


**COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE ON PUBLIC SAFETY AND THE JUDICIARY  
COMMITTEE REPORT  
1350 Pennsylvania Ave, NW 20004**

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**TO:** All Councilmembers  
**FROM:** Councilmember Phil Mendelson,   
Chairman, Committee on Public Safety and the Judiciary  
**DATE:** November 25, 2008  
**SUBJECT:** Report on Bill 17-843, “Firearms Registration Amendment Act of 2008”

The Committee on Public Safety and the Judiciary, to which Bill 17-843, the “Firearms Registration Amendment Act of 2008” (introduced as the Firearms Control Amendment Act of 2008) was referred, reports favorably thereon with amendments, and recommends approval by the Council.

**CONTENTS**

I.	Background and Need .....	1
II.	Legislative Chronology .....	10
III.	Position of the Executive .....	11
IV.	Summary of Testimony .....	11
V.	Impact on Existing Law .....	14
VI.	Fiscal Impact .....	14
VII.	Section-by-Section Analysis .....	14
VIII.	Committee Action .....	16
IX.	Attachments .....	16

**I. BACKGROUND AND NEED**

Bill 17-843, the Firearms Registration Amendment Act of 2008, amends the District of Columbia Firearms Control Regulations Act of 1975, in light of the United States Supreme Court decision in *District of Columbia v. Heller*, 128 S. Ct. 2783 (2008).

**Heller case; Council emergency bills**

On June 26, 2008, the United States Supreme Court issued a 5-4 decision in *District of Columbia v. Heller*, 128 S. Ct. 2783 (2008), which held that the Second Amendment guarantees an individual’s right to possess a firearm for the lawful purpose of self-defense within the home. In *Heller*, the Court struck down two provisions of the District’s Firearms Control Regulations Act of 1975 (1975 Act) as unconstitutional.<sup>1</sup> First, the Court overturned the District’s total ban on handguns. Second, the Court found that the District’s safe storage provision, requiring that all firearms including rifles and shotguns, be kept “unloaded and disassembled or bound by a trigger

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<sup>1</sup> D.C. Law 1-85; D.C. Official Code § 7-2501.01 *et seq.*

locks”, is unconstitutional because it does not contain an explicit exception for self-defense. The Court stated: “[i]n sum, we hold that the District’s ban on handgun possession in the home violates the Second Amendment, as does its prohibition against rendering any lawful firearm in the home operable for the purpose of immediate self-defense.”<sup>2</sup>

The Council acted swiftly in response to the *Heller* case by adopting the Firearms Control Emergency Amendment Act of 2008 (D.C. Act 17-422) on July 15<sup>th</sup>, which was signed into law by the Mayor on July 16<sup>th</sup>. D.C. Act 17-422 permitted the registration of pistols and explicitly allowed an immediate self-defense exception to the safe storage provision of the law.

However, another provision of the 1975 Act, which had not been challenged in *Heller* and which was not addressed by the Supreme court, effectively prohibited the registration of most semi-automatic pistols because the typical semi-automatic can be fitted with a large ammunition magazine (containing over 12 rounds) and thus is considered a machine gun as that term is defined in the 1975 Act. Pursuant to law, machine guns are prohibited weapons in the District of Columbia.

In order to address this concern, the Council passed a subsequent piece of emergency legislation, the Second Firearms Control Emergency Amendment Act of 2008 (D.C. Act 17-502) on September 16<sup>th</sup>, which was signed into law by the Mayor on the same day. D.C. Act 17-502 changed the definition of machine gun. This allowed for the registration of most semi-automatic handguns and rifles. D.C. Act 17-502 also clarified the law’s safe storage provisions.

Although the District noted during litigation of the *Heller* case that there had never been any prosecutions under this provision, the Council believes that a safe storage requirement is an important statement of policy and direction consistent with accepted firearms training. The District was, and continues to be, concerned about a potential increase in accidental shootings in the home and wants laws that reflect standard gun safety practices. Best practices in other states are to impose penalties for the reckless storage of firearms when a minor accesses, or could access, the firearm. Given the lack of prosecution under the District’s 1975 safe storage law, and the primary goal of reducing the likelihood of accidental shootings, the Council believes that the child access prevention (“CAP”) law is the better approach.

D.C. Act 17-502 also prohibits large capacity ammunition feeding devices (such as a magazine or ammunition feed strip) similar to a provision in the now-lapsed federal assault weapons ban, so as to prevent the ability of an individual to fire a large quantity of ammunition without having to pause to reload. This change became necessary because the Council changed the definition of machine gun within the D.C. Official Code. D.C. Act 17-502 also limited the number of handguns any one individual may register at one time. Both Maryland and Virginia generally limit handgun purchases to one-per-30-days, per individual. The Council adopted similar language in D.C. Act 17-502.

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<sup>2</sup> *District of Columbia v. Heller*, 128 S. Ct 2783, 2821-2822 (2008).

### **Bill 17-843**

The Committee held one hearing on gun control generally, and two public hearings on Bill 17-843 specifically, in order to receive as much public comment as possible in crafting this bill. The District shares the problem of gun violence with other dense, urban jurisdictions – a problem which is quite different than the experience in suburban and rural America. The District, however, has a unique distinction: as the nation’s capital it hosts a large presence of government and diplomatic officials. The Committee is cognizant of its duty to give law enforcement every tool to protect all citizens from violence, but also to protect these officials from assassination. Cathy Lanier, Chief of the Metropolitan Police Department, testified to this fact before Congress on September 9, 2008.<sup>3</sup>

On the last page of its *Heller* opinion, the Supreme Court acknowledged “the problem of handgun violence in this country,” and the Court noted that, “The Constitution leaves the District of Columbia a variety of tools for combating that problem, including some measures regulating handguns.”<sup>4</sup> Keeping this in mind, the Committee has kept most of the provisions from D.C. Act 17-502 intact, and has added several additional provisions. The primary provisions of Bill 17-843 are discussed below.

### **Registration**

There is no comprehensive federal system of firearm registration. Federal law prohibits the use of the National Instant Criminal Background Check System (NICS) to create any system for the registration of firearms or firearms owners.<sup>5</sup> Nationally, however, seven states and the District of Columbia require registration of some or all firearms. Nine states have statutes prohibiting them from maintaining a registry of firearms.<sup>6</sup> Hawaii and the District are the only states that require all firearms to be registered. However, many major cities, including Chicago, Cleveland, and New York, have a system of firearm registration.

The Committee believes that the District must maintain a strong firearms’ registration law because it is part of a sound gun policy. Registration is critical because it: gives law enforcement essential information about firearm ownership, allows officers to determine in advance whether individuals involved in a call may have firearms, facilitates the return of lost or stolen firearms to their rightful owners, assists law enforcement in determining whether

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<sup>3</sup> Chief Lanier stated, “The terrorist attacks of September 11<sup>th</sup>, 2001, demonstrated something that we have known for some time: government facilities, dignitaries, and public servants are prime targets for terrorists, both foreign and domestic. Protecting government officials and infrastructure is a challenge for every city in the United States. But in Washington, DC, the likelihood of attack is higher, and the challenges to protecting the city are greater. The District’s high concentration of iconic structures—such as the national monuments, the White House, and, of course, the Capitol—make it a highly attractive target.” Testimony of Cathy L. Lanier, *Hearing on the Impact of Proposed Legislation on the District of Columbia’s Gun Laws*, United States House of Representatives, Committee on Oversight & Government Reform, Honorable Henry A. Waxman, Chair, September 9, 2008, Page 2.

<sup>4</sup> Id. at 2822.

<sup>5</sup> 28 C.F.R. § 25.9(b)(3).

<sup>6</sup> Legal Community Against Violence, *Regulating Guns in America: An Evaluation and Comparative Analysis of Federal, State and Selected Local Gun Laws* (hereafter “LCAV”) (2d ed. 2008) at 190.

registered owners are eligible to possess firearms or have fallen into a prohibited class, permits officers to charge individuals with a crime if an individual is in possession of an unregistered firearm, and permits officers to seize unregistered weapons.

Some critics of gun registration complain that only law abiding citizens comply. Let's assume *arguendo* that they are correct. Registration is enormously beneficial to law enforcement because it readily identifies criminals, and provides a means to readily arrest them. Registration also provides a means to enhance criminal penalties. For instance, police suspect gang activity, obtain a warrant, search a house, but find only unregistered weapons. Because of registration, the police can make an arrest. Or, police apprehend an armed-robbery suspect. Not only will he do time for the robbery, but he will do additional time because of the registration law. By separating the law abiding from the criminal, registration gives police additional law enforcement power.

Juliet Leftwich with the Legal Community Against Violence ("LCAV"), testified during the October 1, 2008 hearing that while the District has a good registration law in place, it needs to be strengthened. In LCAV's opinion, the most important way to strengthen the law would be to require that registration be renewed annually. The Committee believes that annual registration may be too burdensome for gun owners, and instead believes that registrants should attest to their address and possession of the firearms every three years. In addition, registrants should undergo a background check every six years. By having renewable registration of firearms, the District will be able to better track where firearms are located and allow MPD to have a better sense of whether a registered gun owner has become ineligible to own a firearm (e.g. due to a felony conviction or CPO in another state).

In developing this provision with the Executive, the Committee envisions that re-registration may be relatively easy. The attestation of address and firearms in possession could be done by mail or on-line. MPD should notify the applicant but, much like DMV, the burden is on the registrant to re-register regardless of notice. The sexennial background check would entail a fee (the FBI processing charge) but might be handled again by mail or on-line. The background check is critical, in our view, because it is more genuine than NICs check (the former being based on fingerprints, the latter based on identification card, which may be false).

#### Safe Storage Law -- CAP

As stated earlier, in D.C. Act 17-502, in order to ensure compliance with the ruling in *Heller*, the Council amended the District's safe storage provision. Bill 17-843 adopts the language of D.C. Act 17-502. The language is based on the CAP law in Connecticut. The provision states that a person may not keep or store a firearm on any premises they control if a minor can gain access to the firearm, unless the person keeps the firearm in a securely locked box, secured container, or in a location which a reasonable person would believe to be secure, or if the person carries the firearm on his person or within such close proximity that he can readily retrieve and use it as if he carried it on his person. The person faces civil and criminal penalties

if they fail to take these precautions and either a minor gains access to the firearm or injures themselves or others.<sup>7</sup>

Bill 17-843 makes two changes from the second emergency regarding the CAP provision. First, the provision applies to all firearms, not just loaded firearms. Second, it increases the age of the minor from under 16 to under 18 years of age. The Committee believes that the child access prevention provision is necessary and useful because the research shows that CAP laws are effective at reducing unintentional firearm deaths among children. LCAV testified before the Committee that the presence of unlocked guns in the home increases the risk of both accidental gun injuries and intentional shootings. They cited a study showing that more than 75% of the guns used in youth suicide attempts and unintentional injuries were stored in the residence of the victim, a relative, or a friend.<sup>8</sup> LCAV also found that in states where CAP laws had been in effect for at least one year, unintentional firearm deaths fell by 23% from 1990-94 among children under 15 years of age.<sup>9</sup> They also cite a 2005 study finding that the practice of keeping firearms locked and unloaded serves as a protective measure to reduce youth suicide and unintentional injury in homes with children and teenagers where guns are stored.<sup>10</sup>

While there are no CAP laws at the federal level, there are more than two dozen states that have enacted laws to keep guns out of the hands of children. The CAP laws throughout the country range from imposing criminal liability when a minor gains access to an improperly stored firearm, to merely prohibiting persons from directly providing a firearm to a minor. Fourteen states, including Maryland, California, Connecticut, and Texas, have CAP laws that impose criminal liability when a minor gains access to an improperly stored firearm. Additionally, fifteen states define the term ‘minor’ as someone under the age of 18. The Committee believes that the CAP law in Bill 17-843 is a sensible alternative to the problematic 1975 safe storage provision, and that it is vital in order to safeguard the lives of children.

### Ballistics and Microstamping

All firearms leave unique markings on the bullets and shell casings they fire. Ballistic identification laws enable law enforcement to link bullets and shell casings recovered at crime scenes to the firearm that fired them by test firing the firearm. During the October 1<sup>st</sup> hearing, Josh Horwitz, Executive Director of the Educational Fund to Stop Gun Violence (“Ed Fund”), testified on ballistics identification – specifically on a technology called “microstamping.” Microstamping can identify the serial number of a firearm directly from an expended cartridge case found at a crime scene. It utilizes laser technology to engrave microscopic markings (in the form of alpha and geometric codes) on the internal parts of a firearm, e.g. the breech face and the tip of the firing pin. When the firearm is fired, the markings are stamped onto the cartridge.

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<sup>7</sup> The Committee Print retains language originally from the 1975 Act as a statement of policy – that it is the policy of the District that all firearms, regardless of child access, should be stored unloaded and either disassembled or secured – but no criminal penalty attaches to this and it uses the word “should.”

<sup>8</sup> Juliet Leftwich, Legal Community Against Violence, *Testimony on Bill 17-843, Firearms Control Amendment Act of 2008*, October 1, 2008, at 6.

<sup>9</sup> *LCAV*, (2d ed. 2008), at 233.

<sup>10</sup> *Id.*

According to the Ed Fund, microstamping is superior to traditional methods of ballistic identification because the markings are intentionally stamped onto the cartridge, versus relying on unintentional markings. The markings identifying important information about the firearm, such as make, model, and serial number of the weapon.<sup>11</sup> The goal of microstamping is to identify a firearm the first time it is used to commit a crime.<sup>12</sup> On October 13, 2007, California became the first state mandating the microstamping of all new models of semiautomatic handgun models sold in the state beginning in 2010. The legislation was supported by 65 police chiefs throughout California.

Traditional methods of ballistic identification involve focusing on the tool marks on the interior surface of a firearm that are transferred from the firearm to an expended cartridge when the firearm is fired. These unintentional marks are a product of the manufacturing process. For decades, ballistic identification has relied on highly trained firearm examiners to analyze the marks by hand to make matches between a cartridge and a recovered firearm. Around 10 years ago the federal government created the national Integrated Ballistic Information Network (NIBIN) program to allow for computer-assisted searches of digital images of cartridges found at crime scenes. According to the Ed Fund, the problem with NIBIN is that it “relies on the same unintentional markings used by firearm examiners and cannot lead investigators directly to a specific firearm and its serial number, unless that weapon is eventually recovered.”<sup>13</sup> Unless a weapon has been used before in a crime, and recovered, and therefore entered into NIBIN, law enforcement will learn relatively little from a newly-recovered shell casing. With microstamping, however, law enforcement will almost immediately know the precise gun and its purchaser from the newly recovered shell casing, if from a semiautomatic pistol, even if never before used in a crime, and even if never having been entered into NIBIN.

This problem is highlighted by what has occurred in the State of Maryland over the past eight years. Maryland created the Maryland Integrated Ballistics Identification System (“MD-IBIS”) program in 2000, at a cumulative cost of \$2.5 million. A September 2004 report by the Maryland State Police Forensic Science Division found that “[c]ontinuing problems include the failure of the MD-IBIS to provide any meaningful hits. There have been no crime investigations that have been enhanced or expedited through the use of MD-IBIS...It is recommended that this Program be suspended...”<sup>14</sup>

Despite the results in Maryland, MPD insists that a DC-IBIS will work better. At the October 1<sup>st</sup> hearing, Chief Lanier testified that she believes that the District will have better success than Maryland because MPD would use trained firearms examiners (unlike what occurred in Maryland) and since MPD is test-firing all weapons to retrieve ballistics, the District would not have the problem of dealers not submitting authentic casings (as was the case in Maryland). In addition, Chief Lanier testified that the District would have better representation of crime scene evidence than either Maryland or New York because local jurisdictions process

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<sup>11</sup> Testimony of Joshua Horwitz, Executive Director, Educational Fund to Stop Gun Violence, *Public Hearing on Bill 17-843, Firearms Control Amendment Act of 2008*, October 1, 2008, at 2.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 1.

<sup>14</sup> Maryland State Police, Forensic Science Division, *MD-IBIS Progress Report*, September 2004.

most crime scenes. Chief Lanier stated that because MPD would be tracking both registered guns and crime scene evidence, there will be increased probability of a hit. Additionally, microstamping is not as useful for revolvers (since rarely are revolver shell casings left at a crime scene), and microstamping will apply only to newly manufactured pistols. For the reasons articulated by Chief Lanier during the hearing, the Committee has decided to retain the emergency acts' requirement that MPD conduct ballistic identification as part of the registration process for all handguns.

### Assault Weapons

The proliferation and use of assault weapons poses a threat to the health, safety, and security of all citizens of the District. Assault weapons are military-style weapons of war, made for offensive military use. The Committee concurs with the federal Bureau of Alcohol, Tobacco, Firearms and Explosives' (ATF) description of assault weapons as "mass produced mayhem,"<sup>15</sup> and ATF's finding that assault weapons are disproportionately likely to be used by criminals. The Committee also agrees with ATF that assault weapons "are not generally recognized as particularly suitable or readily adaptable to sporting purposes" under the test established by the federal Gun Control Act of 1968.<sup>16</sup> Assault weapons have no legitimate use as self-defense weapons, and would in fact increase the danger to law-abiding users and innocent bystanders if kept in the home or used in self-defense situations.

As stated in the above paragraph, assault weapons are military-style weapons made for offensive military use. They are designed with military features to allow rapid and accurate spray firing. They are not designed for sport, but to kill people quickly and efficiently. Assault weapons also have features such as pistol grips and the ability to accept a detachable magazine. Pistol grips help stabilize the weapon during rapid fire and allow the shooter to spray-fire from the hip position. Assault weapons are generally equipped with large-capacity ammunition magazines that allow the shooter to fire many more rounds than conventional firearms. In addition, features such as barrel shrouds on assault pistols protect the shooter's hands from the heat generated by firing many rounds in rapid succession.

During the Committee's October 1, 2008 hearing, Brian Siebel, Senior Attorney with the Brady Center to Prevent Gun Violence testified on behalf of the Brady Center on the need for an assault weapons ban. The Brady Center testified that law enforcement officers are at particular risk from assault weapons due to their high firepower – which often times leaves officers outgunned by criminals. They cited several high-profile shootings involving law enforcement against criminals with assault weapons – including a 1994 incident at MPD headquarters that left one MPD officer and two FBI agents dead and another FBI agent seriously wounded.<sup>17</sup> The Brady Center further testified that assault weapons pose a risk to civilians and homeland security – the latter being a problem that is unique to the District, since it is the nation's capital. Assault weapons are preferred by terrorists, and would pose extraordinary risks to citizens, government

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<sup>15</sup> ATF, *Assault Weapons Profile* 19 (1994).

<sup>16</sup> *Id.* at 20.

<sup>17</sup> Testimony of Brian J. Siebel, Senior Attorney, Brady Center to Prevent Gun Violence, *Bill 17-843*, October 1, 2008 at 3.

officials, visiting dignitaries, and law enforcement if they were allowed in the District of Columbia.

Further, the proliferation and use of .50 BMG rifles, as defined in Bill 17-843, poses a clear and present terrorist threat to the health, safety, and security of all residents of, and visitors to, the District, based upon findings that those firearms have such a high capacity for long distance and highly destructive firepower that they pose an unacceptable risk of death and serious injury of human beings, destruction or serious damage of vital public and private buildings, civilian, police, government and military vehicles, power generation and transmission facilities and transportation infrastructure. The Committee also finds that these weapons are particularly dangerous and have no legitimate use for self-defense.

Seven states currently ban assault weapons – California, New Jersey, Hawaii, Connecticut, Maryland, Massachusetts, and New York. California expanded its ban in 2000 to include all semiautomatic rifles or pistols that have the ability to accept a detachable magazine and contain one of a series of military-style features. The Committee has adopted the California language in Bill 17-843.

In adding an assault weapons ban to Bill 17-843, the Committee believes that it has not impinged on the Constitutional rights of law-abiding citizens of the District of Columbia to own and use legitimate self-defense firearms within the home. The Committee finds that assault weapons and .50 BMG rifles are a minute fraction of the firearms available in the United States, they have never been in common use, they are dangerous and unusual, and they pose an especial problem for public safety in the nation's capital.

### Unsafe Pistols

During the October 1, 2008 hearing on Bill 17-843, Daniel Webster, Co-Director of the Johns Hopkins Center for Gun Policy and Research, testified on numerous aspects of firearms laws. Mr. Webster suggested the Committee prohibit "unsafe handguns." These are a category of handguns characterized by their very small size, concealability, and poor construction, e.g. "saturday night specials." Unsafe handguns are more prone to accidental discharge, lack safety devices to prevent unintended discharge, misfire, and are prone to firing when dropped. In addition, these types of guns are disproportionately favored by criminals (because of their cheapness and concealability), and are less accurate and less reliable for self defense. Mr. Webster also testified that five states, including Maryland, have banned these unsafe guns. He stated that his research on Maryland's ban on these guns shows that the law was associated with 40 fewer homicides per year during the first 9 years the law was in place.

California has enacted a comprehensive scheme to identify and test handguns to ensure that they meet minimum standards for safety. Testing includes: identification of safety devices, a firing requirement to assess the propensity for misfiring, and a drop test to assess the propensity to fire when dropped. Pursuant to California Penal Code section 12131, the California Department of Justice developed and updates a roster of approved firearms that may lawfully be sold in California because they have met all standards to determine that they are not unsafe



handguns. The Committee has added a provision in Bill 17-843 that states that no handgun that is not on the California Roster of Approved Firearms as of January 1, 2009, may be manufactured, sold, given, loaned, exposed for sale, transferred, or imported into the District of Columbia. In addition to incorporating the current California roster, the Committee Print authorizes the Chief of Police to continually update the roster through rulemaking.

### Other Provisions

In addition to the above mentioned provisions, Bill 17-843 also includes provisions dealing with a number of other public safety issues. Some of the more significant of these are discussed below. See the section-by-section analysis for others.

Bill 17-843 would make permanent revisions made in the Second Emergency (D.C. Act 17-502) permitting the registration of semiautomatic pistols. The 1975 law defined "machine gun" by capacity (over 12 rounds) rather than action (automatic v. semiautomatic). Thus, "machine gun" included almost all semiautomatic weapons because they are capable of taking (although not originally sold with) extended magazines. To fix this problem, since semiautomatic pistols are a common and popular weapon, Bill 17-843 redefines "machine gun." To deal with the capacity issue, the bill prohibits large capacity magazines ("large capacity ammunition feeding devices"), borrowing language from the now-lapsed federal assault weapons ban and current California law. Although the Committee heard testimony that magazine capacity of up to 20 rounds is not uncommon and "reasonable," and that an expert could reload 10 round clips within "seconds," the Committee agrees with the Chief of Police that the 2 or 3 second pause to reload can be of critical benefit to law enforcement, and that magazines holdings over 10 rounds are more about firepower than self-defense. Limiting fire power and desiring to advantage the police, especially given homeland security issues in the District, the Committee recommends the ban on extended clips.

The committee print also updates the law regarding disqualifications to registration. In the 1975 act, the Council prohibited felons and mentally ill, for instance, from being allowed to register a firearm. Bill 17-843 adds to the disqualifications being convicted of an intrafamily offense. Research shows there is a higher incidence of gun violence by perpetrators of domestic violence. Similarly, being the respondent to a civil protection order correlates to domestic violence (and higher risk for gun violence). In this regard the bill tracks federal law with some modifications. The bill also specifies that "mental disorder" (not just commitment) is a disqualification. The Committee makes these changes because it believes a more effective approach to controlling gun violence in lieu of complete prohibition, post-Heller, is to disqualify individuals at higher risk of misusing a firearm (e.g. in suicide, or rage).

The committee print retains authorization, first enacted in D.C. Act 17-422, for the Chief of Police to set a fee for conducting ballistic identification procedures. The Committee is concerned that the total cost to register a firearm not be unduly burdensome, and it is expected that the aggregate cost will be close to \$100. But there is a cost for fingerprinting, the ballistic test, processing, and to maintain a database. The print uses the phrase "reasonable fees" to emphasize that the government must hold down the cost to the private citizen.

The committee print also retains, from the second emergency, the one-gun-per-month registration provision. Studies show that laws restricting multiple purchases or sales of firearms are designed to reduce the number of guns entering the illegal market and to stem the flow of firearms between states. Jurisdictions with weaker firearms laws may attract gun traffickers who make multiple purchases and resell the guns in jurisdictions with stronger firearms laws. Studies also show that handguns sold in multiple sales to the same individual purchaser are frequently used in crime. Three states, California, Maryland, and Virginia, have laws limiting firearm purchases or sales to one per month.

### Conclusion

The Committee believes that the above stated provisions in Bill 17-843 comply with the United States Supreme Court's decision in *District of Columbia v. Heller*, while at the same time allow the District to protect its citizens and maximize public safety with reasonable and sensible gun policy. The Committee recommends approval of Bill 17-843, the "Firearms Control Amendment Act of 2008" as amended.

## II. LEGISLATIVE CHRONOLOGY

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|--------------------|---|
| June 26, 2008      | United States Supreme Court decides <i>District of Columbia v. Heller</i> .   |
| July 1, 2008       | Bill 17-843, the "Firearms Control Amendment Act of 2008 is introduced by Councilmember Mendelson, and is co-introduced by Chairman Gray and Councilmembers Alexander, Barry, Bowser, Brown, Catania, Cheh, Evans, Graham, Schwartz, Thomas, and Wells. |
| July 2, 2008       | Committee holds public oversight hearing on "The United States Supreme Court's decision in <i>District of Columbia v. Heller</i> ."   |
| July 11, 2008      | Notice of Intent to Act on Bill 17-843 is published in the <i>D.C. Register</i> .   |
| July 15, 2008      | Council unanimously adopts D.C. Act 17-422, the "Firearms Control Emergency Amendment Act of 2008."   |
| August 1, 2008     | Notice of Public Hearing is published in the <i>D.C. Register</i> .   |
| August 22, 2008    | Notice of a Second Public Hearing is published in the <i>D.C. Register</i> .  |
| September 16, 2008 | Council unanimously adopts D.C. Act 17-502, the "Second Firearms Control Emergency Amendment Act of 2008."  |
| September 18, 2008 | The Committee on Public Safety and the Judiciary holds a public hearing on Bill 17-843.   |

- October 1, 2008      The Committee on Public Safety and the Judiciary holds a second public hearing on Bill 17-843.
- October 7, 2008      Council unanimously adopts (on final reading) D.C. Act 17-536, the “Firearms Control Temporary Amendment Act of 2008.”
- November 25, 2008    The Committee on Public Safety and the Judiciary marks-up Bill 17-843.

### III. POSITION OF THE EXECUTIVE

Peter Nickles, Attorney General for the District of Columbia, and Cathy Lanier, Chief of Police of the Metropolitan Police Department, testified on behalf of the Executive. The Executive supports Bill 17-843, as amended.

### IV. SUMMARY OF TESTIMONY

The Committee on Public Safety and the Judiciary held two public hearings on Bill 17-843. The first hearing was on Thursday, September 18, 2008 and the second hearing was on Wednesday, October 1, 2008. The testimony summarized below is from both hearings. In addition, the Committee received several written statements from individuals and organizations unable to testify during the September 18<sup>th</sup> hearing. These statements are summarized below and as well.

#### September 18, 2008

**David White, Public Witness**, testified that he supports less restrictive gun laws so that he can better protect himself and his family. He stated that he was pleased with the steps the Council had taken so far.

**Dick Anthony Heller, Public Witness**, testified that he supports less restrictive gun laws because criminals don't follow laws, and since terrorists have weapons, citizens should have them as well in order to defend themselves.

**Ron Moten, Co-Founder, Peaceoholics**, testified in support of stricter gun laws. Mr. Moten stated that he is in favor of stricter penalties for persons who sell guns to children.

**Dane vonBreichenruchardt, President, U.S. Bill of Rights Foundation**, testified in support of less restrictive gun laws. Mr. vonBreichenruchardt stated that his views are similar to Mr. Heller and that he wants the Council to obey the U.S. Supreme Court's decision in the *Heller* case.

**Robert Moore, Public Witness**, testified that he wanted to see the process to register long-arms made more convenient or abolished.

**Tim Little, Public Witness**, testified as to the problems he encountered with the registration process and urged MPD to consider a streamlined process. He also stated that he supports the actions the Council has taken to comply with *Heller*, especially the child access prevention provision.

**Deborah Jane Anderson, Public Witness**, testified that she supports less restrictive gun laws. Ms. Anderson stated that she has been a crime victim more than once, and for that reason wants the Council to pass gun laws that would allow all persons the right to carry their guns outside of the home.

**Mark Anderson, Public Witness**, testified that he supports less restrictive gun laws. Mr. Anderson stated that the Council should not make gun ownership overly inconvenient and expensive, and that safe storage provisions can not be adequately addressed through legislation.

**Amy McVey, Co-Founder and President, CapitalGunOwners.org**, testified that gun ownership does not make one a criminal, and that she supports less restrictive gun laws. Specifically, Ms. McVey stated that she wants the law changed to allow open carry, and that she would like the firearm registration process streamlined.

**George Lyon, Co-Founder, CapitalGunOwners.org**, testified that he had a number of suggestions for the permanent legislation, including repealing the prohibition on defensive use of firearms by citizens, adopting gun safety programs for the public schools, adopting a nondiscretionary provision for licensing persons to carry handguns, streamlining the gun registration process, and repealing the limitation on non-lethal weapons.

**Paula Miller, CapitalGunOwners.org**, testified in support of less restrictive gun laws.

**Gillian St. Lawrence, CapitalGunOwners.org**, testified that she supports the Council's efforts to allow the registration of semiautomatic handguns, but that she would like to see other changes made to the law, namely streamlining the gun registration process.

**Ricardo Royal, National President, Community Association for Firearms Education**, testified the Committee should amend the law so that the District's transportation laws are in line with federal standards, and that the law should be strengthened regarding training requirements.

**J. Bradley Jansen, Director, Center for Financial Privacy and Human Rights**, testified that the Council must approach the gun control question as it would the rest of the enumerated rights, such as the right to freedom of speech, assembly, association, etc. He stated that failure to act appropriately may jeopardize home rule for the District.

**Richard Gardner, Attorney for Mr. Heller**, testified that he supports less restrictive gun laws and that the Council should fully comply with the *Heller* decision.

**Janae Grant, ANC Commissioner, 5A11**, submitted a written statement in general support of Bill 17-843. Ms. Grant suggested lengthen the number of days before a registrant can

register additional firearms, from 30 days to 90 days. She also supports ballistic testing, the safe storage provision, and training requirements.

*Alex Sutono*, submitted a written statement in support of allowing semiautomatic handguns to be registered in the District.

*Lee Foullon*, submitted a written statement in support of revising Bill 17-843 to permit the sale or transfer of Curio and Relic firearms.

*Jake McGuigan, Director of Government Relations, National Shooting Sports Foundation, Inc.*, submitted several statements and information papers. The National Shooting Sports Foundation does not support ballistic testing, microstamping, or one-gun-per-month laws.

October 1, 2008

*Joshua Horwitz, Executive Director, Educational Fund to Stop Gun Violence*, testified in support of Bill 17-843, with amendments. Specifically, Mr. Horwitz testified to the benefits of microstamping and why it augments traditional methods of ballistic identification. Mr. Horwitz stated that microstamping enhances traditional methods of ballistic identification because the intentional markings are designed to be stable and easily extractable.

*Juliet Leftwich, Legal Director, Legal Community Against Violence*, testified in support of Bill 17-843, with amendments. Ms. Leftwich testified on the benefits of registering firearms, licensing of gun owners, firearms safety training, better regulation of firearms dealers, safe storage – specifically child access prevention laws, and waiting periods. Ms. Leftwich suggested that the Committee amend Bill 17-843 so that the CAP provision applies to children under the age of 18, versus under the age of 16, as is in the emergency and temporary legislation.

*Brian Siebel, Senior Attorney, Brady Campaign to Prevent Gun Violence*, testified in support of Bill 17-843, with amendments. Mr. Siebel testified on the dangerousness of assault weapons, specifically how these weapons pose a threat to citizens, law enforcement, and homeland security. He also testified on the need to ban the .50 caliber BMG sniper rifle because of the huge risk this weapon poses to public safety.

*Daniel Webster, Co-Director, Johns Hopkins Center for Gun Policy and Research*, testified in support of Bill 17-843, with amendments. Mr. Webster testified that the Committee should amend Bill 17-843 to prohibit domestic violence offenders from being able to possess firearms, and that the bill should prohibit “junk guns” – such as Saturday night specials – because of the unique danger such weapons pose to the public.

*Peter Nickles, Acting Attorney General, District of Columbia*, testified in support of Bill 17-843, with amendments. Mr. Nickles testified that Bill 17-843 be amended to: (1) align the District’s transportation laws with federal standards; (2) provide for the revocation of firearms registrations for all person subject to a CPO; (3) clarify that public and private property owners in the District have the authority to prohibit the possession of firearms on their property; (4)

extend the provisions of the CAP law to other classes of individuals; and (5) strengthen penalties for possessing unlawful ammunition and illegally possessing firearms outside of a person's home.

*Cathy Lanier, Chief of Police, Metropolitan Police Department*, testified in support of Bill 17-843, with amendments. Chief Lanier testified that she believes that MPD should continue to perform ballistic testing on registered firearms, and that the CAP laws should be reinforced with an educational component. Further, Chief Lanier testified that the registration process for firearms is vital and enhances public safety, and that there would be real public safety benefits to requiring firearms to be re-registered.

## V. IMPACT ON EXISTING LAW

Bill 17-843 would amend the Firearms Control Regulations Act of 1975 effective September 24, 1976 (D.C. Law 1-85; D.C. Official Code § 7-2501.01, *et seq.*) In understanding legislative intent, it is important to read as well this Committee's report on Bill 17-593, the "Inoperable Pistol Amendment Act of 2008." Bill 17-593 is being recommended together with Bill 17-843, both dealing with the regulation of firearms in the District.

## VI. FISCAL IMPACT

The Committee has requested a Fiscal Impact Statement from the Chief Financial Officer. Attached, however, is the CFO's fiscal impact statement on the Second Firearms Control Emergency Amendment Act -- an emergency version of Bill 17-843. The Committee believes that funds are sufficient in the FY 2009 budget and the proposed FY 2010 through FY 2013 budget and financial plan to implement Bill 17-843.

## VII. SECTION-BY-SECTION ANALYSIS

Section 1 states the short title of Bill 17-843.

Section 2

- (a) amends definitions.
- (1) Revises "firearm"; see Bill 17-593.
- (2) Adds "intrafamily offense."
- (3) Revises "machine gun."
- (4) Revises "pistol" consistent with the Committee's work on Bill 17-593.
- (5) Revises "shotgun" to allow the same barrel length (18 inches) as permitted under federal law. By requiring a 20 inch barrel, the District has been out of step with common practice.
- (6) Adds "assault weapon," "magazine," "capacity," ".50 BMG rifle," and ".50 BMG Cartridge."

(b)(1) Revises transport requirements to be consistent with the provisions in D.C. Code Title 22, Chapter 45.

(2) Adds provision allowing temporary possession within a home by another person, for immediate self-defense, if the other person within the home is not otherwise prohibited from possessing firearms. The reason for this provision is to allow a person within the home, who is not the registrant of the firearm, to use the firearm for self-defense.

(c) Revises 7-2502.02 to permit the registration of handguns, pursuant to Heller, and to prohibit the registration of unsafe firearms, assault weapons, and .50 BMG rifles.

(d)(1) Changes from 5 years to 10 years the prohibition on registration of firearms various prohibited classes of persons, and adds persons convicted of "intrafamily offense" being prohibited from registering firearms. Adds mental disorder within immediately preceding 5 years as a disqualification to registration. Revises test applicants must take to emphasize familiarity with use, handling, and storage. Adds as a disqualifier to registration/possession the registrant having been the subject of a CPO.

(2) Requires Chief of Police to conduct a ballistics test for each pistol being registered, limits registration to one pistol per registrant per 30 day period, and authorizes the Chief to establish a reasonable fee.

(e)(1) The Chief may require any person applying for a registration certificate to be fingerprinted if, in his judgment, this is necessary to conduct an efficient and adequate investigation into the matters described in § 7-2502.03. Any person who has been fingerprinted by the Chief within 6 years (changing from 5 years) prior to submitting the application need not, in the Chief's discretion, be fingerprinted again if he offers other satisfactory proof of identity.

(2) Revises transport requirements to be consistent with the provisions in § 22-4501 *et seq.*

(f) Authorizes the Chief to offer a discount on registration fees of up to 50% for any registrant who has completed a course in firearms safety and proficiency. The Committee wants the public policy to encourage gun owners to be knowledgeable in firearms safety and proficient in their use. Thus, an earlier subsection ((d)(1)) revises the emphasis of the registration test, and this subsection allows a small financial incentive for greater training.

(g) Provides for re-registration, by requiring that registration certificates expire three years from the date of issuance. Although MPD shall mail renewal notices to registrants, the requirement is analogous to motor vehicle registration: the duty to renew is solely on the registrant regardless of what MPD or the U.S. Mail does. This subsection also requires that all existing registrations (*pre-Heller*) be re-registered within three years. In this way, the MPD shall have on up-to-date registration database.

(h) This subsection amends the existing law to establish a two-tier system of penalties for failure to report a change of address or a lost, missing, or stolen firearm. The first offense is a civil fine of \$500. The second offense shall result in revocation of the registration.

- (i) Requires microstamping on all semiautomatic pistols sold after December 31, 2010.
- (j) Prohibits unsafe firearms (a defined term) from being brought into the District or registered after December 31, 2008. A felony penalty attaches to this provision.
- (k) Prohibits possession of large capacity ammunition feeding devices.
- (l) Revises the safe storage requirement to be a child access prevention law, consistent with many other states. A felony penalty attaches is violation leads to injury or death.
- (m) Codifies right of the District government and private property owners to prohibit or restrict the possession of firearms on their property. Although there are few instances where this issue could arise, given the restrictions on carrying firearms in Title 22 as amended, on situation could be a residential landlord who does not want his tenants carrying firearms within their apartments.
- (n) Amends D.C. Code § 7-2551.01 to conform the definition of “assault weapon” to the new definition in § 7-2501.01.

Section 3 Savings clause.

Section 4 Fiscal impact statement.

Section 5 Effective date.

## VIII. COMMITTEE ACTION

On November 25, 2008, the Committee on Public Safety and the Judiciary met to consider Bill 17-843, the “Firearms Registration Amendment Act of 2008.” The meeting was called to order at 10:50 a.m., and Bill 17-843 was number seven on the agenda. After ascertaining a quorum (Chairman Mendelson and Councilmembers Alexander, Bowser, Cheh, and Evans present), he moved the print with leave for technical changes. During the opportunity for discussion, Councilmember Cheh raised concerns with provisions dealing with public and private property owners, training, reporting lost or stolen firearms, and persons with mental illness being prohibited from registering. Chairman Mendelson agreed to work with Councilmember Cheh on amendments to the print for first reading. After the opportunity for discussion, the vote on the print was unanimous (Chairman Mendelson and Councilmembers Alexander, Bowser, Cheh, and Evans voting aye). He then moved the report with leave for staff to make technical and editorial changes. After opportunity for discussion, the vote was unanimous (Chairman Mendelson and Councilmembers Alexander, Bowser, Cheh, and Evans voting aye). The meeting adjourned at 11:53 a.m.

## IX. ATTACHMENTS

1. Bill 17-843 as introduced.
2. Selected testimony and comments.

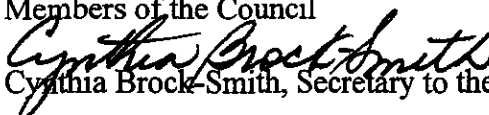


3. Fiscal Impact Statement for Second Emergency.
4. Committee Print for Bill 17-843.

**COUNCIL OF THE DISTRICT OF COLUMBIA**  
1350 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004

**Memorandum**

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To: Members of the Council  
From:   
Cynthia Brock-Smith, Secretary to the Council  
Date: July 7, 2008  
Subject: Referral of Proposed Legislation

Notice is given that the attached proposed legislation was introduced in the Legislative Meeting on Tuesday, July 01, 2008. Copies are available in Room 10, the Legislative Services Division.

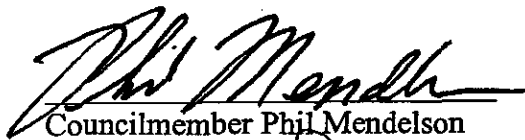
TITLE: "Firearms Control Amendment Act of 2008", B17-0843

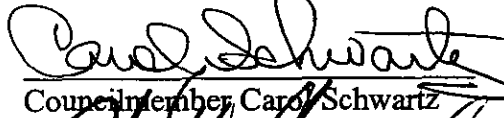
INTRODUCED BY: Councilmembers Mendelson, Evans, Schwartz,  
Catania, Brown, Graham, Cheh, Thomas, Wells,  
Barry, Bowser, Alexander and Chairman Gray

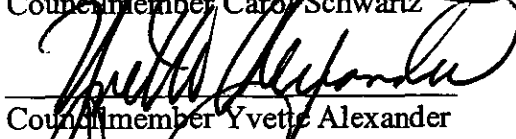
The Chairman is referring this legislation to the Committee on Public Safety and the Judiciary.

**Attachment**

cc: General Counsel  
Budget Director  
Legislative Services

  
Councilmember Phil Mendelson

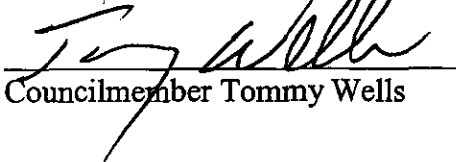
  
Councilmember Carol Schwartz

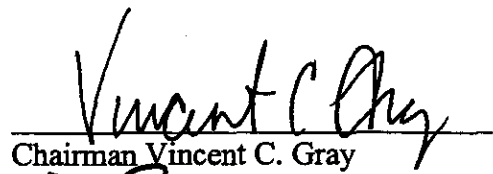
  
Councilmember Yvette Alexander

  
Chairman Muriel Bowser

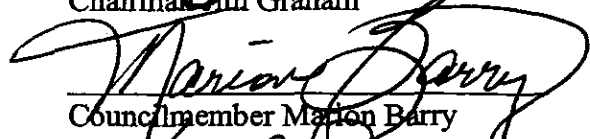
  
Councilmember Jack Evans

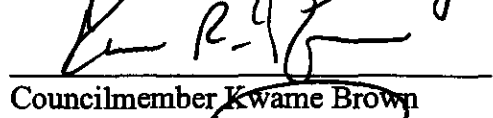
  
Councilmember Mary Cheh

  
Councilmember Tommy Wells

  
Chairman Vincent C. Gray

  
Chairman Jim Graham

  
Councilmember Marion Barry

  
Councilmember Kwame Brown

  
Councilmember Harry Thomas, Jr.

  
Councilmember David Catania

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A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Chairman Vincent Gray, Councilmembers Phil Mendelson, Carol Schwartz, Jim Graham Yvette Alexander Marion Barry, Muriel Bowser, Jack Evans, Harry Thomas, Jr., Mary Cheh, and David Catania introduced the following bill, which was referred to the Committee on

To amend the Firearms Control Regulations Act of 1975 to repeal the prohibition on the registration of pistols, to require a ballistics record for each registered pistol, to require a waiting period when registering a firearm, and to establish a self-defense exception to the requirement for safe storage of firearms in the home.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that this Act may be cited as the "Firearms Control Amendment Act of 2008".

Section 2. The Firearms Control Regulations Act of 1975, effective September 24, 1976

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(D.C. Law 1-85; D.C. Official Code § 7-2501.01, *et seq.*) is amended as follows:

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(a) Section 202 (D.C. Official Code § 7-2502.02) is amended as follows:

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(1) Subsection (a)(4) is repealed; and

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(2) Subsection (b) is repealed.

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(b) A new section 203a is added to read as follows:

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“203a. Ballistics Record.

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“For each pistol subject to an application for a registration certificate the Chief shall obtain an accurate ballistics print.”

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(c) Section 206(a) (D.C. Official Code § 7-2502.06(a)) is amended to read as

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follows:

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“(a) An application for a registration certificate shall be filed, and a registration certificate issued, prior to a person or organization having possession of the firearm in the District. The Chief may authorize possession of a firearm without a registration certificate having been issued only if an application for a registration certificate has been filed and such other requirements have been met as the Chief prescribes by regulation.”

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(d) Section 702 (D.C. Official Code § 7-2507.02) is amended to read as follows:

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“Sec. 702. Except for law enforcement personnel described in section 201(b)(1), each registrant shall keep any firearm in his or her possession unloaded and either disassembled or bound by a trigger lock or similar device unless such firearm is kept at his or her place of business, or while being used for lawful recreational purposes within the District of Columbia, or for the purpose of immediate self-defense in his or her home.”

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Sec. 3. Fiscal Impact Statement.

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The Council adopts the fiscal impact statement in the committee report as the fiscal  
impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,  
approved December 24, 1974 (87 Stat. 813, D.C. Official Code § 1-206(02(c)(3)).

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Section 4. Effective Date.

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This Act shall take effect following approval by the Mayor (or in the event of veto by the  
Mayor, action by the Council to override the veto), a 30-day period of Congressional review as  
provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December  
24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of  
Columbia Register.

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educational fund to   
**STOPGUNVIOLENCE**  
 *imagine a future free from gun violence*

Testimony of  
**Joshua Horwitz**  
Executive Director

***Public Hearing on the  
“Firearms Control Amendment Act of 2008”***

Committee on Public Safety and the Judiciary  
Council of the District of Columbia

October 1, 2008

John A. Wilson Building  
1350 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004

Good morning, Chairman Mendelson and members of the Committee on Public Safety and the Judiciary. I appreciate this opportunity to speak to you today on the critical issue of firearm laws in the District of Columbia.

My name is Joshua Horwitz and I am the Executive Director of the Educational Fund to Stop Gun Violence (Ed Fund). The Ed Fund is a national non-profit organization in Washington, D.C., that seeks to secure freedom from gun violence through research, strategic engagement and effective policy advocacy.

I would like to focus my remarks today on the topic of comprehensive ballistics identification—specifically on a technology called “microstamping.” We recommend that the District of Columbia require all new semiautomatic pistols sold in the city to be microstamped starting in 2011. This would assist law enforcement in identifying gun traffickers, discourage straw purchasers, and help solve gun crimes. Equally important, microstamping is an inexpensive technology that requires no new databases and produces no burden for law-abiding gun owners. The technology is utilized only when a gun is used in a crime.

Currently deployed ballistics technology focuses on the tool marks on the interior surface of a firearm that are transferred from the firearm to an expended cartridge during the firing process. These unintentional tool marks are a by-product of the manufacturing process. For over 100 years, highly trained firearm examiners examined these marks by hand to make matches between a cartridge(s) found at a crime scene and a recovered firearm. Starting about ten years ago, the federal government created the National Integrated Ballistic Information Network (NIBIN) program to allow for computer-assisted searches of digital images of cartridges found at crime scenes.

NIBIN, however, relies on the same unintentional markings used by firearm examiners and cannot lead investigators directly to a specific firearm and its serial number, unless that weapon is eventually recovered. A firearm serial number is a key investigative tool because law enforcement uses it to trace a weapon back to its original seller and purchaser.

Microstamping represents an evolution in ballistic identification because it can identify the serial number of a firearm directly from an expended cartridge case found at a crime scene. Originally created in the 1990s by Todd Lizotte and Orest Ohar, microstamping uses precise laser technology to engrave intentional microscopic markings on the internal mechanisms of a semiautomatic pistol (e.g., the breech face and the tip of the firing pin). When the handgun is fired, these engravings are stamped onto the cartridge—identifying essential information including the make, model and serial number of the weapon in the form of alphanumeric and geometric codes. Information extracted from these codes can be used to trace a firearm used in a violent crime, even if the crime gun itself is never recovered.

The elegance of the technology is that it uses the same natural forces that create the unintentional markings traditionally analyzed by firearm examiners. By *intentionally* stamping a code on cartridges, however, microstamp-equipped firearms provide investigators with more deliberate information than unintentional marks ever could. The goal of microstamping is to identify a firearm the *first* time it is used to commit a crime.

That's an important goal in a country where approximately 40% of homicide cases go unsolved.<sup>1</sup> At many shooting scenes, a crime gun is never recovered, and far too often NIBIN fails to exploit ballistic evidence that *is* recovered (i.e., expended cartridge casings). For example, the city of Boston reported a total of 1,301 crimes involving shootings in 2006. Investigators at 636 of these crime scenes recovered only shell casings, and not the crime gun itself.<sup>2</sup> In cases such as these, microstamping can provide essential leads to investigators.

With any new, innovative technology, there are going to be questions concerning the effectiveness and durability of the process and microstamping has not been immune to naysayers. One line of criticism has focused on whether the technology can withstand wear and tear under the violent conditions that exist within the chamber of a firearm. In order to

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<sup>1</sup> *New York Times* Editorial, "A Crime-Fighting Opportunity," February 15, 2008, <http://www.nytimes.com/2008/02/15/opinion/15fri3.html>

<sup>2</sup> Boston Police Department



answer such claims, the technology has undergone numerous, rigorous tests with firearms including the Colt .45 (1911), S&W 4006, Ruger Mark III, SIG P229, AR-15, and AK-47.<sup>3</sup>

A series of studies conducted by microstamping's inventors have shown that firearms utilizing the latest generation of the technology consistently produce identifiable codes even after thousands of rounds of firing. For example, in 2007 Lizotte and Ohar fired over 2,500 rounds from a microstamped Smith and Wesson .40 caliber semiautomatic handgun using five different brands of ammunition. The results were impressive, with all eight digits of the alphanumeric code legible 97% of the time using both optical microscopy and scanning electron microscopy and with breech face markings successfully transferred to cartridge casings 96% of the time.<sup>4</sup> Taking firing pin and breech face markings together, all eight digits were identifiable in every single case.

Lizotte and Ohar were subsequently able to fire the same Smith & Wesson handgun in excess of 5,000 rounds and still produce identifiable marks. They also recently tested a used .45 Colt semi-automatic pistol with over 1,500 rounds and achieved identifiable marks over 95% of the time using optical microscopy.<sup>5</sup>

Independent forensic scientist Lucien Haag has also tested the durability of microstamping and found that even with the firearms involved operating under extremely high pressure, the microstamped impressions made on cartridges were still visible even after thousands of rounds were fired.<sup>6</sup>

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<sup>3</sup> Todd E. Lizotte and Orest Ohar, "Forensic Firearm Identification of Semiautomatic Handguns Using Laser Formed Microstamping Elements," Peer-reviewed paper presented at the 2008 SPIE (The International Society for Optical Engineering) Annual Optics and Technology Conference, San Diego, California, September 3, 2008, <http://www.csgv.org/atf/cf/%7B79FD0842-518D-42AC-8228-AE59B7990689%7D/Forensic%20Firearm%20Identification%20of%20Semiautomatic%20Handguns%20-%20Lizotte.pdf>

<sup>4</sup> Press Release from NanoMark Technologies, "New Test Affirms Validity of Microstamping Technology," May 24, 2007, <http://www.csgv.org/atf/cf/%7B79FD0842-518D-42AC-8228-AE59B7990689%7D/LIZOTTE%20TEST%20RELEASE%205-25-07.PDF>

<sup>5</sup> Lizotte and Ohar, "Forensic Firearm Identification of Semiautomatic Handguns Using Laser Formed Microstamping Elements"

<sup>6</sup> Lucien Haag, "Ballistic ID Tagging and Microstamping—Performance in Practice," Presentation before Third Meeting of the Committee on Assessing the Feasibility, Accuracy, and Technical Capability of a National Ballistics Database, December 9, 2004

These endurance challenges achieved impressive results even though they test-fired far more rounds than would be expended by the typical crime gun. In reality, semiautomatic handguns have the shortest median “time-to-crime” of any firearm type<sup>7</sup> and crime guns are frequently recovered with fewer than 20 total rounds fired.<sup>8</sup>

Additionally, microstamped engravings on the firing pin and breech face of a handgun contain several “counter-measures” in order to prevent against tampering. These include redundant gear and/or radial marks on the firing pin, as well as marks on the breech face. Simply eradicating any one set of these marks (which is no easy feat for the common criminal) is insufficient to defeat the technology.

Microstamped semiautomatic pistols would also serve as a deterrent to illegal gun trafficking. First, the technology would help to curb “straw purchases.” In a straw purchase, a prohibited purchaser recruits an individual(s) with a clean criminal record to pass a background check and purchase firearms for him/her. Microstamping would allow police to automatically link a shell casing found at a crime scene to this original purchaser. Straw purchasers would be far less likely to purchase firearms for convicted felons and other prohibited buyers if they believed those guns could be easily traced back to them after being used in crimes. Second, microstamping would help identify traffickers by providing more crime gun trace data for law enforcement to analyze.

I would also stress the ease with which microstamping technology can be integrated into the District’s current ballistics systems. Microstamping does not require the creation of *any* new database of gun owners or ballistics information. It simply improves the usefulness of an existing tracing system by adding more information to that system. Microstamping does not collect any new personal information from gun owners or limit gun ownership in any way, and therefore has no Second Amendment implications whatsoever.

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<sup>7</sup> Department of Justice, Bureau of Alcohol, Tobacco and Firearms, “Crime Gun Trace Reports (2000): National Report,” July 2002, p. 32, <http://www.atf.gov/firearms/ycgii/2000/>

<sup>8</sup> Fox Butterfield, “Sniper Case Fuels a Debate Over Firearm Fingerprinting,” *New York Times*, October 18, 2002, <http://query.nytimes.com/gst/fullpage.html?res=9C02E0DE133DF93BA25753C1A9649C8B63&n=Top/Reference/Times%20Topics/Subjects/Identification%20Devices>