

No. 08-1521

IN THE

Supreme Court of the United States

OTIS McDONALD, *et al.*,

Petitioners,

v.

CITY OF CHICAGO,

Respondents.

**On Writ of Certiorari to the
United States Court of Appeals
for the Seventh Circuit**

**BRIEF FOR ORGANIZATIONS COMMITTED TO
PROTECTING THE PUBLIC'S HEALTH, SAFETY,
AND WELL-BEING AS AMICI CURIAE IN
SUPPORT OF RESPONDENTS**

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**BRIEF FOR THE AMERICAN PUBLIC
HEALTH ASSOCIATION, THE AMERICAN
ACADEMY OF PEDIATRICS, THE
AMERICAN ASSOCIATION OF
SUICIDOLOGY, THE SOCIETY FOR
ADOLESCENT MEDICINE, THE CHILDREN'S
DEFENSE FUND, WOMEN AGAINST GUN
VIOLENCE, YOUTH ALIVE!, THE FAMILY
VIOLENCE PREVENTION FUND, AND THE
NATIONAL NETWORK TO END DOMESTIC
VIOLENCE AS AMICI CURIAE IN SUPPORT
OF RESPONDENTS CITY OF CHICAGO AND
VILLAGE OF OAK PARK**

INTERESTS OF AMICI CURIAE¹

Amici are not-for-profit organizations united by a commitment to protecting the American public's health, safety, and well-being. Each organization is dedicated to preventing violence and injury by removing handguns from homes and communities across the country.

The American Public Health Association (APHA) is the oldest, largest, and most diverse organization of public health professionals in the

¹ Pursuant to Supreme Court Rule 37.3(a), the *amici curiae* state that the parties have consented to the filing of this brief and have filed letters of consent in the office of the Clerk. Pursuant to Supreme Court Rule 37.6, the *amici curiae* state that no counsel for a party authored this brief in whole or in part, and no party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than *amici curiae* or their counsel made a monetary contribution to its preparation or submission.

world and has been working to improve public health since 1872. The Association aims to protect all Americans and their communities from preventable, serious health threats—including injuries and deaths caused by guns—and strives to ensure that community-based health promotion and disease prevention activities and preventive health services are universally accessible in the United States. APHA represents a broad array of health professionals and others who care about their own health and the health of their communities.

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

The American Association of Suicidology (AAS) seeks to understand and prevent suicide. Founded in 1968, AAS promotes research, public awareness programs, public education, and training for professionals and volunteers. AAS also serves as a national clearinghouse for information on suicide. The membership of AAS includes mental health and public health professionals, researchers, suicide prevention and crisis intervention centers,

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

school districts, crisis center volunteers, survivors of suicide, and a variety of laypersons who have an interest in suicide prevention.

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

The Children's Defense Fund provides a strong, effective voice for America's children and encourages preventive investment in children's health. CDF monitors gun violence against children and noted in its most recent annual report, *Protect Children Not Guns*, that 3,184 children and teens died from gunfire in the United States in 2006—a 6 percent increase from 2005.⁴ This means that every two hours and 45 minutes, one young life was lost—almost nine every day, 61 every week. It means that, in 2006, a preschooler was killed by a gun every six days. Among children, the greatest increase in firearm deaths was among those under age 10. CDF believes that gun violence affects us all by increasing health care costs, disrupting social services, and decreasing national

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

⁴ See Children's Defense Fund, *Protect Children Not Guns* 2, 3 (2009), available at <http://www.childrensdefense.org/child-research-data-publications/data/protect-children-not-guns-report-2009.html>.

productivity. CDF also believes that adults must protect children from firearms in our homes, schools, communities, and nation by supporting commonsense gun safety measures, removing guns from homes, and focusing public attention on child gun deaths.

Women Against Gun Violence (WAGV) is dedicated to preventing gun violence by educating the public, the media, and policymakers about the human, public health, and financial consequences of gun violence. WAGV also mobilizes communities to take action against the dangers of firearms. Through its Speaker's Bureau, youth and adults who have experienced gun violence discuss the dangers of guns with parents and at-risk youth at schools, after-school programs, domestic violence programs, parenting classes, adult education classes, gang intervention programs, legal clinics, religious groups, Rotary Clubs, and health fairs. It works with such groups and individuals to reduce the perceived need and demand for guns by encouraging and teaching gun owners to practice gun safety and safe storage, empowering youth to recognize the consequences of gun use, and encouraging community members to take action to prevent gun violence in schools and communities.

Youth ALIVE!, founded in 1991, is a not-for-profit public health agency dedicated to preventing youth violence and generating youth leadership in California communities experiencing high rates of violence. Youth ALIVE! advocates for strategies to reduce violence and administers two programs: (1) Teens on Target, a peer leadership and education program that trains young people from neighborhoods with high rates of violence to

provide peer education on violence prevention and serve as positive peer role models; and (2) Caught in the Crossfire, an intervention program that works with youth who are hospitalized due to violence injuries to reduce retaliation, re-injury, and arrest.

The Family Violence Prevention Fund (FVPPF) is a California not-for-profit organization that was established in 1989. The FVPPF mobilizes concerned individuals, children's groups, allied professionals, as well as women's rights, civil rights, and other social justice organizations to join the campaign to end violence through public education and prevention campaigns, public policy reform, model training, advocacy programs, and community organizing.

The National Network to End Domestic Violence (NNEDV) is a non-profit organization dedicated to creating a social, political, and economic environment in which violence against women no longer exists. NNEDV is a network of state domestic violence coalitions, and, nationally, it represents over 2,000 member programs. It serves as the voice of battered women and their children as well as those who provide direct services to them. NNEDV has a long history of working at the local, state, and national levels to promote a strong criminal justice response to domestic violence, like reducing homicides by removing firearms from convicted batterers. NNEDV was instrumental to the congressional enactment and implementation of the Violence Against Women Acts of 1994, 2000, and 2005, and it co-chairs the current national Violence Against Women Act reauthorization efforts. NNEDV has

provided advice and expertise on domestic violence issues affecting battered women and their children to judges, attorneys, educators, state and local welfare and justice system personnel, and others working to end domestic violence.

Due to their long-standing and continuing commitment to protecting America's health, safety, and well-being, and their recognition that handguns pose a particular threat to all Americans, these *amici* are actively involved in developments that seek to control access to all firearms, most importantly handguns. These *amici* firmly believe that the absence of handguns from homes and communities is the most reliable and effective method to prevent firearm-related injuries.

INTRODUCTION AND SUMMARY OF ARGUMENT

Firearms have a profound effect on the American public's health. In 2006, the latest year for which complete data are available, there were 30,896 firearm-related deaths in the United States, including homicides, suicides, and accidental deaths. Melonie Heron et al., *Deaths: Final Data for 2006*, 57 NAT'L VITAL STAT. REP. 1, 91 (Table 19) (2009).⁵ In addition, in 2008, there were more than 78,000 non-fatal shootings serious enough to require a hospital visit. Ctrs. For Disease Control & Prevention, *Web-Based Injury Statistics Query and Reporting System (WISQARS) Nonfatal Injury*

⁵ Available at http://www.cdc.gov/NCHS/data/nvsr/nvsr57/nvsr57_14.pdf.

Reports.⁶ The total societal cost of such firearm-related violence has been estimated at \$100 billion per year. PHILIP J. COOK & JENS LUDWIG, GUN VIOLENCE: THE REAL COSTS 117 (2000).

Scientific evidence is the starting point for the public health approach to problems like gun violence. “The scientific core of public health is epidemiology, which identifies the risk factors, trends, and causes of health problems.” DAVID HEMENWAY, PRIVATE GUNS, PUBLIC HEALTH 9 (2006). Because gun violence is a major public health problem that must be addressed through multiple modalities, including legislation and regulation, *amici* respectfully submit the following empirical information to aid the Court’s analysis of the question this case presents.

While the numbers of non-fatal shootings are troubling, this brief focuses on the most extreme consequences of improper firearm use—that is, the taking of human life. The studies detailed below illustrate a powerful link between the prevalence of guns—especially handguns—on the one hand, and a heightened risk of suicide, homicide, and fatal gun shootings, on the other. The research further indicates that women and children, including adolescents, are particularly threatened by firearms. These data suggest that the types of statutes challenged in this case may prevent a substantial number of murders, suicides, and unintentional firearm deaths.

⁶ Available at <http://webappa.cdc.gov/sasweb/ncipe/nfirates2001.html>. (Under “Report Options” question 2, choose “Gunshot - Firearm” and then click “Submit Request.”)

ARGUMENT

I. PUBLIC HEALTH RESEARCH MAY BE RELEVANT TO ASSESSING THE CONSTITUTIONALITY OF THE STATUTES AT ISSUE.

For the reasons set forth in Respondent’s brief, this Court need not and should not reach the question of whether the Second Amendment’s substantive scope—left undefined in *District of Columbia v. Heller*, ___ U.S. ___, 128 S. Ct. 2783, 2816-17 (2008)—encompasses and renders unconstitutional the ordinances at issue. Because the decision below turned on a procedural ground, the Court need not delve into substance here. However, if the Court chooses to address the constitutionality of the ordinances, the following empirical information regarding the effect of firearms, and in particular handguns, on the public’s health may bear on the constitutional question. *See, e.g., Brown v. Bd. of Educ.*, 347 U.S. 483, 494 & n.11 (1954) (empirical evidence informs constitutional analysis).

II. GUNS IN THE HOME INCREASE THE RISK OF SUICIDE, HOMICIDE, AND DEATH FROM ACCIDENTAL SHOOTING.

Every gun-related death is a unique tragedy, but taken together, the approximately 30,000 lives lost each year in the United States to firearms represent a public health phenomenon that has attracted serious study. Research reveals that where firearms are more common, so, too, are

deaths from suicide, homicide, and firearm-related accidents.

A. Suicide risk is greater in homes with guns and in communities with a higher prevalence of guns.

Suicide is a critically important public health problem, one that state and local governments might reasonably choose to address through legislation. *See Washington v. Glucksberg*, 521 U.S. 702, 728 (1997) (states have an “unqualified interest in the preservation of human life”). The majority of the 33,300 suicides in the United States in 2006 were committed with a firearm; in other words, more suicides were committed with a firearm than by all other methods of suicide combined. Melonie Heron et al., *Deaths: Final Data for 2006*, 57 NAT’L VITAL STAT. REP. 1, 5 (Table B) & 89 (Table 18).⁷

Most firearm-related suicides occur in the home. Linda L. Dahlberg et al., *Guns in the Home and Risk of a Violent Death in the Home: Findings from a National Study*, 160 AM. J. EPIDEMIOLOGY 929 (2004). In particular, numerous studies have demonstrated that occupants of homes with guns are at a substantially increased risk of suicide compared with occupants of homes without guns. The number of studies demonstrating the relationship between firearm ownership and suicide, together with their variety in approach and consistency in results, is compelling.

⁷ Available at http://www.cdc.gov/NCHS/data/nvsr/nvsr57/nvsr57_14.pdf.

Many of these studies use a “case-control” design. In case-control studies, the cases represent suicide victims (or the homes where a suicide has occurred)—regardless of the method of suicide. The controls are individuals (or households) that did not experience a suicide, generally matched in some way to be an appropriate comparison with the cases. This is the same general methodology that helped to establish an increased risk of lung cancer among cigarette smokers.

Case-control studies show that the risk of suicide is greater in homes with guns. According to one such study, firearms were 2.7 times more likely to have been present in the homes of adolescent suicide victims as compared to psychiatric inpatients who had attempted or considered suicide, even after adjusting for other risk factors. David A. Brent et al., *Risk Factors for Adolescent Suicide: A Comparison of Adolescent Suicide Victims with Suicidal Inpatients*, 45 ARCHIVES OF GEN. PSYCHIATRY 581, 585 (1988). A later study employing a larger sample of cases and controls found that adolescent suicide victims remained more than twice as likely as either suicide attempters or non-suicidal psychiatric patients to have had a gun in their home. David A. Brent et al., *The Presence and Accessibility of Firearms in the Homes of Adolescent Suicides*, 266 JAMA 2989 (1991). And in another well-known analysis, homes in which a suicide had occurred were found to be 4.8 times more likely to contain a firearm than matched neighborhood control homes that had not experienced a suicide, even after accounting for other risk factors for suicide. Arthur L. Kellermann et al., *Suicide in the Home in Relation*

to Gun Ownership, 327 NEW ENG. J. MED. 467 (1992).

As one would predict if firearms increase the risk of suicide, living in a home with firearms only increased the risk of suicide by firearms, but was not associated with an increased risk of suicide by other means. In addition, homes where a firearm was stored loaded had an even greater (nine-fold higher) suicide risk. *Id.* at 470. Finally, “homes with one or more hand-guns were associated with a risk of suicide almost twice as high as that in homes containing only long guns.” *Id.*

The findings of these studies, each employing a sample from a selected community, are confirmed by two case-control studies using data from the entire nation. One study of a representative sample of deaths in the United States compared suicide victims with those who had died from non-violent causes. Among persons aged 15 years or older, those living in a home with a gun were at a 5.6-fold increased risk of suicide versus death by other causes. Dahlberg et al., *supra*, at 933. This increased risk was particularly prominent for males. Another study, also using a representative sample of suicides in the United States, compared suicide victims with a matched group of living control subjects identified through a national health study. Among that group of adults, suicide victims were more than three times as likely (3.44) to have a gun in their home as the control group. Douglas J. Wiebe, *Homicide and Suicide Risks Associated with Firearms in the Home: A National Case-Control Study*, 41 ANNALS OF EMERGENCY MED. 771 (2003). This increased risk was restricted to suicide by firearm. *Id.*

In yet another series of studies, states and regions with higher rates of household firearm ownership were found to have, on average, higher suicide rates. Fotios C. Papadopoulos et al., *Preventing Suicide and Homicide in the United States: The Potential Benefit in Human Lives*, 169 PSYCHIATRY RESEARCH 154 (2009); Matthew Miller et al., *Household Firearm Ownership and Suicide Rates in the United States*, 13 EPIDEMIOLOGY 517 (2002). This relationship exists even after controlling for differences among states including rates of poverty, urbanization, unemployment, mental illness, and alcohol or drug abuse. Matthew Miller et al., *Household Firearm Ownership and Rates of Suicide Across the 50 United States*, 62 J. TRAUMA: INJURY, INFECTION, & CRITICAL CARE 1029 (2007). In fact, states with the highest prevalence of household firearm ownership had suicide rates that were about 60 percent higher than states with the lowest level of firearm ownership. Men, women, and children all have higher suicide rates where household gun ownership rates are higher. Matthew Miller et al., *Firearm Availability and Unintentional Fire-arm Deaths, Suicide, and Homicide Among 5-14 Year Olds*, 52 J. OF TRAUMA: INJURY, INFECTION, & CRITICAL CARE 267 (2002); Matthew Miller et al., *Firearm Availability and Suicide, Homicide, and Unintentional Firearm Deaths Among Women*, 79 J. URB. HEALTH 26 (2002).

In an attempt to minimize the importance of firearm-related suicide, some may argue (incorrectly) that if a firearm is not available, a suicidal person will invariably choose an equally lethal method. This is simply not so. Firearms are

among the most lethal methods of suicide. In one study, more than 90 percent of all suicide attempts with a firearm, if serious enough to require at least hospital treatment, result in death. This compares with, for example, a 34 percent fatality rate for suicide attempts by jumping and just two percent for poisoning by drugs. Matthew Miller et al., *The Epidemiology of Case Fatality Rates for Suicide in the Northeast*, 43 ANNALS OF EMERGENCY MED. 723, 726 (2004). Other studies have confirmed the very high lethality of firearm-related suicide attempts compared with many other common methods. See, e.g., Rebecca S. Spicer & Ted R. Miller, *Suicide Acts in 8 States: Incidence and Case Fatality Rates by Demographics and Method*, 90 AM. J. PUB. HEALTH 1885 (2000). Because firearms are so lethal, where there are fewer firearms there are fewer completed suicides.

B. Homicide risk is greater in homes with guns, and in communities with a higher prevalence of guns.

Between 1960 and 2004, approximately 500,000 Americans were murdered with guns—more Americans than were killed in all of the wars in the twentieth century combined. DAVID HEMENWAY, PRIVATE GUNS, PUBLIC HEALTH 45 (2006). From 1991 to 2000, an average of 40 Americans were murdered with guns each day. *Id.* In fact, guns are involved in two thirds of all homicides. Fotios C. Papadopoulos et al., *supra*, at 154. While overall national homicide rates appear to have leveled off since 2000, substantial increases in firearm homicide rates among young black and white men have been detected in recent years (31% and 12%,

respectively, between 1999 and 2005), especially in large metropolitan areas. Guoqing Hu et al., *Hidden Homicide Increases in the USA, 1999-2005*, 85 J. URB. HEALTH 597 (2008).

A substantial body of research points to an increased risk of being murdered with a gun in neighborhoods and homes where guns are more prevalent. Arthur L. Kellermann and colleagues compared homes in three metropolitan counties in which a homicide had occurred with matched control homes where no homicide had occurred. After controlling for other known risk factors for violence, homes with guns were 2.7 times more likely to have been the site of a homicide than homes without guns. Arthur L. Kellermann et al., *Gun Ownership As a Risk Factor for Homicide in the Home*, 329 NEW ENG. J. MED. 1084 (1993).

As with suicide, national case-control studies confirm an increased homicide risk associated with guns in the home, though the magnitude of the enhanced risk is smaller than with Kellermann's regional analysis. Dahlberg et al., *supra*; Wiebe, *Homicide and Suicide Risks, supra*. Taken together, these results are significant because of the strong link they reveal between the availability of firearms and the risk of being killed with a firearm, even after accounting for other demographic and behavioral factors.

Living in a state with high rates of gun ownership increases the risk of firearm-related homicide as well. One study that examined the relationship between rates of household gun ownership and homicide in all 50 states determined that persons in states with a high prevalence of

guns were substantially more likely to die in a homicide than people in states with a low prevalence of guns. These results were driven by substantially higher gun-related homicides, although non-gun homicides were also elevated. For all age groups, persons living in states with a high prevalence of guns were 2.9 times more likely to die in a homicide as compared to persons in states with a low prevalence of guns, 4.2 times more likely to die in a gun-related homicide, and only 1.6 times more likely to die in a non-gun related homicide. See Matthew Miller et al.; *Rates of Household Firearm Ownership and Homicide Across US Regions and States, 1988-1997*, 92 AM. J. PUB. HEALTH 1988, 1990 (2002).

Another analysis demonstrated that *changes* in state-level homicide rates were associated with changes in gun ownership. According to that study, “a 10 percent increase in the rate of gun ownership is associated with approximately a 2 percent increase in the homicide rate.” Mark Duggan, *More Guns, More Crime*, 109 J. POL. ECON. 1086, 1096 (2001). A more recent study that compared homicide rates with state-level, survey-based estimates of household firearm ownership also noticed a significant relationship between the prevalence of household firearm ownership and firearm homicide victimization rates, a result that held across all ages and for both sexes. Matthew Miller et al., *State-level Homicide Victimization Rates in the US in Relation to Survey Measures of Household Firearm Ownership, 2001-2003*, 64 SOC. SCI. & MED. 656 (2007). These researchers determined that overall, each one-percentage point difference in household firearm ownership was

associated with a 3.3% difference in firearm homicide victimization and a 2.2% difference in the rate of homicide victimization, with no noticeable effect on non-firearm homicide victimization. *Id.* at 659.

Another recent study demonstrates how types of gun availability may have different effects in areas with differing levels of urbanization, a result that emphasizes the importance of state by state and city by city gun regulation. Douglas J. Wiebe, *Homicide and Geographic Access to Gun Dealers in the United States*, 9 BMC PUB. HEALTH 199 (2009). Controlling for socio-demographic characteristics, researchers compared U.S. counties by their per capita rates of licensed firearm dealers and their rates of firearm homicides. They identified a powerful link between higher rates of gun dealers and significantly higher rates of firearm homicides in major cities, but a negative association between the two in smaller cities and suburbs. *Id.*

In short, credible research indicates that either living in a home with a gun or living in a state where guns are prevalent dramatically increases one's risk of being murdered with a gun, even when other homicide risk factors are taken into account.

C. The risk of death from accidental shooting is greater in homes with guns, and in communities with a higher prevalence of guns.

Between 1965 and 2000, over 60,000 Americans died from unintentional firearms injuries. DAVID HEMENWAY, PRIVATE GUNS, PUBLIC HEALTH 27 (2006). As dramatic as these figures may be, the number of persons accidentally injured from

firearms is far greater. One study estimated that for every accidental gun fatality, thirteen persons are treated in hospital emergency rooms for accidental shootings. Joseph L. Annett et al., *National Estimates of Nonfatal Firearm-Related Injuries: Beyond the Tip of the Iceberg*, 273 JAMA 1749, 1751 (1995).

Rates of fatal firearm-related accidents are also higher where household gun ownership is greater. A study of the nearly 30,000 unintentional firearm-related deaths between 1979 and 1997, found a statistically significant and robust association between gun availability and rates of unintentional firearms deaths for the United States as a whole and across all age groups. Matthew Miller et al., *Firearm Availability and Unintentional Firearm Deaths*, 33 ACCIDENT ANALYSIS & PREVENTION 477 (2001). In fact, this study found that, compared to the states with the lowest gun levels, states with the highest gun levels had, on average, nine times the rate of unintentional firearm deaths—results that held for blacks and whites, and for both sexes, and which took into consideration urbanization, poverty, and regional location. *Id.*; see also HEMENWAY, *supra*, at 28-29 (analyzing data between 1991 and 2000, concluding risk of fatal firearms accidents was 10 times greater in high gun states as compared to low gun states).

In a case-control study of gun deaths using nationally-representative mortality data, persons who died from an accidental shooting were more than three times as likely (3.7) to have had a gun in their home compared with the control group drawn from a national health interview study. There was also evidence that having more than one gun in the

home made the risk of accidental death even greater. Douglas J. Wiebe, *Firearms in US Homes as a Risk Factor for Unintentional Gunshot Fatality*, 35 ACCIDENT ANALYSIS & PREVENTION 711, 713-14 (2003).

II. GUNS POSE A PARTICULAR RISK TO WOMEN.

While guns pose significant risks to many segments of the population, women are particularly vulnerable to being threatened, injured, and killed by firearms. Domestic violence perpetrators use firearms in their attacks with alarming frequency. The Centers for Disease Control and Prevention's National Violence Against Women Survey estimates that approximately 5.3 million intimate partner violence victimizations occur among U.S. women ages eighteen and older every year. Department of Health and Human Services, *Costs of Intimate Partner Violence Against Women in the United States*, March 2003.⁸ Firearms are the most common weapon used in intimate partner homicides. James A. Fox and Marianne W. Zawitz, *Homicide Trends in the United States* (2007).⁹ From 1990 to 2005, over two-thirds of female intimate partner homicide victims were killed by guns. *Id.* at 58. Among women killed by their husbands, the percentage killed by guns was 68%. *Id.* Among women killed by their ex-husbands, the percentage killed by guns jumps to 77%. *Id.*

⁸ Available at <http://www.cdc.gov/violenceprevention/pdf/IPVBook-a.pdf>.

⁹ Available at <http://bjs.ojp.usdoj.gov/content/pub/pdf/htius.pdf>.

The mere presence of or access to a firearm increases fatality rates in abusive relationships. See Jacquelyn C. Campbell, *Risk Factors for Femicide in Abusive Relationships: Results from a Multisite Case Control Study*, 93 AM. J. OF PUB. HEALTH 1089, 1092 (2003) (abusive partner's access to a firearm increases the risk of homicide eightfold for women in physically abusive relationships).¹⁰ And, because of the deadly nature of firearms, abused women are more likely to be killed if a gun

¹⁰ *Amici curiae* for the Petitioners attempt to explain away the Campbell study's findings with the claim that the high correlation between abuser access to a firearm and murder of the female victim is significant only when "particular adjustments for other risk factors are weighed." Brief of *Amici Curiae* Women State Legislators and Academics in Support of Petitioners at 18. *Amici* attack a methodological feature of this study that actually makes its results more reliable. The study's authors used an iterative model-building strategy consisting of seven different models designed to isolate the variables that increased the risk of intimate partner homicide. See Campbell, *supra*, at 1090. Variables "not significantly associated with femicide risk" were dropped from subsequent models so as to better focus on those variables that were statistically significant. *Id.* The researchers' addition of different variables for each model therefore strengthens, rather than weakens, the statistical validity of the study. Its conclusion that "abusers who possess guns tend to inflict the most severe abuse," then, should not be taken lightly. Campbell, *supra*, at 1092. *Amici curiae* for the Petitioners also attempt to cast doubt on the study's findings by stating that the *eightfold* increase in risk of homicide applies only to women who live with their abusers. See Brief of *Amici Curiae* Women State Legislators and Academics in Support of Petitioners at 18. Given the frequency with which women share a home with their husbands or partners, that is hardly a meaningful limitation on the study's results.

is involved in the altercation. See Shannon Frattaroli and Jon S. Vernick, *Separating Batterers and Guns: A Review and Analysis of Gun Removal Laws in 50 States*, 30 EVALUATION REV. 296, 297 (2006) (when domestic violence incidents involve a firearm, the abuse is twelve times more likely to result in a death compared to non-firearm abuse incidents) (citation omitted).

Guns in abusive homes are also often effective instruments for threatening, intimidating, and coercing domestic violence victims. Such threats may be explicit (*e.g.*, an abuser pointing a firearm at his victim or a loved one) or implicit (*e.g.*, cleaning a firearm or shooting it outside), but they can leave lasting psychic scars, such as post-traumatic stress disorder, all the same. Emily F. Rothman et al., *Batterers' Use of Guns to Threaten Intimate Partners*, 60 J. AM. MED. WOMEN'S ASS'N 62, 66 (2005).

The risks women face when guns are easily available are clear. But *amici curiae* for the Petitioners argue that because women cannot rely on the police to protect them from random attacks by strangers, women need to be able to purchase guns to put themselves on an equal footing with their male attackers. See Brief of *Amici Curiae* Women State Legislators and Academics in Support of Petitioners at 9-14. That argument falsely assumes that strangers pose the greatest risk to women's safety. In fact, an analysis of 2004 Bureau of Justice statistics demonstrates that women in the United States are murdered by intimate partners or former partners approximately nine times more often than they are murdered by strangers. Jacquelyn C. Campbell et

al., *Intimate Partner Homicide: Review and Implications of Research and Policy*, 8 TRAUMA, VIOLENCE, & ABUSE 246, 246 (2007).

Amici for Petitioners further argue that women, in particular immigrant women, who are victims of domestic violence may lack the “knowledge or social network” to access violence prevention services. See Brief for *Amici Curiae* Women State Legislators and Academics in Support of Petitioners at 11 n.10. They claim that an affordable handgun may be the only means for those women to protect themselves. But the research refutes this position. The vast majority of the time, abused women do not use guns in the home to protect themselves from their abusers; instead, a gun in an abusive home greatly increases the chances that the woman will be murdered or injured with it. See Arthur L. Kellermann et al., *Injuries and Deaths Due to Firearms in the Home*, 45 J. TRAUMA 263, 265 (1998) (a gun kept in the home is 22 times more likely to be used in an unintentional shooting, a criminal assault or homicide, or an attempted or completed suicide than to be used to injure or kill in self defense).

Additionally, according to a study of 417 women in California battered women’s shelters, over ten times as many had been victimized by a man wielding a gun as had used a gun in self-defense. See Susan B. Sorenson & Douglas J. Weibe, *Weapons in the Lives of Battered Women*, 94 AM. J. OF PUB. HEALTH 1412, 1413 (2004) (explaining that 32.1% of victims were hurt by a handgun, whereas only 3.1% had used a handgun in self defense). The unfortunate fact borne out by these statistics is that women suffer disproportionately high rates of

injury and death when a gun is present in the home.¹¹

III. GUNS POSE SIGNIFICANT RISKS TO CHILDREN AND ADOLESCENTS.

A. As with adult Americans, as firearm prevalence increases, so does children and adolescents' risk of injury and death.

Like adult Americans, children and adolescents face an increased risk of suicide, homicide, and accidental death when firearms are present in the home or more common in their community.

In 2004, for example, 846 children and teens (ages 10-19) committed suicide using a firearm, and over 46 percent of all suicides in adolescents 15 through 19 years of age were committed with a firearm. U.S. Dep't of Health & Human Servs., Ctrs. for Disease Control & Prevention, Nat'l Vital Statistics Sys., Nat'l Ctr. for Health Statistics, Web-Based Injury Statistics Query and Reporting System (WISQARS).¹² As with adults, such

¹¹ Setting aside the fact that possession of a gun in the home increases, rather than decreases, the risk of violence against a woman, *amici* for Petitioners blatantly err in asserting that the ordinances at issue here completely disarm women in Chicago. They state that, “[a]s it is now in Chicago, those inclined to harm women know that all law-abiding women will be unarmed.” See Brief of *Amici Curiae* Women State Legislators and Academics in Support of Petitioners at 16. The ordinance at issue restricts only handguns and does not restrict Chicagoans, including women, from owning many other types of firearms.

¹² Available at <http://webappa.cdc.gov/sasweb/ncipc/leadcaus10.html>. (Under “Report Options,” choose 2004 as

suicides are strongly associated with the presence of a gun in the home of the victim. *See generally* Matthew Miller et al., *Household Firearm Ownership and Suicide Rates in the United States*, 13 EPIDEMIOLOGY 517 (2002); Arthur L. Kellermann et al., *Suicide in the Home in Relation to Gun Ownership*, 327 NEW ENG. J. MED. 467 (1992). In fact, one study found that the “the more guns in the home, the more likely suicide by firearms was to occur.” David A. Brent et al., *Firearms and Adolescent Suicide: A Community Case-Control Study*, 147 AM. J. OF DISEASES OF CHILD. 1066, 1068 (1993).

Firearms-related (and especially handgun-related) homicides and assaults affect legions of children and adolescents. Between 1987 and 1992, persons aged 16 to 19 had the highest rate of handgun crime victimization, nearly three times the average rate. Michael R. Rand, U.S. Dep’t of Justice, Bureau of Justice Statistics, *Guns and Crime: Handgun Victimization, Firearm Self-Defense, and Firearm Theft*, NCJ 147003 (Apr. 1994, rev. Sept. 2002). Between 1993 and 1997, those aged 19 and younger accounted for 20 percent of firearms homicide victims and 29 percent of victims of nonfatal firearms injury from assault. Marianne W. Zavitz & Kevin J. Strom, U.S. Dep’t of Justice, Bureau of Justice Statistics, *Firearm*

Year of Report, and under “Advanced Options-Age Group Formatting,” choose “1-24 in 5-year groups; 25-65+ in 10-year groups,” then “Submit Request.” Click on the “suicide” hyperlinks in the green boxes in the resulting tables to see the number of deaths by method of suicide.)

Injury and Death from Crime, 1993-1997, NCJ 182993, at 3 (Oct. 2000).

Indeed, “[c]hildren and teens in the United States are killed with handguns more often than with all other weapons combined.” Violence Policy Ctr., *Kids in the Line of Fire: Children, Handguns, and Homicide* (Nov. 2001).¹³ In 2004, homicide from firearms was the second leading cause of death for persons 15 to 24 years of age—second only to motor vehicle crashes. U.S. Dep’t of Health & Human Servs., Ctrs. for Disease Control & Prevention, Nat’l Ctr. for Injury Prevention and Control, Web-Based Injury Statistics Query and Reporting System (WISQARS), *Leading Causes of Death Reports, 2004*.¹⁴ Most unintentional firearms-related deaths among children occur in or around the home—50 percent at the home of the victim and 40 percent at the home of a friend or relative—and occur when children play with loaded and accessible guns. Children’s Hospital Boston, *Firearm Safety, 2005-2006*.¹⁵

¹³ Available at <http://www.vpc.org/studies/fireintr.htm> (last visited Dec. 22, 2009).

¹⁴ Available at <http://webappa.cdc.gov/sasweb/ncipc/leadcaus10.html>. (Under “Report Options,” choose 2004 as Year of Report, and under “Advanced Options-Age Group Formatting,” choose “1-14 in 5-year groups; 15-65+ in 10-year groups,” then “Submit Request.” Click on the “homicide” hyperlink in the red boxes in the resulting tables under age group 15-24 for evidence that firearms were, by far, the leading cause of homicide.)

¹⁵ Available at <http://www.childrenshospital.org/az/Site905/printerfriendlypageS905P0.html>.

The number of guns in an area is positively associated with the likelihood that children in that area will die from a firearm accident. In a study of accidental firearms deaths that occurred between 1979 and 1997, children aged four and under living in the four states with the most guns were 17 times more likely to die from a gun accident than their counterparts living in the four states with the fewest guns. Matthew Miller et al., *Firearm Availability and Unintentional Firearm Deaths*, 33 ACCIDENT ANALYSIS & PREVENTION 477, 481, Table 3 (2001). That gap remained when comparing mortality rates of children aged five to fourteen. *Id.* In that group, children living in the four states with the highest gun availability were 13½ more times likely to die than those living in the four states with the lowest relative gun availability. *Id.*

B. Gun safety education is ineffective for children.

For most children, “gun safety” is, at best, an elusive concept. Numerous studies illustrate the ineffectiveness of gun safety education. For example, in a study of 48 four- to six-year-old children, researchers assessed the effectiveness of an educational intervention about gun safety on behavior. Marjorie S. Hardy et al., *A Firearm Safety Program for Children: They Just Can't Say No*, 17 J. DEV. & BEHAV. PEDIATRICS 216, 217-18 (1996). Pairs of children were given the opportunity to play in a room with art supplies and various toys, including two toy guns and two real (and disarmed) guns. *Id.* at 217. One child from each pair was randomly assigned to the experimental group. A week after the play time, a researcher and a police officer gave a 30-minute,

developmentally-appropriate presentation to the children in the experimental group about the dangers of firearms. *Id.* at 218. The children were told to find an adult if they ever saw a gun. *Id.* They were also given the opportunity to color pictures about firearm safety and draw a picture of an adult that they could turn to if they encountered a gun. *Id.* The children also promised not to touch a gun and signed a certificate that they took home to that effect. *Id.* A week later, the pairs were rejoined to play in the same toy-filled room. *Id.* at 217. Tellingly, there were *no significant differences* in the children's amount of gun play after the intervention. *Id.* at 219. Admonitions to stay away from guns—even when the warnings are delivered by a law enforcement officer—were demonstrably insufficient to prevent gun play. *Id.* at 220.

Other recent studies echo that conclusion. In a study of 8- to 12-year-old boys, seventy-five percent of those who found a gun in a playroom handled it, and nearly half of them pulled the disarmed gun's trigger—even though most had received gun safety instruction. Geoffrey A. Jackman et al., *Seeing Is Believing: What Do Boys Do When They Find a Real Gun?*, 107 PEDIATRICS 1247, 1250 (2001). In another study, 9- to 15-year-old boys were warned not to touch one of two items, either a gun or a particular toy, when a researcher left them in a room for 5 minutes. Marjorie S. Hardy, *Effects of Gun Admonitions on the Behaviors and Attitudes of School-Aged Boys*, 24 J. DEV. & BEHAV. PEDIATRICS 352, 353-54 (2003). But, “of the 30 boys told not to touch the gun, 7 did so anyway; of the 25 boys told not to touch some other object, none did.” *Id.* at 354. The investigator of that study concluded that

gun-avoidance education programs in schools are likely to have minimal effects on children's actual behavior around guns. *Id.* at 357.

Even the National Rifle Association's Eddie Eagle GunSafe Program, which taught 4- to 7-year-olds to take certain steps if they encountered a gun, has been found to be ineffective. *See generally* Michael B. Himle et al., *An Evaluation of Two Procedures for Training Skills to Prevent Gun Play in Children*, 113 PEDIATRICS 70 (2004); Brian J. Gatheridge et al., *Comparison of Two Programs to Teach Firearm Injury Prevention Skills to 6- and 7-Year-Old Children*, 114 PEDIATRICS e294 (2004). While children could repeat that program's safety messages, it did not alter their risky treatment of firearms.

Overall, when children find guns, they play with them, and they do so despite exposure to gun-safety education. Parents think otherwise. In sharp contrast to the wealth of data demonstrating that gun safety messages are ineffective in preventing children from handling guns, one study found that 87 percent of parents believe their children would not touch a gun if they found one. Susan M. Connor & Kathryn L. Wesolowski, *They're Too Smart for That: Predicting What Children Would Do in the Presence of Guns*, 111 PEDIATRICS e109 (2003). Parents' beliefs and unrealistic expectations of children's developmental levels and impulse control may influence storage decisions or the inclination to address gun safety issues. *Id.*

Because there is no way to immunize children against the dangers of guns, the failure of internal regulation necessitates external regulation. As

researchers writing in the premiere pediatrics journal explained,

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

Judith Cohen Dolins & Katherine Kaufer Christoffel, *Reducing Violent Injuries: Priorities for Pediatrician Advocacy*, 94 PEDIATRICS 638, 646 (1994). That synopsis, written more than 15 years ago, remains apt to this day.

C. Handguns in the home present a deadly risk to children.

Approximately one out of three handguns is kept loaded and unlocked. Philip J. Cook & Jens Ludwig, U.S. Dep’t of Justice, Nat’l Inst. of Justice, *Guns in America: National Survey on Private Ownership and Use of Firearms*, at 7 (May 1997). See also Renee M. Johnson et al., *Are Household Firearms Stored Less Safely in Homes with Adolescents*, 160 ARCHIVES OF PEDIATRIC & ADOLESCENT MED. 788, 789 (2006) (finding that 28.8 percent of parents with children 12 years or younger—and 41.7 percent of parents with children ages 13 to 17—kept an unlocked firearm in the home). That statistic is particularly troubling since children know where to find their parents’ guns. In

one 2006 study, 73 percent of children under age 10 reported knowing the location of their parents' firearms, and 36 percent admitted that they had handled the weapons. Frances Baxley & Matthew Miller, *Parental Misperceptions About Children and Firearms*, 160 ARCHIVES OF PEDIATRIC & ADOLESCENT MED. 542, 544 (2006). Accordingly, it is not surprising that 89 percent of unintentional shooting deaths of children occur in the home, or that most of these deaths occur when children are playing with a loaded gun in their parents' absence. Guohua Li et al., *Factors Associated with the Intent of Firearm-Related Injuries in Pediatric Trauma Patients*, 150 ARCHIVES OF PEDIATRIC & ADOLESCENT MED. 1160, 1162 (1996).

Moreover, keeping guns at home for self-defense has considerable costs. Access to firearms in the home increases the risk of both accidental injuries as well as intentional shootings. A study of youth suicide found that more than 75 percent of guns used by youth in suicide attempts and unintentional injuries were kept in the home of the victim, a relative, or a friend. David C. Grossman et al., *Self-Inflicted and Unintentional Firearm Injuries Among Children and Adolescents: The Source of the Firearm*, 153 ARCHIVES OF PEDIATRIC & ADOLESCENT MED. 875, 875 (1999). Another study of 37 school shootings in 26 states found that, in more than 65 percent of the cases, the shooter got the gun from his or her home or that of a relative. United States Dep't of the Treasury, U.S. Secret Service, *An Interim Report on the Prevention of Targeted Violence in Schools*, at 6 (Oct. 2000).

CONCLUSION

Firearm-related homicide, suicide, and fatal accidental shootings are a serious public health problem in the United States. Guns pose particular risks to women and children that state and local lawmakers might reasonably seek to address through gun-control legislation. Because legislators must rely upon social science data when formulating firearm safety policies, *amici* urge the Court to consider the empirical evidence presented in this brief when it considers the important legal issues that this case presents.

Respectfully submitted.

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