 30:22	18:24 19:8
joint 49:17	34:22 35:21	justification	37:20 42:15	23:8,10,12,12
Joseph 8:25	36:15,21 37:2	66:19	44:1,19 45:17	23:14,16 24:21
judgement 82:3	37:19,22 38:13		47:20 55:13,14	29:22 30:1,18
judges 63:15	38:21 39:4,19	K	56:15 60:10	33:17 34:14
67:12 73:25	39:23 40:2,12	keep 3:19 4:3,16	61:5 63:19	46:9 49:7,24
74:9	40:21,25 41:4	6:21 7:20 8:10	64:9 65:15,21	58:12,13 63:17
judgment 49:16	41:15 42:2,16	8:20 17:25	69:3 71:20	64:1,4 68:4,18
78:25	43:7,12,22	28:21,25 29:6	74:1 75:10	72:1 74:21,24
judgments	44:5,24 45:6	29:11,15,16	77:23 80:1	74:25 75:4
80:12	45:10,15,23	32:23 33:24	90:11,12,19,20	78:8,20 82:2,6
judicial 53:18	46:9,17 47:2,9	35:13,25 36:5	kinds 17:12	82:7,25 83:3
53:22 67:14	48:8,10,13,20	36:7,10,11,15	20:25 25:22	84:20,24 85:25
74:8 79:7	48:23 50:15,21	38:6,14,18,21	55:11 74:5	86:1,14,15,17
80:20	52:14 53:6,7,8	38:22,23 39:3	knew 7:15 41:10	87:7 89:3,5,13
jurisdictions	53:9,13,25	53:2 56:14	knob 83:20	90:4,13
72:9	54:4,8,21	58:3,12 60:24	know 3:25 10:11	lawful 24:12
jury 41:12	55:11,22 56:6	63:21 64:1,2	10:12 22:7,7	49:23 50:14
Justice 1:19 3:3	56:21 57:7,18	64:10,11 65:22	22:21 32:20	lawfully 49:21
3:10 4:11,17	58:2,10 59:1,6	68:23 70:25	36:13 41:3	laws 24:4 27:12
4:23 5:12 6:4	59:10 60:2,11	71:5 73:15	44:21 45:20	39:13,25 40:23
6:12,23 7:8 8:4	60:13 61:10,25	80:17 87:25	47:17 52:21	43:17 50:10
8:8,13,22 9:12	62:4,15,21	88:2,3,5	57:21 63:25	72:10 74:3,10
9:17 10:1,3,7	63:21 65:8	keeping 4:8	73:24 77:6,17	75:15 79:12
10:10,17,21	66:7,12,16	35:24 65:5	79:17 83:4	82:13
11:2,6,13 12:6	67:2,7,14,23	Kennedy 5:12	87:17 88:10,11	law-abiding
12:16 13:13,18	68:10,15,22	6:4,12,23 8:4,8	89:2,23	21:19 48:15
14:22 15:4,6	69:2,8,16,21	8:13 13:13,18	knowledge	86:6
15:13,17 16:12	70:6 71:9,12	16:12,24 19:22	75:14	leave 7:3
16:24 17:3,9	71:21 72:4	19:24 20:4		leaving 58:17
17:14,17,22	73:2,8,9,21,22	21:9 25:5 30:9	L	leeway 20:21
18:17,24 19:11	74:12,20,24	30:15,20 31:3	lamp 83:19 84:2	64:16,20
19:22,24 20:4	75:8 76:2,9,20	33:15,19 40:25	land 89:17	left 8:12 11:20
20:21 21:7,9	77:1,8,13,17	41:5 57:7,18	language 4:8	legislation 10:6
21:10,11,16,24	78:12,16,22,25	58:2 59:6	15:24 46:18	17:23 27:11,13
22:6,14,18	79:2,13 80:3	61:25 62:15,21	70:17	27:14 89:22
23:6,16,22	80:23 81:4,9	80:23 88:21	large 34:24	90:1,4,8
24:9 25:2,5,6,7	81:13,22 82:1	89:9,23	late 76:19	legislative 34:6
26:3,7 27:22	82:7,9,15,16	kept 12:20 14:16	lately 48:18	34:17 56:9
28:3,9,13,19	82:18,25 83:8	key 8:2 84:14,14	Laughter 39:6	90:22
	83:18,22 84:1	kidding 84:11	50:20 84:3	legislature

Official - Subject to Final Review

54:22,23 64:19 80:13 legislatures 74:2 legitimate 49:10 lesson 84:7 let's 21:24 63:23 65:20,20 level 81:20 levels 52:2 libel 40:6,21,22 libertarian 14:18 26:13 liberty 14:15 16:6 18:9 57:1 license 14:21 24:3 74:16,19 75:3,9,11,21 76:4 licenses 75:22 licensing 74:13 74:21,22 75:4 75:19,24 life 62:13 light 7:5 39:8 51:6,21 64:17 77:14 light's 39:5 likes 54:9 limit 17:7 19:4 55:13 69:22 76:9,15,16 79:22 88:4 89:20 limitation 34:3 34:23 54:21,22 54:23,24 72:12 72:12 limitations 77:10 79:21 limited 4:14 17:19 27:6 36:2 41:9 68:5 limiting 63:1 limits 55:11 76:3 lineal 22:21 47:16 61:22 77:19,20	list 70:18 listed 12:21 literal 67:11 literally 6:19 litigant 9:18 litigation 72:18 little 46:5 48:20 living 30:11 50:5 load 24:23 42:19 82:11,22 loaded 43:1 64:1 64:11,11 65:5 83:3 84:16 loading 24:11 local 16:10 27:13,14,14 89:21 90:4,5 lock 42:4,7,13 43:3,5 73:22 82:11,12,17,21 82:21 83:6,10 83:13 84:19 85:13,14 86:8 86:9,14,17 locked 41:25 locks 73:24 74:14 85:15 long 11:8 41:20 41:23 73:19 74:22 75:4,6 83:8,9 84:9 longer 13:15 80:17 look 22:23 26:25 30:19 36:17 44:12 54:17 57:14 59:21 61:24 65:15,16 65:20 67:23 68:20 69:16 70:11 75:22 76:13 77:11 78:8,12 79:18 looked 29:5 55:3 looking 79:15 looks 44:16 77:7 loop 84:13	lot 22:8 23:1 43:12 lower 47:13 55:8 59:13 <hr/> M <hr/> machine 21:1,4 22:1,8,11,25 23:11 24:7 30:5 45:21 46:1,8,10,14 46:23,25 47:21 59:11,14 60:3 61:8,12,21,24 62:5,13 65:16 81:1 Madison 3:22 11:4 31:25 33:15 36:25 37:15,16 67:22 73:11 main 9:13 57:8 maintain 11:5 50:25 52:17,19 maintained 31:7 major 62:2 majority 72:9 76:7,17 making 39:20 46:4 80:4,9 males 55:24 managed 7:13 manner 75:5 March 1:10 marijuana 87:3 marketplace 44:14 77:18 martial 37:20 Massachusetts 38:14 64:1 65:11 66:8 67:1 massively 26:9 material 49:19 matter 1:12 16:20 53:17,22 80:6,16 84:6,8	84:17,19 91:5 matters 6:15 McIntosh 49:5 mean 7:25 9:24 10:16 26:8,8,8 29:15,19 33:14 33:20 37:5,25 38:24 42:23 44:18 47:3,15 47:24,24 51:9 56:22,22 58:19 63:22 69:22,24 72:5 74:3 75:25 79:11 88:7,14 meaning 28:11 29:23 31:24 38:7 means 6:6 11:16 26:3,9 29:14 49:23 68:23 86:10 meant 19:25 38:1 39:24 55:23 59:22 measures 80:2 mechanism 82:23 87:15 member 9:1 mention 67:17 67:19 mentioned 71:12 metal 29:22 methodological 90:24 methodology 90:17 Metro 89:8 militarily 63:10 military 3:25 4:7 7:7 8:11,20 22:20 29:9,10 36:2 37:8,10 37:20 38:10,12 52:1,2,4,6,8,11 52:13,15 53:2	60:4 61:14,17 61:20 63:4,12 65:20 66:1 militia 3:22 4:4 4:19,21,22,24 5:11,22 6:1,11 6:20 7:11,12 7:12,20,23,24 8:6 9:21 10:8,9 10:19,25,25 11:3,9,15,17 11:20,25 12:4 12:7,7,16,18 12:21,23,24 13:2,4,8,16,22 14:1,6,8,13,25 14:25 15:24 16:9 20:9 25:10,13,24 26:1,18,20,22 27:6 28:8,12 30:8 31:6,10 31:13,14 36:8 41:7,11 45:16 45:17 47:6 50:25 53:24 54:2,6,11,16 55:3,4,12,20 56:1,3,4,12,13 56:16,25 57:3 57:16 58:19 60:8,20 61:1 62:2,6,7,11,11 62:19,25 69:3 69:4,15,23 70:8,21 71:1,2 88:6,9 89:1 militias 3:15 4:14,16 7:15 7:17,18 10:5 11:11 14:20 15:1 18:1 38:1 70:5 militia-based 18:7 militia-related 4:10 8:2
--	--	--	---	---

Official - Subject to Final Review

Miller 5:17 7:2 7:3,4,25 8:1 28:16 29:16 30:17,20,22 38:10,13 54:25 55:1,5,7,7 59:13,17,23,25 60:7,8,16,18 61:3,19 62:1 62:22,22 63:1 63:6,13 million 22:16 mind 33:7 36:1 minds 30:25 31:6 minority 69:18 minute 25:8 36:21 43:8 minutes 81:23 82:10 missing 26:20 misstate 80:24 misunderstand 79:14 model 70:13 modern 61:13 71:15,18 mollify 73:12 moment 20:8 35:24 morning 3:9,16 75:25 motion 49:16,17 motive 41:7 movable 23:2 89:7 murder 78:17 78:20 muskets 51:22 58:22	national 3:13 11:5 12:25 27:11,16 46:7 69:14 70:4 79:10 89:24 nationwide 76:10 Nation's 81:19 natural 9:20 naturally 37:8 nature 3:16 5:7 52:15,17 near 24:20 necessarily 7:12 26:21 36:2 72:5 76:10 necessary 6:20 7:25 20:4 53:3 56:10 need 7:19 24:24 36:18 80:6 82:6 86:11 88:8,23 89:19 needed 31:1 89:1 needs 26:18 27:14 90:21 negative 13:11 neighborhood 50:5 neighboring 52:24 never 40:7 nevertheless 56:4 new 3:13 10:15 12:25 73:13,14 newspapers 19:1 night 43:2 noise 50:4 normal 38:15 normative 80:14 North 67:13 90:1 noted 7:2 52:12 53:14	notes 64:22 notice 53:18,22 58:19 notion 23:20 24:23 26:23 47:15 60:9 87:23 notwithstandi... 41:5 nowadays 47:7 nub 15:2 number 19:13 22:11 29:3 34:24 37:11 49:19 51:18 68:5 88:24 89:20 numerical 83:23 83:25 numerous 52:1	oftentimes 56:5 Oh 28:23 33:9 38:17 58:2 okay 15:4 39:7 48:22 75:2,3 omitted 28:11 once 7:22 16:7 20:16 23:1 42:8 46:19 47:3,4 59:19 89:17 ones 32:16 33:23 61:17 71:4 75:1 open 11:21 20:18 46:20 75:24 operable 72:20 83:11 operating 90:3 operational 50:3 50:8 operative 4:13 8:5 29:8 41:9 57:21 62:3,8 opinion 21:3,4 21:25 22:2 23:7,8 30:22 40:15 43:16 45:5,15,25 46:12,18 47:5 47:14 48:3 59:13 opportunities 49:2 opportunity 36:18 42:10 49:5,13 opposed 85:6 option 31:7 41:8 oral 1:12 2:2 3:7 27:25 48:11 order 25:23 27:16 36:17 79:20 ordinance 66:13 ordinances	64:22,24 ordinary 48:17 60:7 63:9 organization 31:13 organize 3:15 13:7,16 26:22 organized 10:18 26:22 originally 66:9 ought 18:5,10 42:10 outlaws 8:15 outside 78:5 overinclusive 14:9 62:3 overwhelming 89:4,21 owned 49:21 ownership 20:13 89:16
N		O	O	P
N 2:1,1 3:1 narrow 46:14 narrower 46:14 narrowly 44:7 45:3		O 2:1 3:1 object 80:11 objections 69:9 objective 27:8 53:2 75:6 objector 54:9 obligation 47:25 obsolescence 61:2 obtain 74:18 obvious 7:5 31:14 obviously 29:6 32:17,22 34:9 47:24 occurred 73:18 occurs 79:25 odd 4:12 55:16 Oddly 71:25 offered 52:1 53:15 office 23:3 75:24 officers 13:9 31:20 52:1 58:22	O 2:1 3:1 object 80:11 objections 69:9 objective 27:8 53:2 75:6 objector 54:9 obligation 47:25 obsolescence 61:2 obtain 74:18 obvious 7:5 31:14 obviously 29:6 32:17,22 34:9 47:24 occurred 73:18 occurs 79:25 odd 4:12 55:16 Oddly 71:25 offered 52:1 53:15 office 23:3 75:24 officers 13:9 31:20 52:1 58:22	P P 3:1 page 2:2 46:18 49:17 panoply 43:17 paragraph 70:17 parallel 35:11 35:14 60:12 61:11 parenthesis 83:5 Parliament 17:6 17:11 34:4,21 39:25 40:1 parliamentary 34:15,17 39:22 part 5:5 8:18 16:21 18:8 25:17 35:25 37:23 41:16 54:11,12 78:7 participate 5:8 participating 16:22 particular 11:22

Official - Subject to Final Review

23:4 24:6 55:1 87:22 particularly 5:18 26:14 27:2 parts 42:3 45:24 pass 15:25 80:20 89:3 passage 47:2 passes 23:11 passing 7:16 17:6 74:3 patch 86:15 PAUL 1:18 2:5 27:25 pay 54:5 peaceably 6:9 peculiar 34:16 Pennsylvania 32:16 33:8 57:14 66:18 69:17,25 70:4 73:9,13 Pennsylvania's 73:10 penumbra 27:9 people 4:3,15,18 4:21,22,25 5:2 5:4,7 6:8,21 7:20 8:3 13:2,3 22:4,7,8,14,24 23:1 25:12 30:10 31:1 34:24 35:15,16 35:23 36:7 50:1,11 51:14 51:20 52:5,21 53:2 55:2,13 55:15,16,18,23 55:25 56:3,14 56:17 58:3,20 60:6,9,25 61:4 61:6 62:12 65:18 66:5 68:5 71:1 72:21 75:22 78:5 81:18	87:19 people's 7:17 percent 79:23 79:25 perfectly 7:14 perform 15:1 periphery 27:9 permissible 66:19 permission 34:14 permit 50:7 permitted 34:24 63:3 person 3:20 4:5 4:7 10:24 16:1 25:11 50:4,4 personal 6:18 7:10,24 9:2,4 14:12,14 16:2 16:5 18:8,9,13 19:5 73:1 petition 33:23 35:13 46:19 petitioners 1:5 1:17 2:4,12 3:8 49:2,6,13 70:12 81:25 phrase 3:18,21 3:24 4:13,18 4:18,21 8:2,10 8:20,20 26:10 32:23 36:6,12 37:17 phrased 87:7 phrases 38:4 44:6 pick 84:2 picked 44:21 piece 74:13 82:22 pistol 22:10 62:6 72:6 85:6 pistols 23:17 58:22,23 64:10 65:1,4,5 place 27:18	37:13 72:18 83:12 90:8 placed 77:10 plain 15:24 plan 61:1 plastic 29:21 59:14 plausible 7:14 play 28:18 plays 28:15 please 3:10 28:4 48:14 plenary 10:24 31:12,16,17 point 9:13 24:19 28:16 35:3,5 35:22,22 36:11 36:19,20 38:7 40:15,16 48:18 48:24 49:25 61:13 62:15 76:13,15 79:6 80:20 85:24 86:5,21 pointed 29:11 31:9 37:11 39:19 points 40:13 police 42:25 50:13 64:7 policies 79:23 policy 49:10 79:21 80:13,16 policymakers 79:17,19 polity 5:5 populated 23:4 portions 49:18 poses 23:4 position 10:4 13:15 21:22 24:18 28:14 29:20 43:23 48:24 80:24 82:4 89:12 positive 9:17 possess 16:1	19:8 20:24 55:3 60:6 61:14 75:9 possessing 40:23 possession 7:25 18:18,20,21,25 19:1 36:16 41:19 43:17 49:21 50:12 74:16 78:3,4 87:2 possibility 25:8 25:10 46:3 65:18 possible 7:6 possibly 86:13 post 32:7 potential 16:7 52:19 powder 64:3,11 71:20 power 3:14 10:24 13:1,7 13:15 31:11 69:14 70:5 powerful 89:4 powers 13:5 practical 43:14 practice 5:14 52:22 practices 77:22 78:9 praise 57:17 pre 46:24 preamble 4:25 28:15,17 30:19 41:6 precisely 17:12 29:12 35:5 preclude 17:6 90:7 preeminent 41:6 preexisting 39:15,17 preface 6:6 preliminary 28:10	premised 69:11 69:13 prepared 52:7 preparedness 52:5 present 43:2 60:23 present-day 62:8 preservation 12:4 57:1 60:19 73:1 preserve 60:24 60:25 69:3 preserving 14:11 57:5 presumably 3:15 14:12 41:25 77:20 presumptively 90:15 presupposed 11:18 pretty 52:16 61:19 prevailed 49:11 prevent 10:18 24:11 42:14 72:3 87:22 pre-existing 40:4,8,18 pre-law 46:25 pre-1976 46:22 principal 33:23 45:24 56:11,12 principally 27:10 principle 63:1 principles 6:8 42:15 private 36:16 probably 28:23 31:5 32:22 43:11 50:18 62:5 problem 47:10 53:11 74:4,22
---	---	--	---	--

Official - Subject to Final Review

76:7	71:24	20:5,6,7,9	quite 13:22 19:3	29:10 36:15
problems 64:18	protected 3:17	25:12 50:22,24	19:9 22:9	40:19 45:2
process 75:7	17:15 21:6	51:1,6 52:11	32:18,21 44:3	50:16 51:10
produced 41:22	29:24 32:14,17	53:24 54:16,16	52:16 68:13	63:16,19 68:15
professionals	46:6 55:9	54:18 55:4	71:8	79:11 85:4
13:2	59:22 62:20	56:11,12 57:4	quote 3:24 9:8	reason 52:1
proficiency	63:6 72:25	57:4,5,5 65:17	20:17	70:22 71:2
53:17,22	protecting 3:19	66:1,2 71:23		78:22
prohibit 49:8,21	19:6 41:1	purposes 6:18	R	reasonable 7:14
57:25 66:4	protection 16:8	14:17 19:20,22	R 3:1	9:15 18:18,19
88:25 89:11	protective 14:9	24:13 25:19	raise 25:10	19:10 21:17
prohibited	protects 22:20	26:16 57:20	raised 48:18	23:14 25:18,21
29:22 50:12	57:22	66:6 68:23	ranges 52:23	39:18 48:7
87:2,15	protestants	72:20 85:9,17	rate 53:1,4	51:1,2,23
prohibiting	17:15 68:2	put 13:3 14:5	78:17,20 80:5	58:13,16 60:18
87:21	provide 43:5	77:8 82:21	ratifier 57:13	64:17 66:3
prohibition	provides 88:4	83:5 84:15	ratifying 67:21	72:11 75:13,19
20:22 46:12	provision 4:13		Rawle 57:11,12	77:10,14 79:16
50:10 65:5	21:15 24:14	Q	reaction 13:11	81:1 82:2
prohibitions	30:1 34:8,13	qualification	reactivating	reasonableness
10:16	34:22 41:17	23:24	10:4	9:10 18:14
prohibits 18:25	42:4,7,13 43:6	qualified 57:17	read 5:20 8:18	22:23 48:7
81:10	50:9 56:9,10	qualify 60:3	22:2 23:23	78:10 82:6
prologue 45:16	68:1,11 69:20	quarrel 51:13	36:5,14 46:18	89:3
promote 20:19	71:15 72:14,15	question 9:14	47:9,12 51:8	reasonably
prong 63:7	73:10 85:13	12:15 13:19,19	52:14,15 77:2	47:21 63:19
prongs 55:5	87:9,12,25	15:6 16:12	83:5 86:2 88:5	reasoning 53:10
proper 24:3	provisions 5:15	18:5 21:18	readily 71:8	reasons 25:22
proportionate	15:8,12 18:12	25:16 28:10,21	reading 7:9,10	39:10 71:13
51:5,23 84:24	21:12 29:4	35:9 36:4 41:4	10:5 12:7,9	84:6
85:1	30:2 32:9	42:3 43:19	29:15 38:16	reassemble 72:6
proposal 32:25	33:21 34:20	45:7 50:16,22	45:6,8 62:19	rebuttal 2:10
33:2,3,8,12	35:11 38:5	53:25 58:11	76:21 84:2	25:1,4 81:24
proposals 70:12	42:6 57:8	59:2,5 60:16	readings 48:3	recall 17:22
propose 44:2	66:24 67:8	65:24 66:1	reads 49:20	recognition
proposed 12:2	70:25 71:1,10	73:23 74:1,17	ready 24:24	34:16
13:11 32:1,2,4	71:11,18 73:4	76:20 79:2,14	53:3	recognize 69:12
37:16 44:6	73:7 80:14	79:14 83:4	reaffirm 5:25	90:21
70:10,15,19	provocation	85:14 87:16	6:8 57:8	recognized
prosecute 50:11	70:2	88:22	reaffirmation	40:14,17 53:17
prosecution	provoked 69:22	questionable	6:11	54:25 61:7
50:9	public 18:8 19:4	51:17	reaffirming	record 69:9 81:8
protect 7:23	20:14 89:17,19	questionably	5:21	recreational
14:6 15:22	pull 83:15	81:19	reaffirms 6:7,10	24:12 72:17
18:12 27:16	purpose 5:21	questioning	real 16:6 21:10	red 5:18
30:11 31:14	7:5 10:18,21	57:19	62:16	redefine 55:18
41:16 57:23	14:8 19:6 20:5	quick 21:10	really 4:19 5:1	refer 3:21 66:18

Official - Subject to Final Review

67:8,9 reference 13:22 34:14,15,21 35:18,19 36:10 54:2 66:22,24 references 4:20 6:17 35:14 referred 8:11,11 20:18 40:3,4 47:5 66:19 referring 28:12 refers 44:12 regard 33:20 41:10 register 86:25 87:14 registered 87:14 regulate 11:9 17:7,11 regulated 4:4 6:20 26:1,7,9 26:11 regulating 64:20 regulation 5:9 9:10 18:15 19:11,12 25:19 25:21 31:13 58:14 65:17,23 65:23 66:4 81:10 90:14,16 regulations 9:15 17:13 39:18 40:9 44:12 regulatory 27:1 27:3,4 rejected 33:5,14 70:10 79:10 related 6:14,25 8:6 16:21 28:24 40:13 41:7 62:5 86:20 relatedness 11:25 relation 20:23 44:16 relationship	60:19 relatively 35:2 42:12 relevance 62:16 62:18 relevant 15:9,11 35:7,9 37:14 relied 57:2 religious 4:2 religiously 4:5 reluctantly 11:4 rely 4:25 9:19 remain 25:3 57:9 remainder 24:25 remained 41:7 remember 31:8 73:11 78:7 remind 56:25 57:4 remote 8:14 remove 80:12 82:10,24 83:10 removed 27:4 render 4:6 7:6 50:2,7 rendering 3:25 repeal 13:14 repeatedly 79:10 replied 90:18 report 58:20 reproduced 46:19 require 8:1 41:21 72:10 75:14,15,16 requirement 54:6 74:15,18 75:21 87:13 requirements 75:20 requiring 76:7 reserve 24:25 reserved 12:11 12:18,21 31:19	31:22 reserves 12:8 resisted 7:13 resolution 90:22 resolve 90:23 respect 12:18 37:15 41:12,13 42:7 46:1 48:25 74:4 respects 27:4 45:3 respond 25:14 48:18,22,23 Respondent 1:22 2:9 Respondents 10:13 48:4,12 response 3:11 51:23 59:1,3 79:16 responsive 27:13 rest 67:9 restraint 10:6 restrict 5:1 restricted 13:24 restricting 43:17 restriction 34:3 44:15 46:10 53:20 71:12 77:18 restrictions 9:7 16:10 27:20 34:6 40:6 77:14,16,21,23 78:10 80:18 restrictive 16:17 16:25 17:4 result 44:3 resulted 69:10 resulting 3:17 retainer 32:6 retake 11:2 reversed 82:4 reverting 70:20 review 41:18	48:7 53:15 66:4 74:8,9 78:21 79:7 80:20 81:20 revolt 69:5 revolution 73:18 revolutionary 57:2 revolver 53:21 rifle 24:10 85:5 85:8 rifles 19:15,18 19:25 20:1,2 26:15 51:22 52:23 58:21 63:10 right 3:17,19 4:2 4:10,11,14,16 4:23 5:1,7,8,9 5:10,25 6:2,5,8 6:9,21 7:20 8:2 8:8,24 9:5,6,7 9:14 12:20 13:21 14:6,11 14:14,14,15,15 14:23 15:23,24 16:1,2,5,9,15 16:18 17:19 18:4,7,9,12,25 19:5,16 20:8 20:24 24:19 25:9,11 26:13 28:6,21,25 29:1 30:10 32:14,14 33:4 33:17,23,24 34:18 35:10,12 35:13 36:1,10 38:14,21,22 39:14,15,16,16 39:23 41:11,16 44:11,16 50:22 50:24,24 51:7 51:20 52:12,16 52:17,20 55:16 55:17,18,20 56:14,16 57:6	57:24 58:3,5,9 58:11,14 60:15 60:24 64:2 65:21,22 67:22 68:16 69:12 71:5 72:4,23 72:25 73:1,2 73:15,16,17 74:5,7,13,17 76:22,25 77:25 78:5,9 80:16 84:5 85:22 87:25 89:18 90:19,20 rights 6:7,10 12:8,11,12,17 12:21 14:5 16:18,20 17:5 17:14,15 28:22 28:24 29:5 32:6 33:17,21 33:22 34:2,9 34:14,20 35:6 35:12,15,19 38:23 39:21 53:16 54:10,13 67:24,25 68:12 70:13,16,18 76:18 80:12,19 risk 64:12,14 71:19,22 ROBERTS 3:3 4:11,23 9:12 12:6,16 18:17 18:24 19:11 23:6,22 25:2 27:22 44:5 46:9 48:8,10 54:8 60:11 61:10 71:9,21 72:4 76:2,9 77:13,17 81:22 82:9,16,18,25 83:8,22 84:1,8 84:25 85:4 86:20 87:6,24 91:1
---	--	--	---	--

Official - Subject to Final Review

Robertson 40:15 robust 42:12 rocket 61:8 role 28:15,18 74:8 79:7 Roman 17:24 room 86:22 87:3 rough 51:13 roughly 51:12 64:13 rule 24:20 46:1 63:15 ruled 50:13 run 42:19 rural 27:12 89:25	22:18 23:16 26:3,7 29:11 37:22 40:2,12 40:21 42:16 45:15,23 47:2 47:9 48:20,23 53:6,8,14 56:6 66:7,12 68:22 69:2 77:8 78:22 83:18 88:7,14,17 89:11 Scalia's 88:23 schools 23:2 89:7 Sciences 79:10 scope 3:16 5:6 28:18 44:11,15 47:20 Scottish 17:23 37:24 scruples 4:2 scrupulous 4:6 scrutiny 35:4 39:12 40:10 43:13,15,19 44:2,3 45:9,12 45:13 48:6 72:12 89:3 90:13 seat 27:15 second 3:11,20 4:12 5:16 6:16 7:4,9 8:5,9,18 9:17 10:5,23 11:14,19 12:1 12:10 13:13,14 14:19 15:19 16:17 20:18 25:10,13,13,16 27:20 28:5 29:23 30:3,13 31:23 32:1,25 33:1 38:18 39:15 40:17,20 41:13 46:6 47:20 49:13	52:11 54:2,10 54:18,19 55:9 55:15,23 56:7 56:13 57:13,15 59:23 66:2,8 67:3,17 68:11 69:11 70:14,16 71:3,24 72:23 73:3,5,12 78:2 78:7 87:18 90:9 seconds 83:17 84:10 section 3:12 11:18 12:17 31:10 32:2,5 75:1 secure 6:9 security 4:5 6:20 14:19 20:20 26:11 27:16 see 4:20 6:16,18 7:8 21:4 47:10 47:19 49:18 52:22 58:23 59:21 63:24 65:5,15,16 69:1 70:6,18 74:9 75:18 78:10 89:17 seen 66:10,11 67:5 seized 65:2 self 24:24 self-defense 8:24 24:21 41:3,16,20 42:12 49:3,9 49:14,22,23 50:14 65:6,8 66:6,17,18,22 67:9,18,20 68:6 69:12,20 69:22 71:19 72:21,22 73:3 79:25 80:6 84:23 85:2,5,9	85:12,20,22 86:2,19 Senate 33:10,12 sense 5:4 8:1 17:4 47:4 62:8 63:24 65:17 76:11 85:5 sensible 18:15 separate 9:14 69:4,4 70:9,25 70:25 87:9 serve 14:13 56:1 served 11:14 36:6 57:20 serves 52:4 service 3:22,25 4:7 11:22 27:6 28:7 36:3 41:11 52:3 56:4 61:14 set 70:15 75:12 87:23 sets 89:24 settler 8:14 57:23 seven 78:1 seventh 67:25 shifting 20:7 shipment 81:1 shocking 3:14 12:24 shoot 23:1 shooting 50:13 72:17 short 10:3,4 shotgun 23:25 24:10 85:8 shotguns 19:15 26:15 41:21,24 63:10 81:2 show 85:10,18 showing 19:18 19:25 26:15 85:8 shows 56:6 side 11:25 14:7 24:18 37:9	sides 51:10 significance 54:1 significant 27:3 44:7 similar 15:7 51:20 64:8,9 71:11,16,17 simple 84:14 simply 5:21 6:11 12:12 40:7 53:11 57:7 63:17 72:21 77:2 78:5 single 89:25 situation 62:16 slightly 58:16 slower 48:20 solely 46:14 Solicitor 1:18 59:15 somebody 36:22 37:2 42:18 43:1 83:20 somewhat 11:4 sorry 19:23 20:2 33:6 38:22 sort 44:20 49:14 52:10 61:9,20 68:24 75:15 79:16 81:7 85:19 sounds 18:7 35:25 36:11 sources 37:12 Souter 14:22 15:4 17:3,9 34:12,19 35:21 36:15,21 37:2 37:19 39:4,19 56:21 69:8,16 69:21 70:6 78:12,16 79:2 79:13 80:3 South 90:1 so-called 49:3 spate 50:6
S s 2:1 3:1 74:10 safe 72:8,10,11 72:14,15 safety 20:14 71:13 89:17,19 salient 27:8 sanction 59:14 sat 57:13 satisfactory 19:19 saw 43:1 58:25 70:15 sawed-off 81:2 saying 12:10 13:21 14:23 15:2 24:22 36:22 50:15 85:1 87:9 says 4:2 5:25 12:17 19:20 20:16 41:21 45:12 46:19 56:14 60:16,16 75:3,8,8,10 83:1 Scalia 7:8 8:22 11:6,13 17:22 21:24 22:6,14				

Official - Subject to Final Review

telling 12:19 33:20	28:13,19 29:2 29:7 30:4,17	77:15	74:6	uncommon 56:9
tells 72:19	31:25 32:8,12	times 41:25	trouble 63:16	unconnected 20:9
Tenth 6:10	32:15,15 33:9	81:18	troubles 77:6	underinclusive 62:4
term 17:24 29:6 29:8 30:17 37:25 47:22 68:4	33:11,15,20,25 34:4,8 35:4,5,8 36:19 37:9,14 37:18 38:3,4,6 38:8,10,11 39:10,13,24 40:24 41:9 42:4,8,22 43:9 44:3 45:4,24 46:2,4,12,16 47:12,14,21 54:4,15 59:11 59:18 63:15,22 68:4,10,18 72:13 73:22 76:7,15 79:13 80:21 81:13 86:4,16 87:5	today 3:4 10:6 10:12 45:18,20 50:11 52:19 62:17 63:9,24 64:12 71:19 80:8 86:18	troublesome 16:4 true 9:13 35:1 72:7 trust 72:21 try 29:8 44:22 90:22 trying 51:11 73:11 Tucker's 68:8 Tuesday 1:10 turkey 88:10 turn 83:15,18,18 83:19 84:1 twice 70:23 two 5:19 6:13 7:19 14:4 25:22 27:4 28:22,24 29:4 32:14 33:22 36:12 38:23 40:13 42:3 49:2 50:17 52:3,15 55:4 66:17 67:8 84:6	understand 12:9 42:16 52:21 54:5 61:12 67:14 69:23 70:1,3 83:1 86:21 understanding 62:11,11 80:25 understandings 78:9 understood 12:12 19:14 34:2 37:8 65:1 73:16 78:6 undetactable 59:15 undisputed 49:18 undoubtedly 27:10 unfortunately 44:4 unique 35:2 United 1:1,13,20 2:6 27:19 28:1 51:14 73:25 76:17 universal 24:20 24:20 university 81:5 unloaded 41:24 72:2 82:12,19 83:1,6 unlock 42:19 unlocking 24:11 unmistakably 69:19 unmodified 37:7 unmoor 16:7 unprotected 55:9 unquote 20:17
terms 12:2,9 15:22 25:19 65:18 69:20 87:7	38:8,10,11 39:10,13,24 40:24 41:9 42:4,8,22 43:9 44:3 45:4,24 46:2,4,12,16 47:12,14,21 54:4,15 59:11 59:18 63:15,22 68:4,10,18 72:13 73:22 76:7,15 79:13 80:21 81:13 86:4,16 87:5	today's 30:7 told 60:3 tomorrow 55:19 top 71:15 total 18:18,20 23:9,15,20 24:5 25:18 totally 41:18 tougher 58:16 trade 13:3 tradition 78:8 traditional 78:9 train 5:10 trained 9:22 26:3,8,9 65:18 65:22 translated 34:10 translation 39:20 transmitted 89:8 transposes 6:19 treatise 57:12 58:8 tremendous 13:11 tribes 8:15 trigger 42:4,7 42:13 43:3,5 73:22,24 74:14 82:7,11,12,17 82:21,21,23 83:6,10,12 84:19 85:13,14 85:15 86:7,9 86:14,17 trigger-lock 71:10,15,18	turn 83:15,18,18 83:19 84:1 twice 70:23 two 5:19 6:13 7:19 14:4 25:22 27:4 28:22,24 29:4 32:14 33:22 36:12 38:23 40:13 42:3 49:2 50:17 52:3,15 55:4 66:17 67:8 84:6 two-pronged 59:23 type 19:13 21:23 41:19 47:6 55:1 60:5 62:20 63:2 78:21 79:24 87:22 89:5 types 75:17 tyrants 7:16	uncommon 56:9 unconnected 20:9 underinclusive 62:4 understand 12:9 42:16 52:21 54:5 61:12 67:14 69:23 70:1,3 83:1 86:21 understanding 62:11,11 80:25 understandings 78:9 understood 12:12 19:14 34:2 37:8 65:1 73:16 78:6 undetactable 59:15 undisputed 49:18 undoubtedly 27:10 unfortunately 44:4 unique 35:2 United 1:1,13,20 2:6 27:19 28:1 51:14 73:25 76:17 universal 24:20 24:20 university 81:5 unloaded 41:24 72:2 82:12,19 83:1,6 unlock 42:19 unlocking 24:11 unmistakably 69:19 unmodified 37:7 unmoor 16:7 unprotected 55:9 unquote 20:17
test 43:4 45:4 59:17,24,25 75:16	54:4,15 59:11 59:18 63:15,22 68:4,10,18 72:13 73:22 76:7,15 79:13 80:21 81:13 86:4,16 87:5	totally 41:18 tougher 58:16 trade 13:3 tradition 78:8 traditional 78:9 train 5:10 trained 9:22 26:3,8,9 65:18 65:22 translated 34:10 translation 39:20 transmitted 89:8 transposes 6:19 treatise 57:12 58:8 tremendous 13:11 tribes 8:15 trigger 42:4,7 42:13 43:3,5 73:22,24 74:14 82:7,11,12,17 82:21,21,23 83:6,10,12 84:19 85:13,14 85:15 86:7,9 86:14,17 trigger-lock 71:10,15,18	turn 83:15,18,18 83:19 84:1 twice 70:23 two 5:19 6:13 7:19 14:4 25:22 27:4 28:22,24 29:4 32:14 33:22 36:12 38:23 40:13 42:3 49:2 50:17 52:3,15 55:4 66:17 67:8 84:6 two-pronged 59:23 type 19:13 21:23 41:19 47:6 55:1 60:5 62:20 63:2 78:21 79:24 87:22 89:5 types 75:17 tyrants 7:16	uncommon 56:9 unconnected 20:9 underinclusive 62:4 understand 12:9 42:16 52:21 54:5 61:12 67:14 69:23 70:1,3 83:1 86:21 understanding 62:11,11 80:25 understandings 78:9 understood 12:12 19:14 34:2 37:8 65:1 73:16 78:6 undetactable 59:15 undisputed 49:18 undoubtedly 27:10 unfortunately 44:4 unique 35:2 United 1:1,13,20 2:6 27:19 28:1 51:14 73:25 76:17 universal 24:20 24:20 university 81:5 unloaded 41:24 72:2 82:12,19 83:1,6 unlock 42:19 unlocking 24:11 unmistakably 69:19 unmodified 37:7 unmoor 16:7 unprotected 55:9 unquote 20:17
testing 65:14	54:4,15 59:11 59:18 63:15,22 68:4,10,18 72:13 73:22 76:7,15 79:13 80:21 81:13 86:4,16 87:5	totally 41:18 tougher 58:16 trade 13:3 tradition 78:8 traditional 78:9 train 5:10 trained 9:22 26:3,8,9 65:18 65:22 translated 34:10 translation 39:20 transmitted 89:8 transposes 6:19 treatise 57:12 58:8 tremendous 13:11 tribes 8:15 trigger 42:4,7 42:13 43:3,5 73:22,24 74:14 82:7,11,12,17 82:21,21,23 83:6,10,12 84:19 85:13,14 85:15 86:7,9 86:14,17 trigger-lock 71:10,15,18	turn 83:15,18,18 83:19 84:1 twice 70:23 two 5:19 6:13 7:19 14:4 25:22 27:4 28:22,24 29:4 32:14 33:22 36:12 38:23 40:13 42:3 49:2 50:17 52:3,15 55:4 66:17 67:8 84:6 two-pronged 59:23 type 19:13 21:23 41:19 47:6 55:1 60:5 62:20 63:2 78:21 79:24 87:22 89:5 types 75:17 tyrants 7:16	uncommon 56:9 unconnected 20:9 underinclusive 62:4 understand 12:9 42:16 52:21 54:5 61:12 67:14 69:23 70:1,3 83:1 86:21 understanding 62:11,11 80:25 understandings 78:9 understood 12:12 19:14 34:2 37:8 65:1 73:16 78:6 undetactable 59:15 undisputed 49:18 undoubtedly 27:10 unfortunately 44:4 unique 35:2 United 1:1,13,20 2:6 27:19 28:1 51:14 73:25 76:17 universal 24:20 24:20 university 81:5 unloaded 41:24 72:2 82:12,19 83:1,6 unlock 42:19 unlocking 24:11 unmistakably 69:19 unmodified 37:7 unmoor 16:7 unprotected 55:9 unquote 20:17
test's 63:7	54:4,15 59:11 59:18 63:15,22 68:4,10,18 72:13 73:22 76:7,15 79:13 80:21 81:13 86:4,16 87:5	totally 41:18 tougher 58:16 trade 13:3 tradition 78:8 traditional 78:9 train 5:10 trained 9:22 26:3,8,9 65:18 65:22 translated 34:10 translation 39:20 transmitted 89:8 transposes 6:19 treatise 57:12 58:8 tremendous 13:11 tribes 8:15 trigger 42:4,7 42:13 43:3,5 73:22,24 74:14 82:7,11,12,17 82:21,21,23 83:6,10,12 84:19 85:13,14 85:15 86:7,9 86:14,17 trigger-lock 71:10,15,18	turn 83:15,18,18 83:19 84:1 twice 70:23 two 5:19 6:13 7:19 14:4 25:22 27:4 28:22,24 29:4 32:14 33:22 36:12 38:23 40:13 42:3 49:2 50:17 52:3,15 55:4 66:17 67:8 84:6 two-pronged 59:23 type 19:13 21:23 41:19 47:6 55:1 60:5 62:20 63:2 78:21 79:24 87:22 89:5 types 75:17 tyrants 7:16	uncommon 56:9 unconnected 20:9 underinclusive 62:4 understand 12:9 42:16 52:21 54:5 61:12 67:14 69:23 70:1,3 83:1 86:21 understanding 62:11,11 80:25 understandings 78:9 understood 12:12 19:14 34:2 37:8 65:1 73:16 78:6 undetactable 59:15 undisputed 49:18 undoubtedly 27:10 unfortunately 44:4 unique 35:2 United 1:1,13,20 2:6 27:19 28:1 51:14 73:25 76:17 universal 24:20 24:20 university 81:5 unloaded 41:24 72:2 82:12,19 83:1,6 unlock 42:19 unlocking 24:11 unmistakably 69:19 unmodified 37:7 unmoor 16:7 unprotected 55:9 unquote 20:17
Texas 48:6	54:4,15 59:11 59:18 63:15,22 68:4,10,18 72:13 73:22 76:7,15 79:13 80:21 81:13 86:4,16 87:5	totally 41:18 tougher 58:16 trade 13:3 tradition 78:8 traditional 78:9 train 5:10 trained 9:22 26:3,8,9 65:18 65:22 translated 34:10 translation 39:20 transmitted 89:8 transposes 6:19 treatise 57:12 58:8 tremendous 13:11 tribes 8:15 trigger 42:4,7 42:13 43:3,5 73:22,24 74:14 82:7,11,12,17 82:21,21,23 83:6,10,12 84:19 85:13,14 85:15 86:7,9 86:14,17 trigger-lock 71:10,15,18	turn 83:15,18,18 83:19 84:1 twice 70:23 two 5:19 6:13 7:19 14:4 25:22 27:4 28:22,24 29:4 32:14 33:22 36:12 38:23 40:13 42:3 49:2 50:17 52:3,15 55:4 66:17 67:8 84:6 two-pronged 59:23 type 19:13 21:23 41:19 47:6 55:1 60:5 62:20 63:2 78:21 79:24 87:22 89:5 types 75:17 tyrants 7:16	uncommon 56:9 unconnected 20:9 underinclusive 62:4 understand 12:9 42:16 52:21 54:5 61:12 67:14 69:23 70:1,3 83:1 86:21 understanding 62:11,11 80:25 understandings 78:9 understood 12:12 19:14 34:2 37:8 65:1 73:16 78:6 undetactable 59:15 undisputed 49:18 undoubtedly 27:10 unfortunately 44:4 unique 35:2 United 1:1,13,20 2:6 27:19 28:1 51:14 73:25 76:17 universal 24:20 24:20 university 81:5 unloaded 41:24 72:2 82:12,19 83:1,6 unlock 42:19 unlocking 24:11 unmistakably 69:19 unmodified 37:7 unmoor 16:7 unprotected 55:9 unquote 20:17
text 3:18 14:18 21:14 28:6 29:8 41:9 57:8 67:7,11,16 90:15	54:4,15 59:11 59:18 63:15,22 68:4,10,18 72:13 73:22 76:7,15 79:13 80:21 81:13 86:4,16 87:5	totally 41:18 tougher 58:16 trade 13:3 tradition 78:8 traditional 78:9 train 5:10 trained 9:22 26:3,8,9 65:18 65:22 translated 34:10 translation 39:20 transmitted 89:8 transposes 6:19 treatise 57:12 58:8 tremendous 13:11 tribes 8:15 trigger 42:4,7 42:13 43:3,5 73:22,24 74:14 82:7,11,12,17 82:21,21,23 83:6,10,12 84:19 85:13,14 85:15 86:7,9 86:14,17 trigger-lock 71:10,15,18	turn 83:15,18,18 83:19 84:1 twice 70:23 two 5:19 6:13 7:19 14:4 25:22 27:4 28:22,24 29:4 32:14 33:22 36:12 38:23 40:13 42:3 49:2 50:17 52:3,15 55:4 66:17 67:8 84:6 two-pronged 59:23 type 19:13 21:23 41:19 47:6 55:1 60:5 62:20 63:2 78:21 79:24 87:22 89:5 types 75:17 tyrants 7:16	uncommon 56:9 unconnected 20:9 underinclusive 62:4 understand 12:9 42:16 52:21 54:5 61:12 67:14 69:23 70:1,3 83:1 86:21 understanding 62:11,11 80:25 understandings 78:9 understood 12:12 19:14 34:2 37:8 65:1 73:16 78:6 undetactable 59:15 undisputed 49:18 undoubtedly 27:10 unfortunately 44:4 unique 35:2 United 1:1,13,20 2:6 27:19 28:1 51:14 73:25 76:17 universal 24:20 24:20 university 81:5 unloaded 41:24 72:2 82:12,19 83:1,6 unlock 42:19 unlocking 24:11 unmistakably 69:19 unmodified 37:7 unmoor 16:7 unprotected 55:9 unquote 20:17
textual 14:6 32:21	54:4,15 59:11 59:18 63:15,22 68:4,10,18 72:13 73:22 76:7,15 79:13 80:21 81:13 86:4,16 87:5	totally 41:18 tougher 58:16 trade 13:3 tradition 78:8 traditional 78:9 train 5:10 trained 9:22 26:3,8,9 65:18 65:22 translated 34:10 translation 39:20 transmitted 89:8 transposes 6:19 treatise 57:12 58:8 tremendous 13:11 tribes 8:15 trigger 42:4,7 42:13 43:3,5 73:22,24 74:14 82:7,11,12,17 82:21,21,23 83:6,10,12 84:19 85:13,14 85:15 86:7,9 86:14,17 trigger-lock 71:10,15,18	turn 83:15,18,18 83:19 84:1 twice 70:23 two 5:19 6:13 7:19 14:4 25:22 27:4 28:22,24 29:4 32:14 33:22 36:12 38:23 40:13 42:3 49:2 50:17 52:3,15 55:4 66:17 67:8 84:6 two-pronged 59:23 type 19:13 21:23 41:19 47:6 55:1 60:5 62:20 63:2 78:21 79:24 87:22 89:5 types 75:17 tyrants 7:16	uncommon 56:9 unconnected 20:9 underinclusive 62:4 understand 12:9 42:16 52:21 54:5 61:12 67:14 69:23 70:1,3 83:1 86:21 understanding 62:11,11 80:25 understandings 78:9 understood 12:12 19:14 34:2 37:8 65:1 73:16 78:6 undetactable 59:15 undisputed 49:18 undoubtedly 27:10 unfortunately 44:4 unique 35:2 United 1:1,13,20 2:6 27:19 28:1 51:14 73:25 76:17 universal 24:20 24:20 university 81:5 unloaded 41:24 72:2 82:12,19 83:1,6 unlock 42:19 unlocking 24:11 unmistakably 69:19 unmodified 37:7 unmoor 16:7 unprotected 55:9 unquote 20:17
Thank 27:22 48:8,9,13 81:21,22 90:25 91:1	54:4,15 59:11 59:18 63:15,22 68:4,10,18 72:13 73:22 76:7,15 79:13 80:21 81:13 86:4,16 87:5	totally 41:18 tougher 58:16 trade 13:3 tradition 78:8 traditional 78:9 train 5:10 trained 9:22 26:3,8,9 65:18 65:22 translated 34:10 translation 39:20 transmitted 89:8 transposes 6:19 treatise 57:12 58:8 tremendous 13:11 tribes 8:15 trigger 42:4,7 42:13 43:3,5 73:22,24 74:14 82:7,11,12,17 82:21,21,23 83:6,10,12 84:19 85:13,14 85:15 86:7,9 86:14,17 trigger-lock 71:10,15,18	turn 83:15,18,18 83:19 84:1 twice 70:23 two 5:19 6:13 7:19 14:4 25:22 27:4 28:22,24 29:4 32:14 33:22 36:12 38:23 40:13 42:3 49:2 50:17 52:3,15 55:4 66:17 67:8 84:6 two-pronged 59:23 type 19:13 21:23 41:19 47:6 55:1 60:5 62:20 63:2 78:21 79:24 87:22 89:5 types 75:17 tyrants 7:16	uncommon 56:9 unconnected 20:9 underinclusive 62:4 understand 12:9 42:16 52:21 54:5 61:12 67:14 69:23 70:1,3 83:1 86:21 understanding 62:11,11 80:25 understandings 78:9 under

Official - Subject to Final Review

unrealistic 56:7	usually 59:24	wait 36:21	18:21 20:14,22	wish 63:9 72:13
unreasonable	U.S 52:2	WALTER 1:16	20:24 21:23	86:7
50:16 52:25		2:3,11 3:7	22:3 23:21	wished 60:24,25
53:3,14 77:5,6	V	81:24	24:6,23 30:7	wishes 62:19
87:17	v 1:6	want 14:16	41:19 47:6	wolves 8:16
unreasonably	Va 1:21	25:25 36:12	59:19 62:20	wonder 44:9
76:22 77:3	valid 86:10	39:2,4 46:2	65:15 84:16,23	wondered 25:7
unregistered	validity 85:24	50:21 53:6,9	85:19 89:5,6	wonderful 62:14
86:25 87:12	89:12	53:10 57:20	weaponry 63:4	63:4
unregulated	variety 33:21	61:23 69:2	weapons 6:17	word 14:2 29:6
14:15,21	various 38:3	73:23,25 75:9	7:18 9:5,8 13:3	29:12 38:5
untether 16:8	44:5,12 71:11	79:13,17 80:3	16:1,21 18:13	39:1 64:25
unusable 86:12	Verdugo-Urq...	80:24 82:1	18:16 21:5,12	77:5 88:2
unusual 22:9,10	5:5 35:18	84:16,18	22:20 23:17,23	wording 61:22
upheld 23:13	Vermont 32:16	wanted 9:20,21	27:1,2,21	words 4:15 33:1
uphold 49:7	66:18	11:2,4,5,7	30:14 45:17,19	33:13 36:7
upstairs 64:4,12	version 83:13	25:14 28:21	45:19 52:21	43:13 55:23
urban 23:5	84:13	57:3 58:5	58:18 63:11	58:13 61:12
27:12 89:25	versions 82:20	75:22	65:2 79:24,24	71:13 85:1
urge 42:11 49:3	versus 3:5 49:5	wants 47:23	86:10,11 90:16	87:7
49:14	viable 31:7 41:8	54:12 81:5	Webster 59:20	work 16:13
urged 49:6	view 13:20,24	war 57:2 73:18	weight 28:19	64:17 73:24
usable 84:23	29:3 30:9	warrant 42:25	welcome 47:24	86:11
use 3:21 6:17	40:19 43:11,21	Washington 1:9	well-regulated	world 43:22
8:19 9:5,22	49:8,12 57:11	1:16,19 49:6	14:20 25:24	worried 45:21
10:14,15 12:2	57:12,21 72:13	72:19 74:10	26:20 60:20	65:23
14:12 16:2,5	73:4,23 77:2	78:17	88:6	worry 46:17
16:21 17:24	viewed 25:19	wasn't 12:20	went 32:19	worth 41:10
18:13 19:5	viewing 16:4	20:21 37:22,22	69:25	wouldn't 4:15
22:20 24:8,15	views 58:15	wave 64:8	weren't 17:25	21:6 22:22
24:24 36:8	violate 80:19	way 4:12 7:15	64:6	30:16 43:11
37:1 40:9	83:2	7:18 13:23	West 90:1	47:19 60:2
45:16 51:22	violated 10:16	14:9,13 22:2	We'll 25:3	64:21 70:6
52:7,21 53:22	73:17	26:22 29:25	we're 9:5 34:1,5	75:2 77:8
58:17 59:5,9	violent 50:6	30:19 31:4,14	62:1 66:12	wounded 51:15
60:7,10 61:6	Virginia 70:13	34:19 36:14,16	86:16	51:20
61:17,22 63:5	70:16,23	37:5 47:9,12	we've 6:1 40:7	write 6:5
63:10,23 65:22	Virginia's 70:12	56:24 64:18	66:10,10 74:13	writing 30:23
71:20,23 72:17	virtually 10:24	67:12 68:16	74:14 80:16	52:3
75:15 80:7	31:12	70:7 73:17	whatnot 69:13	written 15:21
86:3 87:4 88:3	vision 75:16	75:23 77:9,11	whatsoever	wrong 86:7
useful 23:21	vis-a-vis 41:8	78:1 79:6 83:7	24:22	wrote 37:16
36:20 45:17	volunteers 13:5	87:20	whichever 63:18	Wyoming 76:10
59:21 61:13	voted 71:3	weak 79:9	wilderness	
63:1,11,13	voting 76:18	weaken 52:4	30:11 57:24	X
68:19,22 69:1		weaker 89:19	William 57:11	x 1:2,8
uses 4:21 58:12	W	weapon 9:22	window 42:19	

Official - Subject to Final Review

Y	2008 1:10		
year 51:14	21 76:4,8,11,16		
years 44:20	22-4504(a) 75:2		
48:25 78:1	27 2:7		
York 73:14	270 88:10		
young 72:5	29 49:19		
0	3		
07-290 1:6 3:4	3 2:4 83:16		
	84:10		
1	3-22-95 83:20		
1 69:15 70:5	3:00 75:24		
1,500 51:20	30-caliber 53:21		
10 81:23	30.06 88:10		
10:06 1:14 3:2	300 22:16 51:19		
100,000 51:14			
51:17	4		
11th 70:19	40 79:23		
11:43 91:4	42 15:11 18:10		
12 88:17	45 55:25,25		
15 11:19 31:10	48 2:9		
16 11:19 31:10			
31:22 32:3	5		
76:10	5 80:21		
160,000 47:1	50 19:7,9 48:15		
1689 16:18	53a 46:18		
33:18 67:24			
17 55:25 70:17	6		
17th 83:14	60s 76:19		
1783 66:15	634 65:4		
1789 63:25			
1790 57:14	7		
58:21 80:7	70a 49:17		
1791 61:23			
1792 80:7	8		
18 1:10 76:3,8	8 3:12 11:18		
1800 65:3	12:17 31:10		
1828 57:11	32:2		
1895 66:25 67:2	80 51:9 79:25		
1942 53:19	80,000 51:14,17		
1976 21:21	81 2:12		
1978 49:5			
	9		
2	9 32:5		
2,000 51:20			
200 51:19			
2001 43:24			

EXHIBIT “C”



Bureau of Justice Statistics

Special Report

September 2010, NCJ 227379

National Crime Victimization Survey

Victimization During Household Burglary

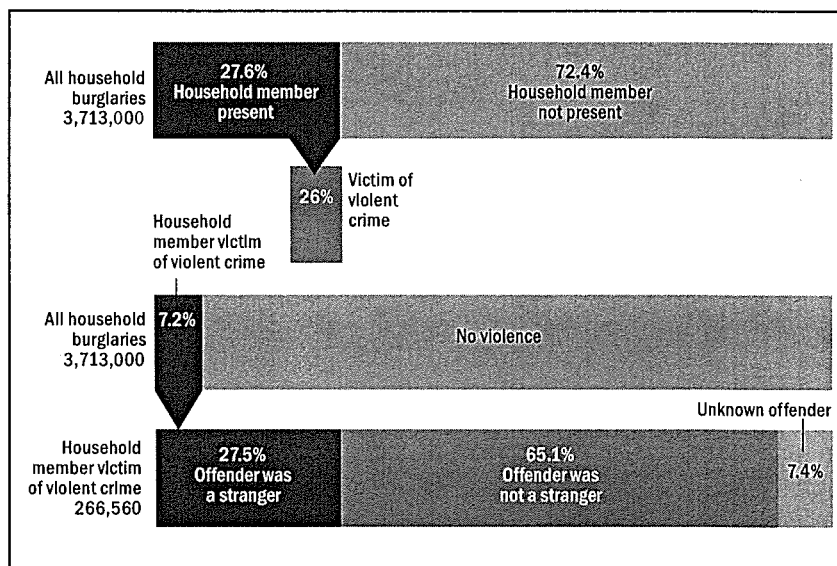
Shannan Catalano, Ph.D.,
BJS Statistician

An estimated 3.7 million household burglaries occurred each year on average from 2003 to 2007. In about 28% of these burglaries, a household member was present during the burglary. In 7% of all household burglaries, a household member experienced some form of violent victimization (figure 1).

These estimates of burglary are based on a revised definition of burglary from the standard classification in the National Crime Victimization Survey (NCVS). Historically, burglary is classified as a property crime except when someone is home during the burglary and a household member is attacked or threatened. When someone is home during a burglary and experiences violence, NCVS classification rules categorize the victimization as a personal (rape/sexual assault, robbery, and aggravated and simple assault) rather than a property crime (household burglary, theft, and motor vehicle theft). In this report, the definition of household burglary includes burglaries in which a household member was a victim of a violent crime (see *Methodology*).

Figure 1.

Number and percent distribution of household burglaries, 2003–2007



Highlights

- An estimated 3.7 million burglaries occurred each year on average from 2003 to 2007.
- A household member was present in roughly 1 million burglaries and became victims of violent crimes in 266,560 burglaries.
- Simple assault (15%) was the most common form of violence when a resident was home and violence occurred. Robbery (7%) and rape (3%) were less likely to occur when a household member was present and violence occurred.
- Offenders were known to their victims in 65% of violent burglaries; offenders were strangers in 28%.
- Overall, 61% of offenders were unarmed when violence occurred during a burglary while a resident was present. About 12% of all households violently burglarized while someone was home faced an offender armed with a firearm.
- Households residing in single family units and higher density structures of 10 or more units were least likely to be burglarized (8 per 1,000 households) while a household member was present.
- Serious injury accounted for 9% and minor injury accounted for 36% of injuries sustained by household members who were home and experienced violence during a completed burglary.

“Home invasion” has been used widely to describe an array of victimizations

“Home invasion” has been used broadly to describe any crime committed by an individual unlawfully entering a residence while someone is home. More narrowly, home invasion has been used to describe a situation where an offender forcibly enters an occupied residence with the specific intent of robbing or violently harming those inside.

The limited numbers of states incorporating the term “home invasion” into their state statutes include the intent on the part of the offender in their definition. In part, these statutes have defined intent as—

- A person enters or remains unlawfully in a dwelling with the intent of committing a violent crime;
- A person knowingly enters the dwelling place of another with the knowledge or expectation that someone (one or more persons) is present;
- The unauthorized entering of any inhabited dwelling or other structure belonging to another with the intent to use force or violence upon the person of another.

Public perception and media reports of home invasion do not necessarily include intent

Public perception and media reports of home invasion do not necessarily include intent on the part of the offender. Situations reported by the media as home invasion include—

- An offender forcibly enters a home to rob the household of specific items, including cash, drugs, or other items— *specific households or residents may become a target either to “settle a score” or because residents are perceived as vulnerable, such as persons with disabilities and the elderly.*
- An offender enters a residence falsely believing no one is home and a confrontation occurs between the resident and the offender.

- A household member returns home while a burglary is in progress and a confrontation occurs between the household member and the offender.

National Crime Victimization Survey (NCVS) estimates of nonfatal crimes and the consequences to victims do not include offender motivation

The NCVS provides estimates of nonfatal violent and property crime and the consequences to victims. If a victim suffers violence during a burglary, NCVS classification rules categorize the victimization as a personal rather than a property crime. Some of these burglaries measured by the survey may fall under the broad definition of home invasion.

Between 2003 and 2007—

- A household member was home in 28% of the 3.7 million average annual burglaries that occurred between 2003 and 2007 (table 1).
- In nonviolent burglaries, household members knew the offender in 30% of the burglaries taking place while someone was home; the offender was a stranger in 24%. The identity of the offender was unknown in 46% of burglaries.
- On average, household members became victims of violent crimes in about 266,560 burglaries annually. Offenders known to their victims accounted for 65% of these burglaries; strangers accounted for 28%.

Because the NCVS does not determine offender motivation for entering an occupied household, the survey cannot address the more stringent application of the term “home invasion” that includes offender intent. Additionally, the NCVS does not distinguish between a household member who is present when the offender gains entry and one who arrived home unexpectedly while the burglary was in progress.

Table 1.

Household burglaries, by type, 2003–2007

Type of burglary	Average annual number of burglaries	Percent of burglaries	
		Household member present	Household member experienced violence
Household burglary	3,713,000	27.6 %	7.2 %
Completed	3,083,750	26.7 %	8.0 %
Forcible entry	1,134,230	15.5	4.9
Unlawful entry	1,949,520	33.3	9.7
Attempted forcible entry	629,250	32.0 %	3.4 %

Note: Percent present is calculated as the number of households in which someone was home during a burglary (N=1,025,520) divided by the number of household burglaries (N=3,713,000). Percent experiencing violence is calculated as the number of households experiencing violence (N=266,560) divided by the number of household burglaries (N=3,713,000).

Findings include household characteristics of burglaries of both occupied and unoccupied residences

The findings on household burglary in this report are presented in three parts. *Household characteristics* of burglaries of both occupied (household member present) and unoccupied (household member not present) residences are examined in Tables 1 through 4. *Burglary characteristics of occupied households*, such as method of entry and type of damage, are examined in Tables 5 through 14. *Characteristics of violence* during household burglaries that took place while someone was home are examined in Tables 15 through 20.

Violence during household burglaries remained stable from 2000 to 2007

Between 2000 and 2007 the rate of household burglary of unoccupied households declined from 25.8 to 21.2 victimizations per 1,000 households (figure 2). In contrast, the rate of household burglary when someone was home remained stable between 2000 (8.5 per 1,000 households) and 2007 (8.3 per 1,000 households). The percentage of these burglaries that included violence remained stable between 2000 (6.3%) and 2005 (5.7%). Between 2005 and 2007, however, there is some indication of an increase in the percentage of violent burglaries from 5.7% to 7.7%.

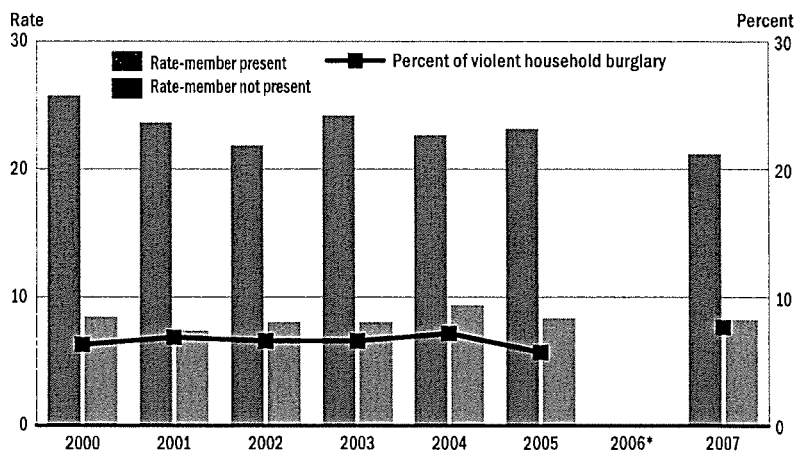
Households composed of single females with children had the highest rates of burglary while someone was present

Households composed of married couples without children experienced the lowest rates of both types of burglary—when no one was home (14 per 1,000 households) and while a household member was present (4 per 1,000 households) (table 2). Households composed of single males were more likely than those composed of single females to experience a burglary while no one was home. However, households composed of single males and single females were equally likely to experience a burglary while the residence was occupied.

Single heads of households—male (59 per 1,000 households) and female (54 per 1,000 households)—living with children experienced the highest rates of burglary while no household member was present. Households composed of single females with children had the highest rate of burglary while someone was home (22 per 1,000 households). There was no consistent pattern in the risk of being present during a

Figure 2.

Household burglary, 2000-2007



*See *Criminal Victimization, 2006—Technical Notes*, BJS Web, 12 December 2007.

Table 2.

Average annual household burglary, by household composition and head of household characteristics, 2003-2007

Characteristics	Average annual number of households	Rate per 1,000 households	
		Household member not present	Household member present
Household composition			
Households without children	58,104,000	17.3	5.8
Married couples	26,018,350	13.5	3.7
Single male	14,219,630	24.6	6.9
Single female	17,866,020	17.1	8.0
Households with children	29,405,670	28.2	10.5
Two-parent	22,395,420	19.9	7.2
Single male	1,041,190	58.7	13.7
Single female	5,969,060	54.1	22.3
Other ^a	29,365,170	29.0	12.9
Race of head of household^b			
White	116,874,850	23.0	8.8
White	96,089,150	21.6	8.5
Black	14,556,460	32.5	10.3
American Indian/Alaska Native	671,650	57.0	19.6
Asian Pacific Islander	4,546,100	12.6	5.2
More than one race	1,011,500	45.4	18.1
Hispanic/Latino origin head of household			
Hispanic or Latino	116,248,780	23.0	8.8
Hispanic or Latino	12,335,710	26.4	11.9
Non-Hispanic or Latino	103,913,070	22.6	8.4
Age of head of household			
12-19	116,874,850	23.0	8.8
12-19	1,085,100	58.8	26.9
20-34	26,609,020	30.2	11.2
35-49	36,445,680	32.4	12.9
50-64	29,341,680	19.9	7.0
65 or older	23,393,370	12.2	4.8

^aIncludes a combination of children, adult relatives, and other adults not related to household members living together. The NCVS is unable to disentangle these more complex household structures involving common law marriages, domestic partnerships, and alternative familial living arrangements.

^bHead of household is a classification defining one and only one person residing in each housing unit as the head. It implies that the person is either the homeowner (or in the process of buying the unit) or the person responsible for renting the unit. The head of household must be age 18 or older with two exceptions: all household members are under age 18 or the head of household is under age 18 and married to someone age 18 or older.

burglary between households composed of single males with children and other household compositions.

Residences with an American Indian or Alaska Native head of household experienced higher rates of burglary

Households having an American Indian or Alaska Native head of household (57 per 1,000 households) experienced higher rates of burglary when no one was home than any other race.

A slightly different pattern in the likelihood of experiencing a burglary was observed for households victimized while occupied. Residences having an American Indian, Alaska Native, or a person of more than one race as the head of household were equally likely to be home during a burglary.

Households with a white head of household were somewhat less likely than those with a black head of household to experience a burglary while a household member was present. Asian and Pacific Islander head of households were the least likely to be present during a burglary.

Households with a head of household ages 12 to 19 had the highest rates of burglary; ages 65 or older had the lowest rates

Burglary rates declined for households with heads of households in older age groups. Households with a head of household age 65 or older had the lowest rates of burglary—12 per 1,000 households while no one was home and 5 per 1,000 households while the residence was occupied. Households with a head of household age 12 to 19 had the highest rates of burglary—59 per 1,000 households when no one was present and 27 per 1,000 households while the residence was occupied.

Higher income households experienced lower rates of burglary

Rates of household burglary were generally lower for higher income households than lower income households (table 3).

Across all categories, the risk of burglary was higher for households living in rental properties. Households living in rental properties experienced higher rates of burglary when no one was home and while the residence was occupied than those who owned or were in the process of buying their homes.

Table 3.

Average annual household burglary, by household income and ownership, 2003–2007

Characteristics	Average annual number of households	Rate per 1,000 households	
		Household member not present	Household member present
Household Income			
Less than \$7,500	4,992,420	47.2	18.5
\$7,500 to \$14,999	8,294,260	34.3	15.9
\$15,000 to \$24,999	11,407,660	29.4	11.7
\$25,000 to \$34,999	11,074,270	23.8	10.0
\$35,000 to \$49,999	14,045,700	23.9	9.0
\$50,000 to \$74,999	15,364,730	18.6	7.0
\$75,000 or more	21,336,190	16.8	5.7
Home ownership			
Own	80,230,680	18.9	6.7
Rent	35,012,820	33.5	13.9

Table 4.

Average annual household burglary, by type of housing and number of units in the structure, 2003–2007

Housing structure	Average annual number of households	Rate per 1,000 households	
		Household member not present	Household member present
Type of housing			
House or apartment	110,403,770	22.1	8.5
Hotel, motel, or rooming house	127,160	36.5 ^	3.1 ^
Mobile home	5,656,090	32.4	11.1
Student quarters	453,450	4.3	1.3 ^
Other units ^a	234,380	3.6	2.9
Number of units^b			
1	79,766,660	22.1	7.9
2	5,638,510	31.3	13.0
3	1,602,980	26.0	15.8
4	3,462,380	28.7	13.5
5-9	5,950,620	25.1	10.4
10 or more	14,415,580	19.7	8.3
Group quarters unit	408,570	41.4	29.3

^aBased on 10 or fewer sample cases.

^aIncludes residences that are temporarily unoccupied, quarters that are not a house such as a condo or duplex, temporary living quarters, and general quarters.

^bA housing unit is a group of rooms or a single room occupied as separate living quarters or intended for occupancy as separate living quarters. To be considered separate living quarters, the occupant must live and eat separately from all other persons on the property and have direct access to their living quarters from the outside or through a common hall or lobby.

Single-unit housing and housing with 10 or more units were least likely to be burglarized while someone was home

Household members living in mobile homes (32 per 1,000 households) were more likely than those living in any other type of housing to experience a burglary while no one was home, with one exception—hotels, motels, and rooming houses. Households living in mobile homes were equally likely as those staying in a hotel, motel, or rooming house to experience a burglary while no one was present (table 4).

Households residing in houses or apartment complexes (9 per 1,000 households) were somewhat less likely than those living in mobile homes (11 per 1,000 households) to be burglarized while someone was home.

There was no consistent pattern in the risk of experiencing a burglary when no one was home by the number of units in a housing structure. However, a pattern was observed when a household member was home. Households residing in single-family units and households residing in higher density structures consisting of 10 or more units (8 per 1,000 households) generally had lower rates of household burglary while a household member was present.

Damaging or removing a door was the most common type of entry in forcible and attempted forcible entry burglaries

Removing or damaging a window screen during a forcible entry was equally likely to occur whether the residence was occupied (11%) or unoccupied (9%) (table 5). In comparison, tampering with a door handle was less likely to occur while a household member was present (20%) than when no one was home (26%).

Attempted forcible entry burglaries differed somewhat from forcible burglaries. Damaging or removing window screens were an equally likely method of an attempted entry by an offender to occupied (22%) or unoccupied (18%) residences (table 6). However, burglars were more likely to attempt to enter a household by tampering with door handles or locks when household members were not in the residence (30%) than while the residence was occupied (19%).

Table 5.

Method of entry and type of damage in completed household burglary involving forcible entry, 2003–2007

Method of entry and type of damage	Household member not present		Household member present	
	Average annual number	Percent	Average annual number	Percent
Window	462,430	48.8 %	80,670	47.0 %
Pane damaged or removed	284,340	30.0	47,360	27.6
Screen damaged or removed	83,250	8.8	19,380	11.3
Lock damaged or unlocked	71,720	7.6	9,780	5.7
Other damage*	23,120	2.4	4,150	2.4 ^
Door	696,290	73.4 %	120,800	70.4 %
Damaged or removed	412,860	43.5	76,050	44.3
Screen damaged or removed	15,800	1.7	6,970	4.1
Handle/lock removed or tampered	242,660	25.6	33,700	19.6
Other damage*	24,970	2.6	4,080	2.4 ^
Other entry*	13,060	1.4 %	4,420	2.6 %^

Note: Forcible entry is a completed burglary in which force, such as breaking a window or slashing a door screen, is used to gain entry to a residence. Percentages will not add to 100 because households may report more than one type of damage.

^Based on 10 or fewer sample cases.

*Other unspecified entry or damage.

Table 6.

Method of entry and type of damage in attempted household burglary involving forcible entry, 2003–2007

Method of entry and type of damage	Household member not present		Household member present	
	Average annual number	Percent	Average annual number	Percent
Window	187,800	44.1 %	105,550	56.1 %
Pane damaged, broken, removed, or cracked	85,920	20.2	46,650	24.8
Screen damaged or removed	75,440	17.7	40,460	21.5
Lock damaged or tampered	17,090	4.0	7,940	4.2
Other damage*	9,350	2.2	10,500	5.6
Door	316,890	74.5 %	108,080	57.5 %
Damaged or removed	159,810	37.6	56,270	29.9
Screen damaged or removed	16,450	3.9	9,570	5.1
Handle/lock removed or tampered	125,550	29.5	35,340	18.8
Other damage*	15,080	3.5	6,900	3.7
Other entry*	5,100	1.2 %^	3,340	1.8 %^

Note: Attempted forcible entry is a burglary in which force was used in an unsuccessful attempt to gain entry to a residence. Percentages will not add to 100 because households may report more than one type of damage.

^Based on 10 or fewer sample cases.

*Other unspecified entry or damage.

Table 7.

Method of entry in household burglary involving unlawful entry, by presence of household member, 2003–2007

Method of entry	Household member not present		Household member present	
	Average annual number	Percent	Average annual number	Percent
Total	1,217,030	100.0 %	623,520	100.0 %
Someone let the offender in	19,960	1.6 %	109,810	17.6 %
Offender pushed way inside	2,750	0.2 ^	73,790	11.8
Open door or window	209,430	17.2	168,560	27.0
Unlocked door or window	481,230	39.5	174,760	28.0
Had key	95,740	7.9	22,490	3.6
Picked lock or window	49,600	4.1	14,020	2.2
Unknown means through locked door or window	64,340	5.3	10,720	1.7
By other means	260,870	21.4	38,890	6.2
Don't know	33,110	2.7	10,480	1.7

Note: Unlawful entry is a completed burglary committed by someone having no legal right to be on the premises even though no force was used to gain entry. An offender may gain access to a residence when household members are not present by being let in by an individual not living in the household, such as a visiting guest, housekeeper, or repair person. Totals may not add to 100% due to rounding.

^Based on 10 or fewer sample cases.

Offenders used an open door or window to gain unlawful entry in 17% of unoccupied residences

In 40% of unlawful entries to unoccupied residences, offenders gained access through an unlocked door or window (table 7). A smaller percentage (5%) of unlawful entries while no one was home was through a locked door or window by unknown means; 8% of offenders used a key to the residence to gain access.

For households occupied at the time of the burglary, offenders were equally likely to gain unlawful entry through an open (27%) or unlocked (28%) door or window. Respondents in 18% of burglaries of occupied residences stated that someone inside the home let the offender in; 12% stated that someone inside opened the door and the offender pushed their way in. Nearly 4% stated that the offender had a key to the residence and used the key to gain access.

Table 8.

Victim activity during household burglaries, by presence of household member, 2003–2007

Type of activity	Household member not present		Household member present	
	Average annual number	Percent	Average annual number	Percent
Total	2,612,060	100.0 %	1,024,230	100.0 %
Working or on duty	656,180	25.1 %	38,470	3.8 %
On the way to or from work	38,460	1.5	14,160	1.4
On the way to or from school	36,840	1.4	1,630	0.2
On the way to or from other place	53,990	2.1	9,000	0.9
Shopping/errands	176,280	6.7	16,980	1.7
Attending school	39,860	1.5	1,560	0.2
Leisure activity away from home	607,640	23.3	48,120	4.7
Sleeping	144,370	5.5	389,880	38.1
Activities at home	80,190	3.1	450,910	44.0
Other activity*	167,380	6.4	26,590	2.6
Don't know	610,870	23.4	26,920	2.6

Note: Respondents may report at home activities when someone other than a household member is in the residence at the time of the burglary. Totals may not add to 100% due to rounding.

*The other activity category is specified when it is not clear what the respondent was doing or where the respondent was at the time of the victimization. Examples include the respondent was in the hospital or taking care of a sick friend.

Household members were at work during a quarter of burglaries that took place while no one was home

In households in which no one was home about a quarter stated that household members were at work when the burglary occurred (table 8). A similar percentage (23%) of households were away from their residences and engaged in leisure activities when the burglary took place.

Victims in 38% of households burglarized while someone was home were asleep at the time of the burglary while 44% of households stated that household members were engaged in other activities in the home when the offender gained entry to the residence.

Households burglaries that occurred when no one was home were more likely to occur between the daytime hours of 6 am and 6 pm (43%) than between the hours of 6 pm to 6 am (26%) (table 9). Conversely, a household member was more likely to be present during a nighttime burglary (61%) than during one that occurred between the daytime hours of 6 am and 6 pm (33%).

Table 9.

Time of occurrence of household burglaries, by presence of household member, 2003–2007

Time of day	Household member not present		Household member present	
	Average annual number	Percent	Average annual number	Percent
Total	2,683,270	100.0 %	1,021,430	100.0 %
Daytime (6 am - 6 pm)	1,159,450	43.2 %	336,340	32.9 %
Nighttime (6 pm - 6 am)	697,940	26.0	626,150	61.3
Don't know time of day	825,880	30.8	58,940	5.8

With the exception cash, items were more likely to be stolen when residents were not home at the time of a burglary

Purses, wallets, credit cards (29%), electronics (33%), and personal items (31%) made up a larger percentage of items stolen during a burglary that occurred when no one was home compared to burglaries that took place when a household member was present (table 10). Firearms were stolen in 4% of burglaries of unoccupied households. Cash was equally likely to be stolen regardless of whether a household was occupied or unoccupied during the household burglary. Fifty-five percent of households burglarized while a resident was home, stated that no items were taken during the burglary compared to 25% of households burglarized while no one was home.

Households burglarized while no one was home were more likely to suffer greater economic losses

Households burglarized while no one was home were more likely to suffer greater economic losses than those burglarized while occupied (table 11). Thirty percent of households burglarized while no one was home had stolen items valued at more than \$1,000; 17% of burglaries with household members present experienced thefts of \$1,000 or greater. Households burglarized while a household member was present were more likely to suffer losses of less than \$250, compared to other categories.

About three-quarters of all household burglaries by forcible entry while no one was home were reported to the police

The percentages of burglaries reported to the police, forcible, unlawful, and attempted forcible entry burglaries were equally likely to be reported regardless of whether a household member was home at the time of the burglary (table 12). However, differences were observed among forcible entry, unlawful entry, and attempted forcible entry in the percentages of burglaries by household members being present and household members not being present.

For households burglarized while no one was home, forcible entry burglaries (73%) were more likely to be reported to the police than unlawful (41%) or

attempted forcible (41%) entry burglaries. More than three-quarters (78%) of households with members present during a forcible burglary reported the crime, 52% reported unlawful burglary, and 62% reported attempted forcible entry. These differences were not statistically significant.

Table 10.

Type of items taken, 2003–2007

Type of Item	Household member not present		Household member present	
	Average annual number	Percent	Average annual number	Percent
No items taken	676,360	25.2 %	566,300	55.2 %
Cash	147,410	5.5	58,590	5.7
Purse, wallet, credit cards	774,610	28.8	106,700	10.4
Electronics	876,650	32.6	131,460	12.8
Jewelry, watches, keys	355,430	13.2	54,080	5.3
Personal items ^a	823,890	30.7	164,190	16.0
Household Items ^b	597,890	22.2	86,340	8.4
Firearms	94,960	3.5	7,630	0.7
Food/liquor	92,460	3.4	14,330	1.4
Other items taken	178,260	6.6	31,770	3.1

Note: Totals may exceed 100% because households may report more than one item stolen.

^aIncludes stamps, coin collections, recreational equipment, clothing, luggage, bicycles or bicycle parts, and animals or livestock.

^bIncludes silver, china, tools, machinery, and farm or garden produce.

Table 11.

Economic loss in household burglaries where property was stolen, 2003–2007

Property value	Household member not present		Household member present	
	Average annual number	Percent	Average annual number	Percent
Total	2,011,130	100.0 %	459,230	100.0 %
No property loss	20,700	1.0 %	6,690	1.5 %
Less than \$10	26,520	1.3	8,720	1.9
\$10 to \$49	145,130	7.2	53,720	11.7
\$50 to \$249	496,530	24.7	140,610	30.6
\$250 to \$999	535,110	26.6	114,370	24.9
\$1,000 or more	601,860	29.9	79,570	17.3
Monetary value not Known	185,280	9.2	55,540	12.1

Note: Includes cash and non-cash property. Households may report both cash and non-cash losses. Totals may not add to 100% due to rounding.

Table 12.

Household burglary reported to police, by type of entry, 2003–2007

Type of burglary	Percent of household burglaries while—	
	Member not present	Member present
All burglary	52.4 %	58.6 %
Completed burglary	54.5 %	57.8 %
Forcible entry	73.1	78.2
Unlawful entry	40.8	52.2
Attempted forcible entry	40.8 %	62.2 %

Table 13.**Reasons for not reporting household burglary to police, by presence of household member, 2003–2007**

Reason	Percent of reasons for not reporting when—	
	Member not present	Member present
Not important enough to report		
Minor crime	29.5	28.6
Not clear a crime occurred	4.4	5.9
Inconvenient	5.3	4.5
Private or personal matter	7.5	17.6
Police could not help		
Could not identify offender/lack of proof	17.9	14.6
No insurance, loss less than deductible	4.3	3.1
Could not recover or identify property	8.5	4.1
Police would not help		
Police ineffectiveness	6.8	4.6
Police biased	1.5	2.6
Police would not bother	14.6	13.1
Crime was discovered too late	10.1	6.4
Reasons related to the offender		
Child offender	1.8	2.7
Protect offender	2.3	4.5
Afraid of reprisal	0.9	6.1
Offender was a police officer	0.1 ^	--
Other reasons		
Don't know why I did not report it	1.5	1.4
Other reason given	0.1 ^	0.3 ^
Other reason not listed	11.5	12.1
Total not reported	1,181,990	396,170

Note: Percent may exceed 100% because households may report more than one reason for not reporting to the police.

--No cases were present for this category.

^Based on 10 or fewer sample cases. Totals may not add to 100% due to rounding.

Table 14.**Household burglary of occupied residences, by victim-offender relationship, 2003–2007**

Relationship	All burglary	Type of burglary	
		Completed ^a	Attempted forcible entry
Total	1,025,520	824,320	201,200
Offender known to the victim	29.5 %	33.5 %	13.1 %
Intimates (current or former)	10.6	11.9	5.0
Relatives/known acquaintances	18.9	21.6	8.0
Strangers	24.2	24.1	24.5
Unknown offender ^b	46.3	42.4	62.4

Note: Totals may exceed 100% because estimates include multiple offenders. Percentages are calculated as the number of households victimized by each victim-offender category divided by the number of households burglaries in which someone was present.

^aIncludes forcible entry and unlawful entry without force.

^bSurvey respondents may not have been able to provide information on the offender because the respondents were not the household members present during the burglary, or the respondents may not have been able to see the offender clearly because of dim lighting (darkness), concealed identity, or other reasons.

For households burglarized while residents were not present, the most common reasons for not reporting the victimization to the police were that the burglary was considered a minor crime (30%), the resident could not identify the offender or the resident lacked proof (18%), the police would not bother investigating the crime (15%), or that the crime was discovered too late (10%) (table 13).

Offenders were known to their victims in a third of households burglarized when a household member was present

Offenders were known to their victims in about a third of the 1 million average annual burglaries from 2003 to 2007 that took place with a household member present (table 14). About a quarter of households with a member present during a completed rather than an attempted burglary stated that the offender was a stranger; 42% stated that the offender was unknown.

Households were less likely to know the offender in attempted forcible entry burglaries. The offender was known to household members in about 13% of households that experienced an attempted forcible entry; the relationship to the offender was unknown in 62% of these entries.

Violence during the course of a burglary may be examined by two different means

The general risk of violence may be examined as a percentage of all household burglaries of residences that were occupied (household member present) and unoccupied (household member not present) during the burglary. The specific risk of violence may be examined as a percentage of the number of burglaries with a household member present during the course of the burglary (see *Methodology*).

An assault occurred in 5% off all household burglaries

In 7% of all household burglaries, someone was home at the time and experienced a violent victimization (figure 1, table 15). This translates to about 266,560 household burglaries out of about 3.7 million taking place each year on average.

Simple assault (15%) was the most common form of violence during a completed burglary when a resident was home

A household member was present in roughly 1 million burglaries from 2003 to 2007. Of these households, 26% (or 266,560) experienced some form of a violent victimization during the burglary (figure 1, table 16).

The type of violence against household members present at the time of a burglary varied by burglary category. Simple assault was the most common form of violence experienced by household members present during completed (15%) and attempted (6%) burglaries. Robbery was more likely to occur when a burglary was completed rather than attempted. A robbery occurred in 7% of completed burglaries, compared to 1% of attempted forcible entries. An aggravated assault against a household member was equally likely to occur during a completed or an attempted burglary. A rape or sexual assault occurred in about 3% of households experiencing a completed burglary.

Residents present during a burglary were equally likely to be victimized by an intimate partner (current or former) as they were by a stranger

One or more household members knew the offenders in some manner in 65% of the 266,560 burglaries that took place while someone was present and experienced violence (table 17). Overall, household members knew approximately a third of these offenders as intimates (current or former) (31%), or relatives,

Table 15.

Type of violence that occurred during household burglaries, by type of burglary, 2003–2007

Type of violence	All burglary	Type and percent of burglaries	
		Completed*	Attempted forcible entry
Total	7.2 %	8.0 %	3.4 %
Rape/sexual assault	0.6 %	0.7 %	-- %
Robbery	1.6 %	1.9 %	0.3 %
Assault	5.0 %	5.3 %	3.1 %
Aggravated assault	1.3	1.3	1.1
Simple assault	3.7	4.0	2.0
Average annual number of burglaries	3,713,000	3,083,750	629,250

Note: Estimates may not add to total due to rounding. Percentages are calculated as the number of households in which someone experienced a violent crime during a household burglary divided by the number of household burglaries.

--No cases were present for this category.

*Includes forcible entry and unlawful entry without force.

Table 16.

Type of violence that occurred during household burglaries when someone was home, by type of burglary, 2003–2007

Type of violence	All burglary	Type of burglary	
		Completed*	Attempted forcible entry
Total	26.0 %	29.7 %	10.6 %
Rape/sexual assault	2.2 %	2.7 %	-- %
Robbery	5.8 %	7.0 %	0.9 %
Assault	18.0 %	20.0 %	9.7 %
Aggravated assault	4.6	4.9	3.4
Simple assault	13.3	15.1	6.3
Total average annual number of burglaries of occupied residences	1,025,520	824,320	201,200

Note: Percentages are calculated as the number of households that experienced a violent crime divided by the number of burglaries in which households were occupied.

--No cases were present for this category.

*Includes forcible entry and unlawful entry without force.

Table 17.

Victim-offender relationship in violent household burglary, 2003–2007

Relationship	All burglary	Type of burglary	
		Completed ^a	Attempted forcible entry
Victim knew offender	65.1 %	66.2 %	51.7 %
Intimates (current or former)	31.1	31.5	26.3
Relatives/known acquaintances	34.0	34.7	25.5
Strangers	27.5	26.5	39.7
Unknown offender ^b	7.4	7.3	8.5
Total average number of burglaries where someone experienced violence	266,560	245,180	21,380

Note: Percentages are calculated as the number of households victimized by each victim offender relationship category divided by the number of violent household burglaries.

^aIncludes forcible entry and unlawful entry without force.

^bSurvey respondents may not have been able to provide information on the offender because the respondents were not the household members present during the burglary.

well-known individuals, or household acquaintances (34%). A stranger perpetrated the violence in 28% of households burglarized while someone was home and violence occurred.

Findings for completed burglaries were similar to those for all burglaries. Household members

knew offenders in some manner in two-thirds of completed burglaries involving violence. Despite the apparent differences between victim-offender relationships, when violence occurred during a completed household burglary, individuals present were equally likely to be victimized by an intimate partner (current or former) (32%) as they were by a stranger (27%).

Victims in violent burglaries were equally likely to report knowing the offender in some manner in an attempted forcible burglary as they were to report the offender as a stranger.

Thirty percent of individuals experiencing violence during a completed burglary faced an armed offender

Overall, 61% of offenders were unarmed when burglarizing a home while residents were present and violence occurred (table 18). Household members faced an offender with a firearm in about 12% of all households burglarized while someone was home and violence occurred.

Household members present during a completed burglary were less likely to face an armed offender (30%) than an unarmed offender (63%). Those present and violently victimized during an attempted forcible entry were equally likely to face an armed or an unarmed offender (38%). Offenders were armed with a firearm in 23% of burglaries in households (73,000 on average) burglarized by a stranger where violence occurred (table 19).

Federal Bureau of Investigation, Supplementary Homicide Reports, 2003-2007

According to the FBI's Supplementary Homicide Reports, 430 burglary-related homicides occurred between 2003 and 2007 on average annually. This number translates to less than 1% of all homicides during that period.

Between 2003 and 2007, approximately 2.1 million household burglaries were reported to the FBI each year on average. Household burglaries ending in homicide made up 0.004% of all burglaries during that period.

Table 18.

Presence of weapon in violent household burglary, by type of burglary, 2003-2007

Type of weapon	All burglary	Type of burglary	
		Completed*	Attempted forcible entry
No weapon present	60.5 %	62.6 %	37.6 %
Weapon present	30.1 %	29.5 %	37.7 %
Firearm	12.4	12.5	10.8 ^
Sharp weapon	10.6	10.1	16.3 ^
Other weapon type	7.2	6.8 ^	10.6 ^
Do not know if offender had weapon	9.3 %	8.0 %	24.7 %^
Total average number of burglaries where someone experienced violence	266,560	245,180	21,380

^Based on 10 or fewer sample cases.

*Includes forcible entry and unlawful entry without force.

Table 19.

Presence of weapons in violent household burglary committed by a stranger, by type of burglary, 2003-2007

Type of weapon	All burglary	Type of burglary	
		Completed*	Attempted forcible entry
No weapon present	40.2 %	40.2 %	40.2 %
Weapon present	45.5 %	46.6 %	37.4 %^
Firearm	23.3	25.5	6.2 ^
Sharp weapon	15.8	13.8	31.2 ^
Other weapon type	6.5 *	7.3 *	-
Do not know if offender had weapon	14.2 %	13.2 %*	22.3 %^
Total	73,360	64,860	8,500

^Based on 10 or fewer sample cases.

--No cases were present for this category.

*Includes forcible entry and unlawful entry without force.

Table 20.

Injury in violent household burglary, by type of burglary, 2003-2007

Type of injury	All burglary	Type of burglary	
		Completed*	Attempted forcible entry
Not injured	55.7 %	52.5 %	92.3 %
Injured	44.3 %	47.5 %	7.7 %
Serious injury	8.5	9.2	-
Minor injury	33.4	35.6	7.7 ^
Rape/sexual assault without other injuries	2.4 ^	2.6 ^	-
Total	266,160	244,780	21,380

--No cases were present for this category.

^Based on 10 or fewer sample cases.

*Includes forcible entry and unlawful entry without force.

Household members were injured in almost half of all completed burglaries involving violence

Household members were more likely to be injured during a completed burglary (48%) than an attempted forcible entry burglary (8%) when a household member was present and violence occurred (table 20). Serious injury accounted for 9% and minor injury accounted for 36% of injuries sustained by household members who were home and experienced a violent crime during a completed burglary. Most household members who were present during a violent burglary (92%) were not injured.

Methodology

Data sources

The National Crime Victimization Survey (NCVS) gathers data on crimes against persons ages 12 or older and their households, reported and not reported to the police, from a nationally representative sample of U.S. households. The survey provides information about victims (age, gender, race, Hispanic origin, marital status, income, and education level), offenders (genders, race, approximate age, and victim-offender relationship), and the nature of the crime (time and place of occurrence, use of weapons, nature of injury, and economic consequences). Between 2003 and 2007, 40,320 households were interviewed annually on average with a 91% household response rate.

Except for data on homicides, all estimates presented in this report were generated from the NCVS. For more information on NCVS *Methodology*, see the *Methodology* section of Criminal Victimization Statistical Tables on the BJS Web site. Homicide data are from the Supplementary Homicide Reports (SHR) to the

Uniform Crime Reporting Program (UCR), which are collected by the Federal Bureau of Investigation (FBI).

Definition of household burglary in the NCVS

The legal definition for “household burglary” may vary among jurisdictions. For the NCVS, household burglary is defined as the entry or attempted entry to a residence or adjacent structure when a person has no right to be there. This crime usually, but not always, involves theft.

Forcible entry is a completed burglary in which force, such as breaking a window or slashing a door screen, was used to gain entry to the residence. Unlawful entry is a completed burglary committed by someone having no legal right to be on the premises even though no force was used to gain entry. Attempted forcible entry is a burglary in which force was used in an unsuccessful attempt to gain entry.

Missing data in the National Crime Victimization Survey

As with any data collection, in the NCVS missing data vary by survey item. The impact of missing data depends on the specific survey item under examination. In *Victimization During Household Burglary*, there was no missing data associated with any of the burglary or violent crime estimates that occurred when residents were present in the household. In contrast, the variable ‘Household Income’ is consistently characterized by high levels of missing data due to reluctance on the part of survey respondents to disclose their income. In this report, 22% of income data was missing for households victimized while no one was home and 20% for households that were victimized while someone was present in the household.

Appendix Table 1.

Standard errors and confidence intervals for key estimates in victimization during household burglary.

Characteristic	Estimate	One standard error	95%-confidence interval	
			Lower	Upper
Household member present	27.6 %	1.72 %	24.23 %	30.97 %
Percent violent of all household burglary	7.2	0.94	5.37	9.03
Percent violent of occupied household burglary	26.0	2.98	20.17	31.83

Note: Standard errors were calculated using programs developed by the Census Bureau to calculate NCVS general variance parameters.

This report, *Victimization During Household Burglary*, differs from other NCVS reports in that a different coding approach was constructed to combine burglaries where a household member was present and experienced a violent crime with burglaries that took place while no one was home. Presenting the analyses in this manner allows for a comparison of the characteristics of present and non-present burglaries and the examination of the co-occurrence of a resident's presence and subsequent victimization. As a result, estimates presented in this report are not comparable to victimization estimates of burglary or personal crime contained in other NCVS reports. This approach was used previously in *Household Burglary, 1985* (NCJ 96021).

Household member is defined as a household member if the individual is using the sample address as his or her usual place of residence at the time of the interview or is staying temporarily at the sample address at the time of the interview and does not have a usual place of residence elsewhere.

Household burglary with household member not present is defined as any household burglary (as classified in this report) that is committed while a residence is not occupied by any household members.

Household burglary with a household member present is defined as any household burglary committed while one or more household members are present in the household.

Violent household burglary is defined as any household burglary committed while one or more household members are present and violence occurs between the offender and household members.

General and specific risk

The estimates of risk in this report use measures that may include multiple victimizations per household, and as such do not represent a true risk measure based on the prevalence of victimizations in the population. However, the two estimates are close.

For example, in 2005, approximately 2.5% of households experienced a household burglary victimization (<http://bjs.ojp.usdoj.gov/content/pub/pdf/cnh05.pdf>) while the current report estimates a rate of 3.2 household burglaries per 100 households (32 per 1,000 households), including ones in which violence occurred.

Standard error computations

Comparisons of percentages and rates were tested to determine if observed differences were statistically significant. Differences described as higher, lower, or different passed a test at the 0.05 level of statistical significance (95%-confidence level). Differences described as somewhat, lightly, or marginally passed a test at the 0.10 level of statistical significance (90%-confidence level). Caution is required when comparing estimates not explicitly discussed in the report. Estimates based on 10 or fewer cases have high relative standard errors. Care should be taken when comparing these estimates to other estimates, especially when both are based on 10 or fewer sample cases.

U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Statistics



PRESORTED STANDARD
POSTAGE & FEES PAID
DOJ/BJJS
Permit No. G-91

Washington, DC 20531

Official Business
Penalty for Private Use \$300

The Bureau of Justice Statistics is the statistical agency of the U.S. Department of Justice. James P. Lynch is director.

This Special Report was written by Shannan Catalano, Ph.D. Alexia Cooper verified the report.

Georgette Walsh and Jill Duncan edited the report, Tina Dorsey produced the report, and Jayne Robinson prepared the report for final printing under the supervision of Doris J. James.

September 2010, NCJ 227379

This report in portable document format and in ASCII and its related statistical data and tables are available at the BJS World Wide Web Internet site: <<http://bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=2172>>.

Office of Justice Programs
Innovation • Partnerships • Safer Neighborhoods
<http://www.ojp.usdoj.gov>

EXHIBIT “D”

C. D. MICHEL

SPECIAL COUNSEL
W. JEFF SMITH
JOSHUA R. DALE

ASSOCIATES
SEAN A. BRADY
SCOTT M. FRANKLIN
HILLARY J. GREEN
THOMAS E. MACIEJEWSKI
CLINT B. MONFORT
TAMARA M. RIDER
JOSEPH A. SILVOSO, III
LOS ANGELES, CA

Writer's Direct Contact:
(562) 216-4444
CMichel@michellawyers.com

MICHEL & ASSOCIATES, P.C.
Attorneys at Law

OF COUNSEL
DON B. KATES
SAN FRANCISCO, CA

RUTH P. HARING
LOS ANGELES, CA

GLENN S. MCROBERTS
SAN DIEGO, CA

AFFILIATE COUNSEL
JOHN F. MACHTINGER
JEFFREY M. COHON
LOS ANGELES, CA

DAVID T. HARDY
TUCSON, AZ

September 26, 2011

San Francisco Board of Supervisors
CITY AND COUNTY SAN FRANCISCO
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102belie
VIA ELECTRONIC MAIL

**Re: BOS File No. 110901: Police Code - Safe Storage and
Enhanced-Lethality Ammunition Findings – OPPOSITION**

Honorable Members of the Board of Supervisors:

We write on behalf of our client, the California Rifle & Pistol Association (“CRPA”), in opposition to the proposed ordinance, File No. 110090 [Police Code – Safe Storage and Enhanced-Lethality Ammunition Findings], scheduled to be heard by the Board of Supervisors on Tuesday, September 27, 2011. We also write to lodge copies of the resources, journal articles, and studies listed in Appendices A, B, and C, and attached hereto, the substance of which run contrary to the proposed “findings.”

Our client opposes the adoption of the proposal on a number of grounds. Specifically, our client maintains that dictating the manner of storing a firearm is bad public policy, and the proposed “findings” provide nothing that establishes otherwise. Additionally, the findings include multiple omissions and factual inaccuracies regarding hollow point bullets, and their adoption would do nothing to refute the realities of using the same for self-defense and other lawful purposes.

**I. DICTATING THE MANNER OF STORING A FIREARM IS BAD PUBLIC POLICY,
AND THE DEFECTIVE FINDINGS PROVIDE NOTHING ESTABLISHING
OTHERWISE**

A. Multiple Omissions of Crucial Facts

The proposed findings are defective, suffering from multiple crucial omissions of fact, including any discussion regarding the defensive use of firearms to prevent felonies or the failure of foreign, American, and local gun controls.

Honorable Members of the Board of Supervisors
September 26, 2011
Page 2

1. Defensive Use of Firearms

Perhaps the most crucial omission is the lack of any discussion of defensive use of firearms to prevent felonies. This omission is crucial for it has now been established that each year armed citizens prevent millions of attempted felonies thereby saving at least thousands of lives.¹ The proposed findings' failure to reflect this is as misleading as arguing for reducing accidents by banning cars without acknowledging the vital and necessary benefits cars provide.

By the same token, the findings omit any mention that, in federal government surveys, imprisoned felons admit to being re-routed by armed victims and say this deters many of them from committing future crimes against people.^{2 3}

2. Findings as to the Failure of Foreign Gun Bans

A second crucial omission is the proposed findings' failure to discuss comparative statistics reflecting the failure of gun laws. The Soviet Union wholly banned civilian handgun possession in 1929. Special conditions in Russia made this Russian handgun ban far more viable than the proposed city ordinance would be.⁴ But the inherent futility of such legislation is shown by the outcome of

¹ Jungyeon Tark & Gary Kleck, *Resisting Crime: The Effects of Victim Actions on the Outcomes of Crimes*, 42 CRIMINOLOGY 861 (2004); Carlisle P. Moody & Thomas B. Marvell, *Guns and Crime*, 7 SO. ECONOMIC J. 720 (2005) (concluding that guns possessed by criminals facilitate crime, but victims who own guns successfully reduce crime); James B. Jacobs, CAN GUN CONTROL WORK? at 14 (Oxford U. Press, 2003) (same); David B. Kopel, *Lawyers, Guns and Burglars*, 43 ARIZ. LAW REV. 346-367 (2001) (hundreds of thousands of burglaries terminated by armed victims); Lawrence Southwick, Jr., *Self-Defense with Guns: The Consequences*, 28 J. CRIM. JUSTICE 351 (2000).

² We must candidly admit to the principal limitation on the good that gun ownership does: Detering crimes against *people* increases crimes against *property* such as burglary of *unoccupied* premises.

³ Federally funded surveys find as many as 3 million handgun defense uses per year while surveys of imprisoned criminals find them admitting to being routed by armed victims to be and to deterred thereby from making future crimes. James Wright & Peter Rossi, ARMED AND DANGEROUS: A SURVEY OF FELONS AND THEIR FIREARMS 154 (1986); Joseph F. Sheley & James D. Wright, IN THE LINE OF FIRE: YOUTH, GUNS AND VIOLENCE IN URBAN AMERICA 63 (1995). See also the evidence reported in Southwick, *supra*, and Kopel, *supra*.

⁴ This law is greatly more enforceable there than it would be in the U.S. That is because: (1) the Russian population is much poorer than the American and therefore far less able to buy black market guns; (2) the handguns provided for Russian police and military use are of unique calibers, so even if a foreign gun were smuggled into Russia, the ammunition available there

Honorable Members of the Board of Supervisors
September 26, 2011
Page 3

Russia's handgun ban: Yes, Russia has virtually no handgun murder, but from at least the 1960s gun-banning Russia had higher murder and suicide rates (knives and other non-firearms being used) than the United States had for murder rates with every kind of weapon. As of the 2000s, Russian murder and suicide rates were four times higher than American.⁵

Harvard economist Jeffrey Miron provides similar statistics for those former Soviet nations that have retained handgun bans. Their homicide rates are three times higher than American rates.⁶

The foregoing is reinforced by statistics that show the general failure of European gun laws. A 2007 study collated all available European gun ownership and murder data from the 2000s. These data covered sixteen European nations, nine of them having very restrictive gun laws, and very low gun ownership, while seven freely allowed gun ownership and had three times more of it than the nine nations. Contrary to the proposed findings, the murder rates of the 9 gun-restrictive nations are three times higher than those of the seven gun-allowing nations.⁷

3. The Failure of American Gun Laws

Further, the proposed findings understandably – if deceptively – omit reference to comprehensive evaluations of American gun controls. Foremost here is the National Academy of Sciences' 2004 evaluation based on review of 253 journal articles, 99 books, 43 government publications and some empirical research of its own. The National Academy of Sciences found that it could not identify any gun control that had reduced violent crime, suicide, or gun accidents in *any* respect.⁸

would not function in the gun; and (3) Russian gun laws benefit from police state enforcement methods not available to American police.

⁵ Don B. Kates & Gary Mauser, *Would Banning Firearms Reduce Murder and Suicide?: A Review of International and Some Domestic Evidence*, 30 HARVARD J. OF L. & PUBLIC POL'Y 651-694 (2007); William A. Pridemore, *Using Newly Available Homicide Data to Debunk Two Myths About Violence in an International Context: A Research Note*, 5 HOMICIDE STUDS. 267-275 (2001).

⁶ Jeffrey A. Miron, *Violence, Guns, and Drugs: A Cross-Country Analysis*, 44 J. L. & ECON. 615 (2001).

⁷ Kates & Mauser, *supra* n.5.

⁸ Comm. to Improve Research Info. & Data on Firearms, Nat'l Research Council of the Nat'l Acads., FIREARMS AND VIOLENCE: A CRITICAL REVIEW 6 (Charles F. Wellford, John V. Pepper, and Carol V. Petrie, eds., 2004), *available at* <http://www.nap.edu/openbook.php?isbn=0309091241>.

Honorable Members of the Board of Supervisors
 September 26, 2011
 Page 4

Just as telling, is the 2003 review of the same (and other) evidence by the Centers for Disease Control (CDC). After all, the CDC has for decades endorsed, and constantly lobbied for, gun control including a total ban of civilian handgun ownership.⁹ But, like the National Academy of Sciences, the CDC's comprehensive review of gun control studies concluded that *no gun control can be shown to have at all reduced violent crime, suicide or gun accidents.*¹⁰ (But in deference to the CDC's political position, its report simply averred that none of the scores of studies had been done well enough to show the benefits the CDC attributes to gun bans.)

4. Failure of Local Gun Controls

Probably the best evidence of this failure is Washington, D.C.'s catastrophic 1976 handgun ban. The ban's advocates predicted it would vastly reduce murder. But the facts are: Over the five pre-ban years, D.C.'s murder rate fell from 37 killings per 100,000 population to 27. But in the five post-ban years the murder rate rose back up to 35 murders per 100,000 population.

Thereafter, D.C.'s murder rate dramatically escalated. After 15 years under the handgun ban, D.C.'s murder rate tripled (1991 - 80.22 per 100,000). Averaging D.C. murder rates over the 40 years surrounding the handgun ban yields a pre-ban rate of 24.6 murders for 1960-76. In contrast, the average for the post-ban years is nearly double: 47.4 murders per 100,000 people.

In only one of the 30+ post-ban years was D.C.'s murder rate lower than its pre-ban rate. As to overall violent crime, in only two of the post-ban years was D.C.'s rate below that of the pre-ban year 1976.

Comparing nearby Baltimore is instructive. Before the bans, Baltimore's and DC's murder rates were similar (e.g., 1974: Baltimore 34.1; D.C. 38.4). After the ban, DC's murder rates rose dramatically, but Baltimore's did not. Over the post-ban years, D.C.'s average murder rate is 47.5, while Baltimore's is only 36.5.

The volte face of the D.C. ban's advocates is telling evidence of its failure. Before the ban, they predicted confidently that murder would be greatly reduced. Instead, D.C.'s homicide rate catastrophically increased from 15th among large American cities to #1 – the worst murder rate in the nation – a ranking D.C. only “achieved” *after* the handgun ban was enacted. When the ban was enacted, everything changed. Far from claiming that the ban ever reduced murder, its proponents now deny that was even its purpose. They switched to claiming the ban's purpose was only to inspire

⁹ Don B. Kates, *Guns and Public Health: Epidemic of Violence or Pandemic of Propaganda*, 62 TENN. L. REV. 513-596 (1995).

¹⁰ Robert A. Hahn, et al., Task Force on Cmty. Preventive Servcs., *First Reports Evaluating the Effectiveness of Strategies for Preventing Violence: Firearms Laws*, 52 MORBIDITY & MORTALITY WKLY. REP. 11 (Oct. 3, 2003), *available at*

Honorable Members of the Board of Supervisors
September 26, 2011
Page 5

Congress to enact a nationwide handgun ban.¹¹

The ban's proponents now frankly admit that city laws can never reduce gun deaths.

B. False Assumptions

In addition to the omissions just discussed, the proposed findings are entirely based on several crucially false assumptions. The first two, which are implicit in all of the proposed findings, suggest that gun deaths occur at the hands of ordinarily reasonable people. Additionally, the proposed findings falsely imply that so-called "safe storage" does not impede access to a firearm in an emergency, and that children will be made safer and that suicides will be prevented by the mandate.

1. Unlike Ordinary People, Murderers Have Long Prior Criminal (Or Psychiatric) Records

Homicide studies from the 19th Century to date have invariably shown that murderers are *extreme* aberrants. As stated by the Academy of Criminal Justice Sciences, "the average murderer turns out to be no less hardened a criminal than the average robber or burglar."¹² Summarizing studies going back to the 1890s, Professor Elliott writes, "the vast majority of persons involved in life-threatening violence have a long criminal record with many prior contacts with the justice system."¹³ Don B. Kates and Clayton Cramer also collected studies published since Professor Elliott's summary.¹⁴ They too found murderers to be long time criminals rather than ordinary people. Typical is the study that reports: "Some 95% of homicide offenders [and] 82% of aggravated gun assault offenders" studied had criminal records.¹⁵ So invariably do studies so portray murderers that a criminologist calls their having prior crime records a criminological "axiom."¹⁶ (Note that even these results minimize the aberrance of

¹¹ Paul Duggan, *Crime Data Underscore Limits of D.C. Ban's Effectiveness*, WASH. POST (Nov. 12, 2007).

¹² Gerald D. Robin, VIOLENT CRIME AND GUN CONTROL 46 (Acad. of Crim. Just. Sci. 1991) (references omitted); *see also* Thomas B. Marvell & Carlisle E. Moody, *The Impact of High Out-of-State Prison Population on State Homicide Rates*, 36 CRIMINOLOGY 513, 517 (1998) ("most murderers differ little from other major criminals").

¹³ Delbert S. Elliott, *Life Threatening Violence Is Primarily a Crime Problem: A Focus on Prevention*, 69 COLO. L. REV. 1081, 1093 (1998).

¹⁴ Don B. Kates & Clayton Cramer, *Second Amendment Limitations and Criminological Considerations*, 60 HASTINGS L. J. 1339 (2009).

¹⁵ Anthony Braga, et al., *Understanding and Preventing Gang Violence*, 8 POLICE Q. 20 (2005).

¹⁶ David Kennedy, et al., *Homicide in Minneapolis: Research for Problem Solving*, 2 HOMICIDE STUDS. 263, 269 (1998).

Honorable Members of the Board of Supervisors
September 26, 2011
Page 6

murderers since they address only their criminal records ignoring the many who have psychiatric records instead or also.)

2. Gun Accident Perpetrators Are Generally Irresponsible Criminals

Professor Cook, a gun control advocate who is not friendly to gun ownership, nevertheless writes: “A gun becomes involved in a fatal accident through misuse” and that those “who cause such accidents are disproportionately involved in other accidents, violent crime and heavy drinking.”¹⁷

Contrary to the proposed finding’s false assumption:

[T]he risk of a gun accident is not randomly distributed across the gun-owning population and thus is not a significant risk for more than a small fraction of [highly aberrant] owners. Gun accidents are apparently largely confined to an unusually reckless subset of the population, with gun accidents disproportionately occurring to people with long records of motor vehicle accidents, traffic tickets, drunk driving arrests, and arrests for violent offenses. . . . The circumstances of gun accidents commonly involve acts of unusual recklessness, such as “playing” with loaded guns, pulling the trigger to see if a gun is loaded, and playing Russian roulette with a revolver.¹⁸

Given the kind of miscreants who perpetrate murders and accidental firearm fatalities, both the ordinance and the proposed findings are obvious futilities: Felons, drug addicts, and the insane – all of whose gun ownership violates both state and federal law¹⁹ – are not going to heed a mere city ordinance regulating how they keep those illegal guns.

3. Firearms Stored in a Locked Container or Disabled by a Trigger Lock Are Not Easily Accessible in Self-Defense Emergencies

The contribution, if any, that a trigger lock and/or a locked container has in reducing the risk of firearm accidents, injury or death, is substantially outweighed by the burden that they place on the right and ability to use firearms in self-defense. As discussed above, it is well documented that criminals are deterred by the possibility of an armed victim. But so-called “safe storage” laws curb the benefit of such deterrence by placing unnecessary obstacles in the way of immediate and effective self-defense.

¹⁷ Philip J. Cook, *The Role of Firearms in Violent Crime: An Interpretative Review of the Literature*, in CRIMINAL VIOLENCE 269 (M. Wolfgang and N. Weiler eds., 1982).

¹⁸ Gary Kleck, *Guns and Violence: An Interpretive Review of the Field*, 1 SOC. PATHOLOGY 12, 29 (1995).

¹⁹ See 18 U.S.C. § 921; Cal. Penal Code § 12021; Cal. Welf. & Inst. Code §§ 8100, 8103.

Honorable Members of the Board of Supervisors
 September 26, 2011
 Page 7

For instance, many trigger locks are inoperable unless the gun is unloaded. Criminals are less fearful of burglarizing homes in which the owner had, at best, an unloaded firearm with a trigger lock to defend himself.²⁰ Even Justice Scalia has recognized that so-called “safe storage” makes it unnecessarily more difficult to access and use a handgun in self-defense, when he openly mocked the idea that a firearm is immediately accessible when stored in a gun safe or disabled by a trigger lock.²¹

Based on the foregoing, the “finding” that “applying trigger locks or using lock boxes to store unsupervised guns in the home promotes health and safety” is clearly erroneous.

4. **Requiring A Handgun To Be Kept in a Locked Container or Disabled with a Trigger Lock Does Not Make Children Safer**

Trigger locks have minimal to no effect on preventing unintended users from accessing handguns. “Children as young as age seven (7) years old have demonstrated that they can pick or break a trigger lock; or that they can operate a handgun with a trigger lock in place.”²² And the fact remains that “[f]irearm misuse causes only a small number of accidental deaths in the U.S.”²³ Furthermore, trigger locks and/or storage devices are unnecessary in preventing children from accessing handguns, because the triggers on handguns themselves make it difficult for a “small (child) hands to operate, and are rarely the cause of accidents.”²⁴

And trigger locks can even *cause* guns to go off accidentally. “[T]he act of placing or removing the lock may move the trigger, and thus cause the gun to fire.”²⁵ Furthermore, most, if not all, of the firearms that are manufactured or imported into the United States will not accidentally fire when dropped, “[b]ut when a trigger lock is placed on a handgun, and the gun is dropped, it may

²⁰ Guy Smith, *Children and Guns*, in GUN FACTS VERSION 6.0, at 63 (2011), available at www.gunfacts.info (last accessed Sept. 23, 2011).

²¹ Official Transcript of Oral Argument 83-86, *District of Columbia v. Heller*, 554 U.S. 570 (2008) (No. 07-290).

²² Smith, *supra* n.20, at 63 (citing U.S. General Accounting Officer, *Accidental Shootings: Many Deaths and Injuries Caused by Firearms Could Be Prevented* (Mar. 1991)).

²³ *Id.* at 71. In fact, the rate of gun accidents is so low that the U.S. Consumer Product Safety Commission does not even mention them in their annual safety reports. *Id.*

²⁴ *Id.* at 70 (citing Gary Kleck, TARGETING GUNS: FIREARMS AND THEIR CONTROL 293-324 (1997)).

²⁵ Cynthia Leonardatos, Paul H. Blackman & David B. Kopel, *Smart Guns / Foolish Legislators: Finding the Right Public Safety Law, and Avoiding the Wrong Ones*, 34 CONN. L. REV. 157, 162 (2001).

Honorable Members of the Board of Supervisors
 September 26, 2011
 Page 8

discharge.”²⁶ As such, a trigger lock may cause more accidental deaths and injuries than it prevents.

Additionally, children who are familiar with firearm use and safety are actually made less safe by so-called “safe storage” mandates. Minors who know how to use firearms to thwart an aggressor should have access to such especially when their parents are not present to protect them. If a child or adolescent cannot readily access his or her parent’s firearm in an emergency, it may be too late, as it was for two children in Merced, who were fatally stabbed by a pitchfork-wielding madman when their older sibling could not access her father’s handgun to bring the man down. It should be left to parents, basing their decision on all the circumstances, to decide what storage method is best for their families.

5. **Requiring A Handgun To Be Kept in a Locked Container or Disabled with a Trigger Lock Does Little to Prevent Suicide**

Simply because firearms-related suicides accounted for a small percentage of suicide deaths in San Francisco in 2009-2010 does not mean the number of suicides will decrease by limiting access to handguns.

Regardless of the availability of handguns or other methods to commit suicide, a certain part of the population *will* commit suicide. “Worldwide per capita suicide rate is fairly static (the suicide rate of the U.S is lower than many industrial countries, including many where private gun ownership is banned).”²⁷ There are a variety of different lethal ways a person can commit suicide; using a handgun is simply not the only way.

What’s more, so-called “safe storage” laws have not been found reduce suicide rates among children. “The overall rate of suicide (firearm and non-firearm) among children age 15 and under was virtually unchanged in states that passed and maintained ‘safe storage’ laws for four or more years.”²⁸

The bottom line is that, to date, “[i]t remains an empirical question whether gun scarcity, whether natural or produced through gun laws, could cause anything more than a substitution of nongun methods [to be used in a suicide attempt].”²⁹

C. **Irrelevancies**

Looking closely at the ordinance and the proposed findings reveals them as frivolous to the point of silliness. The first problem has already been addressed: Ordinary people do not murder or

²⁶ *Id.*

²⁷ Smith, *supra* n.20, at 64.

²⁸ *Id.* (citing John R. Lott, Jr., *Accidental Deaths, Suicides and Crime Safe Storage Laws*, J. L. & Econ. 659 (2000)).

²⁹ Gary Kleck, *POINT BLANK: GUNS AND VIOLENCE IN AMERICA* 238 (1991).

Honorable Members of the Board of Supervisors
September 26, 2011
Page 9

cause fatal gun accidents. It is already a violation of state and federal law for the kinds of people who do murder and who do cause gun accidents to have guns at all. Obviously they are not going to bother to comply with the City's ordinance. Nor is such an ordinance needed to incarcerate them; when caught their just having guns makes them subject to years of imprisonment.

The proposed findings imply the ordinance is aimed at preventing suicides and murders. If that is its purpose the proposed ordinance is even more silly. Even if a gun owner invariably complied with it, those moments required to remove a trigger lock is obviously not going to prevent someone bent on shooting himself or others.

The proposed findings go far beyond the substance of the actual ordinance. In fact, it appears they were originally drafted to support a wholly different ordinance, probably a total ban on handguns or all guns. That having been held invalid in California,³⁰ and in the United States generally,³¹ the findings are now to be applied willy-nilly to an ordinance to which they are inapposite. That reason alone is sufficient reason to oppose them.

II. THE FINDINGS INCLUDE MULTIPLE OMISSIONS AND FACTUAL INACCURACIES REGARDING HOLLOW POINT BULLETS, AND THEIR ADOPTION WOULD DO NOTHING TO REFUTE THE REALITIES OF USING SUCH FOR DEFENSIVE AND SPORTING PURPOSES

A. The Proposed Ordinance Omits Any Reference to the Benefits of Expanding Point Ammunition When Used in Self-defense

Our client further opposes the adoption of these findings because they omit important facts about the utility of hollow point bullets and their benefits over other types of ammunition for self-defense, especially in densely populated areas. Particularly, the findings omit any mention of the well-documented fact³² that hollow point bullets provide greater ability to stop a violent aggressor, are less likely than round-nose bullets to ricochet, and are less likely to travel through an intended target's body and strike an innocent bystander.

The proposed findings include an inappropriate legal conclusion that "banning the sale of [so-called] enhanced-lethality ammunition in San Francisco does not substantially burden the right to self defense" and go on to claim that "[t]he right to use firearms in self defense can be fully exercised using

³⁰ *Doe v. City & County of San Francisco*, 136 Cal. App. 3d 509 (1982); *Fiscal v. City and County of San Francisco*, 158 Cal. App. 4th 895 (2008).

³¹ *District of Columbia v. Heller*, 554 U.S. 570 (2008); *McDonald v. City of Chicago*, 130 S. Ct. 3020 (2010).

³² The sources listed in the Appendix B (and attached hereto) are indicative of the great body of literature supporting the use of hollow point bullets in instances necessitating deadly force. The assertions made herein are readily verified by those documents.

Honorable Members of the Board of Supervisors
September 26, 2011
Page 10

conventional, non-collapsing, non-fragmenting ammunition.” In addition to the fact that a court is unlikely to defer to such a “finding” without factual support, this statement ignores the great shortcomings of using non-expanding ammunition in self-defense.

As the attached documents illustrate, hollow point bullets have greater “stopping power,” bringing down a violent aggressor with fewer shots fired. As solid point or round nose bullets tend to penetrate, they lack the ability to incapacitate an aggressor rapidly enough to prevent injury to the intended victim. For instance, even if shot through the heart with a solid point bullet, an attacker can still retain 30 to 40 seconds of activity. That is enough time for the attacker to empty a gun into a victim or stab the victim multiple times. The purpose of hollow point bullets, however, is to provide the near-immediate incapacitation required to prevent victims from deadly attacks. Thus, if the defensive use of a firearm is necessitated by the circumstances, it stands to reason that the use of the most effective ammunition to end the perceived threat is the logical choice – that ammunition is hollow point ammunition.

Further, hollow point bullets are also well known to prevent ricochet and over-penetration of an intended target or common building materials, decreasing the threat to innocent bystanders. This is their very purpose. What’s more, it is sensible that civilians have access to and use hollow point bullets for self-defense because civilians are more likely than a peace officer to miss an aggressor or hit a less lethal area of the body, and they will likely fire many more shots to bring the criminal down. As such, the chance that a shot or several shots will penetrate persons or objects behind an aggressor is greatly increased. By using hollow point bullets, civilians can more easily bring down an advancing, violent aggressor with fewer shots and less chance of harming bystanders. As a result, such ammunition makes the public more safe, not less.

By eliminating access to hollow point bullets, the ordinance eliminates access to the ammunition most apt to bring down a violent aggressor and effectively prevents San Franciscans from exercising *fully* their right to self-defense. As such, the ordinance is both unconstitutional and unwise.

B. Contrary to Claims Made in the Proposed Ordinance, Hollow Point Ammunition Is the Most Commonly Used Ammunition for Self-Defense

The claim that hollow point bullets are not in “general use” is misleading to the point of absurdity. Such bullets are, in fact, among the types of ammunition *most* commonly used for defense of self and others by *both* police and civilians. They are an especially popular self-defense round in densely populated, urban areas because of the reduced risk of ricochet and over-penetration. The ammunition is standard issue in big-city police departments across America, including Los Angeles, Chicago, Boston, Dallas, and Baltimore – as well as by the FBI and the United States Marshal Service. And, in fact, the San Francisco Police Department itself uses hollow point bullets in all firearms issued to its members.

There is nothing new or particularly unconventional about the common hollow point bullet, which the proposed ordinance attempts to categorize as “enhanced lethality ammunition” with other types of fragmenting bullets and armor-piercing ammunition. According to the attached Statement of

Honorable Members of the Board of Supervisors
September 26, 2011
Page 11

Stephen Helsley, an expert on ammunition and firearms, the materials and methods currently used to manufacture bullets are much the same as those used over a century ago. And their historical use has been well documented.

The findings are further misleading in that they suggest that hollow point bullets are not in “general use” and go on to cite their formal prohibition in warfare under the Hague Convention of 1899, Declaration III. In practice, however, expanding bullets have never been outlawed by international agreement in any war in which the United States has participated. And it would be difficult to identify *any* war in which such bullets were outlawed since most have had combatants who were not bound by the Declaration for it was not agreed to *by most nations of the world*.

Additionally, the use of expanding bullets was addressed only as one of many topics in the Declaration, which also outlawed the use of submarines and firing from balloons. Certainly, this would be a shallow justification for dismantling our air and submarine forces. It is likewise a weak argument to support a ban on the sale of hollow point ammunition, the use of which is vitally important to effective self-defense.

C. It Is Factually Incorrect to Categorize Hollow Point Ammunition as Ammunition That “Serves No Sporting Purpose”

The ordinance’s suggestion that certain types of ammunition “serve no sporting purpose” is not accurate. As the ordinance makes no attempt to distinguish between cartridges used in handguns versus those used in rifles or shotguns, some historical perspective is necessary. But one thing is clear: despite the message of the “factual” findings purporting to justify the ban of the sale of “enhanced lethality ammunition,” there is nothing particularly novel or unique about the type of bullets the ordinance seeks to regulate. In fact, the materials currently used to construct bullets are much the same as those used a century ago.

Ammunition makers have, for the past 150 years, continually attempted to refine their bullet designs. In spite of those efforts, bullets still fall into the three basic categories that existed at the end of the 19th Century: lead, jacketed lead, and alloyed copper. Pure lead can be hardened to help control expansion by adding tin and/or antimony. Jacket thickness can also be increased (in combination with lead hardness) to slow expansion. And, of course, expansion can be enhanced for *all types of bullets* by “hollow pointing.” These types of manipulations have long been employed by ammunition makers to manufacture ammunition that best meets the needs of sport hunters.

Importantly, bullet expansion is a *desired* characteristic for most sport hunting applications. The objective is for the bullet to expand, retain a high percentage of its original weight, and yet still penetrate deeply enough to reach vital organs. And the near-immediate incapacitation of the target allows for the most ethical and humane taking of the animal. As such, it is not uncommon for modern hunters to use expanding point bullets when hunting certain types of game. To suggest that hollow point bullets somehow “serve no sporting purpose” is absurd.

Honorable Members of the Board of Supervisors
September 26, 2011
Page 12

III. CONCLUSION

The proposed findings are defective in all the following respects: (1) They are inapposite to the ordinance they supposedly support; (2) they omit any discussion of the benefits of lawful gun ownership and use of hollow point bullets; and (3) they are false in that they fail to differentiate felons from law-abiding adults, painting a picture of firearm use that is misleading at best.

All in all, the proposed “findings” largely rely on studies conducted with an anti-gun bias and often constitute inappropriate conclusions of law lacking factual support. To provide some balance, we submit copies of the resources, journal articles, and studies listed in Appendices A and B regarding “safe storage” and hollow point ammunition, respectively. We further attach Appendix C, which establishes that, far from being “uncommon,” hollow point ammunition is produced and distributed by nearly *every* major ammunition manufacturer. And we encourage each member to research and review the full wealth of data that is available and relevant to its adoption of the proposed findings.

Ultimately, we urge you to vote no on the “findings” ordinance presently before the Board, and we further recommend the repeal of the unconstitutional ordinances the “fact findings” purport to justify.

If you have any questions, or if you would like additional information, please do not hesitate to contact our office.

Sincerely,
MICHEL & ASSOCIATES, P.C.



C. D. Michel

CDM/ca
Enc.

Honorable Members of the Board of Supervisors
September 26, 2011
Page 13

APPENDIX A:

RESOURCES ADDRESSING SO-CALLED "SAFE STORAGE"

Cynthia Leonardatos, Paul H. Blackman & David B. Kopel,
*Smart Guns / Foolish Legislators: Finding the Right Public Safety Laws,
and Avoiding the Wrong Ones*,
34 Conn. L. Rev. 157 (2001).

Dave Kopel, Paul Gallant & Joanne Eisen,
No-So Safe-Storage Laws,
INDEP. INST. (Oct. 18, 2000).

Dave Kopel & Eugene Volokh,
What Kids Don't Know Can Kill Them,
CATO (May 27, 1999).

Don B. Kates & Gary Mauser,
Would Banning Firearms Reduce Murder and Suicide?,
30 HARV. J.L. & PUB. POL'Y 650 (2006).

Gary Kleck,
Point Blank: Guns and Violence in America
238, 246, 251, 255-56 (1991).

Gary Kleck,
TARGETING GUNS: FIREARMS AND THEIR CONTROL
266 (1997).

Guy Smith,
Accidental Deaths, in GUN FACTS VERSION 6.0 (2011),
available at www.gunfacts.info
(last accessed Sept 23, 2011).

Guy Smith,
Children and Guns, in GUN FACTS VERSION 6.0 (2011),
available at www.gunfacts.info
(last accessed Sept. 23, 2011).

John R. Lott, Jr.,
A False Safety; 'Gun Locks' No Solution to Gun Violence,
WASH. TIMES (July 6, 2006).

Honorable Members of the Board of Supervisors
September 26, 2011
Page 14

John R. Lott, Jr.
Gun Laws Are a Lock to Leave Us Less Safe,
STAR-LEDGER (N.J.) (Jan 3, 2003).

John R. Lott, Jr.,
MORE GUNS LESS CRIME: UNDERSTANDING CRIME AND GUN CONTROL LAWS
197-202 (3d ed. 2010).

John R. Lott, Jr.,
Why Safe Storage Laws, Gun Locks Likely Will Backfire,
S.D. UNION-TRIB. (June 7, 2001).

Linda Gorman,
Safe Storage Is Unsafe Regulation,
INDEP. INST. (Jan. 20, 1999).

Official Transcript of Oral Argument 83-86,
District of Columbia v. Heller,
554 U.S. 570 (2008) (No. 07-290).

Honorable Members of the Board of Supervisors
September 26, 2011
Page 15

APPENDIX B:

RESOURCES SUPPORTING THE USE OF HOLLOW POINT BULLETS

Alfred E. Lewis,
Hollow-Point Bullets Win Backing by Citizens Panel,
WASH. POST B3 (July 13, 1977).

Bobby Shriver,
Police Defend Those Hollow Point Bullets,
MD. GAZ. (Aug. 1, 1997).

Carl Millar,
*Ontario's Police Bullet Dangerous Expert Says
A Shot Missing Bone 'Would Go Right Through',*
TORONTO STAR (June 10, 1994).

Carla Rivera,
Panel Affirms Its Approval of Hollow-Point Bullet Use,
L.A. TIMES (Jun 15, 1988).

Clifford Krauss,
Experts Support Hollow Point Bullets,
N.Y. TIMES (Mar. 6, 1997).

Clifford Krauss,
Hollow Point Ammunition Saves Lives, Backers Say,
N.Y. TIMES (Mar. 6, 1997).

Earl Boyd & Zoffa Smardz,
District Police Moving to Get Bullets with More Stopping Action,
WASH. STAR (Nov. 27, 1976).

Irwin K. Owen,
What About Dumdums?,
POINT OF VIEW 3 (April 1975).

James Rusk,
*Ontario Police to Switch to Hollow-Point Bullets Government Cites Safety
Issue for Officers, Public in Making Use of Expanding Ammunition Mandatory,*
GLOBE & MAIL (Aug. 10, 1995).

Honorable Members of the Board of Supervisors
September 26, 2011
Page 16

Joe Gould,
Hollow-point Bullets OK'd for Post Police,
ARMY TIMES (May 17, 2010).

Joshua F. Berry,
*Hollow Point Bullets: How History Has Hijacked Their Use in Combat and Why
It Is Time to Reexamine the 1899 Hague Declaration Concerning Expanding Bullets,*
206 MIL. L. REV. 88 (2010).

Justin Davenport,
Met Police Say New 'Dumdum' Bullets Will Help Stop Injuries to Bystanders,
LONDON EVENING STANDARD (May 11, 2011).

Kathy Scruggs,
Napper Says Hollow-Point Bullets Would Be Safer for Use by Police,
ATLANTA J. CONST. (Mar. 7, 1987).

Michael Cooper,
Safir Says A Report Finds New Bullets Less Deadly,
N.Y. TIMES (Mar. 7, 1997).

Mohamad Bazzi,
City / CCRB Ok's Cops' Use of More Lethal Ammunition,
N.Y. NEWSDAY (July 9, 1998).

More Effective Bullets Issued to Police Officers,
BALT. SUN (Aug. 26, 1988).

Ont Okays Use of Hollow-Point Bullets, Public and Officer Safety to Be Enhanced,
CANADIAN OCCUPATIONAL HEALTH & SAFETY NEWS (Aug. 14, 1995).

Richard Condon, et al., Committee on Hollow-Point Bullets, *Report of the Committee on
Hollow-Point Bullets Presented to the Civilian Complain Review Board* (July 8, 1998),
available at <http://www.nyc.gov/html/ccrb/pdf/hollow.pdf>.

Rocca Parascandola, *Plenty of Other Cities Already Use 'Em,*
N.Y. POST (Feb. 14, 1999).

Statement of Larry Barsetti in Opposition to File No. 090
[Police Code – Safe Storage and Enhanced-Lethality Ammunition Findings]
(Sept. 23, 2011).

Honorable Members of the Board of Supervisors
September 26, 2011
Page 17

Statement Martin Fackler, M.D. in Opposition to File No. 090
[Police Code – Safe Storage and Enhanced-Lethality Ammunition Findings]
(Sept. 23, 2011).

Statement of Stephen Helsley in Opposition to File No. 090
[Police Code – Safe Storage and Enhanced-Lethality Ammunition Findings]
(Sept. 23, 2011).

Stephen J. Lynton & Alfred E. Lewis,
City Will Change Bullets for Police to Hollow Points,
WASH. POST B1 (Nov. 27, 1976).

Stephen J. Lynton & Alfred E. Lewis,
More Powerful Bullets Studied by D.C. Police,
WASH. POST A1 (Nov. 5, 1976).

Trace Tully,
Region's Cops Back Use of Hollow-Point Bullets,
ALBANY TIMES-UNION (Mar. 8, 1997).

Why Do Hollow Point Bullets Cause More Damage?,
PATROL LOG (June 1, 2010),
available at <http://www.patrol-log.com/2010/06/01/why-do-hollow-point-bullets-cause-more-damage>.

Honorable Members of the Board of Supervisors
September 26, 2011
Page 18

APPENDIX C:

**MAJOR AMMUNITION / BULLET MANUFACTURERS AND
EXAMPLES OF EXPANDING POINT AMMUNITION**

1. **Federal Premium Ammunition** (<http://www.federalpremium.com>)
 - a. 44 Rem. Magnum Hollow Point,
<http://www.federalpremium.com/products/details/rifle.aspx?id=114>
 - b. 38 Special Nyclud Hollow Point,
<http://www.federalpremium.com/products/details/handgun.aspx?id=828>
 - c. 357 Magnum Jacketed Hollow Point,
<http://www.federalpremium.com/products/details/handgun.aspx?id=105>
 - d. 380 Auto (9x17mm Short) - Hydra-Shok® Jacketed Hollow Point,
<http://www.federalpremium.com/products/details/handgun.aspx?id=399>
2. **Remington** (<http://www.remington.com/product-categories/ammunition.aspx>)
 - a. Golden Saber™ HPJ,
<http://www.remington.com/products/ammunition/handgun/golden-saber-hpj.aspx>
(under 'Key Features,' the first bullet point says, "High-performance jacket (HPJ) handgun ammunition built around revolutionary *hollow-point* bullet design")
 - b. HD Ultimate Home Defense,
<http://www.remington.com/products/ammunition/handgun/hd-ultimate-home-defense-pr.aspx> (the 'Overview' states, "Loaded with our high-performance Brass Jacket Hollow Point (BJHP), these new rounds deliver massive expansion and deep penetration for ultimate stopping power.")
 - c. Express P and R,
<http://www.remington.com/products/ammunition/handgun/pistol-and-revolver.aspx>
(under 'Key Features,' the fifth bullet point says, "Semi-jacketed hollow point")
3. **Magtech** (<http://www.magtechammunition.com/sitepages/pid102.php>)
 - a. Guardian Gold (GGJHP)
 - b. Sport Shooting Ammunition (JHP)
 - c. Handgun Hunting Ammunition and First Defense Ammunition (SCHP - Solid Copper Hollow Point)
 - d. Sporting Shooting Ammunition (SJHP - Semi Jacketed Hollow Point)
4. **Speer Ammunition** (<http://www.speer-ammo.com>)
 - a. Gold Dot Personal Protection, <http://www.speer-ammo.com/ballistics/ammo.aspx>
5. **Corbon Ammunition** (<http://www.corbon.com>)
 - a. Jacketed Hollow Point <http://corbon.com/JHP.html>
6. **Winchester**
 - a. Jacketed Hollow Point

Honorable Members of the Board of Supervisors
September 26, 2011
Page 19

- b. Silvertip Hollow Point
 - c. Platinum Tip Hollow Point
 - d. Partition Gold
 - e. Bonded PDX1 (.45 caliber and lower)
 - f. Dual Bond (.454 caliber
up):[://www.winchester.com/products/handgun-ammunition/supreme-elite/dual-bond/Pages/default.aspx](http://www.winchester.com/products/handgun-ammunition/supreme-elite/dual-bond/Pages/default.aspx)
 - g. Ranger Bonded: <http://productguide.winchesterle.com/2011/le/>
 - h. Winchester LE JHP
 - i. Winchester LE Lead Hollow Point
 - j. Winchester LE Ranger JHP
7. **Hornady** - bullets used in the ammunition vary and some are FMJ while others are JHP
- a. Critical Defense Hollow Point: http://www.hornady.com/store/critical_defense/
 - b. TAP-FPD: <http://www.hornady.com/store/TAP-FPD-handgun/>
 - c. Hornady Custom: http://www.hornady.com/store/custom_handgun/
 - d. Steel Match: <http://www.hornady.com/store/Steel-Match-handgun/>
8. **PMC**
- a. Starfire: <http://www.pmcammo.com/starfire.html>
 - b. Bronze: <http://www.pmcammo.com/bronze-handguns.html> (bullets used vary)
9. **Sellier & Bellot**
- a. <http://www.sellier-bellot.cz/pistol-and-revolver-ammunition.php?product=9&view=all>
(bullets used vary; please see references to JHP)
10. **Black Hills**
- a. http://www.black-hills.com/handgun_calibers.php (bullets used vary; please see references to Hollow Point)
11. **Fiocchi** (<http://www.fiocchiusa.com.foahost.arvixevps.com/foa/CMS/Catalogue.aspx>)

APPENDIX A:

RESOURCES ADDRESSING SO-CALLED "SAFE STORAGE"

Cynthia Leonardatos, Paul H. Blackman & David B. Kopel,
*Smart Guns / Foolish Legislators: Finding the Right Public Safety Laws,
and Avoiding the Wrong Ones*,
34 Conn. L. Rev. 157 (2001).

Dave Kopel, Paul Gallant & Joanne Eisen,
No-So Safe-Storage Laws, INDEP. INST.
(Oct. 18, 2000).

Dave Kopel & Eugene Volokh,
What Kids Don't Know Can Kill Them, CATO
(May 27, 1999).

Don B. Kates & Gary Mauser,
Would Banning Firearms Reduce Murder and Suicide?,
30 HARV. J.L. & PUB. POL'Y 650 (2006).

Gary Kleck,
Point Blank: Guns and Violence in America
238, 246, 251, 255-56 (1991).

Gary Kleck,
TARGETING GUNS: FIREARMS AND THEIR CONTROL
266 (1997).

Guy Smith,
Accidental Deaths, in GUN FACTS VERSION 6.0 (2011),
available at www.gunfacts.info
(last accessed Sept 23, 2011).

Guy Smith,
Children and Guns, in GUN FACTS VERSION 6.0 (2011),
available at www.gunfacts.info
(last accessed Sept. 23, 2011).

John R. Lott, Jr.,
A False Safety; 'Gun Locks' No Solution to Gun Violence,
WASH. TIMES (July 6, 2006).

John R. Lott, Jr.

Gun Laws Are a Lock to Leave Us Less Safe, STAR-LEDGER (N.J.)
(Jan 3, 2003).

John R. Lott, Jr.,

MORE GUNS LESS CRIME: UNDERSTANDING CRIME AND GUN CONTROL LAWS
197-202 (3d ed. 2010).

John R. Lott, Jr.,

Why Safe Storage Laws, Gun Locks Likely Will Backfire, S.D. UNION-TRIB.
(June 7, 2001).

Linda Gorman,

Safe Storage Is Unsafe Regulation, INDEP. INST.
(Jan. 20, 1999).

Official Transcript of Oral Argument 83-86,

District of Columbia v. Heller,
554 U.S. 570 (2008) (No. 07-290).

EXHIBIT “E”

THE NEW YORK TIMES THURSDAY, MARCH 6, 1997

Experts Support Hollow Point Bullets

Police in Many Big U.S. Cities Are Already Using the Ammunition

By CLIFFORD KRAUSS

Whether to issue police officers hollow point bullets may be provoking intense debate in New York City, but in many other big cities the issue is moot, since virtually every other major urban police department in the nation uses the bullets, according to law enforcement experts.

Even proponents admit that some people have been more seriously wounded by the bullets than by full-metal-jacket ones now used by the New York Police Department. But these experts argue that lives have probably been saved through the use of hollow points.

"I'd rather be hit by a traditional full-metal-jacket bullet because it is a cleaner wound," said Lieut. Nicholas Sapientza, the range manager of the Newark Police Department. "But they do more good than harm."

There is a simple trade-off between the use of the more traditional ammunition and hollow point bullets, which are capable of stopping a criminal before he can fire his gun. The hollow points are more likely to cripple or kill, so present an added danger to police officers or bystanders shot in a crossfire.

But because the hollow point bullet expands and loses its casing on impact, it rarely ricochets or penetrates an object, thereby lessening the possibility of hitting anyone other than the target.

Studies on the issue are inconclusive. But civil libertarians have criticized the hollow point bullets, saying they are more deadly and increase the ability of police officers to maim and kill a suspect. "The introduction of the hollow point may very well exceed the bounds of reason and necessity, especially if massive internal injury is the risk," said Norman Siegel, executive director of the New York Civil Liberties Union.

Legal challenges in Los Angeles and elsewhere, however, have proved fruitless, since most big-city departments began adopting the ammunition in the 1970's and 1980's.

Still, several studies show that the case for the hollow point bullet is not entirely clear cut. One in five officers who is shot is shot by himself or another officer, either by accident or suicide. And 80 percent of the shots fired in police shootouts miss their targets, meaning innocent people are cleanly hit by an errant bullet will be more severely injured by the new bullets, should Mayor Rudolph W. Giuliani give his approval.

Overall survival in shooting victims was greater with round nose bullets, according to a 1989 study published in The Journal of Forensic Sciences.

In New York City, during the last two years, seven of the bystanders shot by the police were struck by bullets that passed through other people, walls or doors, the kind of shootings that would not be expected with hollow points. But six bystanders were struck directly by police bullets, meaning that they might have suffered more serious injuries if the new bullets had been used.

Most studies are inconclusive because the statistical samples of shootings of bystanders are so small, even in the largest cities.

James Fox, a Temple University criminologist, who has studied shootings in New York City, Philadelphia, Dallas, Boston and Los Angeles, said hollow point bullets offer several advantages.

The energy of the bullet is absorbed very quickly, and although it produces a wider hole, it is not as deep, so it is much less likely to bore through a person and hit someone else.

That is essentially the conclusion reached by a Federal Bureau of Investigation study almost a decade ago, as well as studies conducted by the Los Angeles, Dallas, and Newark departments since then, experts say. The Secret Service, Federal marshals and the Drug Enforcement Administration, as well as the police departments in Washington, Baltimore, Chicago and Boston, all use

Hollow points are more likely to kill, but rarely ricochet.

hollow point bullets.

Commissioner Howard Safir defended the bullets yesterday at a City Council hearing, saying, "When a police officer uses a hollow point bullet, the perpetrator, who is usually armed, is brought down with fewer shots, therefore eliminating danger to the police officer and the public."

The New York Transit and Housing Police Departments began using the hollow point bullets in 1990, and

their more than 4,000 officers continued to use the ammunition when the forces merged with the New York Police Department two years ago.

Dr. Charles Hirsch, the New York Medical Examiner, expressed support of the new bullets based on his office's examination of scores of shooting victims since 1990.

"They do not produce grotesque, devastating injuries," he said, "and they are much less likely to pierce through a person, a wall, a car or some other object than are fully jacketed bullets. I think they are safer."

The New York City department conducted a series of tests in 1994 and 1995 on the bullets, but the department refuses to release the findings. William J. Bratton, who was Commissioner at the time, said the studies on hollow point bullets showed "it would take fewer rounds to stop an opponent, therefore there is less need to fire more rounds and thus you reduce the likelihood that innocent bystanders will be struck."

The traditional bullets, he added, "have a ricochet potential that is phenomenal," especially in the subway system.

"Only in New York is this an issue," Mr. Bratton said, "and people are trying to make political hay."

Clinton Stiffens Gun Rules For Foreigners in U.S.

By DAVID STOUT

WASHINGTON, March 5 — Responding to the Feb. 23 shooting at the Empire State Building, President Clinton announced steps today intended to make it harder for newcomers to the United States to buy guns.

The President ordered the Bureau of Alcohol, Tobacco and Firearms to tighten a regulation requiring legal immigrants to prove that they have been residents of the state in which they wish to buy a gun for at least 90 days. Mr. Clinton also announced his support for a bill that would ban foreign visitors from buying or carrying firearms.

If the 90-day regulation had been enforced, or if the bill that Mr. Clinton supports had been law, Ali Abu-Kamal might not have been able to acquire the semiautomatic handgun he used to kill a Danish tourist and wound six other people before taking his life on an observation deck of the Empire State Building.

"We were all shocked," Mr. Clinton said at a White House ceremony as he recounted how Mr. Abu-Kamal, a Palestinian teacher, had been living on a tourist visa in a Florida motel for only three weeks before buying the gun that he took north.

At the ceremony, attended by James S. Brady, the press secretary who was gravely wounded in the 1981 attempt on President

Ronald Reagan's life, Mr. Clinton also announced that he would send legislation to Congress banning so-called "cop-killer" bullets or armor-piercing ammunition. He directed all Federal agencies to require child safety locks with every handgun issued to a law enforcement agent.

The tightening of the 90-day regulation will require prospective buyers to attest that they are residents of the state in which they wish to buy a gun. The President specified that all immigrants prove their residencies by photo identification and documents like utility bills.

The legislation that would bar foreign visitors from buying or carrying guns was proposed four days after the Empire State Building shootings by Senators Edward M. Kennedy of Massachusetts and Richard J. Durbin of Illinois, both Democrats, and has the backing of Representative Charles E. Schumer, Democrat of Brooklyn. There would be a limited exceptions for foreigners in the country for hunting trips or firearms competitions, for instance.

The Empire State Building gunman's ability to buy his weapon despite the 90-day regulation that Mr. Clinton ordered be tightened caused widespread dismay after the facts became known. Mr. Schumer asserted that gun runners have turned Interstate 95 into a firearms freeway.

EXHIBIT “F”

STATEMENT OF MARTIN FACKLER, M.D.

EXPERTISE

1
2
3
4 1. I am a retired medical doctor with extensive experience in the study of wound
5 ballistics and the treatment of firearms wounds. After 31 years of active duty service (including as
6 a combat surgeon in Vietnam) in 1991 I retired from the U.S. Army Medical Corps with the rank
7 of colonel. From 1981 to 1991, I directed the Army’s Wound Ballistics Laboratory at the
8 Letterman Army Institute of Research at the Presidio in San Francisco.

9 2. I am the author of 15 invited review articles and 14 book chapters on projectile
10 wounding effects as well as more than 200 other wound ballistics related publications. I have
11 testified as an expert in 211 cases involving wound ballistics and surgery – including two cases in
12 which I testified on behalf of the City of San Francisco.

13 3. I am Affiliate Clinical Assistant Professor of Pathology, University Florida Medical
14 School, Gainesville, and a consultant to the Department of Defense and the Department of State,
15 Forensic Science Laboratories, Industry, Canadian General Standards Board, FBI, RCMP, and
16 other law enforcement agencies. From 1993 to 1997, I was Visiting Professor of Wound
17 Ballistics, Forensic Science Faculty, University of Marseille, and I am Honorary President of the
18 French Wound Ballistics Society.

19 4. I was formerly a rifle marksmanship instructor and a competitive rifle shooter. For the
20 past 62 years of my life I have been an active shooter and hunter in the United States, England,
21 and Germany.
22

23 **FACTS**

24 5. I am informed that San Francisco has or is considering an ordinance which it
25 interprets to forbid the sale of “hollow point” ammunition and to distinguish such ammunition
26 from ammunition that serves a “sporting purpose,” which it allows. This is an oxymoron. Hollow
27 point ammunition is paradigmatically “sporting purpose” ammunition, i.e., ammunition used for
28

1 hunting game and for target shooting. The fact that the ordinance seek to contrive a nonexistent
2 difference, betrays a surprising lack of competence regarding the pertinent facts.

3 6. Hollow point ammunition was, in fact, developed for hunting and is widely used for
4 that purpose because hunting regulations often require its use or specify that only hollow point or
5 other “expanding” bullets (e.g. soft-point bullets) may be used for hunting. Hollow point bullets
6 are also widely used in target shooting, especially for long range shooting and benchrest shooting
7 – since the hollow point bullet design is inherently the most accurate bullet type.

8 7. As applied to hollow point ammunition, the proposed ordinance is vague, ambiguous
9 and confusing. Ultimately, the ordinance will be unintelligible to hunters, sellers of this
10 ammunition, law enforcement officials, and the general public.

11 8. I am informed that the ordinance claims that “hollow point” ammunition is “not in
12 general use.” Such a claim reveals egregious ignorance of the facts. There exists no evidence to
13 support such a claim. Hollow point ammunition is among the most common types of ammunition
14 used in the United States. It is used by tens of thousands of American hunters (including myself)
15 and by 98% of Federal, State, and local law enforcement groups.

16 9. Additionally, hollow point ammunition is used generally for self-defense. It is the
17 most common form of ammunition for that purpose. It is approved for use by – and is often the
18 only approved ammunition of – most police departments throughout the United States. That has
19 been verified by my experience in having testified as an expert witness in dozens of cases
20 involving hollow point ammunition throughout the United States (including two defending the
21 city of San Francisco: *Yip v. San Francisco Police Department* and *Roberts v. Sawyer &*
22 *Furminger*).

23 10. A non hollow point bullet typically lacks the capacity to incapacitate an aggressor
24 rapidly enough to prevent injury of the victim. As one extreme example, even if shot through the
25 heart by a non-expanding bullet, an attacker still can retain 30 to 40 seconds of activity. That is
26 enough time for the attacker to empty a gun into a victim or stab the victim multiple times.

27 ///

28

1 11. The purpose of hollow point ammunition is to provide the near-immediate
2 incapacitation required to protect victims from deadly attacks. That is why police departments all
3 over the nation have adopted and issue hollow point ammunition to their officers.

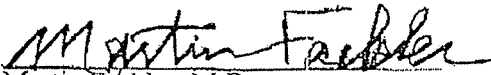
4
5 
6 Martin Fackler, M.D.
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT “G”

1 STATEMENT OF STEPHEN HELSLEY

2 **FIREARMS AND AMMUNITION EXPERT QUALIFICATIONS**

3 1. I am retired from the California Department of Justice (DOJ). During my 26-year
4 career, I spent 6 years as the Chief of the Bureau of Forensic Services (BFS) and then Assistant
5 Director of the Division of Law Enforcement. Both assignments involved management of the 12
6 forensic laboratories operated by DOJ. One of the functions carried out by BFS forensic scientists
7 was the examination of firearm related evidence.

8 2. Since my retirement from DOJ, I have authored at least 50 published articles on
9 firearm and ammunition related issues. I have also co-authored two books – the second of which
10 is scheduled for publication in December of this year. Both books address firearm and
11 ammunition related issues.

12 3. For the past 19 years I was first a state liaison and then a consultant for the National
13 Rifle Association. In those positions, I have repeatedly dealt with legislative issues involving
14 firearms and ammunition.

15 4. I am currently a member of the American Academy of Forensic Sciences and a
16 technical advisor to the Association of Firearm and Tool Mark Examiners.

17 5. I have collected firearms and related books for over 50 years. I have a firearms library
18 that contains approximately three thousand books. I reload for approximately 100 different types
19 of cartridges and cast lead bullets for many of them. I have been a competitive shooter for over
20 forty years and was the chief firearms instructor for DOJ for many years. I have toured firearm-
21 manufacturing facilities in England, Germany, Italy, and Russia, as well as an ammunition
22 manufacturer in the United States.

23 **HISTORICAL PERSPECTIVE**

24 6. The assertion in “SEC. 613.10 License – Conditions” that certain types of ammunition
25 “serve no sporting purpose” is not accurate. As the ordinance makes no attempt to distinguish
26 between cartridges used in handguns versus those used in rifles or shotguns, some historical
27 perspective is necessary. But one thing is clear: despite the message of the “factual” findings
28 purporting to justify the ban of the sale of “enhanced lethality ammunition,” there is nothing

1 particularly novel or unique about the type of bullets the ordinance seeks to regulate. In fact, the
2 materials currently used to construct bullets are much the same as those used a century ago.

3 7. Rifled barrels designed to use conical shaped bullets came into general use in the
4 1850s. By the late 1860s, breech-loading firearms using drawn brass or brass wrapped (coiled)
5 cases with conical bullets were commercially available. One popular type of bullet was a paper-
6 patched hollow-point that contained a copper tube. These bullets were loaded in British cartridges
7 such as the .500 3" BPE (coiled), the .450 3 1/4" BPE (coiled), and the .300 Rook, all of which
8 were used for hunting across the considerable British Empire of the 19th Century.¹

9 8. With the arrival of smokeless powder in the late-1880s, the higher velocities produced
10 necessitated a new bullet design. The Swiss were among the first to use a copper/zinc (tombac)
11 envelope around a lead core. In 1898, the French introduced their non-lead Balle D bullet that was
12 90% copper and 10% zinc. By the beginning of the 20th Century, the "soft nose" jacketed-lead
13 expanding hunting was a standard with hunters. In 1907, the Hoxie Ammunition Company of
14 Chicago, Illinois, placed a steel ball in the cavity of their hollow point bullets to accelerate
15 expansion.

16 9. Ammunition makers have, for the past 150 years, continually attempted to refine their
17 bullet designs. In spite of those efforts, bullets still fall into the three basic categories that existed
18 at the end of the 19th Century: lead, jacketed lead, and alloyed copper. Pure lead can be hardened
19 to help control expansion by adding tin and/or antimony. Jacket thickness can also be increased
20 (in combination with lead hardness) to slow expansion. Expansion can be enhanced for all types
21 of bullets by "hollow pointing." These types of manipulations have long been employed by
22 ammunition makers to manufacture ammunition that best meets the needs of sport hunters.

23 10. For most sport hunting applications, bullet expansion is a *desired* characteristic. The
24 objective is for the bullet to perhaps double its diameter, retain a high percentage of its original
25 weight, and yet still penetrate deeply enough to reach vital organs. As such, it is not uncommon
26 for modern hunters to use expanding point bullets when hunting certain types of game.

27
28 ¹ More detail on these and other cartridges loaded with "copper tube" bullets can be
found in *British Sporting Rifle Cartridges* by Bill Fleming.

1 11. Expansion is determined by impact velocity, bullet design/construction, and the
2 resistance encountered. High velocity impacts with bone or other materials can result in bullet
3 fragmentation and/or the bullet taking an irregular shape with sharp edges of jacket material.
4 Neither benign nor willful ignorance can change the well-established facts of how bullets react
5 when striking tissue and bone.

6 12. For the reasons described above, the findings regarding so-called “enhanced-
7 lethality ammunition” is a cynical fiction.

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

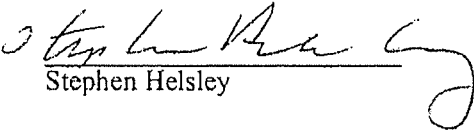

Stephen Helsley

EXHIBIT “H”



City and County of San Francisco

THURSDAY, SEPTEMBER 15, 2011

supervisor mirkarimi: good morning.

Welcome to the public safety meeting.

We understand supervisor campos will be joining us certainly.

madame clerk, could you please

read items #one, to, three, and for? >> item 1, a resolution authorizing the fire department to spend a grant in the amount

of \$230,000 from the federal emergency management agency for

fiscal year 2007, a supplemental port security grant program for assets to enhance the fire department' s water-based response capabilities and

increase its protection of the port of san francisco and the san francisco bay.

Item #2, authorizing the fire department to spend a grant in

the amount of \$7,870,484 from the federal emergency management

ag and seat for the fiscal year 2008 port security grant program to enhance the fire department' s water-base response capabilities and increase its protection of

the port of san francisco and san francisco bay.

Item 3, authorizing the fire

department to accept an expanded

grant of 645120 -- \$645,000 for

the security bent -- for \$645,125 to increase its protection of the port of san francisco and san francisco bay.

item #4, authorizing the fire

department to accept and expand

a grant in the amount of 107,000

to enter \$96 from the federal emergency management agency for the purchase and installation of seven commercial washer

extractors to clean personal protective a quick assessment.

-- personal protective equipment.

Supervisor

mirkarimi: thank you. >> I' m here on behalf of the

fire department to present the first four items on the agenda.

The first three are resolutions requesting approval by the board of supervisors to authorize the

department to except and expend

approximately 8.7 \$5 million related to water and pour-based projects.

-- approximately \$ 8.75 million

related to water-based projects.

The department applied for the

program coordinated by with assistance from the united states coastguard.

In January of this year, the far apart was notified we were

awarded eight projects totaling

\$8.75 million.

This is one of the grant programs under the federal department of homeland's security.

the purpose is to increase management at the nation's ports and protect the nation support infrastructure.

These projects are water-based and designed to enhance the port and a response capabilities. The san francisco bay qualifies as a highest risk status as a port.

the three different fiscal year

grants for a total of \$237,000,

the 2008 grant is for \$7.9

million, and the 2010 grant is approximately \$650,000.

It is good news in the current economic climate. There are no matching funds required by the department for any of these projects.

The largest project is in the

2008 fiscal year both in scope and financial size, a new type to fireboat. Currently, there are two

fireboats and they're both over 15 years old. This would allow the department to purchase a new fire boat.

The department is not actually

receiving the money from.

A fiduciary agent has been set up and we will be working with them for reimbursement. The department is very excited

about these upcoming projects,

more so in light of america's cup coming to san francisco.

We request you move these to the full board for approval. on the fourth item, an

additional grant from , a resolution to have the department approved a grant for the purchase of installation of

several wash extractors for the department.

In August of last year, the board of supervisors passed a

resolution at -- recommending a gift of five washer extractors to be used to clean personal

protective equipment of members.

These were donated by the san francisco fire fighters cancer prevention center. At the time, we were working

with the cancer foundation and

applying through for a grant of

the dish -- of an additional seven washer extractors for a total of 12. The department was awarded the grand earlier this year.

The total cost is 140 -- \$134,000. A match is required which comes

to a cost inc. To department's budget.

The total amount of federal

funds is \$107,296, that is the 80% federal contribution.

These machines are heavy-duty

machines used to clean personal

protective a quip and white coats and pants over the course

of responding to incidents, they

could be sought with toxins

etc., so the goal is to increase not all health and safety

department members but reduce wear and tear of personal

protective gear and help them out by washington. I'm happy to answer any questions.

Supervisor mirkarimi: this is all pretty straightforward.

Is there any change in staffing?

>> no.

supervisor mirkarimi: colleagues, any question?

Is there any public comment? Public, disclosed. We take this with recommendation. So moved.

Madame Clerk, item no. 5.

>> a resolution authorizing the district attorney to renew its current agreement with the
california victims' compensation and government claims board, an agency of the state of california, for a revolving fund
and the amount of \$75,000 to be
used to pay for verified funeral
and burial expenses for eligible homicide victims and emergency relocation for victims of domestic violence and sexual
assault from the July 1, 2011
through June 30th, 2014.

Supervisor

mirkarimi: good morning. Welcome. >> I'm from the district attorney's office. We have a contract with the
state victim's compensation program. The revolving fund is full of money that allows us to make
payments faster to providers, victims, and their families.

If there is a homicide, we are able to pull the money out for
the funeral burial expenses within a couple of days, otherwise we would have to wait for a longer process.

This pool of money allows us to do that.

Homicide cases, domestic violence, and sexual assault cases.

Supervisor mirkarimi: sometimes my office and I know others have had to intervene to get
assistance for victims families

who do not have the wherewithal

to pay for funeral expenses and

other accessory costs.

does it get to a point where we exceed the capacity of money made available to the city in
being able to assist that

population, especially if the population is increase relative to the homicide rate?

>> know, we have not run out of

funds to assist homicide victims and their families. I would imagine it's a rare case when there is outside involvement needed to get these
expenses paid.

For example, when a homicide happens, the crisis response team responds immediately, they go up to the scene of every homicide. We have a
close working

relationship with the crt professionals and they will walk family members to our office.

If that does not happen, our

advocates reject immediately, but the contact information from the medical examiner, and start making contact as soon as a homicide has
occurred.

This is something we work on quickly.

The homicides, we do not wait. The only wrinkle is the state

has tightened up their interpretation of their guidelines for eligibility. So whereas a case in the past

where there is a homicide and

the victim may be was engaged in a drug deal, that would still go through. Today, that would be tougher to push through because the state is
looking at whether the victim contributed or was involved in the crime.

>> all the dollars associated our state driven, is there any match local dollars at all? >> there is no local match.

>> is there a need for added

assistance of local dollars or

what is provided for by the state is sufficient?

>> in terms of their appalling fund, that has been working well.

When we get to item number six, the general victim compensation

staffing, the dollars, we have

taken a cut to that grand, so we have had to pick up one of the positions on the general fund, so there is additional need their.

>>

supervisor

campos: I'm wondering if you can give us information

as far as how many families have

benefited from this service?

>> our data is not real good.

The state keeps the data.

What I can tell you is for

fiscal year 2009-2010, we paid out over \$3 million in benefits

to victims, their families and providers.

That was for a total of 1120

cases filed in san francisco. That's not the number of victims

we see, that is closer to 4000, but the number of applications

was 1720. --

supervisor campos: what is the rate at which applications are approved or denied?

What is the percentage in terms of applications that are approved? >> I don't know the answer to that and it depends on the benefit.

In this last fiscal year, the

numbers are lower for approval because of state guidelines.

Supervisor campos: what I am

trying to get to is to have an understanding of how what we are doing relates to the need that

is out there and I think that

requires having a better sense

of how many people are applying, how many people are seeking

help, who actually ends up

getting the help, and to the extent applications are denied,

what the basis for that and I'

ll is -- the bases for that and I'll are.

-- for that denial are. >> I don't know if I will have

the breakdown, but I think we do

have the percentage of approvals and denials.

Supervisor campos: I think it is something we as a city should be

aware of and have that information.

to the extent this is a state-run program, where there may be a need where a gap needs to be filled, we need to be mindful or aware of that. I don't know where the money for something like that would come from, but it's something we should consider and certainly look into.

To do that, to have a sense of whether or not there's a need for the city to step in and supplement what the city is doing, we need to find out what the need is and we need to get a better sense of the way of the land. Thank you very much.

Supervisor cohen: following along the lines of the supervisor campos, a want to know which department manages this data.

>> it is the california victim compensation claims board.

Supervisor cohen: is this a politically appointed board? >> is appointed by the governor.

supervisor cohen: all seats? >> yes.

Supervisor cohen: do you have the information on what the average payment to each family is? >> I do not. I don't know if they would have it.

Supervisor cohen: so say my son is killed and I live in public housing. I make an application, where do I find that application? >> in the D.A.'s office.

Supervisor cohen: then who reviews it? >> the claims staff employed by the D.A.'s office.

Supervisor cohen: then what happens?

>> it will determine eligibility and send it to the state.

Supervisor cohen: does the state have final say?

do they have the ability to overturn the decision made at a local level? >> they do.

Supervisor cohen: I suspect you probably don't know what that ratio is. >> I do not.

Supervisor mirkarimi: just picking up on the threat of this discussion, who advocates for the victims' families to the state? is that you? >> yes.

That is the advocates in the victims' services division. Because of the problems we're having now with the state's tightening up their guidelines, advocates have become experts on the appeal process. They're ready to assist them throughout the process.

>> I would think part of --

supervisor mirkarimi: I would think part of that advocacy would be to be well equipped with statistics as to who is getting the kind of funding necessary and is getting rejected. I think that would empower san francisco to be more vocal either to the state or signal to the city government that state is not helping to the degree they should so maybe we need to step in. I have to tell you, less than one month ago, I had to spend a very sad morning with the mother whose son was murdered in hayes valley. She was very distressed and it was hard to have a measure discussion, but she was not getting assistance. Her office did have to call on the expenses that she felt completely overwhelmed, and very distressed about.

Not that I expect your office to be the ones that fix it all, but it bubbles up quite a bit that we have had to intervene from our office over the years to try to usher people through the process.

I do not believe this is as smooth as it sounds like, and I have a feeling there's a larger population out there getting rejected than we are aware of. It would be nice to know that for sure because it is anecdotal. >> I think it would be nice to have the data.

The process is rarely smooth because you're dealing with families that have suffered a devastating loss.

The first time they come to our office, sometimes they don't even remember they have been there. It's not uncommon for them to go to another office and say no is helping me when they have been held to the rest of our ability.

But we cannot help everything and we cannot make the pain go away. We're always open to calls from other agencies for assistance, but those advocates, especially on homicide, I am positive they reached out to that mother before they called you.

supervisor mirkarimi: I think it helps to tie the loop up so the D.A.'s office and the victim's witness assistant does not feel alone in this process, that there would be a more collaborative effort so we are at least half of the game, especially if the state is going through the kind of fiscal crisis is going through.

That least prepares us so that in the budget committee, which I sit on, we are able to then anticipate potential need.

It seems to be relative to the violence rate and homicide rate we have been experiencing, and it has been seesawing quite a bit. >> we were collectively, so we will accept any help that is available.

Supervisor mirkarimi: we May want to have a different relationship so that binds the officers and potentially criminal justice agencies, so that they're a little more alert to the fact that this is a need that needs to be addressed.

Thank you. We appreciate everything. I do not believe we have anymore questions. Any public comment on this item?

I did not call the next one, so -- I am ok for now. Any public comment?

Public comment is closed. Can we take this without objection? So moved.

Madame Clerk, which call in #6?

>> item 6, resolution authorizing the office of the district attorney retroactively accepting to expand this \$714,138 allocated from the California victim compensation and government claims board for a project entitled the joint powers agreement for July 1st, 2011 through June 30th, 2012.

>> this is the grant that funds of the staff in the D.A.'s

office to handle the applications and all of the bills and outreach that goes on with providers. As I said earlier, the amount of the grant was cut by 5% and we

are currently -- which currently holds seven staff members whereas before it was able to pay for eight. We still have eight working on the program because that is what is needed to make it work.

Supervisor campos: why is the grant retroactive?

>> I think that was a timing issue.

it has taken that long to get here.

We have been doing the load all along and there has not been a gap in service.

Supervisor cohen: how many

people on staff will this grant cover? >> 7.

Supervisor cohen: and you are not looking to expand or contract staff? >> we have had eight for a

number of years, but only seven

are covered by the grand -- to the grant.

Supervisor cohen: how is the eighth covered? >> to the federal fund.

Supervisor mirkarimi: the you have a volunteer program? sometimes I hear about people who are motivated by what happens in their neighborhood and want to help.

Maybe through internship there a

particular criteria that is trained, maybe you could update us about that.

>> we have a very robust intern and volunteer program. We currently have six or seven volunteers working on this

program, which, without them, I don't know what we would do in terms of phone calls and data entry.

We do use that and it supports a lot of our operations.

Supervisor mirkarimi: thank you. Keep up the good work. Any other public comment?

Public comment is closed.

colleagues, can we take this without objection? So moved.

Madame Clerk, item number seven. >> item #7 is an ordinance amending the san francisco police code by adding sections

4511 dissections

613.9.5 to add

findings to ordnances requiring a handgun to be kept in a locked container or disabled with a

trigger lock and prohibiting the sale of enhanced lethality ammunition.

Supervisor mirkarimi: the purpose is to add a findings backed by research of two separate, existing laws.

One requires handguns to be kept

in locked containers or disabled with a trigger lock.

The other, which prohibits the

sale of the hands of lethality ammunition, the most common of which are hollow point bullets.

In 2008, the supreme court decision change the interpretation of the second amendment to mean that it protected an individual's rights to possess a gun for self- defense.

Since then, gun advocates have been challenging local gun laws

across the nation, including san

francisco, which is why I teamed up with the city attorney's

office so we can fortify our defense of reasonable gun safety laws.

This ordinance is needed to

clarify the board of supervisors on going intend to reflect updated research to ensure

existing gun laws in the police code are for look -- are fully enforceable. There is ample evidence these laws are needed now more than ever and they will save countless lives every year.

In addition to several shootings in August, a man was shot a

forty-niners game we heard about when the police chief was on

which made national news about insufficient staffing at a tailgate party that erupted.

In July, at least eight innocent

bystanders were hit by stray bullets, two of them were children, one was in my district, which are is absolutely livid about and visited in san francisco general hospital. Fortunately, she survived.

A north beach woman was hit by a bullet that passed through her body.

It fortunately did not cause life-threatening injuries, but

the police department confirmed they were hollow point bullets that hit her.

They are illegal in my mind and would not have passed through

her body because it would have expanded and a much greater

damage and would have then possibly life-threatening.

Each year, there are hundreds of gun-related injuries in san

francisco and we can only guess how many would be fatalities if it were easier for people to buy hollow point bullets.

With regard to the locked container and trigger locks, dozens of studies show keeping a loaded door unlocked done in the home is associated with an

increased risk of a gun-related injuries or death.

Less than one year ago, and 8- year-old boy found a gun in his

house, took it outside in a play yard and shot himself in the stomach.

another

personally visited and who luckily survived, that was a tragedy.

The sad truth is that guns left at home are often used in

suicides or against friends and family and it is these incidences we are trying to prevent. We have a number of speakers

today that include the following

-- the deputy city attorney, the city attorney' s office, which we appreciate for their hard work in arriving at this particular reintroduction of our laws.

The san francisco police

department officer, san francisco general surgeon

resident and trauma researcher,

and we are familiar that there are a number of other people here to speak --

I would like to go ahead and invite you to help introduce this and we can go from there.

>> thank you, supervisor.

I am currently employed as a san francisco police officer.

i started my law enforcement

career back in November of 1970 with the oakland police department.

I worked in special

investigations and crime reduction in that city and

retired in 1991 and went to work for the california department of justice.

While with the california

department justice, I worked in gangs and organized-crime until 2000 when I was promoted to a position of special agent supervisor. I assisted in founding in putting together the firearms division in sacramento.

During that time, I testified on numerous occasions before the legislature and its superior and federal court on firearms issues, prohibited possessions, ballistics, and assault weapons identification and operations.

Over those times, I from a 2000 to 2008, I sat on the committees that approved storage locks and safes for the sales in california and requirements they have to pass to be certified for sale in this state.

During that time, we were given the information on all accidental shootings that occurred within the state.

What was predominately clear to us is that a number of those shootings were the fact that those guns were accessed by persons who were unaware of the aspects and operations of the firearm and the fact they could not tell if the firearm was loaded or not.

During that time, laws were passed for delivery of the firearms through the firearms safety certificate.

Not only did they have to take a test to acquire a firearm safety certificate to purchase the gun, prior to delivery of the gun, that person has to go through a hands-on, objective test with dummy ammunition to show they know how to load, unload, and secure the firearm in their home.

During the passage of those laws, a section was added that, during the sale of the gun, the firearm has to be supplied with a certified lock, certified by the state of california, or the person can bring a lock in that shows a certified number on it, certified by the state of california, or they can sign an affidavit with the model and co.

Of the gun say they have at home that would allow them to take the gun home without having to have those requirements of a lock on site at the delivery time.

One of the easiest access to a firearm in the home through a safe is through an electronic keypad lock for a firearm safe, which is a small safe that allows a person to keep a firearm in the safe, relatively accessible with a digital combination only known to

persons who are the owner or someone else who is allowed to know the combination for that safe.

There are safes which are relatively accessible to the person who knows the combination but keeps other people who are unaware of the operations or loaded capabilities of the gun away from a firearm.

In addressing the hollow point

issue, hollow point ammunition,

over the last 41 years in law enforcement, I have been

involved in numerous armed

confrontations, shootings, so on

and so forth and experience them myself and investigated them.

One thing we have found is

hollow point ammunition expands

as it hits whatever medium it strikes, whether it is closing,

flash, and it expands.

Normally in 38-caliber, it will

try to expand in diameter so

that it causes a larger

temporary wound cavity in the object it hits.

That temporary wound cavity

causes incapacitation in the

target and thus allows the

cessation or incapacitation to

start and the altercation to cease. That'

s the efficiency of the hollow point and mission, that it

expands, what ever it hits opens

up, and it is more efficient on

the target.

We have had numerous shootings

where I investigated, while I was on gang task force, currently I'm with the new

violence reduction team, and four persons were shot by one assailant.

The person was using full metal jacket ammunition. Everyone that was not hit in a

vital organ was treated and

walked away from sfgh .

The person who was injured the most was shot right in the aorta.

The surgeons at sfgh , saved the

man, patched the young man up,

and if it had been hollow point ammunition, opening it up and

making a larger temporary wound cavity, they probably would not have been able to save this young man.

I think there is a legitimate reason for law enforcement, because we are held to an

extremely high regulation about

the use of deadly force that, if we see a threat to our life or someone else's life and we have

to seize that threat, hollow point ammunition, which we carry, it does act more efficiently, for less rounds expanded to seas confrontation. We do not want a large amount of rounds launched in that direction because it would cause

ancillary damages that would not be accepted by our department.

So we want something that is efficient to put the threat

down, and one of the other

issues, are there legitimate issues for having hollow point ammunition within the city and county of san francisco?

there is relatively no particular use for target shooting.

Hollow point ammunition costs twice as much as full metal jacket ammunition.

The shooting ranges we have in

san francisco does not allow you to bring your own ammunition in

because of the lead in the indoor range.

Have to purchase the alleged free ammunition from the range.

-- the lead-free ammunition from the range.

Is full metal jacket ammunition as efficient?

For the purposes of self-defense

and home defense, I would not

want to be shot with either full metal jacket or hollow point ammunition. That is why we were ballistic vest.

--

why we where ballistic vests.

I believe the ancillary damage

to what average hits as well as a way by the fact that full

metal jacket can and does the

same job, as shot placement is done by the person trying to

defend their lives, and familiarization with the

firearm, practice with it, that

will help that person in using the right kind of ammunition to acquire the same desire effect.

-- the same desired effect.

Do you have any questions?

Supervisor mirkarimi: I am sure we have a few.

The ballistic vest, are they fortified enough to withstand the impact of a hollow point bullet? >> yes.

on the level that we carry, that

we wear and the normal types of ammunition we are running into,

yes, they will stand up to hall. Ammunition.

On tests I conducted what I was

certifying whether we can allow

the 57 around to be sold in

california, that very fella --

very fast round coming out of a

small pistol was stopped as it

expanded on the seventh layer of the 21 layers of the front panel.

So, yes, as it grabs the kevlar material, it does slow the ball down and stop.

Supervisor mirkarimi: you make a good case in explaining the technical reasons why and public safety reasons why we would want to resist this allowing of hollow point bullets in san francisco. But can you speak to the general trend as to why people feel the need who are gun advocates, who believe in the right to possession, which is of course there second amendment right, why do you think they have to have something that is that much more lethal that is made available or can be accessed?

>> I think it is the same reason they feel they need assault weapons. They need what ever is accessible to them without encumbering their second of amorites.

We are stepping into an area of that is limiting them from free access to whatever they want.

Granted, we' re limiting the sales here in the city and county of san francisco, but hollow point ammunition is accessible south of the border on a bimonthly or try monthly basis at the san francisco gun show in daly city.

I believe they want the same lethality we desire as a police department to seize the confrontation. That' s another issue I believe gun advocates would want.

Supervisor

mirkarimi: I am traversing between both themes and here that are fortifying our gun safety laws.

With respect to gun locks, which -- when a gun is not kept safe and locked, such as the incident of the 8-year-old who found a gun and shot himself, what then do we do with the parents or guardians where the gun was made available or not kept safe? i never hear that side of the story too much about either arrest or prosecution.

>> from my experience over these years in law enforcement and dealing with the shootings and the response of the state -- of the safe storage laws in california, which has been on the books for almost 15 years -- if -- there is a variance in punishment, and it is all to the discretion of the district attorney' s office. Of all the shootings I have investigated and responded to, only one has been prosecuted for the un safe storage act.

It was a grandfather who left a 25 auto on the coffee table and the grandson picked the gun up and shot himself with it. That's the only time I've ever

seen the unsafe storage laws prosecuted.

>> that is of recent memory in

san francisco --

supervisor mirkarimi: it is not consistent with news reports you

read in the "chronicle" or hear

about how a child in particular will find a gun, shoots

themselves, or shoot somebody

else and that gun was supposed

to be kept safe based on laws

currently obligatory.

What is missing in this picture?

>> I truly believe it is very difficult to mandate laws that look into the homes and dictate what a person does inside the house.

There is another case where a young kid shot himself with a

gun the mother said the boyfriend just pulled out of the

safe that afternoon and loaded and left it in a closet.

Happened in contra costa county.

They are prosecuting the boyfriend.

But how do we legislate, when we

pass all of the laws, about safe storage in the books and now we'

re going to put one on the

san francisco ordinance to restrict the storage of a firearm in the home, how do we look into the house?

Most of the safe storage gun

laws are kind of after the fact, after the gun is used illegally or someone is hurt.

Supervisor mirkarimi: but the

process is when somebody is rushed to san francisco general and aid to the brilliant job of saving somebody's life, any time

a weapon is used, there's a normal reporting process.

That reporting process that I

assume triggers the intervention of the police department to

investigate if it was

deliberately used or if it was an accident and how access to

the weapon occurred, especially

for a child, I would assume is

that next step that an

investigation or prosecution --

I recall in my district of

hearing of children who get guns, shoot themselves or shoots

somebody else, and I never hear

of anybody being arrested for an investigation resulting in

prosecution of those parents at

all for the guardians.

>> I understand your results.

it is the same one I have.

The route the bay area and california, it is at the

discretion of the district attorney' s office after they review the investigation whether

or not to prosecute the person, number one who had the obligation to store the weapons faithfully, and, number two, whether that person reneged on that by bringing the gun out and leaving it loaded in an unsafe area.

Supervisor mirkarimi: thank you.

Colleagues, any questions?

Supervisor campos: thank you.

First of all, I want to thank

supervisor mirkarimi for bringing this legislation

forward and thank you, officer, for your presentation.

I think this legislation makes a great deal of sense and I don' t

see that it is in any way

infringing upon anyone' s constitutional rights.

I think it is a very well

thought out public policy

approach that ultimately tries

to prevent a number of things,

including accidental deaths that happen.

In terms of what can be expected that in terms of this moving forward, is there a legal challenge?

Is that a possibility? is that a concern as we are moving forward?

I know that supervisor

mirkarimi has drafted this very

carefully in coordination with the city attorney' s office.

Have we heard anything? :

Supervisor mirkarimi: them -- this is a good time to insert the city attorney. >> I am the deputy city attorney and I can answer that question.

There are a lot of laws under

challenge all across the nation

in the wake of the decision and a subsequent decision which

applied heller to state and

localities, announcing the

individual right to a firearm in a home for purposes of self- defense.

Any laws that appear to burden

their right in any way, such as

even a requirement to have your

loaded weapon in a gun save that

you can open in a few seconds are under challenge.

or laws that would reduce the

sale of incredibly lethal

ammunition or reduced the use to law-enforcement.

These sorts of things which seem

very common sense to a lot of people are under legal challenge. That's true in this city and it's one of the reasons you are being presented with this legislation. The national rifle association is actually suing the city and

county of san francisco over these two ordinances.

When the city originally adopted them, it was not the case under that law that there was a second

amendment right that might be infringed.

We did not prepare as would

normally be the case, with legislation with a constitutional dimension.

We did not prepare findings at that point because we did not know these laws would be so

closely scrutinized by the judiciary. now that we know that, it's important to come back to these laws and explain what the foundation is for them exactly

and so, the fact these laws are

under challenge right now in

this city is one of the primary reasons why it is important for

the board of supervisors to

express what its rationale was for these laws.

Supervisor campos: thank you, and I reiterate the point that it is important to clarify the

policy reasoning behind these

laws and I think the discussion here today and the findings that will come out of it are clearly

outlined, why from a public policy standpoint this makes sense.

I do think ultimately, the connection with any

constitutional violation is

remote, if at all, and hopefully that will prevail in the courts.

Thank you supervisor mirkarimi, and officers for work.

Supervisor mirkarimi: I would

like to call up san francisco

general surgeon, randy smith.

>> I am a surgery resident in my fourth year of training,

currently working at the san francisco injury center on a violent intervention program.

I have a particular interest in trauma surgery after witnessing day after day young people

coming in with gunshots, stab wounds, and assaults.

as you alluded to earlier, this is a big public health problem nationally and locally. Homicide's represent the second

leading cause of death for age

15 to 44 years old and, on a

local level, firearms represent

the third leading cause of all entries at san francisco general hospital. I want to speak to you about my

clinical experience with hollow point bullets and the injuries they cause as a result of their severe destruction. Destruction.

I have operated on a lot of

people that have suffered from

gunshot wounds and I will tell

you is very typical, as a trauma surgeon, to deal with these injuries.

Most recently, I operated on someone who was shot in both kidneys.

If you can imagine, as a trauma surgeon in the moment, you want to do as much as you can to repair whatever injuries are possible to save someone's life so that they can go on and become a productive member of society.

Hollow point bullets caused massive destruction that is terrible. I liken it to hamburger meat.

Everything has exploded in front of you, the kidney is

irreparable, you have to remove it. So you have gone from a bullet that can cause a laceration in the kidney that can be repaired, to something that has to be removed.

Imagine two kidneys gone.

Someone who is now on dialysis dependent, 20 years of age, that

is a considerable cost for the city and county, especially the disability associated with the patient. I have several stories like that, but it stems from what we

have already heard from the ballistics expert, that the bullet expands.

And that is its job, to expand and causing massive destruction and have a larger area of impact inside the body.

I also want to say, from a violent intervention standpoint, I have had the opportunity to continue to work with people outside of the operating room ever ready of projects, and mortality is definitely there, but disability is worse.

We see people that are quadriplegic, paraplegic, have colostomy bags that they have to deal with, dialysis dependents.

-- dependence.

I think that this issue is very important locally.

The medical implications are grand, and I believe that you can go from having a patient

that can be -- that can recuperate to someone that can die from all of the destruction, or have significant disability as a result of a hollow point bullets. Happy to answer any questions you might have p .

supervisor mirkarimi: thank you for your testimony.

On behalf of many of us here who have heard from repetitive from san francisco general hospital, in the trauma department, just so impressed with what you do saving people's lives. Brilliant.

I know that the mortality rate

would be a hell of a lot higher
if it was not for what sfgh has
been able to do in pulling out those miracles.
But there is no question that
there is a growing population of
people in wheelchairs, people
who are completely disabled,
whose lives have been completely crippled because of the gunshots.
I see it in so many of the same communities that have been
routinely distressed economically as well as public safety, where the violence has been the most pronounced.
And that population is really growing. I do not think people think to
themselves and cause and effect as to why this particular pokes are disabled, as if they had been all their lives.
I see this now surging. I do not think san francisco is any different than any other
city, but it is very conspicuous.
stats are always a hard thing
that we try to ascertain when we get to this committee process.
Do you have any idea on the use
of hollow point bullets, maybe
and vocally, -- anecdotally,
what sfgh has had to deal with?
>> usually, if we recover any bullets or bullet fragments, we
send it to the police department for further examination.
We cannot get the results of those examinations.
But anecdotally, there is a difference in the destruction that we see visibly with the organ.
in recent operations I have had to partake in, the
it seems like
there are more cases of destruction, hamburger meat.
It seemed to be becoming more prevalent these days.
I also do clinical work at highland hospital.
the same is true across the bay.
This problem is growing locally .
That is a front line hospital also. The same thing happens there as well. I think this problem is growing
locally, and I think there is an industry that is trying to have
more destruction with this bullet. So we are seeing it more in the operating room.
Supervisor mirkarimi: you mention it, quite right, the
costs are internalized to the city. These people who are being affected who were already
reliant on that level of assistance.
When they become incapacitated
or disabled, that produces a surge in the cost of the responsibility of the city.
How to keep up with that, we have not had that conversation yet in city hall.

>> sanfrancisco general hospital is unique in that it is the only trauma center in the county. We treat 90% of all penetrating injuries.

Around 80% of our population is either uninsured or underinsured.

if you take the hospital costs

associated with penetrating injuries and the disabilities

that results after, more severe

with hollow point bullets, you need rehabilitation, ancillary

services to maintain the patient's medical needs.

It actually becomes quite costly for the city and county.

Supervisor mirkarimi: the other thing we are focusing on, and

guns not kept safe, getting into the wrong hands.

Anything that you would like to reflect on that?

>> we see self-inflicted gunshot wounds all the time. Usually, we will get some information.

By and large, there was a gun that was left unlocked.

We do not have any hard-core

statistics for that, it is all anecdotal, but that is what we usually hear from the people bringing in the patient at the time.

supervisor mirkarimi: supervisor campos?

Supervisor campos: I think, in

terms of making the policy case, explaining why something like

this is needed, I think the

testimony and comments from our

public health staff, personnel, is compelling.

It is not just a public safety issue, it is a public health issue. Not only is it about saving

lives, but making sure you also

improve the quality of the lives

that you do save, and that you

also minimize the impact that

additional expenditures that

come with these kinds of

incidents have on the rest of the system.

For money that you spend on one critically injured patients

, that is money that you are not going to have for other needs within the system.

I think it is very compelling, and I hope that there is more of

an effort, not only within san

francisco, but nationwide, to see this as a public health issue. That is really what it is.

if the testimony from our doctors who are doing this work

and saving lives on a daily

basis is not compelling, I do not know what is.

I do want to be on the record,

thinking -- thanking sf general hospital, the doctors,

personnel, for daily polling of so many miracles.

I do not think people understand

how that has changed the

mortality rate around it while

in crime in san francisco, -- violent crimes in san francisco.

Our homicides would be much higher without the tremendous

work that is done at sf general.

We are very lucky that we live

in this city because we do have,

I think, one of the top hospitals in the world.

i certainly saw that with the

police commission, a big reason why the homicide rate was going

down, because of the great work

that goes on at general. You continue that and I do not think you can say enough about that. So I just want to say thank you for doing that.

supervisor mirkarimi: well said, supervisor. Thank you very much.

Is there anybody else -- we can go to public comment if that is ok.

>> I think that the rest of the

people who are here to speak are members of the public.

Those were the two city

employees, other than myself, to talk about the legislation.

Supervisor mirkarimi: ok, I know that there are some people who

are eager to get into our dcyf item.

let's go ahead and open this up to public comment.

I mentioned a few names, but if

there is anyone else, please

feel free to come up and joined.

>> good morning, I am a staff

attorney at legal communities against violence.

We are a separate disk-based national law center that works

with state and local governments working on gun prevention issues.

We have worked with the city of san francisco on a number of projects over the years.

We are founded out of the 1993

assault weapons massacre that is cited in the founding.

We strongly support these

ordinances, strong support the proposed findings.

These findings speak both to the nation's gun violence epidemic and to the epidemic's impact on our communities in san francisco.

the findings demonstrate clearly why the ordinances are needed to help protect public safety. For me, personally, I did not need the findings to be convinced of the need for these

ordinances, but the findings go a long way through the inclusion of important research and

evidence to support the importance of these ordinances.

Legal community against violence has worked with local governments across california since our conception.

We recognize the value and importance of local leadership on this issue.

Federal firearms laws are weak. They are far too weak. State laws in California are better, but they are not complete.

Local governments in California have both the capacity, and I

think, the obligation to enact

in ordinances that are reactive to the needs of their communities. Different communities will have different needs with respect to the guns and gun violence.

Different crime problems in different communities, different law strategies employed.

the use of firearms for sport or hunting might be different between communities.

So it is important to enable

communities to enact local ordinances that are responsive.

I commend the city of

San Francisco for adopting these

ordinances, and work as well.

At the same time, local government can show leadership in Sacramento.

We have seen a trickle up affect

where local ordinances -- jurisdictions will adopt ordinances and are later adopted by the state legislature.

In summary, I find these ordinances important and entirely consistent with the second amendment right that the supreme court recognized. Thank you for your time.

Supervisor Mirkarimi: Thank you for your work as well. Thank you. Next speaker please.

>> I am the founder of youth

alive, a youth violence prevention organization statewide.

I started it because at the end of the 1980's, guns were the leading killer of kids in California.

They continue to be a leading killer, a seemingly quick way of

solving an argument, fight,

responding to a moment of anger. Trauma doctors that I have

worked with often said if the youth uses a gun and an

attempted suicide, they never wake up in the operating room. They end up in the morgue.

These two sections provide

evidence to support two critical ordinances that add critical steps to slow down what are

often impulsive decisions that

are often life-ending, making it

difficult to grab a gun, more

difficult to buy a hollow point expandable ammunition will save lives.

In closing, I want to thank San Francisco for being in the

forefront of being in the four

-- of protecting its citizens from gun violence.

I learned from the Department of Justice in Sacramento, at a time when annual gun sales in California are at 600,000 per

year, this is double what sales were eight years ago.

With the NRA shooting to

fighting to shoot

holes in every ordinance, this is critical. In terms of what we were talking

about before, how do you enforce a law that is in the home?

This is the same issue in the 1970' s, the domestic violence movement phase.

How do you break the concept that a man' s home is his castle?

how do you enforce those laws?

It has been through education

and also through reinforcement

that has been made public that

lets people know, reminds them of what they should be doing.

So it can be done.

Supervisor mirkarimi: and cultural shaming, like with domestic violence.

I appreciate your public comment. I just wanted to say an anecdote related to what you opened up with.

We are noticing a trend of more

young people who are quick to use guns because the way they

settle conflicts. i remember having a conversation

not long ago with a group of

fairly young adults, teenagers.

I said, why, explain to me why you see others using guns?

The response was that it was

completely uncool to get into a fight.

to use your fists, to get into a physical altercation, it is just sort of passe.

I am paraphrasing.

It is just much more what they would think is the modern

response, to jump to using a weapon. >> it is true.

So making guns less a accessible

makes a difference, so that it does not feed this new wave of culture.

Supervisor mirkarimi: thank you.

Next speaker please.

>> my name is griffin dix.

I used to be a professor of cultural anthropology at santa clara.

I was in research at san francisco chronicle and examiner

and research director at mac week.

in 1994, a 15-year-old son was killed in an unintentional shooting visiting a friend house.

My son' s death is really an

example of a finding that need

to be added, that you have written here.

my son was not playing with a gun. He was just visiting the home of a gun owner.

You can look at my son' s death from four points of view. Let me first explain what happened.

Without telling my son, this boy decided he was going to get

the gun that his father kept loaded and unlocked in his bedroom for protection.

The boy got the gun, took out

the ammunition clip, he put in an empty one, and took a back
upstairs, pulled the trigger of the gun -- of course, a horrible mistake on his part -- .

of course, the gun was the only product in that home is exempt from consumer product regulation. There was still a blip in the chamber of the
gun and the boy

did not know that.

You can look at what happened from four different points of view. I will be brief.

this father had been convinced that the way to protect his

family was to keep his gun

loaded and unlocked, because he felt he needed it to be instantly available.

Second, from the point of view from the gun industry.

hunting is in decline, the sale

of shotguns and rifles have been in decline for decades.

The gun industry has been trying

to sell people on the idea of buying handguns for protection.

They have had been saying, those guns need to be immediately

available .

The nra home safety manual said

that guns in the home are

always in use and can be kept unlocked.

if the nra is now changing that, I am glad to know it.

Certainly, now , there are ways

that a gun can be stored safely and still quickly accessed.

Third, from the point of view

from the public, safe storage laws work.

There is research that shows they reduce gun suicide among

teenagers. They make it harder for criminals --

supervisor mirkarimi: we are going to do just a formality here. Tell me why it makes it harder for criminals.

please continue.

>> it is harder for criminals to

steal guns and use them if they are locked up.

Apparently, more people to lock them up.

If these laws are in place.

but over a half million guns are stolen and immediately in criminal hands every year.

Also, most guns in school

shootings come from the home. Fourth, from the point of view

of government costs, in

california, the cost to california government of gun

violence treatment his \$470

million annually in \$2,005, and that only includes the cost of

medical care, mental-health, emerged to transport police, and criminal justice.

It does not include the loss of

lost taxes from people killed.

Does not include all of the

other costs to businesses , to california citizens, and so forth.

So I am convinced that safe

storage laws reduced gun suicides, unintentional injuries, and gun crimes with stolen guns.

I appreciate these findings.

you do not want to get a phone

call that says your son has been killed.

He was not playing with a gun, he was visiting the home of someone else and he has been killed. Thank you.

Supervisor mirkarimi: thank you for sharing that very powerful and tragic story. thank you for everything that you are doing to really help stem the tide. Thank you.

Next speaker please.

>> good morning, supervisors of public safety.

is there any member of the public that would like to comment? Seeing none, public comment is closed.

>> think it over, think it over because I want it safe in the city today

and police take away all the hate.

come on, public safety

committee, come see about that

supervisor mirkarimi: thank you.

Any other public comment?

This is the time to time in. Seeing none, public comment is closed.

-- chine in.

Colleagues, Madam City attorney, if there is anything that you would like to add?

>> nothing more from the other

than, as a citizen of san francisco, appreciative that we are a leader on these policy issues.

Supervisor mirkarimi: despite

the adversity nationally, locally from special interest groups. I think the fighting speak for themselves.

I believe we can always add more

to those, shared by the

anecdotes in the stories and to committed here today, make it

that much more powerful.

I am proud to be convincing this

so that it reinforces san francisco' s commitment to what I

believe are sensible gun measure

safety laws to keep our citizenry, children protected.

i would very much like to see this advance.

Supervisor campos: motion to

move for the recommendation. I would like to be added as a co-sponsor.

I also want to thank the gentleman that spoke about his

experience with the death of his son.

i want to thank him and all the

parents and family members who have taken such a tragedy and made something positive, in the sense that they are fighting to save lives.

That is very courageous and we are truly indebted to you.

Supervisor mirkarimi: agree.

As a father, it is almost unspeakable. thank you.

May we take this without objection? Excellent.

Thank you, city attorney' s office, everybody you had a hand in crafting this.

Madam Clerk. Item 8.

>> item 8. Hearing on the "youth violence

prevention initiative: local action plan" report by the department of children, youth, and their families.

Supervisor mirkarimi: a very good. Thank you for your patience.

I think it has been a very good

substantive opportunity to hear what the city is contending with on public safety from a range of points.

Today, we have ever -- presentation from the department

of children, youth, and families

on their recent youth violence report. The violence is becoming a significant problem in san francisco.

We are track -- constantly

trying to check in with. agencies to find solutions so

that we can intervene and reduce

as quickly as we possibly can. The following statistics make the need that much more clearer. Homicide is the leading cause of

death among youth in san francisco between the ages of 15

and 24, nearly twice the state rate.

Into the 9, san francisco family

and support services addressed

over 1000 cases of child abuse and neglect.

Certainly, also not just from a public safety perspective, but from a budget committee perspective, we are beginning to

see the cost and the man on city

services translate into a very impact all way that also raises additional alarms for its collateral consequences of ongoing and unchecked violence.

I would like to welcome the dcyf

director maria sue.

i understand there are other department have that will be speaking. Family gerber, public health department.

Director, great to see you.

>> thank you, karen mirkarimi, members of the committee.

Before I begin my presentation, I want to say thank you so much for passing the ordinance for

safe storage of firearms and also for addressing the issues

of lethal ammunition. So proud to be a sanfrancisco

residents.

We are leaders in safety and prevention. Thank you so much for your leadership.

Once again, good morning, I' m the director for the department of children, youth, and their families.

I am here the joined with be colleagues from the provision apartment and Dr. Gerber from the department of public health.

We are here to secure support of

a joint report that we released through the juvenile justice

coordinating council called the

violence protection initiative local action plan.

This local action plan report establishes the city' s strategies and recommendations for community violence prevention interventions

services targeting at risk youth

and young adults in our city.

we are a state mandated body that is comprised of

approximately 20 members, representing public safety

entities including sfpd, the D.A.' s office, public defenders, sheriff, adult, and juvenile

probation department, as well as social service agencies, including the human services agencies, the part of public

health, sampras is a unified school districts, and of course, dcyf.

We also included other entities

such as the youth commissions and the board of supervisors.

we want to make sure that this

body that is going to direct the policy work for children within

the city, has to be representative of the need and include all of our voices. Just a little background.

In 2008, the three departments represented here made a strategic decision with the

support of our major to align our funding and policies and program development. This partnership led to many

best practices that I can list and go on and on, but I' m going

to call on best practices already recognize statewide.

First of note, in 2009, we

created a joint rfp, which is a joint solicitation process in

which we blended the different

funding streams that fund the violence prevention services,

both federal, state, and local funding streams.

So that we can create an easily

extensible and streamlined system, so that when we say every door is the right door for our young people, we truly mean it.

you do not need to be in a de-

compensated state to receive our of violence prevention services. We want to read our young people

from entering surgery.

-- prevent our young people from entered surgery.

we were also able to leverage

their expertise and resources of

public health, particularly, leveraging the state funding stream that pays for mental health services.

This is considered a best practice because we were able to

take very limited and precious and general fund and were able

to grow it to the magnitude of almost 50%.

We invested 50 cents for services. The state was able to pay for the other 50 cents of services.

Both of these are considered

cutting edge, believe it or not,

in the state, so much so, next

monday, for several days, and

the california cities gang

prevention network will host their conference here in the city so they can highlight this type of partnership, so we can take this partnership and talk about this type of work to other cities throughout the state.

finally, I want to acknowledge

and recognize my staff and the

violence prevention team for spending to help us hours, meeting with community members,

members of your staff, key stakeholders throughout the

city, and truly listening to

them and their needs, and taking

up all of that, along with the

data from sfpd, and creating a report that is truly representative of the needs of the city. Now I'

m going to hand the podium to allison mickey from the juvenile probation department.

I will be here for any other questions for the committee.

supervisor mirkarimi: thank you

for all the great work by dcyf staff and all the partners then

we will hear from, both in the initial presentation and in public comment. Break the appreciate it.

-- greatly appreciate it.

>> good morning, supervisors. Allison mcgee.

i wanted to expand on a couple of maria's comments. We are in the third year of our

partnership of

which was meant to minimize budget cuts would for

coming down for our community partners. That partnership has grown into a true collaborative.

by allowing

jpd to shift its

focus from -- to my term contracts, we are better able to

focus on supporting our staff in

terms of their developing their partnerships and relationships with their community partners, and with you yourselves.

we have been able to dedicate a police officer to serve as a

liaison between our police officers to insure fewer gaps in services and better service across the board. This partnership has also

expanded out words in terms of our other internal stakeholders.

For referred to the juvenile justice court council.

this body is mandated by the state to allow the county to

receive certain funds, but it

had really devolved into a rubber-stamp process were every year it wasn't approving the

same plan, and through the partners, we have expanded the

role that jjc takes in over

seeing, coordinating fought the french and citywide.

In doing so, we have insured better consistency or continuity in the programs and policies and the members themselves. The police department,

adult

probation, we all agree on the city's strategy. They can then incorporate that strategy in their own policies. We are proud of the work we have done. We are eager to continue.

I will not introduce Dr. Emily

gerber who will speak on behalf

of dcyf.

-- dph.

>> I am the manager of the intensive supervision and clinical services program, which

has benefited from the local

action plan partnership.

It is a great example of what

our cross agency partnerships look like on the ground.

In 2010-2011, intense community-

based services were provided by five agencies and a program

psychiatrist, funded by a blend of violence prevention

initiative dollars and state medical dollars.

Services were provided city

wide to over 250 juvenile

justice involved youth with

serious behavioral problems and high risk.

As you know, nationwide, over

70% of youth involved in the juvenile justice system have mental health needs.

another of 25% have serious mental health needs.

Isacs is designed to serve those youth.

The majority of the youth in our

program have been exposed to repeated community but

violence. At least have have symptoms of

ptsd, which can contribute to the kinds of behaviors that get

them into trouble and involved in the system.

Ifcs is more effective than just supervision alone.

combines monitoring of the structure of intensive supervision with an array of clinical services, including

evidence-based practices like cognitive therapy and seeking safety. Some of that information I believe has been provided to you.

Our overall goal is to address

the critical needs of youth,

reduced recidivism, and increase their well-being and functioning. Key to the success of this

program is the close probation and a rural health collaboration

that takes place on the ground

to implement an individualized plan for youth based on

standardized assessment of their needs and strengths.

And having this assessment and a plan based on what is actually

going on with youth allows

probation and behavioral health to work together with progress benchmarks that youth and family can see and everyone else involved can see. We have done some preliminary evaluations of the program and the evaluation has shown an increase in the appropriateness of the services that youth are being provided.

Has shown increased behavioral health and behavioral collaboration. Youth are actually engaging in these services. A fuller about tuition is currently being conducted of our first two years a program outcomes. we hope to follow up with you on those outcomes charlie -- shortly. Thank you.

I will not pass the podium on to deanna who will tell you more about the program.

>> good morning, public safety supervisors. it is a pleasure to speak today about the work and what we are

looking forward to with this new local action plan. I have a couple of slides that I would like to show you. I am not sure if it will appear. I did bring hard copies.

but that I will start

I will start off by letting you know the local action plan is part of an effort that we were assigned at dcyf to conduct

a while back pay and we had envisioned planning for couple of years to produce this document. We did in the past was look at all different plans that our

department was assigned and create an umbrella document and revision to the bond prevention plan. If you look at the second slide in your packet, what you see is a diagram that speaks to the revision process.

the local action plan specifically is the second phase of our over all by and prevention plan revision.

Supervisor mirkarimi: did you want to use the overhead?

>> great.

As you can see, we are on the second phase.

The first phase was the straight violence reduction initiative. Currently, it is in its implementation process.

We are working closely with the agencies that work with us on

the street level to reduce

violence, not only would gang-

related violence, under current

terms, issues that exist on the street level.

We drafted a plan that was a requirement from some of our national and state partners, and now we are and point of making it happen, working closely with

those agencies to make sure we were could easily not only at

the city level, but also at the community level to reduce street violence in general and to keep our homicides reduced over all.

the second phase of the violence prevention program is the local action plan.

Today, I am presenting to you around this product of what it

looks like, in terms of what our joint partners envisioned when preventing violence. Some of the major issues that we see to date that really should influence the way we dictate our funding, that we actually produced in general. The third phase is still in progress. That is the city-wide ballot project -- prevention program. We are waiting for the transition of the new mayor to come on board to then further define how we want to move forward with the bond prevention plan. The existing plan expires in 2013, so we hope to use this upcoming year to finalize the updated version and move on to our next five years strategic plan. Moving into the violence prevention plan in general, lap, we created an extensive community input process that included community meetings, focus groups, interviews, and we also had a series of key stakeholder meetings that a lot of you were a part of. A lot of your aides for dissipated and gave us extensive feedback.

From that you see a total of about 400 estimated data points that we collected. From this point, we also looked at the literature that told the story of what needed to be prioritized in terms of violence prevention in the city. The combination of community input and literature review shaped the way that we finalized our local action plan. So what is the local action plan? The local action plan purpose was established by the jjc partners. It is to establish the funding strategies and recommendation for community violence prevention and intervention efforts targeting young adults between the ages of 10 and 25. All this funding is supposed to steer towards that direction. We want to make sure that it is clear, that it is dictated in a concise way so that it is clear what the funding is for. Then we can better shape some of the outcomes we would like to see. The framework we used for our local action plan this time around, because we do produce had a local action plan every year. This reiteration of it, we used a theory of change for our bond prevention and intervention efforts. We are working with the mission analytics group, an independent evaluation firm, to create an overall framework that connects all of our violence prevention and intervention in a portfolio. We are also looking at including an hour from mark a circle of care model which have traditionally put been part of the local action plan. That looks at providing service to youth and prevent them from three incarcerating, refunding, and moving them into a more productive framework. Finally, something that is fairly new in this year's framework of the lap is a restorative justice principle. We want to follow the principles of restorative justice. It was also a recommendation that was strongly recommended by

not only the jjcc, but by our community partners. Most of the principles follow the rules of the san and cisco unified school district.

We tried to align ourselves with

the vision of san francisco of restorative justice.

In this sense, restorative

justice is at the forefront of the remark. Following that is community input and the evidence of best practices that dictate the way that our lap is shaped.

Our target population is 10 to

25 years of age.

We are predominately focusing on three major target populations.

One being at risk, two being

highly at risk, and 3 being in risk.

The definitions which are more details are in the action plan. We are more than happy to go through any other question that he might have about the target population.

Supervisor cohen: I wanted to go

back over the definition. At risk, in risk, and highly at risk?

you said it is in the packet, but in terms of those who are

listening and watching, for those who do not have the information in front of them, could you go over the distinction of each definition? >> absolutely.

At risk are you involved in some sort of violence but are not necessarily involved with the system necessarily.

That is kind of the broad definition that you can think about.

Highly at risk refers to more youth that are exhibiting more delinquent behavior that have

had some sort of contact with the police or law enforcement entities but have not been incarcerated.

In risk means you are in

custody, actually inside an

adult or juvenile prison setting, on probation, parole. That is the difference between the three categories.

And again, more extensive detail is included in the plan.

In layman' s terms, that is the general definition.

some of the major findings that

we had, what we did an extensive literature review and we found some really concerning challenges that relate to the juvenile and adult population.

One of the thing that I want to

highlight was coming in 2010, we

found most of the referrals -- juvenile referrals were between

the ages of 15 and 18 years of age. Most of the individuals referred

to us are disproportionately represented.

40% are african-american, 17% are latino males.

And when we also found, and our

findings, most of the bookings,

most of the offenders, yes, there is an increase in the amount of bookings, but there is

an increase -- decrease in the amount of bookings, but there is a incr

n increase in the seriousness. Also wanted to highlight the criminal justice challenges that we found. When we spoke to our colleagues in adult probation, we found for this population, there was an 80% percentage of and need to address education. 75% were dealing with issues of unemployment. 20% dealing with issues of mental health inez' s. 80% dealing with substance abuse issues. 70% with criminal associations. These major findings are alongside many other findings to we have included in the plan.

It wanted to highlight the major findings because it was really important for us to look at what are some of the current trends of the population we are speaking to.

Following that, on the flip

side, we also wanted to present the major achievements at our portfolio has funded in the past.

That is also included in the

lap, like what has happened with the local action plan, and the

funding, a question that most supervisors and individuals in the community have. Some of the achievements are highlighted here.

In 2009 through 2010, we found around 511 youth were diverted

from detention and enrolled in

the community as a set -- assessment and referral center, a major initiative funded to

work out of huckleberry programs, working in

collaboration with juvenile department.

In terms of specific programs,

we wanted to highlight a around 374 women received a gender-specific services.

Out of the 395 youth served in

total, 374 were part of jpd'

s database.

That meant that this amount of

women were given a comprehensive program and were also enrolled in jpd'

s database.

These agencies work closely with the youth at the juvenile level.

Following that, our case management strategy, we wanted

to highlight the jjccp funding

of this goes tomb a lot of amazing programs.

Eight served 823 youth, 85% of

which demonstrated a positive outcome.

That could of been the obtaining

an education, completing school,

going to some type of girl that is necessary, whether it is employment, life skills. These are some of the major outcome that we wanted to highlight in terms of the funding and what has been produced.

Following that, to the side, you see the strategies and services

we funded over all in fy10- fy11. These are the strategies that we

produced out of our lap, and

from that, 5044 youth in total served by this portfolio.

This year, when we wanted to do, after all the input, we realize it was important for us to

define similar but refine and define strategies. We have similar strategies, but they' re only six this upcoming round.

The strategies are presented on top.

They are secondary prevention, diversion, detention

alternatives, the tension-based

services, after care reentry, and after care services. The difference between the color

coding is the agreement focuses

on mostly at risk and fiat -- highly at risk youths.

The red focuses on in risk, custody young adults.

What you see on the far right is all the activities that we fund.

once again, what we did was collect all the information

from the community, look at the

need, the data, and look at what we were already funding and what

we had stated in previous lap' s,

and moved into this new refined products that you see today. This is a product of the extensive work that has been done. From this point on, this strategy really informs our

current rfp which we announced in the last couple of weeks.

We want to also highlights some

of the major changes that were

included from the previous lap and current lap.

What we found in our research, you are being impacted by

violence at a number of -- you are being impacted by violence

at a younger age -- youth are

being impacted by violence at a younger age.

A couple of things that I mentioned before, really defining some of our strategies.

In that work, what hope to dubai of the dividing our strategy is

is to look at defining our activities that we are funding and looking at outcomes that support our overall work.

Figuring out, telling the story

of what do we get for the money -- what do we produce for the

money that we allocate for services?

In that effort, we have redefined some of the strategy is like case management as an actual activity versus a

strategy, so that it is clear in terms of what products we would like to see.

finally, we have included gender

responsive services throughout the spectrum.

We see gender responsive services as an important

component in all areas. It is a service that should target the entire population.

Not only a specific cohort.

in past years, we passed gender specific services on the juvenile population.

This time, we will focus on the three target populations.

In a nutshell, these are the three major changes that you will see in the upcoming lap.

From that point on, as I

mentioned, we have strategies

that are connected to a target

population and that really allow us to look at an allocation distribution.

This is the allocation -- proposed allocation for our 18-

month cycle for the upcoming

year of fy10 -- a 2012 through 2013.

What I want to highlight is the

allocation is about \$15.5 million.

We hope to fund 80 programs in

total that do violence prevention and intervention work through all the strategies that are listed.

As I mentioned, the rfp was released August 30. This local action plan dictated

the way that rfp was articulate, the way it was presented.

We had a proposal conference on September 8 that was attended by

many agencies, a total of 62 agencies that attended the bidders conference.

Proposals will be due on monday october 3. We hope to then go through a

thorough process where recruiters can review and then we will be looking at trying to

have reviewers that our experts in the field of violence prevention locally and outside of counties. Finally, we hope to announce the

awards in December, negotiate

around the same time period, any

type of contracts to finalize by December and begin to grant

in January, and then the term of funding January 30, 2013.

I know that was a lot of information.

And I do apologize, I went through it fast. i wanted to get to the major content.

And I also wanted to hear any question that you might have.

I know we put an e-mail out to see if your interested in asking questions beforehand. It appears that most of you were

familiar with the plan.

Again, I am here, along with the rest of the department directors, if you have any questions.

Supervisor mirkarimi: on the 5044 youth served, is there a

breakdown of neighborhoods, and

demographics of where those 5044 come from?

>> there is and I can share that with you individually.

i can definitely share that. There is a breakdown included.

I do not have it right now, but I can definitely share that with you.

Supervisor mirkarimi: it would be useful to see what is working

and what is not, where trends are in the various neighborhoods. That would be helpful.

Anecdotally, just by experience, I think we can guess which neighborhoods are in the pecking order, where you might be coming from, but is important is that accurate.

-- we stay accurate.

maybe you or juvenile probation

can speak to this, but it does

not mention any stats on repeat offenders, recidivism.

I am very interested in this issue.

Considering the fact that the

precursor to our adult issues

exactly is this orbit right here, where is that information?

>> supervisor, we talked about this earlier. We expected this to come up.

certainly, something the

jjcc needs to do.

I would also encourage your participation. We need to come up with a common definition of recidivism.

Some folks May think multiple

bookings would qualify as recidivism, where others would say, not until the adjudication

process is complete and the

child is -- a disposition has been made. So we are trying to come up with

some common definitions of what do we mean when we say recidivism?

When somebody is booked, and does not necessarily mean that

they are going to go through the adjudication process and a

disposition will be found. It is an important distinction and we need to get to a point and

we talked about recidivism, we talk about the same thing.

Supervisor cohen: just for clarification, what definition are you working from?

>> we are not really working with a common definition either.

we know in 2010, there are about 608 bookings in juvenile hall.

Unduplicated.

About 18% of those came in

multiple times, had one or more bookings.

18% of the 600-plus booked cayman multiple times. But that is only 2010.

So we would have to run a full

analysis year after year to follow those individuals through

time to see today come back into the juvenile system, do they come back into the adult system?

We certainly want to do that, are willing to do that, and I

think it would help everybody,

in terms of clarifying what recidivism actually means for us in san francisco.

Supervisor mirkarimi: the reentry council has been grappling with this and they have zeroed in on this question.

one that we have to for our own

local needs, but that is being accelerated to answer this

larger question because of present realignment, which commences in two weeks.

That needs that needs to be lined up with the juvenile side of it.

Based on the adults definition of recidivism, we' re losing that

age gap between 18, 19 to 27, because we' re noticing that the repeat offender rate is substantial in san francisco,

but if there is not that linkage to the juvenile sort of analysis

consistently, or as consistent as the juvenile system can allow

for this, then that is not going to help us try to figure this out. >> absolutely.

And one of the real downside to having a separate juvenile probation department and an adult probation department is we're not able to really follow

those individuals as one department would in other jurisdictions because of confidentiality and everything

else we really struggle with that.

We have been working with adult probation.

I hate to bring this up, but one

way is to re-elect at justice and juvenile's interaction with

the justice process -- we relook at justice.

It would help us in running some of those analyses. We're trying to better partner

with adult probation in terms of

case planning and looking at new systems to see how we can better

link our information to adjust to what you're talking about. We are very aware of it.

Supervisor mirkarimi: this is a very lively topic.

supervisor cohen: vienna,

supervisor mirkarimi was talking

about trends as it relates to

the framework of the model you and your department have decided to work there.

Is this a cookie cutter approach? or models that have been

successful in district 5,

district 9, 11, or wherever

across the city -- are they able

to be duplicated across the city

or is it sounded that needs to be individualized to understand

better the complexity of the individual districts, all the

way down to the neighborhoods, to the unique nuances?

It is a very convoluted question.

>> in terms of the rfp, what we have decided to do is really enforce that would like

evidence-based practices and best practices to be proposed.

so that is as far as we have gotten at this point because we're in the rfp phase. In a local action plan, we have

included some of the highlight

initiatives, recommendations in terms of best practices.

Given our current models that we

have, which is a reentry team that looks at a comprehensive way of looking at when you come out and how you actually engage

with the juvenile hall at the community-based level and providing initial services. We have best practices that have been recognized nationally, and

we have also highlighted other best practices throughout the nation. And we have been looking at some

of the outcomes in evaluating

our current set of programs.

You know, some of the details

are guidelines in the upcoming rfp is that we are going to be

looking at past history of a community-based agency performance.

That is part of the criteria

that we have included, or some

of the areas that will be scored that have been defined in the rfp.

In terms of looking produce strict, what we' re going to do -- currently, we' re doing

analysis of what the current

street violence pulse is a beach district. We look at the population

changes, and then trying to see if we can look as some of the current juvenile probation at that and the current provision data, so we can make better- informed decisions.

That is as far as we have gotten so far.

Again, we do encourage ongoing communication to sharpen the

work, to accommodate the cultural and diversity needs of every district.

Our program officers were really closely with the agency to make sure that is going on.

We do have that commitment once

the words are awarded, and we go through contract negotiations. We will be emphasizing that.

>> does your analysis or the action plan take into

consideration those people that

are part of san francisco' s

community but are immigrants and

taking into consideration their status?

How do you begin to even address that?

>> I think the reality is that

it is a high percentage are in san francisco.

in terms of the portfolio that

we have, what we have done technically is to really look at

what funding streams require

maybe an ssi number and which ones do not and looking a comprehensive or creative ways to blend the funding to make

sure we fill the needs of our

federal reporting, but also to fulfil the needs of our locality.

That is something we have been tried to work with agencies. And we promote all agencies to

make sure they serve all residents of san francisco.

That is an obvious need in san francisco, and we really support that. >>

supervisor cohen: how long have you been working to move in that direction?

>> I know that mary I can probably speak to the department' s commitment, but I

have only been in a position for two years.

Supervisor cohen: --

>> one of the reasons and benefits of lending our resources to this department is

so that we can then in fuse very discretionary funds throughout the service area.

I made a comment about every door being the right door. We will not turn away young

people who need the services,

including young people that have different statuses.

So we strategically use of general funds to make sure that
recover any gaps that restricted funds will not be able to cover.

Supervisor cohen: ok, thank you, maria.

One last question. This goes to the major changes per up -- from the previous local action plan. The second bullet, you said you're broadening the age range of the turkish population that

you serve -- of the target

population that you serve to

incorporate a 10-year-old to 25- year-old.

In the past it was 13 to 24.

I want to know, May be statistically as well as

anecdotally, what did you see the focus group? What did you hear that actually led to this change?

10-year old -- that is a fourth grader. >> part of the reason why is

because what we saw first that the juvenile probation data is

that the youngest booking is at 11 years of age.

so that was one of the hard data points a week elected, one of the points that influenced our

decision to go down to 11.

In terms of 10-year-old, what we found in a lot of the focus

groups with community-based providers, they kept telling us that middle school age is very

important to focus on, because that is when we can prevent young people from further incarcerating are being detained

or engaging in violent behavior. Given our work with the agencies that work with the younger population, you know, the focus on the first upcoming high

school age, we wanted to not only listen to them, but we thought, let's take it out to the community to see how far we should take our target population when it comes to

dealing with violence prevention issues. Time and time again, we heard the same thing.

We need to focus on a middle school age. We got the most appropriate age we could probably go down to is tan.

In terms of the 24 and 25

change in years of age, our decision is that we found there

was a lot of 25-year olds that

reading service and that cannot transition out of our portfolio.

There were a lot of committee-

based partners that said someone

is 25 -- there usually 25 when they leave our case management,

our work in general, our ged program, so I think you should consider that when you do the new round of rfp funding.

Given all those factors, we thought the most appropriate way

to move forward was to reduce

the age from 13 to 10 and to increase to at least 25. When we look at overall statistics in terms of how

individuals be fine it,

transitional age huge -- youth is usually between 18 to 25. So for other city what initiatives the support that age specifically, we thought it would be best to be able to expand our scope in general.

Supervisor cohen: there was an article not too long ago where

there were talking about how the

definition of an adult has actually expanded.

Several years ago, maybe when our parents were coming through,

at 25, most people were married.

They were purchasing their home and were starting their family.

Now what you find, people are at the very least 30 years old

before they are finishing their advanced degree or any kind of an education or training program, getting married, settling down, just later in

life. Through healthy living in good

practices, we extend our life.

As a it is interesting -- to the other side.

That is maybe a more positive

spin on things, that we have to

expand our reach on folks that

we need to continue to support. i am speaking anecdotally, but I

think that this expansion is timely, and I would not be

surprised if in years to come -- granted the economy does not

turn around, that we will probably continue to see service providers saying that you might need to expand to 30. It is an interesting trend. Thank you.

supervisor mirkarimi: thank you.

Supervisor campos: thank you. I want to thank everyone for the excellent presentation. It looks like white was the color of choice today.

I am sorry I am not wearing it. Maybe you will be bringing h beats.

-- maybe you' ll be bringing back

hats, and I think that is a good trend. But thank you for the presentation. A couple questions. One of the things that we saw with the consolidation of the

funding iran public safety -- around public safety was that

there was a reduction in the

overall amount that was being spent by the city.

i am wondering if you can maybe say -- I do not know if it is

the director, but if someone could talk a little bit about where we are in terms of where we were three, four, five years

ago, because even though there are a lot of great changes

happening, at the end of the day, how many resources do we

have, and how much money we' re spending is also important.

>> I 100% agree. Thank you for the question.

The main reason that prompted the conversations among the

three departments back in 2008 was the budget reduction in the city.

Through reductions on our state

funding level and local

reductions, I think it' s that time each department was looking

at summer between \$4 million to \$6 million reductions across the

city for prevention services. and of course, each department

went about a process to figure

out how to make this reduction within our respective departments.

And then we decided and realized, wait a minute, we' re

actually -- there are multiple departments that fund the same

agencies, so it made sense for us to get together and say,
 well, this is how dcyf will approach the reduction, so how are we doing that?
 And the mayor's office of criminal justice was also doing that. What we realized is what the proposals that we were
 considering, we would actually
 essentially take down or dismantle a lot of crucial and
 needed services in the city.
 So at that point, we said, well, let's really think about this. We realized that we were
 actually finding a lot of the same agencies.
 And in some situations, we were actually increasing their capacity.
 In some situations, we were actually funding duplicative work. So we decided at that point to
 go through an rfp process to do two things. One was because we had to make
 that very painful reduction in the service area.
 And two, to make sure that we
 were allies and the core services that the three departments felt were needed at that time.
 At the end of the day, we made
 approximately \$4 million in
 reductions, because the board of supervisors graciously reallocated some funds back to our department to make sure that we cover some of the
 crucial services.
 I am sad to say that over the years since then, for the past
 three years, we have continually receive reductions from the
 state.
 Whether it was reductions primarily through vehicle license fees, because that is the primary source of our funding for a violence
 prevention work in the city, or because we were not allowed to apply for state grants for whatever reason. However, I am produce a that the
 three departments, including the
 department of public health, has made the policy decision to keep
 our funding for the service area as protected as possible.
 So the three departments have actually not made reductions to be funding service area.
 So, in a way, because the three of us walked into the budget office and say, look, we have to do this together, and we're
 going to do this together to protect its service area to protect the budget.
 In terms of the state level, I cannot speak to that.
 We, unfortunately, are somewhat at the mercy of the state, as you all are very aware of.
 And unfortunately, you know, if
 I am reading things correctly, we will see even more painful reductions, even after the
 realignment of the public safety entities on the state level.
 It feels as if the state is advocating their responsibility
 and sending some of their responsibilities in taking care
 of our citizens back to the local government, which will
 stretch our services even thinner.
 If you notice in this local
 action plan, we called out a new
 service category called reentry

and after care, because we want to make sure that we truly acknowledged that is a need. When our young people, whether they are in juvenile hall or in mandated out of home placement, and when they go back into our communities, we want to make sure that we help them make that transition as well.

Supervisor campos: well, thank you for that. I agree with everything you said. I wanted to put that out there, because even though I think a lot of great things are

happening, we also want to be

very clear about the fact that even though we're doing these things, we're talking about, in the last few years, the city

reducing its expenditures on a violence prevention.

As you noted, the rfp that went out with these three departments

had a combined \$4 million less than it did before. and I think that we need to remember that as we are moving

forward with the budget process

for this coming fiscal year.

I personally think that these departments and this kind of funding should be among the very

last things that we touch, if we touched at all. And hopefully as the economy

improves that we do not lose

sight of this reduction and we come back to the issue that we're always talking about, the

issue of what the proper level of funding is.

I just want to make sure that we are aware of that, and I do not think that enough people know that we are, in fact, talking

about millions of dollars in last funding in just a matter of two, three years.

This second point that I wanted

to make is the point, something

that I am dealing with as a supervisor for district 9 and

something that has to be our top

priority, and that is the safety

of our neighborhoods and our districts.

As you know, there has been an increase in violence in the

mission, and if it is something

we have to take very seriously.

My office, we have been working

very closely with our partners

in not only your department, but

also the police department and violence prevention workers to make sure that they have the

resources they need to not only

deal with what has happened but

also to prevent more crime, and I do feel that we're doing everything we can with the resources we have.

but one of the things that I worry about as you're going through these processes and getting the rfp and everything

else that is happening is making

sure that we are also keeping a focus on what is happening on the ground.

And so, I am wondering if you

can say a little bit about that?

i think it is important for us to have systems in place, to

maintain accountability, to have transparency, but I do think that at the end of the day, the priority has to be, you know, what is happening on the ground, especially with these young people. I am wondering if you can talk a little bit about how you balance this process with that, and also, more specifically on what is happening within the mission to address some of the incidents that have taken place?

>> I am going to attempt to answer your question, supervisor. Before that, I wanted to make a comment about -- one of the reasons why we're being very strategic in crafting up the particular populations of at-risk, highly at-risk, and in-risk is because with knowledge that the level of funding in the types of services that are required to truly meet a particular outcome that we are going to lay out for our cbo's are actually differ for each one of these populations. Actually, maybe not, but we do not know because we do not have that level of data. What we have now someone saying that we serve young people in the bay view or the mission, but we do not know what some of the risk factors are that these young people have.

Or, where are they on this continuum of need?

Now that we have broken apart this way -- and I realize that means a little bit more work for our community partners, but it will definitely help us in terms of gathering that type of data.

So that we can say, in order to serve as a young person here as in-custody contact, it actually costs us this must -- this much money. For us to truly serve the population, we need to truly invest in this population. and invest in the types of services that will produce that type of outcome. So we hope to get there through this rfp and through this process.

In terms of meeting the needs of on the ground, street level, and ensuring processes have been, one of the reasons why -- there was a comment that this is funding for 18 months. This is an 18-month rfp. A couple of reasons. One is that through our committee process, we have realized that making the shift, making a funding shift or a contractual shift during the summer months is really detrimental for a violence prevention providers.

Even if it is the same agency.

Even if it was the same agency. There are resources that the agency needs to dedicate to work with our office, but the contract together, to negotiate

with us, to redo all of their hiring things, and all of these things. and you have that happen during the summer months where there is limited summer school, young

people are out on the streets

and have more time, so it just does not make sense.

Which is why we requested and were approved to extend the current contracts that all of

our contractors are on by six months, which will then take

their current contract to end in December of 2011. So that we can then have that

transition happened during the winter months of December to January. Here

supervisor campos: I want to thank you for that, because that was going to be my follow-up.

i am all for having systems and making sure that we have

accountability measures and that

we try to make the most of every dollar.

But I do worry that, you know, when that happens, because I

know that, for instance, in commission, for December, the summer, for whatever reason, has

been that very difficult time

when is violence politician -- prevention workers are the police department, their job is even tougher. So I want to thank you for that

flexibility, because I do think

that it goes a long way, and I think it shows the level of responsiveness on the part of the department. so thank you for that.

>> and then the other comment of us making sure that we continue to check in with our cbo'

s and on the ground folks to make sure our policies and strategies makes sense. Makes sense for the case

managers, the social support providers. I believe, and I would like to believe, that we do that on a regular basis and that we connect with our providers on a

regular basis but I definitely acknowledge that my level of communication and frequency of communication might be different from others, but I do want to put out there that our doors are

always open for more feedback.

And in terms of specific efforts out in the mission, I would

defer that to dee anna.

>> I think that there is a

series of purposeful meetings that we have orchestrated in this last year to be up to make

sure that there is ongoing communication on the ground

level, so we have tried to go to the peace collaborative. We have tried to talk to agencies. We have also really look at our team' s specifically, trying to make sure that we communicate with the school district and treader have the ongoing communication with the actual

community residents. I think those are efforts that our team has done.

In terms of specific meetings, we attended the peace collaborative. In terms of visitation valley,

we created its service provider coalition, and we facilitated it for quite some time and passed

it over to mercy housing, and other community partners where

it was more than a community entity would lead a community meeting. We provide a capacity-building on that.

We try to eat -- a jindal events and community gatherings. We are invested in making sure that we' re there the ground level.

We also communicate with our police partners.

The police department, ongoing. most of the time when there is a critical incident like a

homicide, which recently occurred in the mission, a couple of homicide, we're often communicating with our crn's and case managers.

We talk to the police.

We try to provide any kind of linkage is necessary in order to be responsive to the homicide.

Those are a couple of areas on what we do ongoing.

>> there is a great model for this work.

Dph, jcopp, and jpp me monthly with all of our providers. It allows us to see whether the expectations, requirements, and policies are actually aligned with what our front line workers are doing. There's a continuous feedback loop, which is very helpful.

Supervisor campos: if I may say -- and we have a lot of other things to cover, but I simply

want to say that I look forward to continuing to work with all departments. I think it is one of the things

that we should do, and we're trying to set up a community meeting in the next few days,

and we want to make sure that others in the community know what we're doing.

What I have heard from many folks in my neighborhood is we

hear what is happening from reading the chronicle or the

examiner, and it is always on something that happens, but there's not enough information about all the positive things and pro-active things that are being done.

I think we can all play a role in making that happen. Thank you again, and I look forward to continuing to work with you.

supervisor mirkarimi: if it is ok, why don't we go to public comment? Another has been a lot of partners here who would like to chime in. One after the other, and we look forward to hearing from you.

>> good afternoon, supervisors.

My name is Dr. Terry delane.

i run life learning academy. I am here in support of the local action plan to the life learning academy is a model school. We have been there for 13 years. We're on treasure island.

We deal with the answer all of the populations that have been described. All three at-risk groups.

we have never had a fight in our

school, and the kids that we deal with come from all neighborhoods which we pick them up from. We pick them up.

We have a van service, which makes a huge difference.

The kids that are from rival areas, not only just coexist --

we have a delancy street model school where we teach kids not to just coexist, but we create a community of non-violence. Our hope is that they take it back into their communities once they graduate from our school.

So I just wanted to say we are

in support of this initiative, and that is it.

supervisor mirkarimi: thank you. Next speaker, please.

>> good afternoon, supervisors.

My name is liz jackson since then, executive director of the

youth guidance center improvement community, which is a nonprofit corporation that lives on campus said the juvenile probation department and has been around about 30 years. We provide alternative

education, employment services, and that version services to

young people who are engaged in the juvenile justice system.

We have been intimately involved

in the entire local action planning process, pretty much since its inception. I just want to commend the departments for coming together and thinking about how to strategically plan and realign

the resources to help support

this very in-risk population.

We, too, focus on young people

who have been engaged in the juvenile justice system.

and this comprehensive process has enabled us to be able to get

input not only from key

stakeholders in the department or even community-based organizations, but the young people and their families themselves.

So I applaud dcyf for their efforts in ensuring that.

It has been a tremendous -- it

takes really all the collection

of resources and a comprehensive service strategy to support our young people.

They get to us when the normal system'

s did not work or going to a comprehensive high school did not work. They need comprehensive solutions to make it. we are intimately involved in the entrance to reduction initiative, so many of the young people to go to our school have

been truant for a long time and are not providing was some of

the basic orders of probation to

go to school, and we support the

model in helping young people to get engaged and connected to employment.

so we applaud and want to support this strategy and this

plan, because it takes the mental health services -- I cannot encourage the people to go to school or get a job when

their basic needs are not being met. When the have mental health challenges our substance-abuse challenges.

we have referrals to some of the other service strategies in order to support our students

and our young job-seeker speed up again, we're glad that this effort is complete, and we

support and applaud you in approving this plan. Thank you.

Supervisor mirkarimi: thank you very much.

And good to see you toygc

at ycg.

It was good. >> thank you.

Supervisor mirkarimi: any other public comment?

Seeing none, public comment is closed.

Director sue -- I know this is just a hearing, but why don't we

sum it up -- it is really critical information you are sharing with us in terms of what the action plan is. The cautionary tales about

budgeting, as supervisor campos was discussing, are very important. So that the city does everything

it can to obligate itself to the

triad here of organizations that

are working together.

And I really want to put an

emphasis on it the new category

that you have now decided on,

and that is on reentry and after care.

As much as I am optimistic, yes or extraordinarily nervous about what is coming down the pike for san francisco.

And all systems have to be in

place on the adult side, but

again, looking at the recidivism figures, the repeat offender figures for young

adults, the carry over is undeniable in terms of the recidivism on the juvenile site.

so I do not know how that gets

modified, whether in the reentry consoles or a subset, but I

personally will push very hard

for there to be almost kind of a slightly different approach in

making sure adult and juvenile

probation and juveniles elevated in the discussion on the adult

side, because it is all adults,

with a sprinkling of juveniles, but not in the formalized way that I think it needs to happen.

And I know that the chiefs talk all the time and are connected at the hip on this. But the systems and support systems do not recognize that.

on down to almost on a nonprofit level and the service delivery level, even if staff knows that. That is what I am worried about,

and that systems delivery

infrastructure, they have not quite seen that transitional age

question in repeat offenders

from used into adult.

that is noticeable in the

statistics that we have been thoroughly reviewing.

We are at 75% on a repeat offender level at the juvenile

level from what we have been

able to tell, depending on your definition of recidivism could a

that is the wavering definition. So I get that.

and it could be a lot lower.

But that, of course is a strong flag, something that has been flagged that we're going to have to really look over.

Supervisor cohen: I agree.

It is no mistake twice dcyf was appointed to the reentry council. it was your leadership in making that happen.

It was very essential for dcyf to be appointed so we could be the body that can link the two. There has been a lot of

conversations between our staff and the juvenile justice coordinating council staff and the reentry council staff to make sure that when we're talking about support services, we're talking about the continuum of services.

because, once again, there's no

magical kind of shift of mind

frame from 17 to 18 or from 24 to 25 or 25 to 26.

And then with ab109 coming down, we need to make sure that we

have all of our reentries
services and after care services all aligned, and I look forward to your leadership on that.

Supervisor mirkarimi: would delimit dollars we have, public safety means are now being driven not by first-time offenders, but it is all being driven by the repeat offenders, a very clearly on the adult side, so the police department is the most well-resourced in taking care of repeat offenders on a level of almost about 65% to 70%, but they're not the ones responsible for rehabilitation or after care or reentry. it is the department's you all are associated with on the juvenile side, or it is adult probation. But the funding for those departments is a fraction. So, in many ways, this conversation is a precursor of looking at the logic of the current practice and how counterintuitive the logic is, why we keep the front loading so much to see this repetitive habit picking up the same people, and there's no break in their behavior, criminal behavior. It is also, as it was described earlier, a bureaucratic snafu of juvenile that obeys information not allowed to be shared on the adult level. This handicaps us considerably. We understand all the reasons why, but somehow, somehow, there has got to be a bridging of that divide, because it really ill- equips us in dealing with the young offender and the recidivism issue. I do not know how that is going to happen, but I know this has been percolating discussion in the reentry council.

Well, thank you very much. I know this is a hearing. I want to thank everybody who is here in participation. I appreciate all your work. I do not believe any action is required here. This is a hearing informing us of the rfp and of the communication that is going out. Good work, and we look forward to being part of this process. Thank you. We're going to set with a perfectly into the final piece of the matter today, and that is adult probation. So please read item number 9. >> item 9, or in its amending the administrative code by adding section 2a.300 and 2a.301 to designate the adult probation department as the county agency responsible for providing post release community supervision to eligible inmates released from the state prison, as required under california penal code section 3451, and operate the adult probation department to develop a home detention and electronic monitoring program that can be used as the supervision tool and a sanction for persons to violate conditions of their post release community supervision program.

Supervisor mirkarimi: I am going to introduce this. I'd just want to say that in the series of legislation, this is literally the final piece of our preparation for a prisoner realignment, prompted by assembly bill 109. This ordinance accomplishes two things. It designates san francisco adult probation department as a county agency responsible for providing post release supervision to inmates as part of the realignment process under ab109, and it authorizes the adult probation department to develop a home detention and electronic monitoring program to be used as the supervision tool and sanctions for persons who violate conditions of their post release supervision.

That is now well known. Governor brown signed legislation last April that directs a low percentage -- directs a percentage of low level adult offenders convicted of non-serious, non-violent, and not-sexual offenses to california counties. San francisco is gadahn to receive approximately 650 of these offenders in a little over two weeks.

The population that we're about ready to receive is substantially lower than many counties throughout the state, so that might be some welcome news as well, too. San francisco is well ahead of most counties in the state because it started early thanks

to the creation of the reentry council and its ability to prepare for what nobody would have expected years ago, the advent of ab109 and since has worked diligently to create a realignment plan that will rely heavily of post release programs in areas of housing, jobs, and treatment. The sheriff's department is prepared for any new influx of prisoners, since we're one of the few counties in the state that is experiencing under crowding, not overcrowding. Adulteration is taking the lead in coordinating the many law enforcement agencies involved in this effort . Under this ordinance, adult probation will be about to implement adult electronic monitoring program. In the past, that has been under the purview of the sheriff's department. Now this will be a shared responsibility in the discretion that is now forwarded through ab109, both to adult probation.

David cook, adult probation, welcome. >> thank you, a chair, and members of the committee could you have so elegantly explained what is happening with the ordinance and with the plan . I would just acknowledge, the board approval of the public safety realignment plan earlier in the week, I appreciate the board's support for that. Truly, that was a collaborative effort, putting the plan together. Indeed, it will require a collaborative effort to be successful in implementing it.

i have every confidence that we will be successful in implementing this. You have already pointed out what the ordinance does, and I will not reiterate that. I just encourage your support and appreciate your support for the plan and the department's activities related there, too.

>> and double-

supervisor mirkarimi: just to be noted, I talk to chief still all the time, the board of supervisors just passed his first reading, the most increase of personnel for adult probation cents adult probation

was established in san francisco in anticipation of ab109.

So your department has now exponentially grown.

It is an interesting new reality that is taking hold of some of the other, what people have not

seen as visibly, the criminal justice and public safety stakeholders in this city are now taking a more front line of view, like adult probation. >> absolutely.

Given the presentation prior to

this, I am very excited about

linking efforts of a juvenile probation and adult probation, especially in regards to transition-age youth population.

there are things that we can

obviously do better and work together more effectively in addressing the needs of that very unique population. And as you point out, that is a group that is much more prone to

reoffend, and if there is a way to stem the tide of those used migrating into the adult system, that is where efforts should be maintained.

Supervisor mirkarimi: well said, thank you. That is exactly what we really

have to 0-in on very prominently

-- zero-in on in a way that has not been before.

Supervisor cohen: I have a couple questions.

i was actually hopeful -- [No

audio]

-- use a compass as a

technology tools to help with

the success rate of the inmates that are going to be coming.

>> certainly adult probation has.

We are in the instance stages, if you will.

We have implemented the compass-

based pre sentence report.

That started in June, so the courts are now receiving pre sentence recommendations that

are based on best practices and the assessment contained in the compass. The conversations with the sheriff's department, I know they are interested in examining

that for their in-custody work ,

and the california department of corrections and rehabilitation has used a

compass, so some of that information is available to us

on inmates who are being

released to post-release community supervision. The other thing is that our discussion with a number of

partners, whether it be department of public health, human services agency, the various community providers and

service providers, we are

sharing that assessment information and identification

of criminogenic needs.

Supervisor cohen: criminogenic? is that a real word?

>> it comes up under a spell

check under the -- all the time is underling, so I am not sure that it is. It is well established in our profession, and it identifies those risk factors that are actually changeable.

For example, substance abuse

behavior, familial relationships, anti-social values and attitudes.

Interventions can be applied, working with offenders so they can change their attitudes,

change the way they think, change their attitude toward

substance embryos, improved family relationships, and therefore not reoffend.

There is a concerted effort to work with our service providers

and partners in doing more

collaborative and court in any case management, focusing on those needs and risk factors that are identified through

compass -- coordinating with case management.

Supervisor cohen: thank you.

in the review this supposed ordinance, and was wondering if the department of public health was also invited to participate or did they not show up?

Supervisor mirkarimi: no, they have been part of the whole creation of this.

But since the consoles, as it had been convened by both myself

and the mayor and the key partners involved in getting

ready for assembly bill 109

realignment has been sure of,

adult probation. district attorney, public defender, and the department of public health has been involved, too.

This is to finally designate, as

is required by state law, a department, or co-departments, but in this case, it has been

decided that adult probation as

the best equipped to deal with

the welcoming, receiving of the

650 approximately inmates to come in. But the department of public

health has a very integral role in all this, no question about it.

And there exactly in tandem with the sheriff' s department,

who is also in tandem with adult probation.

Those are very key departments

that are going to be asked to really step up.

I will give an example, jail

psychiatric services.

a psychiatric services in the sheriff' s department, that comes from the department of public health, not the sheriff' s department. I would not be a surprise that a number of the inmates under

coming back, despite the low level criteria of what the

felons are, that they will have mental health needs. That will continue to stress or

depress existing services

provided by psych services.

Dph plays a strong role in helping build adult probation and helping the sheriff's department. Yes, absolutely.

supervisor cohen: thank you.

Supervisor mirkarimi: sorry, I did not mean to give you to match information. >> yes, the department of health has been actively involved. A portion of the state funding

is going to dph to provide very important services for these offenders coming up.

just to put a point on that, the

pre-release packets that were

now receiving -- we have about

30 people, 30 packets, 30 individuals we know are coming

out in the next month. Five of those have been

identified as having severe mental health issues. And we're already working very

closely with crag murdoch and

his staff, so there is a cooperative effort to do an

assessment of those individuals

before they come out and to

identify the type of services and prepare for placement of

those individuals before they

are released to community supervision.

Supervisor mirkarimi: thank you. I greatly appreciate.

Hello to the chief, yes. Any public comment?

Ok. We have fans.

Public comment is closed .

colleagues, can we take this without -- ok, excellent.

Madam Clerk, move this with a recommendation

Thank you.

Adult probation and others who have been here.

Is there any other business?

>> no, Mr. Chairman.

>> ok, just in time for the rules committee to come on in. We got a lot covered in public safety.

Thank you, supervisors. Everybody have a good day.

And thank you, sfgtv, for your ongoing excellence. Meeting adjourned.

EXHIBIT “I”



City and County of San Francisco

TUESDAY, SEPTEMBER 27, 2011

pl

chufechufe good afternoon.

welcome to the sprn board of supervisor miguel of tuesday, September 27,. Call the roll.

>> avalos present, campos present. Chiu present.

Chu present.

Cohen present.

elsbernd present.

Farrell present. Kim present.

Mar present.

Mirkarimi present. Wiener present.

Mr. President, all members are present.

Supervisor chiu: thank you. Ladies and gentlemen, could you please join me in the pledge of allegiance?

Supervisor chiu: Madam Clerk, are there any communications?

>> there are no communications.

Supervisor chiu: let's go to our consent agenda. >> items 1 will have 22 come price the concept agenda.

These items will be acted on by a single roll call vote.

Supervisor chiu: I understand our deputy city attorney would like us to receiver out item number one.

are there any other items to receiver out? >> item 8, please.

Supervisor chiu: if we could take a roll call vote on its 1-2 without 1 and 8.

>> campos, eye. chiu eye. Chu eye.

Cohen eye. Elsbernd eye. Farrell aye. Kim aye.

Mar aye.

Mirkarimi aye.

Wiener aye. Avalos aye.

there are 11 ayes.

Supervisor chiu: those ordinances are finally passed. Item 1.

>> ordinance amending the strnls administrative code to

create a recreation and parks gift fund.

Update the medicare emergency

relief fund, changing the administering agency. >>

supervisor chiu: I under we

have a small technical item we

need to deal with from the

deputy city attorney?

Do you have a mic?

[Inaudible]

Supervisor chiu: let's try that one more time. >> there should be a codification note indicating that the new section being added is 10.100 -- 257 on the first page.

Supervisor chiu: supervisor

elsbernd will make the motion to amend. Seconded by mirkarimi. Without objection, that amendment will take place. Colleagues, can we take this item, same house, same call?

>> as amended, Mr. President.

Supervisor chiu: this ordinance

is now back to a first read,

right?

Deputy city attorney it is back to a first read.

Item 8, please.

>> resolution approving the jurisdictional transfer of city

hall located at 17th and folsom

streets, to the mayor's office

of housing and the parks department.

Supervisor kim: I am very

excited to support the

jurisdictional change to build a park project here in the

mission neighborhood today.

I know some of the members that worked on this for the past several years are here to see the vote on this. I want to thank the families

and organizers in the mission that have spent countless hours on bringing the community together to support the development of the park at the

former san francisco P.U.C. Parking lot site. This project has come out of almost a 10-year community

planning process, and I want to

thank in particular pmp odjar,

and the anti-December placement

coalition for putting families front and center. The park will bring recreation, education and housing opportunities as well to an under served area in the norton mission.

As many as of you know, mission

is one of the city's deniest neighborhood. Nearly 60,000 families with

children and single households

make this this community their home.

The mission has less than 1% of

all park land for the city.

Surrounding housing area has

the second largest number of single occupancy hotels, and

the affordable housing crisis

has forced families to live in

10 by 10 rooms without notice access to kitchen or yard space. I am excited to move forward on this. You would have thought this would have been an easy task,

but a lot folks had to come together to work on this transfer.

I want to recognize all the departments and commissions

that are involved.

Inclined planning, the

public utility commission,

mayor's office on housing, the staff.

Linda Robertson, Karen, Jay,

Juliet, John Updike and John

McIn Mayora.

Supervisor Chiu: Can we take

this house same house same call? Supervisor Wiener. Sorry. Didn't see you.

Supervisor Wiener: Thank you. I am very supportive of this,

and I want to congratulate Supervisor Kim and the

community for really moving an incredibly important project forward.

This is not in my district but

about three blocks outside my district. I know first hand how much open space we need in the greater Mission area.

If you look at Delor Parker,

Mission playground, and how crowded they get. There are two points I wanted to make, and they were both discussed at the land use committee. First, I know there were folks who were concerned about the

loss of parking, including

O.K.C. And some other -- O.D.C.

And some other non-profits.

I know Rec and Park and O.T.A.

Are going to work closely to better manage the street

parking in the area. The other issue that I just

want to flag -- and it is not really specific to this project. This is just an example. We are dedicating public land

to much needed affordable housing. I just really want to keep on the radar that we as a city

have done a really poor job of

providing moderate income housing. We have provided a fair amount

of low income houses, which is very necessary, but we need to do more.

We do a great job of market rate housing. But we provide almost no moderate income housing, and that is a problem in terms of

keeping the diversity of our communities, making sure that

we do not become a city of just

rich and poor, that we keep our

middle-class and, woulding class.

I just -- as we are moving

forward on these kinds of projects where public land is involved, that we keep moderate income housing in mind.

It is a key to our economy. I will be supporting this, thank you.

Supervisor kim: I left out a very important office involved in this prior to our office working it.

Supervisor david campos' office

has been working with it and

convening meetings along with

our office. Thank you.

Supervisor chiu: supervisor campos?

Supervisor campos: thank you, Mr. President. I don't want to belabor the point and repeat what has been said.

I want to thank supervisor kim and her staff and all the community members who have been working on this for quite some time. it has been a long time coming, and I know there's a lot of excitement around this, and I

think this really shows how a

community working closely with government can really move

something very positive forward. I also want to thank my staff

for their work in making this happen and look forward to

continuing to work with supervisor kim, supervisor wiener and his office. Again, thank you to the community for coming together around this very important

project.

Supervisor chiu: supervisor avalos?

Supervisor avalos: thank you. I would just like to echo the comments of all of our colleagues who have spoken.

I want to reiterate a congratulations to the community for the work they have done on this. This is actually the second park that was established in the mission district.

There was another on 23rd and

folsom, which is a great addition.

It gets well utilized because there are so many families there.

there is also a garpped -- a garden there. Congratulations. We are going to see wonderful things coming out of this

public space and I am very

grateful, and I would like to co-sponsor.

Supervisor chiu: we will add

supervisor avalos is added as a co-sponsor.

And supervisor mirkarimi, and others.

Colleagues, any further discussion? If we could take this item without objection, same house, same call.

This resolution is adopted.

Let's now move to item 23.

>> item 23 is from the land use

and economic develop committee.

An ordinance to establish the city district.

Supervisor chiu: supervisor farrell?

Supervisor farre!: thank you. A reminder, on its last reading today, this is the legislation

that will allow target to come

into the old city center district.

It is the site of the old toys

for us, sears row buck and mervyns.

Supervisor chiu: without objection this ordinance is passed. Item 24? >> item 24, ordinance amending

the administrative code,

decreasing film fees for smaller budget productions pertaining to the film rebate program.

Supervisor chiu: supervisor farrell?

Supervisor farrell: thank you. Colleagues, this legislation is

going to bolster our current

film rebate program by including documentaries and reality programs to the program. In the past, reality shows used to be fairly low budget productions.

Now we are seeing many more of these shows with more substantial budgets to work

with, and we would like to attract them here to have them

spend their production dollars here in san francisco and hire local crews. This is going to apply to documentary films as well. Since introducing this legislation over a month ago, my office, the film office and

the staff of the film commission has received

numerous inquiries from different reality shows and documentaries that want to take advantage of this coming into san francisco.

Secondly, this legislation will

also decrease the fees for low

budget productions of under

\$500,000 from \$300 a day to

\$100 a day here in san francisco. Currently many small independent film makers bypass the permitting process here in san francisco because it is cost prohibitive for their low income productions.

Right now all feature films and

stuncheon series pay through 300 a day for their permits, and that is higher than anywhere else in the country. New york city has a permit fee

of \$300 for a whole production no matter how many days they film for all budgets.

In vancouver, permits cost \$100 per day.

New mexico, \$25 per day. in louisiana they are free.

These are states already offering incentives we can't compete with. This legislation will make our permits more affordable and continue to make it as attractive as possible. This has always been and

continues to be about jobs here

in san francisco.

Our film rebate program has

been successful, bringing in

series such as milk and trauma. We have talked about a committee commanding this and looking at the stats of the

film rebate program over the past few years.

Later in role call we will be introducing a request to make

sure we analyze all competing jurisdictions throughout the country and in canada in terms of what they offer film production crews to come into town not just in the form of rebates, but other incentives that we will be able to provide here in san francisco to have a competitive environment.

I would like to mention that if

anyone has any questions, suzanna robbins is here to answer any questions you might have, and I would thank you for your support.

supervisor chiu: supervisor avalos?

Supervisor avalos: thank you, President Chiu.

I am actually curious about the

extension of the rebate program to reality shows in san francisco. I think we have a pretty good reality show going on right now.

It is the mayor's race with the voting. It is like a game of survivor. I am actually going to be supportive of this legislation, and I want to differentiate my vote on this compared to the vote against the twitter tax break.

The twitter tax break, there

wasn't actually a fund that we covered the rebate program in. It was more like deficit spending we did in providing that tax break.

But with the rebate program having a fund we are tapping

into to reimburse expenses for film productions gives me the

ok to approve this legislation. So I will be voting in favor of it and want to congratulate you on your effort.

Supervisor chiu: supervisor farrell?

Supervisor farrell: and just to be clear, this is not increasing the amount of money that we have already allocated for the rebate program. This is not going to cost a

cent more for the city of san francisco, just attract additional productions that could avail themselves of the existing rebate programs and the dollars we have left from

the original inactment a number of years ago.

We are going to be asking for a study to be done in advance of the rebate program expiring in June of next year, whether it makes sense in terms of investment dollars from san francisco and city hall to continue this program, expand it, drop it or what have you.

That is what we will be doing.

Supervisor chiu: can we take

this item same house symptom saug? Pass on the first reading.

>> item 25, ordinance amending environment code to update the green building requirement of design, construction and

operation of city buildings.

Supervisor chiu: supervisor mar?

Supervisor mar: thank you, President Chiu.

Colleagues on your desks are a minor amendment to the green

building requirements for city buildings ordinance.

I want to thank joe anna from the mayor's office and others

for bringing this ordinance forward with my office.

The minor amendment I believe

is non-substantive.

At page 16, line 21, the

legislation provide that the

new lead gold certification

projects will apply to projects where the initial appropriation request is submitted to the

board of supervisors after September 1st, 2011. I am nearly changing the date

to November 1st, 2011 so that

the ordinance is not retroactive. Thank you, and I encourage your support of this important measure.

Supervisor chiu: supervisor mar

has made a motion as he has suggested. Seconded. It passes.

Colleagues, can we do this same house.

>> as amended Mr. President.

Supervisor chiu: this is passed

on first reading as amended. >> item 26. Ordinance amending the administrative company regarding the adult probations department and their post release supervision program. Supervisor chiu: supermirkarimi?

Supervisor mirkarimi: thank you, Mr. President. Colleagues, for months we have been hearing about state prisoner realignment.

The committee from the board of supervisors and this body has advanced pieces of legislation in installments that presents a challenge for what will be an unprecedented event October 1. Every county in California will be severing back state prisoners to its jurisdiction.

42,000 prisoners are being returned from the state.

San Francisco's allotment

per-capita will be one of the smallest. The number we are receiving is approximately 650. It starts October 1st.

San Francisco is in a better position than most counties because of the realignment plans and steps for preparation that have been underway.

We are one of the few counties

in the state that is experiencing under crowding.

So that gives us a leg up compared to many counties.

We are in a position that we

must advocate vociferously and vigorously for more funding because the money coming with

the prisoners is about half of what we need. It is the point of this

legislation that we assign the adult probation department to take lead with the sheriff's

department taking second in the receiving and process of those prisoners that are returning. The criteria for the prisoners that are returning are those

that are low-level offenders, felons, non-violent and non-severe offenders.

There has to be a case by case risk assessment for every prisoner that takes place. Also what is accompanied in

this ordinance is greater

discretion approved because of prisoner realignment in allowing the sheriff's

department and adult probation

to exercise various forms of home

monitoring, discretions they have not had before.

there is a pecking order of cost. Incarceration is the highest of

that cost, versus diversion or

home electronic monitoring or a hybrid there of. Many months have gone into the preparation for this.

I don't think many counties are quite prepared or braced in the way we are trying to. But since October 1 is just a

few days away, the first installment of prisoners coming for San Francisco is approximately 30 for October. Then they will be staggered in different amounts, and there

will be a significant ebb and flow. While we seem to have our ducks

in order for the coming year, it is undetermined what it will look like in years after.

We have to stay vigilant.

staffed to contend with the tailgate parties.

Some maystadt in the back in north beach.

The gun-control laws are under

attack from the gun lobby which

is usually -- using the supreme court ruling.

Since then, gun advocates have been challenging local gun laws across the nation. San francisco is in the bull' s- eye.

I have invited the deputy city

attorney, if the deputy city is here who has been working with us.

It is based on the federal court weighing in on this.

If deputy city attorney kaiser

could speak to what occurred through the chair.

>> there are two lawsuits

against the city brought by advocates.

both lawsuits challenge the ordinances that are being

amended to include legislative findings. The reason this is necessary is

because in light of the court' s

ruling and how supervisor mirkarimi explained, these are

more likely to be subject to judicial scrutiny and constitutional review.

In this case the court took into consideration the board of supervisors considered and

adopted in support of continuing these ordinances. It gives the court something to look at.

Supervisor

mirkarimi: the

influence of events especially with our public safety challenge

and the gun advocate lobby going

after modest gun safety laws,

the dreadlocks and the ban on

lethal ammunition, enhancing lethality like hollow point bullets, the conclusions of those events weighing in

yesterday only justifies that

much more wide this legislation

and these findings are deemed that much more necessary. Thank you.

President Chiu: any further discussion?

I would like to be added as a co-sponsor. Can we take this same house,

same call?

without objection, this ordinance is passed on the first reading. Item 28.

>> from the rules committee. An ordinance authorizing settlement of lawsuits involving mitchell engineering and

authorizing bonds and the preparation of funds not to exceed 15.7 \$5 million.

-- \$15.7 5 million.

President Chiu: without

objection this ordinances passed in the first reading. Let'

s skip over the 3:00 special order. And our four-o' clock special order which will be continued. why don'

t we move to roll call for introductions.

>> supervisor campos, you are first on roll-call for introductions.

Supervisor

campos: I have a couple of items.

This is the oversight committee for the general obligation bond.

This is their annual report for 2010.

I have requested that matter be

sent to the government audit and oversight committee.

The second is also a hearing

request on the budget and legislative analyst' s performance audit.

Again, we have asked this be

sent to the government audit and oversight committee.

The final item is I have requested the city attorney to

draft an ordinance that would

require that the meetings of the

san francisco ethics commission

be televised on sfgtv and that ordinances being drafted as we

speak and will be introduced in hopefully by the next meeting. The rest I submit. >> thank you. Supervisor avalos?

Supervisor avalos: I had

requested analysts to do an assessment before the summer

break, looking at how we could

leverage or local revenue and

tax dollars and two financial

institutions that could do community development type work and also to support our local economy and small businesses.

They have drafted the report and is available. I am submitting a request to overview that.

In requesting that be heard in

the city operations and services committee. the rest I shall submit. >> thank you. Supervisor mar?

Supervisor mar: I have a number of items.

The first is regarding the

negotiations with the california pacific medical center.

Recently I and many of our

communities have experienced a lack of transparency and

adequate communications.

C

I am requesting a hearing to

provide the mayor' s office with an opportunity to update the board of supervisors and also

the workforce development to refresh and update us where the negotiations are around the community benefit and where they stand.

secondly, I am joining , I am

introducing an ordinance that amends the planning code to prohibit the use of customer

operated checkout systems in

stores where alcoholic beverages are sold.

I would like to thank supervisor
john avalos and david chiu for being co-sponsors as well.
this is a common-sense measure
that requires anyone to a new purchases alcohol to buy face- to-face. It is a simple step which is
required of tobacco, spray paint, and some cold medicine. It will make it harder for miers'
-- minors --
minors and intoxicated persons to get alcohol.
This protects the public health.
Recent studies by ucla and san
diego state show that self checkout machines make it easier
for minors and intoxicated persons to get alcohol.
a study showed machines used in
stores that have self check out failed to stop one transaction in five. That is 20% failure rate. The machines are easily fooled
by customers and I know young
people can game the system. That is apparent.
Minors are sharing methods to beat checkout machines. Scanning one item and bagging
the alcohol or holding a non
alcoholic item so the alcohol is not scan.
People will cover the bar codes or replace it with something
else as well from my
understanding of how the system can be manipulated.
One cashier can be forced to
monitor up to a dozen machines allowing the machines to be easily been when the worker is no
busy. Public safety groups are strongly supportive of our
measure because they know the
tragic consequences of alcohol ending up in the wrong hands. That is why our ordinance and
others are supported by mothers against drunk driving.
the california police chiefs association, california council on alcohol problems, and many others.
Also, I am calling for a hearing
on an issue I have been working
on with many senior and disabled people' s organizations and housing access groups. I am calling for a special hearing on issues affecting some
of our most vulnerable residents, seniors and people
with disabilities who live in sro hotels.
The official policy is to
support seniors to a giant place. San francisco has no comprehensive strategy for sows
-- serving those who live in residential hotels. While it is relatively affordable and generally close to transit, presents its own sets of challenges to
tenants.
The city needs to develop
creative strategies to reduce the isolation, make the building
safer, and aging friendly and provide the elderly and disabled greater access to community resources.
Those are our recommendations from a number of organizations that have been working on the issue.

I have been working with the senior action network, the mission, central city, and chinatown sro collaborative.

The in home support services consortium and others.

We will share the information at the meeting and from these problems and begin to provide solutions from the bottom up with grass-roots community based

organizations centrally involved

in policy development with the rest of us.

I hope from this hearing there will emerge strategies for meeting the needs of residents

who are aging in place in

housing systems that May be inadequate or unsafe for them.

I am also introducing an ordinance today that has to do

with the richmond district'

s

george washington high school which is 75 years old and celebrating its many accomplishments.

I would like to also point out

that george washington first

opened on August 25, 1936 and is among the finest, prince of high schools in the nation.

In addition for -- to a full

range of classes for students,

the school also offers many

extracurricular and athletic opportunities.

I am proud that -- for this

coming year, we hold the crown

not just for football, baseball, and basketball, but also for the wrestling. The principal and the staff and

counselors and the teachers are

proud of the accomplishments of washington high school.

Washington is open to families in san francisco panter of the city. It has been a model community for ethnic diversity. The schools illustrious alumni,

we often hear from other schools

but I would like to brag about the richmond district' s high school.

Lee merriwe

ather, gilman I

ui

do looked -- developed tetris.

One of my favorite

actors, and

betty ong are from washington high school.

the ordinance will declare washington high school day.

Also I will be honoring along

with supervisor jane kim one of our city labor and community

leaders, karen bishop, the
President Of san francisco
unified school district chapter
of sci you -- seiu.

president chiu: I will be introducing legislation to help our city small businesses comply with our americans with disabilities act.

When I served on the small business commission I heard from
hundreds of small businesses as we have around our districts in the city that have been sued
allegedly for ada violations.

Since 2005, there have been five
dozen lawsuits in california,
and over 300 businesses in san francisco have been sued, some
of the multiple times and some have closed their doors because of the suits. The proposal I am putting forth
is about ensuring that we are encouraging full compliance with our accessibility laws in doing
this in a way that is

transparent, fair, and hopefully bring about more cooperation between small- business is and landlords and building owners. This proposal does
four things.

It prioritizes building permit
applications that involve work
on accessibility complaints -- compliance.

It requires landlords to bring ground-floor entrances and exits into compliance with pre- existing access laws before a
new lease or renewal is signed. We'
re not creating any new 80
obligations, only insuring the improvements that are required be done around our entrances and exits.

thirdly, they legislation
requires commercial landlords to inform small business tenants
they have potential ada obligations and -- on other parts of the property and to
include provisions that address

these respective obligations. The fourth thing this proposal
does is it allows small coffee shops and self-service restaurants to exclude square
footage for disabled access from the calculation of the maximum allowable square footage.

This will hopefully ensure that
we move beyond a time when small business tenants and owners were
pitted against disability activists. What we' re trying to do is ensure that we' re bringing in
all stakeholders to use money on?

The bill -- access ability --
accessibility improvements.

I am pleased to be joining a
number of colleagues to

introduce a resolution to reform our support for the central subway project and for replacement housing for the tenants displaced by that project.
We all know the benefits in
terms of transit ridership, this

is why the board of supervisors has cast some of the unanimous votes. Our city is committed to

replacement housing for the 19

households that will be relocated for this public

benefit and we know that great cities and our regret building subways.

Great cities regret not building subways. The rest of my items I will submit. >> thank you. Supervisor mirkarimi.

Supervisor mirkarimi: I have one item. I would like to ask the city

attorney to resuscitate a piece of wood solution that we sponsored nearly two years ago

and that was to call for moving the san francisco police

department crime lab under the

cao so it would be in independent jurisdiction. Considering this spate of stories about scandals that have

compromised the integrity of the crime lab and the drug lab, and the fact that the national academy of sciences has come up with a report recommending to

all metropolitan government' s they' d move to crime labs to an

independent jurisdiction, I had

decided because of the disinterest and the resistance

in different corners of the city government to revive that legislation.

I am making a public request of the city attorney.

>> thank you. Supervisor elsbernd?

Supervisor cohen?

supervisor cohen: thank you.

I am proud to

co-sponsor with supervisor wiener legislation

that would establish a commission to review practices and make recommendation to the board of supervisors on changes. This is important in light of

the realignment that supervisor

mirkarimi has been taking

leadership fund and put the

public -- and create the public safety committee. We need to make sure we are

utilizing innovative approaches

to decrease the rate of recidivism.

in addition, I am very excited to introduce a supplemental appropriation that will appropriate \$1 million of city

funds the city received as part of a settlement agreement that closed the referral power plant. That settlement was the result

of a decade of negotiations

that -- resulting in the plant pose a closure last year.

After a robust public process,

led by the asthma and powerplant task force, we identify programs that the fund will be used to continue to support.

These programs are focused on

promoting public health in the neighborhood surrounding the

plan and include funding for retrofitting homes and air

quality -- in here quality -- air quality hot spots for its support for committed the guards

and projects and bending for an asthma educator to assist the community in understanding,

preventing, and treating asthma.

The preparation is a significant step forward in combating the decades of impact from the power plant. Although it has closed, our obligation to ensure the public health and well-being of those communities who were disproportionately impacted has not ended. I also would like to say on a closing note, I would like to think many members who were active in the southeastern neighborhoods. Those folks in bayview n potrero hill. I would like to thank the leadership of city staff that put numerous hours into helping shut down this power plant. I would like to thank our city attorney for his leadership and also ensuring that this toxic power plant has been shut down. Looks like justice has prevailed. I am very excited to introduce the supplemental appropriation. The rest I submit. >> thank you. supervisor kim.

Supervisor kim: thank you.

In light of supervisor mirkarimi' s comments about the increased shooting and the increased need for gun control, our district also experienced a recent shooting this past saturday morning.

It 15-year-old girl and a 42-year-old woman who were struck in the legs and the torso. Both are in the hospital.

It is a continued tragedy of violence, particularly because of the reason spate of shootings that have occurred on sixth street. many of the neighborhood -- much of the neighborhood has come together and meeting monthly to see what we can do about reducing violence.

This incident was a damper on a lot of the efforts of folks are making to make this a safer place for everybody.

I am also proud to co-sponsor President To pose a resolution in support of central subway project and the replacement of demolished rent-controlled units in chinatown. In recent weeks, we have seen this project, under scrutiny again despite a thoroughly vetted expansion. And we have seen --

republicans are using this project as a target to cut funding for the city of san francisco.

Though this resolution is non-binding I believe it will send an important message to the obama administration.

As well as to our city residents of san francisco, we stand with them in supporting this project and of our replacement housing. We have been engaged in this discussion many times but this

is a promise we made to recommend these.

Communities of color have often

been left behind in the economic

development and also transit first projects. As you know this will connect

the bayview and alley to the south of market on mission bay, chinatown, and union square.

Those who have dismissed this project as a subway to know

where this regard the important neighborhoods these -- this project will connect.

Also I am dismayed by the continued targeting that has

become fashionable among those

in our circles and the media to target nonprofits.

i think we start to see that in budget discussions over the last couple years as we have been

fighting over service dollars

and other things about the

supposed waste the nonprofits produced in the city. While there May be some, the

vast majority of our nonprofits

work with incredible dignity and with incredible respect and commitment and dedication to improving the city of san

francisco and also improving the lives of our low-income

communities by providing and stretching every single public dollar we give them to provide housing and other services.

I am also dismayed by the

disregard that several folks have for the decades of

community planning and meetings

that our marriage -- residents have been involved with.

10 years ago I started attending meetings in support of central

subway and watched as seniors and used demanded to see this type of improvement come to their neighborhood.

90% of residents in chinatown do

not own cars and depend on muni to get around the city.

I am happy to co-sponsor this legislation with President Chiu:

and supervisor cohen and other supervisors. Thank you.

>> thank you. Supervisor farrell?

>>." I am asking the budget and

legislative advisers to conduct a study to compare and analyze how a number of other cities and

states provide incentives for

local film production either by rebates or other incentives

offered to encourage local production. Asking to review these incentives that are being

offered, the law enforcement

costs, permitting fees, how

much -- how many television

shows feature films -- and whether or not there is the incentive for commercials and how many jobs have been secured by the rebate offer.

Secondly I want to thank in a

particular the marina

association and the impetus

behind this for a great family festival. We had hundreds of families come out and it was a great time.

i wish the weather would have cooperated but we will have it again next year and it will be bigger and better.

We want to thank the mca for their hard work in putting it together. I would like to thank the members of the california league of cities that came to our town -- town for their annual conference.

i served on the california director and I was appointed by mayor ed lee.

I want to congratulate our

treasurer for being elected second vice President Of the california league of cities which means in two years he will be the President Of the organization.

he will do was proud in the city and I want to -- to do was proud

in the city and I want to congratulate him.

We have one in memoriam

, a

beloved and long term President.

He was born in 1922 in colorado,

he was a proud U.S. Navy combat

veteran of world war ii and

served from north africa to or canola.

He was featured in the "san francisco chronicle."

the library of congress was

making an effort to get their recollections of veterans to the collection.

He is quoted as saying, "we were a part of history/ .

It is not neat and clean like in the movies.

It is long periods of boredom

followed by short periods of actual terror.

People did not understand what a

horrible experience work can be."

he wrote on his computer which is now part of the project.

He was a retired vice President By -- of bank of america. He was married for 67 years.

he and his wife lived by example

and mentored couples. Their advice was basic.

Have fun, left, and do not take things seriously. There were adored by the young

adult group and those they mentored and gave new meaning --

meaning to the phrase, young at heart. He is survived by his loving

daughter who was a great grammar school teacher of mine a number of years ago.

Her husband and their son, there

will be a mass at st. Vincent de paul church.

Where jerry spent years as a usher.

We will Miss Him in district 2

and he will be missed by so many san franciscans. Thank you.

Supervisor wiener: I would like

to have my name added as a co- sponsor to the resolution supporting central subway.

We have this

unfortunate habit in san francisco if you have a

project that moves forward, that

will create a lot of benefit and

as it nears completion or gets

down the road, all of a sudden, barriers are thrown up or people start questioning it.

Any major transit or infrastructure project to the

bay bridge or bart, or the central subway, there will always be some controversy.

There will be folks who think it can be done better.

We have to extend our transit system, this is an area that needs transit.

I am confident we will extend it further north.

No major project is going to be

100% when you want out of the gate. This is a project that will make

it up to the no. One day. I want to co-sponsor that.

I also want to elaborate on the

legislation I am introducing

today with supervisor cohen and supervisor farrell.

the district attorney has been

spearheading this and I want to compliment him for his work

here and anticipating one of the

effects of realignment, namely,

we need to be smarter about how we sentence people. We will have a much heavier

burden in san francisco not just

with the current prisoners but with future prisoners who in the past we could said tuesday President, but if we sentence

them, a

in making sure that the police -- people who go to jill go to jail.

We have to make sure that they do not concern the rest of the budget.

We have seen what happens in

california when we are not smart with sentencing.

We have a state budget that is

higher than our state education budget.

I do not want to see that happen

in san francisco, so this will be composed of the district

attorney, the public defender,

adult probation, the reentry

council, a number of other representatives, so we have a complete group of stakeholders that can go about it in that way, and I am proud to be sponsoring it.

Clerk calvillo: thank you,

supervisor wiener.

supervisor chu?

Supervisor

chu: in terms of connectivity, thinking about how

not only connects some, but how it connects the outskirts of san francisco to the central part of our city.

So many residents of the sunset,

richmond, the valley, they do

make their way to chinatown and the downtown for work, for shopping, to connect with

community, and to the extent

that we do this, it is not just an economic magnet and something

that helps the state economy overall, but it is something

that helps improve the connectivity and transportation for our existing residents, so I

do want to be added as a co- sponsor of that legislation, as well.

Clerk calvillo: thank you, supervisor chu.

president chiu: ok.

Supervisor avalos?

Supervisor avalos: banks that have been bailed out but who have not been doing their part

to support local communities,

banks like bank of america,

wells fargo, they received bailout from the federal government and yet have not been

doing their part to create jobs and to ensure that households across the state and the country

have recourse to prevent

foreclosure and default, modifications of loans with these banks not as strong as

they can be, and it is when residents demand that there is action and accountability that

we know we can create change, so my hearing request, looking at

how we can leverage our dollars,

that is this week, a proposal to these actions.

Also, it just so there is no

doubt about my position on the central subway, I would like to add my name as a co-sponsor for

the resolution affirming the

central subway, and I have actually been kind of alarmed about have a sense of what has been criticized by some of the

various people who have been supporters over the past several

years, so I think it is important that there be no doubt

that could perhaps jeopardize funding that is going to need --

we needed for the build up, funding that will be openly approved at the federal level, where there is a great deal of change going on in terms of transportation projects being

approved, and I think the board of supervisors making this statement will be important to

assure that there is support for this, and I hope it is unanimous, which it think it is,

because we all voted on

different aspects of this at the transportation authority.

Clerk calvillo: thank you,

supervisor avalos.

Supervisor campos: I do not want to be long. I just want to add my name to it.

Clerk calvillo: that is the end of the roll call.

President Chiu: ok, it is just a little after 3:00. Can we go back? Madam Clerk, could you please call items number 29 and 30?

a hit -- 29 and 30?

clerk calvillo: this is a resolution to establish the westboro community benefit.

President Chiu: this is to be

named the west portal community benefit districts.

This hearing is held pursuant to the board of supervisors resolution that was adopted, on

August 2, 2011, which sets today' s hearing date and also

approved a plan an engineering

report from 2011 as well as the form of ballot for property owners.

Supervisor elsbernd, this is in

his district, and I understand he May have some amendments.

supervisor elsbernd: yes.

There are some amendments in relation to this. It is minor.

We are proposing to remove two parcels from the total parcels that would be covered, dropping

us down from 84 parcels them 82 parcels. One is an apartment building, and the other is a professional building.

they are located in an area that would not have produced a great

deal of money, I think a grand

total of \$4,700 out of the \$2,000 that would be generated.

This just reflects the deletion

of those two parcels and the technical amendments that need to be made to assure the completion of the benefit districts.

I am not sure, Madam City attorney. Should we adopt this minutes before the hearing, or should we adopt them after?

I think most folks know we are going to do this, so I would make the motion to adopt those amendments now.

President Chiu: supervisor

elsbernd has made a motion to

amend, seconded by supervisor mirkarimi.

Colleagues, if we can take those amendments without objection? That shall be the case.

So at this time, we are going to hear from any speakers who wish to speak in support or in opposition of this disaster.

we will first hear from speakers in support, and then we will

hear from individuals who oppose it. After today' s public hearing is closed, the department of

elections will count all of the ballots, including those ballots received during today' s hearing and some of the tabulation to the board.

Members of the public May choose to view these on the basement

level of the building in room 59.

If there are too many ballots to accurately tabulate them today,

we can recess this meeting to a

later date to obtain a final tabulation.

If the tabulation of the ballots

shows a majority protest, the board of supervisors will not approve the establishment of the district or the assessments,

but if there is not a majority

protest, the board May choose to impose the assessments.

A majority protest exists if the

weighted balance exceed the

ballot of those in favor of the assessment districts.

the ballots are weighed according to the obligation of

each of the affected properties.

So with that, at this time, why do we not open up a public hearing on this issue for anyone who wishes to testify on the

proposed establishment of the

west portal district and on the

proposed plan an engineer' s report from September 2011?

That forced ask if there are members of the public that supports the establishment of

this district, if you could please step up.

Police stepped up, and if you want to line up on the right- hand side, that would be great.

each member of the public shall have up to two minutes to speak.

>> that afternoon, supervisors. Thank you for letting as the year. I have a business.

I have been active on this

street with a merchant' s organization for well over 20 years, which is how long I have had my business.

i have also been probably the key member in seeing this through.

This started in 2009 sort of out

of frustration of the volunteer-

based merchant organization.

We looked at the aspects of the

cbd and talked to property

owners, and we formed a plan.

The aspect was discussed in merchant meetings, and

eventually, we hired a consultant and drew up a management plan, after which we had several neighborhood

meetings aimed at property owners and merchants and set up a website to get out the word of what we were proposing.

in setting up this plan, we researched other districts, including a valid one, because we thought it was very similar

in the make up to west portal, and we learned a lot from things they did right and things they

May have missed stepped, and we adopted two important lessons that we learned, the budget amount.

We learned a lot of districts

are too shy, so we went for a

high amount, and then the

length, the term, we figured it should be significant, so we went for what we thought was a reasonable amount.

The assessments are fair,

especially less than one phone bill for a business owner like myself. I pay about \$80 per month.

And it said that the formation of a clean and green district, so we are going to clean the

streets, green the streets, and put up some small parks.

This is a well thought out plan.

I encourage you to support it, and we have a lot of supporters here. Thank you.

President Chiu: next speaker, please. >> good afternoon, supervisors.

I am an owner, and one of the locations I have is on west portal. I have had that business for 12 years. i have also grown up there. My family and child a home is still there. Growing up there, I have seen it go both ways. It is one of those avenues that is nice, quiet, charming, and sleepy, but it needs revitalization. In the past years, it has always been voluntary, and all too often, it was way too few people doing way too much for people who probably did not deserve it. This is a great unifier. Everybody gets skin in the game. We have a functioning infrastructure. Everyone is committed. I feel that wants everybody starts to pay into the system, they tend to be more committed, and they tend to be more involved, which I look wholeheartedly forward to. I am currently President Of the west portal avenue association, and once again, it is way too few people doing way too much. I support this. There are some that had objections to them. i have looked at some of the videos of some of the other conflicts. West portal is not as diverse lead discrepant s some of the others, which at that questions and conflicts. I think we are all on the same boat, headed for the same island. It is just a matter of having something to get us there. Thank you.

President Chiu: thank you. Next speaker.

>> good afternoon, supervisors. My name is james robinson. I have and big business on westboro avenue for the last five years along with my wife, who will be speaking shortly after. the cbd' s have a tremendous track record, where they go in and help improve the neighborhoods and to manage with the existing organizations, and I urge you to wholeheartedly support this, as I do. Thank you.

President Chiu: next speaker.

>> below, my name is gail. My husband and I have owned a business for five years. We are very excited about this. We believe it will bring continuity and unity, and it will elevate the business district, which is so sorely needed. Thank you.

President Chiu: next speaker.

>> good afternoon. My name is bob presley. I am neither an owner or a merchant. I live a couple blocks away. I have been around there for 10 years. We have enjoyed watching the good things on west portal. We have done a lot of shopping there. There are restaurants. we eat out a lot there. There are a fair number of new people moving in. There are five new families on our block with kids. We hope this was portal area will continue to grow and be the center it can be.

This would be one of the stops on the way to the suburbs.

We have more muni lines: through west portal then I think

anywhere else in the city, so it has the advantage of being able

to handle more people, and the

growth in west portal is growth without necessarily having more cars. That should be a positive thing for the city.

I support this very much.

i see or do people -- I see

older people in jointness, taking a walk in and join the local stores. I support the type of distress you are setting up, and I hope

that you vote for it, because it

is important for the board of supervisors to lead in things like this, so thank you very much.

president chiu: thank you. Next speaker.

>> good afternoon, supervisors.

My name is auburn shepard, and I am with the greater neighborhood association. I have lived in san francisco

all of my life, and I have grown

up and have spent a long time -- a lot of time in westport.

My uncle used to take me down when I was younger than you.

I am here to support the community benefits district.

I think it will welcome west portal into the current world.

People go to places now. They go to restaurants. They could to shops.

they expect to see something bright and shiny, and this is a

great way to make a place bright and shiny.

The assessment that the merchants and property owners

will get is so small that they

will not even feel it, but they will feel the benefits of it.

i have experience in with the

benefits district and a small town in the san joaquin valley

that has added benefits district

for over 15 years, and I have seen their downtown area go from

a ghost town to a thriving

place where everybody within to

wonder miles comes to visit, so

I urge you to support this benefits district. Thank you.

President Chiu: next speaker. >> good afternoon.

I am the owner of a carpet store, and a property owner.

I urge you to support this.

West portal is one of the best family oriented neighborhoods in

san francisco, and this is a catalyst that can make this community even better. It is a little village.

This is something that has been needed for a long, long time, and I urge you to approve it. Thank you.

president chiu: next speaker. >>

well, I look to the east,

and I look to the west, and west portal is the place I like best

they fix your abilities and your

shoes, and they have movies , and

for elsbernd,

they have foodies.

they fix your shoes, and they

have food for foodies, and

supervisor elsbernd'

s favorite restaurant for foodies yes, they know how to help you,

yes, indeed, and I know they are going to take the lead.

They have got ice cream.

they have got

free -- fruit ies,

fix it up, and I think you --

thank you

president chiu: thank you.

Are there any other speakers in support of the establishment of this district?

Now, if there are any individuals who wish to speak in opposition of this assessment district, this is the time for you to speak. Police stepped up.

>> my name is mark,

and I am over on the boulevard.

I have nothing against this community benefit districts

program

in its inception, but I

do have a problem with the 13- year trial period that it has.

I thing -- thing that is entirely too long.

I think a 4 or 5-year trial period would be more apropos. There are issues.

parking.

When people come to shop in west portal, if they do not live by

to what to it, they start putting quarters in there, and

after about \$2, if they are in a shop having something done or

eating, they come back and get

that, what is it, a \$60 ticket? I fortune to have not gotten one and a long time because I do not

drive much anymore, but anyway, the only opposition I have is the 13-year trial period.

But basically, it is a very good idea. Thank you.

president chiu: thank you. Next speaker. Sir, if you could please speak into the microphone. >> I am definitely opposed.

Number one, I own a residential building on west portal and a 35-year member.

I live just around the corner, so I have seen everything happen on that block.

number one, I was never notified at the inception of this thing,

so I felt very insulting.

Number two, as the gentleman

said, 13 years or 15 years is

too darn long. Three or five years makes sense.

the amount of money seems exceptionally high. They say it is low. I say it is high.

If you take the complete 13

years added up at a 3% per annum increase, it is over \$3 million,

and that is -- the thing I

oppose is the increase each

year, according to the records

they gave me, 3% or there about.

Well, if we put a bunch of trees or benches or what ever you do the first second or third year,

why is the cost going to be that high the fourth or fifth year?

it just does not make sense.

Having run a billing for over 40 years, it just does not make sense.

One year, high expense. Six or seven years. You put in trees. You print it.

Not every year, three to five years.

I do not know if I am getting to

you, but the whole thing, and

leaving a lot of us out, and I

have spoken to at least four

merchants, never even heard about it.

Of course, it goes to the owner. I am an odor.

Had my neighbor not clued me

and, I would not know -- I am and owner. I do not care for computers.

My white candles in all, so I do not always ask her to get this

stuff, and a lot of information,

I know this gentleman back here, I consider friends. [Bell]

That is it, I guess. i am outnumbered.

President Chiu: thank you. Are there any other members of the public who wish to speak on this item? Police stepped up.

>> hi, I am elliot wagner. i have a store on west portal. I have been there about 30

years, and I am really strongly opposed to this current version

of the west portal dbd.

I can think about my opposition.

One, I believe it was developed with insufficient community outreach.

to the local merchants, property owners, and residents.

Basically, west portal had one landlord meeting and one merchant meeting, and it was

presented to us almost like a

fennel -- final document, not

really with input to either of those cribs at that time.

the othercbd' s

had five, six, or seven meetings.

The others did multiple surveys

of both merchants, people on the street, and lambeau boards.

I believe the yearly costs are

really disproportional compared to the size of others.

the number of blocks and number

of parcels, the valley is twice

the size of west portal, and

yet its budget is only 17% or 18% greater.

I have asked numerous times, i

came up with a magical figure of to wonder thousand dollars, but we have not been able to do it.

I am in favor of this. I think it could be great.

I do not believe in this one, and I pledge no matter which way it goes that I will work towards

getting one that is successful, be it this one or a better version. Thank you.

President Chiu: thank you. Any other members of the public wish to speak on this? Please step up.

Ok, it seems that there are no other members of the public who wish to speak on this, speaking

on the topic of the westport a community benefit districts.

we will have general public, and

later, so if you wish -- you have been listening to it.

If you want to speak to the

westboro community benefit districts, otherwise we will have a general comment, and you can speak then. >> I disagree.

President Chiu: thank you. Any others?

supervisor cohen?

Supervisor coehn:

-- **cohen:** I have a question.

Who pays into this, and how is the budget derived?

>> well, in the west portal, the property owners are assessed.

Lisa pagan, and the property owners are assessed. The assessments go out on the

property tax bill, and they are due at the same time the property tax is due.

In other districts, not this

one, businesses could be directly assessed.

We do have one in the fisherman' s wharf area on the port side, but this is a

property based district, some

property owners are assessed, so --

supervisor cohen: all property owners, whether you are a commercial space or in residential >> within the boundaries of the management plan, yes.

>> but just to clarify, alisa, some of the tenants have

passthroughs, and the property owners will be passing through their costs.

that is not a universal thing.

Some of the leases prohibit a pastor, but in many cases, it will be the retailers who will be paying the cost.

Supervisor cohen: ok, lisa, could you describe the outreach?

>> lisa, if I could take that one?

This mini benefit district has been discussed at pretty much

every community meeting in emergency meeting I have attended since 2009.

I think even the concept of it was discussed prior to that.

More importantly, and I do not want to put too much on this on

one individual, but the first speaker we had, matt rodgers, I

think he has spent more time

talking to merchants over the past year note -- two years than running his own business. There has been a tremendous

amount of outreach, far

surpassing our which I have seen on just about every other issue.

A lot of community discussion, important not just with the emergence but with the neighbors, and that is why you see neighbors here who are speaking out on behalf of the issue.

Supervisor cohen: thank you. No further questions.

President Chiu: thank you.

Any further? This is closed. It will begin.

the board will continue with our

agenda, and we will await the department of elections for the tabulation of the ballot, and

when that ballot is tabulated, we will call that item and announce what the results are,

so at this time, it is 3:30, and

I would like to go to our 3:30 special orders with regards to commendations. We have several today. The first two will be presented by supervisor chu.

Supervisor chu: thank you,

President Chiu.

If I can ask Mr. Scott -- to show up?

I have served with him on a

board as a board appointee to

that body, but today, I just want to recognize scott for all of his work on the health service board.

He has taught me a thing or two about the work there.

In addition to those accomplishments, I do want to speak a little bit about the

person behind that.

In addition to his role there,

he also served formally as the council and general for the republic of rwanda.

He was a board member of a company, the director of the nasdaq insurance group, a managing partner, a former

director, with several other

companies he was at, and he has

served on the health service board as an appointee.

He has served under many

mayoral administrations, under mayor jordan, brown, mayor

newsom, and mayor lee, and, of

course, he served on that board wellcome as not only vice chair but as chair in many years.

He brought with him a significant business experience and really understood what it meant to have to deal with significant budget challenges over the years, and, of course, the one thing I always like to

say about scott, even though he

had such business acumen, and

people thought he could vote a certain way, he always found consensus, worked with members of the board, and always cared for the health service system members, so I do want to take time to recognize his contribution to the health service's board and to say thank you on behalf of the board of supervisors for your many years of service, and we hope you will serve the city again in a different capacity.

I know it supervisor elsbernd, who also served on the board, would also like to say something.

Supervisor elsbernd: we have served together. It may be appropriate that we are redoing this up here.

You know it can sometimes be a pain to be a providing officer -- presiding officer with me in the body.

He handed me perfectly.

You are a fantastic share.

You handled all of us well.

You handled the issue well.

i really learned a great deal

from working with you, and you

really epitomized for me what a public servant is. It was a true honor to serve with you, and I hope I get that opportunity again, and truly on behalf of all of the members of the system and all the residents of san francisco, thank you for all of the great work you did for the city on the health service board.

Supervisor chu: thank you, supervisor elsbernd. /

-- another one into the year, but she is stuck on another board, but she wanted to say something.

Would you like to say something?

>> I will say a few words, knowing how time is spread out and that we look down from the podium.

My kids should be sitting here, listening to their ears burned about their dad. [Laughter]

One thing I encourage every citizen to do is to take time

out of whenever they are doing to work in the place they live. They can think globally, but

they have to act locally, so it

was just a pleasure to do that,

and I recommend it.

Thank you very much.

President Chiu: I do seem ms.

dodd here.

Did you want to say something? >> catherine.. Health services.

I am so pleased that this formal city and county body is recognizing scots service.

Scott stands out in my memory as

having been around politics for

a long time as someone who works

with all sides to make sure they

get things done for the people

of san francisco and for the employees and retirees. I could always count on his advice, his honesty, and on him working with the other members of the board. I'm just grateful he is being acknowledged for his years of service, and I hope we can count on him serving on other important boards and commissions in the city and county. Thank you.

[Applause]

>> I am going to add one thing, that the best thing I did was to hire her.

[Laughter]

President Chiu: I know that

supervisor chu has another commendation, which she is rushing here to present. >> thank you. I would like to invite someone from the recreation and parks department.

As a district four supervisor, I

have had such pleasure to work with terry. Terry has been with the

recreation and parks department

since 1971, in nearly all of his 40 years of service with our sunset district parks.

He started out at an ocean beach. He spent some time at golden gate park.

Then another place.

For the last 17 years, he has been working at the playground

area as a groundskeeper, and he made sure to keep that area always very well maintained, not

only the soccer field but also the baseball diamond, and we have seen from many of our residents and the different little leagues that have come out to play, they have always

had such satisfaction playing on those fields. He used to have the assistance

of many other gardeners, but over the many mean years of the recreation and parks department, he has actually been single-

handedly keeping an area well maintained, and I do want to

thank him, because war is not for his dedication and all of

his work, we really would not see that quality that we have for all of our kids.

I do want to say thank you for all of your years. I know you are retiring.

It is a big loss to the sunset district, but we hope that you'll come out and cheer on the

teams that they play, and I do want to it knowledge that his brother eddie is your of the way from new jersey, and there are also a number of supporters here who have worked with him over the years.

thank you very much for all of

your service, and the sunset district will definitely Miss You. [Applause]

>> hi, I would just like to say

thanks very much for this show of appreciation.

I feel I have to accept on

behalf of a lot of people, a lot

of co-workers, members, but the carpenters, plumbers,

ironworkers, teamsters, electricians, you name it.

All of those guys help a person

like me keep a site functional

and up to snuff some people can

appreciate it, and I am definitely going to Miss It.

It was a great privilege to work

for the parks, and I have been through about eight mayors, about 14 general managers.

We have been reorganized about 22 times, but it seems that day today, it is pretty much the same, and the one thing I would ask as a small favor in your future deliberations of the budget, please slice off a little bit for the parks, because we need it. Some of us dogs need to get out of the way. That is so we can keep things function. Thank you.

[Applause]

president chiu: our next accommodation will be from our colleague, supervisor avalos.

Supervisor avalos: from the excelsior district, please come forward to the podium, with your loved one, as well.

collings, we have seen some

really great changes and civic

participation in this district

under the action group, and a lot of the people you see before

us have been working with the action group neighborhood

beautification, and is not just looking at our streetscapes and landscaping, but we have artists that have done wonderful work on our commercial corridor.

altogether about 12 murals, and now we actually have a walking

tour of this district, which, I

confess, I have not taken yet, so part of this accommodation is

setting a date for me to come and have a walking tour.

I have seen a lot of murals, but I have not seen all of them like

I would like to with your explanation.

They have done wonderful work in really beautifying our neighborhoods.

These have made a huge difference in preventing

graffiti but also showcasing the talents that we have in our midst.

We have a wonderful portal over

the 280 overpass, which

showcases different cultures of

our district, and there are many cultures from all over the

world, represented by the number

of streets and cities that we have, the names in the district,

and these artists we have before us, I will list some of their

names, and I hope I have this for everyone here.

If I call your name, please raise your name.

Gabriel and ryan.

Gabriel has just raised his hand. Ryan is not here.

They have been americorps

volunteers and basically single-handedly have been running this act -- action group over the past few months.

i want to thank you for your work.

Because a new holding it down, so many involved in the work you

are doing, and bringing in

volunteers to do the mural work,

all ages have been taking part.

These are americorps volunteers.

There are also used volunteers and muralists. Thank you for your work. max.

A native art teacher for several

years, and he has designed and worked on several murals and the

district, with oversight of 100 volunteers. And I see him out there.

It is amazing have been gets people involved and shows them how to work.

he designed something for the

upcoming festival, which I see he is wearing.

We have another him as merrill' s in san francisco and in tokyo, japan.

She is the director of a department. Thank you for your work in our district.

another person is here.

I am sorry if I did not get your name right.

Your project is on the corner of mission street.

Del then, a painter and muralist. Thank you for your work.

He creates socially conscious works.

i love the mural on the corner of francis and michigan' s street.

I just noticed it for the first

time -- at the corner of one street. Thank you for that. It is really a wonderful testament to what our neighborhood is about.

eric, who I do not seen here with us, who has done an amazing

work over the years across san francisco.

He is a native of this area and has been a resident for many years. He highlights people' s struggles and raising awareness for social consciousness.

Daron, thanks for being here.

he has roots in social activism.

He is a muralist and teacher,

currently a lead instructor at a youth based arts program in the mission.

He has nearly all of the way throughout california and down into mexico.

also, folks we May not have won four. Dan, he worked on another project.

Nico, your children? Great. He has merrill' s all over the

world, including in gonna and west africa.

There is an avid skateboarder and designer. thank you for your work in our

district, and ethan is also a contributor to the project. I just want to say thank you so much for your work. We' ll be showcasing many of

these artists in my office today

after the board meeting, and thank you so much for your work.

If any of you want to have a few

words with us, please come forward to the microphone.

[Applause]

>> well, hello, everybody. My name is gabriel.

I just want to thank you, john,

for giving us this opportunity today and to get some acknowledgement from the community and also citywide.

I also wanted to thank the office of economic work force development for providing the funding to be able to do a lot of these murals and the action

group also for imploringly for

one year and basically giving me artistic freedom to put this

project together and contact and work with all of these great people. Thank you also for being here today. That is about it.

Supervisor avalos: I does want to add.

it is just me talking at the microphone, but there are so

many people who are grateful for your work and for what you have done, and that is something you can take with you wherever you go. Thank you so much. [Applause]

if we can get a picture? It is kind of tight, but --

I will be on the end.

president chiu: our last commendation of the day will be from our colleague from district

1, supervisor mar.

supervisor mar: please come forward.

It is really an honor to

recognize one of the leaders,

the chapter President, karen bishop. She has been a mentor to me and

many other community in justice movements in the city.

She has been a leader of the san francisco unified school district staff.

When I think of her, I think of

compassion to empowerment and dignity. Those are the words that come to my mind when I think of Ms. Bishop.

She began working in the san francisco unified school district, and I know that

supervisors campos and kim and a number of other colleagues know

karen well, but Ms. Bishop was a library technical assistant

when she began in the school

district in 1968, and she was a

co-founder of the technical association in the district and served as its President For several years.

She became the vice president of the san francisco unified

school district chapter of

local 791 local 400 merged with

local 390 in 1982, and that was quite a while ago, karen.

She has also been the chair of a civil rights committee and a number of other positions, too.

She was on the working committee

that gave workers pay equity and

served on the local city-wide

negotiations in 1988 and continuously through 2006.

She also became President Of
the s&p nine you local in 1992
-- of the seiu local in 1992, and they went through the merger and transition in 2007.

That has been four years now.

Karen was awarded an award and officially retired. Congratulations from the san
francisco city and county, 2011,
concluding her term as the chapter President And as a
member of the seiu executive
board on August 27, 2011. We' re going to be voting on the comparative agenda in a few
minutes, declaring September 27,
2011, karen bishop stay in san francisco. It has been a pleasure to work with you.

i have learned so much from you.

Thank you for letting us honor you today, and I just want to ask if the other supervisors would like to say some words, as well?

President Chiu: supervisor camera?

Supervisor kim:

it is a good to see you today.

I remember you explaining to me

when you first came to the library years ago that the books

were put in order by color, and you came in, and I think just by yourself, you had to order all of your book -- all of the
books, and our school district

had for many of our important elements in our schools, it is

really because we defunded our schools since we passed proposition 13 in california.

I have incredible respect and admiration for you.

you have been a thoughtful

mentors, patiently educating me

on a variety of labor and public education issues, a dedicated leader, someone who truly cares

about your team and everyone

that you serve and represent an just a compassionate individual,

and one thing I always respect about your leadership as the president was really the

independence, that you have always never been scared to display, and I have always

respected the endorsements you have made. I have never been endorsed by the school chapter or the s e iou, but when the endorsements

would come out, I knew they had based their endorsements not on who they thought would -- who

would win or on politics.

I always had a tremendous amount of respect for your leadership and your team because of that, and over the years, I have stood

with seiu on all of my votes

because I respect to prospective

so much, not just as someone who cares about labor but someone who deeply cares about our

children, and you work with my

former news program and several others.

Going back to the days where we

used to cook meals for our students on school site, something I would love to see
come back again when we're able to fully fund our public
schools, as well, so thank you,
ms. Bishop, for all of the work you have done.

I am one of your admirers, and I hope we keep in touch. Thank you. [Applause]

President Chiu:

supervisor campos?

supervisor campos:

it is hard to

imagine us with at you and all that you have done.

One of the toughest jobs you can

have in government, and because a supervisor kim was saying,

funding for that system has been

going down since proposition 13, and I'

ve always appreciated the

way in which, and a very fair

mindful way, you always advocated to make sure that that system always did right by the children, by kids, and also by

its workers, and I do not know that you're going to find a stronger advocate for making

sure that kids and workers were

protected by that system, and

like I said, it is going to be

really hard to see how sentences for unified is going to function

going forward, but your legacy

remains, and I want to thank you

for everything you have done to

advance the education of so many

children here in san francisco and for your commitment to protecting and for serving the dignity of every worker who was working at san francisco

unified, not just because they are well paid. They could be making a lot more money somewhere else, but

because they believe in public education. thank you very much. It has been an honor for me to work with you. >> thank you. [Applause]

President Chiu: Ms. Bishop? >> yes.

I would like to thank you for this acknowledgment. I really appreciate it.

i actually started working for this city and county when I was

16, and I am now 63, so I have been working for the city my

whole life, and I was very much satisfied and taking pleasure in being able to provide the services for the citizens of san

francisco and the students of san francisco school districts,

and I appreciate very much your acknowledgments today. Thank you.

[Applause]

>> thank you. >> thinking.

President Chiu: that concludes our accommodations for today.

I want to thank all of our awardees, and with that, why do we not move to general public comment?

Clerk calvillo: the next item is the ability of the public to

address the board for up to two minutes, including those not on the reference portion of the agenda and excluding items which have been considered by the board committee.

Speakers using translation assistance will be allowed twice the amount of time.

If there is a document to be displayed on the projector, please remain it when it should return to live coverage of the meeting.

President Chiu: please proceed.

>> [Speaking foreign language]

david chiu.

[Speaking foreign language]

hosni mubarak.

[Speaking foreign language]

hosni mubarak.

[Speaking foreign language]

Mr. President, our supervisors,

as you know, my name -- as a

community activist, I would like

to tell you I was, enjoyed it

last sunday the program for the

gentleman use a and the lady of the united states michelle obama.

for Mrs. Barbara marshall.

The woman he used to be -- and she made a service to her

community to feed the homeless

who are coming from the war and found themselves on the street. 15 years.

Our supervisor, guess what? I come with a good idea.

Great supervisor, if each one of

you decided to build a house in

your district to help the

veteran, then we are never going to see homeless.

Supervisor, do not be scared.

I do not like to be shared.

I give you a chance to be sure of. But on one condition.

Prove it that you can do something before you leave.

Building a house for the people

in your district to help the veteran people. We do not need to waste the money for the drug dealer, for the drug addict.

you know that, and I know that,

but I give you a chance, and you have a chance to do something

else before you leave your office to go to the sheriff' s office.

I wish you good luck, and a promise to support you and be beside you.

president chiu: thank you. Next speaker.

>> good afternoon, supervisors.

Stop the rape of the public library.

Do not give money to the friends or accept money from them.

I apologize for that, but it May be a blessing in disguise because I did not quite get to the point.

When I get up and talk about the library, the point is it is not really about the library.

It is about what happens to our institutions when they are run

by our increasingly private ownership.

The public library is interesting because it is presumed to be the most democratic of our institutions.

the right of the public to be informed is essential to any exercise of democracy.

For that reason, it is crucial but the public library has

become the worst example of what happens to institutions when the purpose becomes to maintain

class barriers and to promote the interest of private money.

there is no accountability for the public money that is spent on the library. There is no accountability for the private money that is raised. There is no accountability of

where that private money goes,

even though little is used for the public benefit. A matter of record.

most of all, there is no

accountability for the sunshine and ethics violations that allow them to operate with impunity and in secret.

The church is, we are being enslaved with private money.

Are you prepared for a city hall

where the citizens cannot criticize corporations because

corporations paid for the chairs?

not only is that what they do in san francisco public library, but they will tell it to your face.

It is all about their fund- raising, and it is an open

secret that there is the influence it buys in city hall.

If you do not care about the

library, the point is still what they have done to the library is something they can do to whatever else do care about. The lies cost more than the money.

President Chiu: thank you. Next speaker.

>> thank you.

Overhead please.

Tom, south beach marina apartments.

Let' s see what we have got here.

We are stepping out of my neighborhood.

i do not get around to much --

too much, as much as I would like. That looks more like san francisco and south beach.

Victorians and what we have got

here is

it could be the haze, could be west portal.

What we have got here are three fans.

These are industrial fans.

There is a yellow bar up top. It is to a garage.

the driveway goes south.

Here is a better idea of it.

Those industrial fans, if you want to hear what an aircraft

carrier sounds like or if you

know of a punk band that once

music for their crashing guitars

to go in and out of, those fans do a wonderful job.

They work during operating hours during the daytime.

This is mission street, where the driveway comes out of. This is across the street.

that is what it bounces into.

It must come up to near 70 decibels.

It goes up the block to lexington.

It is at 18th in the mission.

It takes the noise of the

mission and makes

more noise, throwing it up to san carlos. Then it goes up to lexington.

Who is making the noise , who is

spreading the noise, who gets to digest it?

president chiu: excuse me. Thank you for your time.

Thank you. Next speaker.

>> thank you. I am from the fillmore

neighborhood.

I came here to check in with

supervisor mirkarimi about the

2011 sra enforceable operation payment schedule.

This is the document and it is

really hard to see.

Basically, over September,

October, November, December,

there will be \$1.8 million into

the fillmore neighborhood totaling \$7.5 million.

This ordinance is 3106a that was

put out by ross.

What I want to do is , according

to this ordinance, the

redevelopment has continued in this neighborhood around

housing and to existing

covenants, contrast, obligations.

Also, to redress the demolition

of a substantial number of

residential dwelling units for moderate to low income. To the greatest extent possible.

I wanted to check in with

supervisor mirkarimi -- we have a unique situation where the redevelopment in this city is

both in the neighborhoods -- I

do not see the impact in terms of african american people,

people with certificate holders.

I do not see the impact. I want to make sure that these funds are being utilized to the very maximum they can.

They are being doled out as we speak.

i think this is the perfect opportunity. Thank you.

President Chiu: thank you. Next speaker.

>> good day, supervisors. I am going to put this on the overhead.

Today is a case on the sunshine organists task force.

i saw -- I hope some of the supervisors who are on this list are involved in this issue.

Supervisor:, supervisor wiener, supervisor chu, I hope they will speak on this.

In the key is the 14 amendments the were added on to the agreement that should not have been allowed.

They should have notified the tenants properly. this is critical when you are talking about housing and issues of housing in the city.

We have not seen significant action by this board on the

issue of creating rental housing throughout the city.

When you see news houses -- when you see news articles about schools not discussing where they are going to be located and

how they will be assigned to a district.

i think this is the redlining occurring again.

A process of eliminating diversity in the city is creeping up again.

If we are going to be a city of only millionaires, that is going to be a problem. If we have to have housing for the working class.

We have yet to see something in its scope or of the same scale that would help to develop housing for working class is in the city.

I think that is part of the key

issue here and why this tenant filed her complaint.

Four tenants

have filed formal complaints. Something is wrong with this board, over half of which approved.

This is a deeply concerning issue that you should take to

heart in terms of the election, the lack of discussion in terms of people running for mayor. That is the key issue.

Transit-oriented development is not the only issue.

you have got to connect the dots and be able to develop housing.

You need rental housing in westport, nothing else.

>> my interests in the city are personal, direct from my experience.

I think change has to be made.

People have to take seriously

that we have thugs running and harming people.

Not sufficient education and protection for our future and for the children of the city.

when I have come over and over

to mayors or supervisors or

people running for mayor, I said

it is a good idea to give me some protection.

Instead, I cannot even get so

much as a respite.

i get 10 hours of sleep in five

days after a broken arm, concussion, anything else. When I came to you, I was promised health and respite.

I have been asking -- I sing happy songs for kids. I have no convictions.

Yet 75 times, I have been

illegally tortured, I have come to you with torture. I have come to you to protect

women new respect.

I want change that is sufficient and helpful and I want to be

able to be a part, maybe even a paid participant.

I had a genius iq.

i care and see whats wrong.

No one will protect my campaign. I do not have a campaign now. I have nothing. Zero. A life preserver.

A bone was good.

I at least got a pay your fair

share that was on the buses.

How about stop the graffiti that

is dragged into our brains on a

regular basis on these buses. We do not need that.

If I were here, the people who

have the filth of the automobiles would be refunded. It would be getting free bus

service that works.

I cannot get a platform together.

President Chiu: thank you very much. The next speaker.

>> my name is larry. I have a little experience.

I did run for mayor in 1999.

i did get eight votes.

I am here today to say welcome to this new room you are all in.

Today is the anniversary, 48 years ago they had a rebellion.

I want to invite the supervisors and the community to come out

this friday to city hall from 5:00-9:00.

They are going to have President

Barack obama rolled to a national a top.

They need you to come and give out information. Some people will not be able to be here because it is payday.

but san francisco will be the

first city in the 15 -- in the

50 states to develop a national

policy for President Obama in 2012. I have been using medical

marijuana and it has promoted racism.

another thing I found out, in

bayview, on the 29th, this chicken is so good it can help

you get over racism, homophobia.

It was so good I started crying. I thought I was at a funeral.

If we need more people to eat some of this.

j & j fish is good.

I am telling you.

I want to ask the brothers at bca.

We need you to come to city hall this friday and give out what

you know about aids and how it

is affecting us.

We need a national policy on this.

I want you to supervise our loved.

The fish, good fish that makes you feel godly.

President Chiu: thank you for that. The next speaker, please.

>> good afternoon, ladies and gentlemen.

And the circus we call the board of supervisors.

We do things a little different in the bay area than the rest of the nation, don' t we?

yes, they rip you off constitutionally.

For 165 years, we have horse

boarding in the county of san francisco.

At its epicenter, it is ground

zero where william hammond hall, the designer of golden gate park, built the stables.

There were tragically closed

September of 2001 by resolution from this board of supervisors

stating that they would reopen it in the quickest, most efficient manner possible.

here we are 10 years later and not one shovel of dirt has been

lifted to bring those stables

and the community of people that

were as historic as any community in this city, like i

said, 165 years.

We had public horse boarding in the city.

It brings me to the subject of sleeper politicians.

We know what sleeper cells

are, but what is a sleeper politician? It is someone who says or does anything to get into office.

once they get to office -- he shoots the public in the back of

the head, just like major nadal

malick hassan

did at fort hood.

except we are dealing with politicians aren' t legislation instead of bullets. It is the same effect.

President Chiu: thank you very much. Thank you very much.

Next speaker.

>> I am here for a third time.

I have some handwritten notes that I wanted to give to your clerk. Perhaps you can hand them over to the supervisors, each a copy for them.

Today I want to speak about what

i call the ark.

In memory of a doctor who practiced here in san francisco.

I would like to recommend that the city of san francisco

engraved the stone sculpture

that sits on polk st.

on the far left by mcalester and

with the following words, "let him kiss me with the kisses of

his mouth for your love is more beautiful than mine."

I have a few words I would like to share.

"I believe in justice and mercy.

I believe in the bible and the charter of the united nations. I believe in the oath of office.

Therefore, the people of the state of california are hereby

accuse, the 44th President Of the united states of america, of

high crimes and misdemeanors.

Specifically, the murder of Dr.

Robert c. Scott."

thank you.

President Chiu: thank you.

Any other members of the general public who would like to comment?

Seeing none, public, is closed. why don' t we go to our four- o' clock special order? Items 31-34.

Clerk calvillo: this comprises a

special order at 4:00.

Persons on the special interests

of the planning commission

conditional use authorization to install a wireless telecommunications facility consisting of nine antennas on the roof of a five-story publicly used structure located

at 4141 geary boulevard and 46 ave.

Item 32

-- the motion approving the planning commission decision.

Item 33 -- a motion disapproving the planning commission decision related to a conditional use.

Item 34 -- a preparation of the findings.

Supervisor mar: i moved to suspend this so that the sponsor can spend time meeting with the

of pellets -- the

appellates, angeles children' s center so they can work out an agreement.

I am doing my best to work between them to come up with an agreement.

i make a motion to continue this

until October 25, 2011.

President Chiu: supervisor mar

has made a motion to continue to October 25. Seconded by supervisor mirkarimi.

Are there any members of the public who wish to speak on whether or not we should

continue this item to the 25th? Seeing none, public, is closed.

On a motion to continue, any objection? These items will be continued to the 25th of October. Why don'

t we move to hour closed session.

Could you please call items 35 and 36?

Clerk calvillo: item 35 is the

board of the supervisors to convene in a closed session today to consult with legal

counsel regarding anticipated litigation regarding the public financing law.

Item 36 is from the rules -- Mr.

President, you asked me to read item 36 as well?

it is on the rules committee on the campaign and governmental conduct code.

Capping the amount of public matching funds.

President Chiu: at this time, members of the public, I would like you to step outside while we consider these items.

as soon as folks have cleared out of the room, we will start the proceedings.

president chiu:

colleagues, we are back in open session.

Welcome to the board of supervisors meeting for the 27 of September.

There was a motion supervisor

kim had made the was seconded by supervisor campos. He clerk reminded me we need to make sure there is no objection to going into closed session.

there was not and we were in closed session.

Now that we have come out, could I ask for a motion that we do

not disclose information we

discussed in closed session?

Motion passes.

That is item 35. Why don' t we move to item 36, which has already been read?

Item 36 is the legislation proposed by supervisor farrell

around tapping of the amount of

public matching funds -- capping

the amount of public of matching

funds.

Supervisor kim: this was a very important case that we need to understand. It was important we have the discussion today.

For members of the public, three months ago the supreme court

issued a ruling striking down the financing law which allows publicly funded candidates to

receive additional dollars of of an enumerated expenditure

ceiling when a privately funded candid that exceeded that ceiling.

The majority opinion was clear that it was not the amount of financing dollars but how it was provided.

they argued this "shilled 1st

amendment rights"

and allowed the pocketed kennetts to benefit.

the court held that the

presidential public financing system was constitutional.

In that stated the policy was created to reduce the deleterious influence of contributions to our electoral process and to facilitate

communication by canada' s to the electorate.

The court recognize that large, private contributions May result

in political quid pro quo and weaken confidence in our political system.

The court declared that it does not infringe upon first amendment values.

The justice clearly stated in her dissent that the majority holds that the sec and the state system, the system that produces honest government, working on

behalf of all honest people, clashes with the constitution.

It seems the we have this very case coming to us in san francisco.

questioning and a weakening of the public financing laws that we have put into place. While I understand my

colleagues who put this forward in to avoid litigation and pay attorneys' fees, they want to further weaken democracy.

I feel we did not fully examine our more comprehensive amended which would eliminate the trigger element of our public financing laws.

But also make reforms that would

strengthen our original intent in trading public financing laws.

Which is to decrease public perception of opportunities of

abuse for deep pocketed

contributors and insure the integrity of our electoral process.

Supervisor farrell: colleagues and members of the public, to

read it -- to reiterate for last week. This has to do with the supreme court' s recent decision

regarding arizona as public financing laws. I would like to thank Mr. St.

Croix for advising us on this matter.

Earlier this summer, the U.S. Supreme court struck down part of arizona as public financing laws.

that part is very analogous, virtually identical, to san francisco'

s laws.

The purpose of this legislation

was to make sure we were in compliance with the supreme court.

I appreciate supervisor kim'

s

objection, but this is to -- but this has been decided by the supreme court.

We are not here to decide it.

It is that President We have

when we say idyllic -- when we say ideology is more important.

We are being reactive to the U.S. Supreme court.

that applies to us here at the board of supervisors as it does everywhere else in this country.

Scores of other jurisdictions

are amending their laws and,

just to reiterate for the public, arizona, connecticut, florida, hawaii, maine, nebraska, north carolina, west virginia, wisconsin, albuquerque, and particularly in new haven connecticut.

These jurisdictions all amended their finances and had them struck down by a court of law. we need to too to avoid a lawsuit.

We are playing roulette with taxpayer dollars. I appreciate supervisor kim enter comments, but I strongly disagree and urge my colleagues to support this.

We can support any future law as we would like to, but right now let's make the change. Let's get in line with what the U.S. Supreme court has already decided.

Supervisor wiener: I am a strong supporter of public financing.

I supported the extension of public financing to make oral campaigns. At the time, there were those who were against them.

I support the supreme court decision.

My personal view is terrible and representative of a terrible trend of the decade and this court. With that said, we are faced with a choice.

I know that we will come up with a good way to amend our public finance law in the future to try to address the challenge that the supreme court has thrown our way.

Now our choice is, what course to we take in terms of protecting taxpayer dollars from being socked away in attorneys' fees?

We have gone down this path before.

Our general fund is so depleted and funds are so scarce and we have so many services that we are dramatically underfunding, I cannot vote to keep this aspect of the system in place.

I will be supporting this amendment as proposed.

Supervisor cohen: thank you.

As many of you know, I was elected with a publicly financed campaign.

i believe the spirit of this and the intent of public finance -- of publicly financing candidates is to help candidates such as myself.

They have a dream and an aspiration to serve, but they do not come with big pockets, big friends and come from an economically disadvantaged position to the table.

I understand and respect the spirit and intent of this legislation.

It is very hard to cast a vote today. I am going to be voting in favor of this item that supervisor farrell has put before us.

But begrudgingly.

Because it is the law and the supreme court has issued a statement.

It would be

very selfish of us and irresponsible for us not to take this into consideration.

I do not believe that we are in

the right financial climate to

challenge the supreme court, even if that -- if that is even possible.

It would be irresponsible of us

to hemorrhage good public dollars to fight this case.

It is an interesting dilemma we are in.

I will be supporting this legislation.

Thank you, supervisor farrell and supervisor elsbernd for putting this forward. It is difficult for some of our other members on the board to

summit because you understand the intent as to why public financing was created.

But thank you for your leadership on this important issue and protecting our city and finances.

President Chiu: supervisor wiener, did you have another comment?

Supervisor campos.

supervisor campos: I do not want to delve into the specifics of what is a very complicated issue. It is important for us to make

sure we are in full compliance with the U.S. Supreme court and san francisco will make sure that happens.

It is not about whether or not we are going to do that.

It is about the best way to do that.

for me, it is about making sure we proceed expeditiously but

proceed in a way that ensures the we have considered all

options that are legally liable. For that reason, I will be

voting no to that.

--

I will be voting no today.

Supervisor kim: I want to clarify my position.

I concur with supervisor campos.

I wanted a little more time and wanted to come up with a more comprehensive amendment that would abide by the supreme court ruling and would be constitutional, but would also

further our intent of protecting the integrity of our electoral process.

I am not here to stand up to the supreme court.

I disagree with the ruling, but I understand that we need to

bring our laws in line with

what the supreme court has deemed constitutional.

I think we could have had a different set of reforms in front of us today.

Supervisor farre!: I appreciate that. That clarity.

But are you saying we are going

to delay or gamble with taxpayer dollars? That is something I'm

fundamentally unwilling to do in

the face of the supreme court having decided that our laws

are not in line with their decision. I appreciate the banks this has caused.

We have a rich history of public financing that has benefited a lot of us on the board.

However, it is gambling tax payer money. Especially in light of our budget, hundreds of millions of dollars in deficit for the next year' s s.

To me, this is an egregious
mistake if we go against this.

President Chiu: I am going to reluctantly be voting in favor of this legislation. the supreme court has spoken. While I disagree with that decision, it is the law of the land. That is the basis for my vote.

That being said, I will and many of my colleagues will join in asking the ethics commission to
expeditiously consider, advise, promote other options to help strengthen our public financing system in the wake of this decision. To make sure we
can strengthen
the system in ways that we know will absolutely pass constitutional muster.

I look forward to working with Mr. St. Croix and others.

Any other discussion?

is there a motion being made to continue?

Are we taking an up and down vote on this?

Why don' t we take an up or down vote on this?

Supervisor campos: no.

president chiu: aye.

Supervisor chu: aye.

Supervisor cohen: aye.

Supervisor elsbernd: aye.

Supervisor farrell: aye.

Supervisor kim:ano.

Supervisor mar: aye

-- no.

Supervisor wiener: aye .

Supervisor avalos: aye.

Clerk calvillo: there are 7 aye'

s and 3 no' s.

President Chiu: this required eight votes. The motion does not pass.

Supervisor elsbernd: to those

who voted no, I would like to continue the item for a couple of weeks to give you that opportunity.

supervisor kim has sat through three hearings in the last couple of weeks ago we have yet

to steer -- yet to see any actual options.

I would like to see that move forward so we can save the city some money.

If we let this die, it would be

very derelict in your duties. Why don'

t we move to continue

the vote until two weeks?

You can come up with the elixir that every other city in the country has been unable to come up with.

But at least you can try to save us some money.

president chiu: there is a motion to continue.

Clerk calvillo: we would have to continue this for three weeks.

Supervisor elsbernd: do you think you can come up with the magical elixir in three weeks?

supervisor kim: I appreciate the motion.

I actually looked at Mr. St. Croix to see if that would be enough time.

Supervisor elsbernd: I will just withdraw and hope you can come up with something on your own.

president chiu: is there a

motion to rescind?

I would certainly make one, but I want to -- where are we?

Supervisor elsbernd, have you withdraw your motion?

I am sure the naysayers know what they' re doing.

i will leave it to them.

Supervisor wiener: we all know this will not be fixed in two or three weeks. It has to go through the ethics process, through the committee, through this board. It is a lengthy process and not something you' re going to want

to rush. You want to do it the right way.

Supervisor elsbernd: supervisor mirkarimi was not here.

There were only three people who voted no. Perhaps supervisor mirkarimi will vote yes.

if he votes yes, we will not

have to have this, so I vote to continue it for one week.

President Chiu: I have one question for our attorney. Could be a menace to include other aspects of the public financing?

Or does anything have to go back to the ethics commission?

maybe we could ask our outside

counsel.

I think I know the answer to

that, I think it is no.

>> if there is a substantial change, it has to go back to --

President Chiu: supervisor farrell has introduced this in response to the supreme court case. We have legislation to deal with that. If we are making a change under

the same subject matter, to make our system as constitutionally tight as possible, would that fall under a change we can make

your at the board without going back to ethics?

>> I do not have the exact

text, but I understand it has to start at the ethics commission.

perhaps you could make a suggestion to the ethics

commission and then it comes back to you.

>> if you' re going to make

changes, it has got to be

adopted by a super majorities of both committees.

It does have to go back to ethics.

The way the wording is, ethics

is suppose to acts -- act first, but there is nothing to keep both bodies from acting simultaneously. The only thing that would have

to happen in ethics, is a final vote by ethics before it goes to the board.

President Chiu: when is the next meeting of your commission?

>> October 19, which is a special day because our normal day is --

supervisor avalos: any way to have a special meeting?

>> I would work to pull a special meeting together if it were necessary. I am sure the ethics commissioners would be as cooperative as possible.

Just a caveat, they are 5 busy people scheduling meetings.

Supervisor wiener: I am not

going to fight this, but I have

not heard what the proposal is. This has been percolating around since June

with a huge process.

i would think that if someone

had the great idea for how we change the system, that would have come of already and probably would have been packaged with this already.

I do not think anyone wanted to amend this without a replacement, if a replacement existed.

has the ethics commission come

up with a day -- I have not heard any of my colleagues or anyone say that there is some sort of great idea.

>> of all of the solutions we

analyzed, this was the one that maintained the integrity of the three purposes of public financing and also addressed the issue of the trigger.

Supervisor wiener: supervisor farrell'

s proposal? >> right. The other solutions did not work. There were rumblings that something else would come up.

I have not seen anything yet.

it is still possible.

Supervisor campos said maine is working on something that will fit within the framework. They are not done yet.

Supervisor wiener: I do not know.

This is a little perplexing to me. There is literally nothing on

the table in terms of this is something you can substitute it with.

If that might happen in three

months or six months, who knows?

I guess we are not making a plea to the three of my colleagues who voted against this.

I just do not understand why we

would reject this, given what we

know of the state of the law,

the lack of a current alternative.

There are a lot of smart people involved in this process who

will think of one if one exists.

We know what is before us right

now and what is facing us right now and the severe risks that are facing us.

I just do not understand.

Supervisor farrell:

to add to that point, no other jurisdictions, and there are a lot of other jurisdictions, have come up with a solution.

This has been around since the summer.

No other jurisdictions have come up with a solution. To think we are going to

implement something in one week

that will stymie a lawsuit and

save our taxpayer dollars is a dream.

I am all for finding a long-term solution to this, but right now it is fixing the problem at hand.

President Chiu: supervisor cohen.

Supervisor cohen: nothing.

President Chiu: there is no motion in front of us to rescind this vote.

supervisor elsbernd: I will make

the motion to rescind or one week and hear from supervisor mirkarimi.

President Chiu: seconded by supervisor campos.

Any objection to the motion to rescind?

Without objection, this motion passes.

we will continue this meeting to October 4.

Supervisor elsbernd: would it be advisable from the city attorney to continue the closed session

item to next week so he can get whatever briefing he might need?

president chiu: we ended the closed session.

He was with us during a good portion of it.

He had chapter duties and had to leave.

Supervisor wiener: there was a

fire with about 25 units or something like that.

president chiu: the motion to continue has been passed for one week. Thank you to our outside counsel and the head of our ethics commission. Why don't we move back to the four-o'clock special order with regards to west portal'

s

community benefits meeting.

clerk calvillo: the return for

the voting was 48.92% and the

balance voting against it was

51.08%.

There is a majority protest.

president chiu: the opponents have prevailed and it would be

in order for us to entertain a motion to table.

Supervisor elsbernd: I will make that motion, but before I do I want to say a few things.

Unfortunately, matt rodgers had to leave. I would like to publicly congratulate him for showing real leadership in the corridor. Leadership that had not been seen in decades.

A really great job in public service. I am very disappointed for him and all the merchants who supported this because this did not happen.

I would say to the naysayers, a lot of misinformation was put

out there and I really hope those who said they opposed it but actually support the concept do not sit back and run away from the issue.

I hope they step forward and try to make this happen.

This is absolutely critical to the future of that corridor. It needs to happen.

With that, I make the motion to table.

president chiu: is there a second to that? Seconded by supervisor campos.

If we could take that motion without objection, the item is tabled.

Onto our reference counter. Items 37-47.

Clerk calvillo: these are being

considered for immediate and unanimous adoption.

They will be enacted by a single roll call vote.

Unless a commissioner -- unless a supervisor request discussion.

President Chiu: would anyone

like to supervise -- separate any items?

Rollcall vote.

supervisor campos: aye.

President Chiu: aye.

Supervisor chu: aye.

Supervisor elsbernd: aye.

Supervisor kim: aye.

Supervisor farrell: aye.

Supervisor mar: aye.

Supervisor wiener: aye.

supervisor avalos: aye.

Clerk calvillo: there are ten ayes.

There is

an imperative item declaring September 27, 2011 to

be karen bishop day in san francisco.

President Chiu: supervisor mar has made a motion to adopt.

Seconded by supervisor avalos. Any public comment on this item?

With regard to motions of the

commendatory of finding, could we do that without objection?

those motions are made.

Could we take the underlined item and to do that same house,

same call?

Without objection, this is passed.

Clerk calvillo: today' s meeting

will be adjourned in memory of

mr. Jerry palsman.

President Chiu: is there any other business in front of this body?

Clerk calvillo: that concludes the business for today.

President Chiu: ladies and gentlemen, we are adjourned.