

No. 07-290

In the
Supreme Court of the United States

DISTRICT OF COLUMBIA, et al.,
Petitioners,

v.

DICK ANTHONY HELLER,
Respondent.

On Writ of Certiorari to the
United States Court of Appeals
for the District of Columbia

**BRIEF OF CRIMINOLOGISTS, SOCIAL
SCIENTISTS, OTHER DISTINGUISHED
SCHOLARS AND THE CLAREMONT INSTITUTE
AS *AMICI CURIAE* IN SUPPORT OF
RESPONDENT**

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INTEREST OF THE AMICI CURIAE

Amici curiae include an institution and many distinguished scholars from various fields who are concerned about ensuring accuracy in the scholarship advanced in important matters of public policy such as those involved in this case.¹

A. The Claremont Institute

The Claremont Institute is a nonprofit organization which seeks to promote scholarly analysis on important policy issues including gun control.

B. Distinguished Scholars

Frederick Bieber is a professor at Harvard Medical School who lectures on gun-shot wounds.

David Bordua is Professor Emeritus of Sociology at the University of Illinois at Champaign. He is the author or co-author of, among other works, *Firearms Ownership and Violent Crime: A Comparison of Illinois Counties*, in J. Byrne and R. Sampson (ed.), *The Social Ecology of Crime* (1986); *Gun Control and Opinion Measurement*, 5 *Law & Pol'y Quarterly* 345 (1983); and *Patterns of Legal Firearms Ownership: A Situational*

¹ The parties have consented to the filing of this brief. Counsel of record for all parties received notice at least 7 days prior to the due date of the *amici curiae*'s intention to file this brief. No counsel for a party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation of this brief. The NRA Civil Rights Defense Fund made financial contributions to support the preparation of this brief.

and *Cultural Analysis of Illinois Counties*, 2 Law & Pol'y Quarterly 147 (1979).

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Raymond Kessler is a professor of criminal justice at Sul Ross State University. He has authored, among other works, *Enforcement Problems of Gun Control: A Victimless Crimes Analysis*, 16 Crim. L. Bulletin 131 (1980); *Gun Control and Political Power*, 5 Law & Pol'y Quarterly 381 (1983); and *The Ideology of Gun Control*, 12 Quarterly J. of Ideology 381 (1988).

Gary Mauser is Professor Emeritus at the Institute for Canadian Urban Research Studies, Simon Fraser University in Burnaby, British Columbia. He has authored or co-authored, among other works, *Would Banning Firearms Reduce Murder and Suicide: A Review of International Evidence*, 30 Harv. J.L. & Pub. Pol'y 651 (2007); *Gun Control in the United States*, 3 Crim. L. Forum 147 (1992); *An Evaluation of the 1977 Canadian Firearms Legislation: Robbery Involving a Firearm*, 35 Applied Econ. 423 (2003), *On Defensive Gun Use Statistics*, 13 Chance [Magazine of the American Statistical Association] (2000).

Daniel Polsby is dean and professor of law at George Mason University. He has authored or co-authored, among other works: *Long Term Non-Relationship of Firearm Availability to Homicide*, 4 Homicide Studies 185 (2000); *American Homicide Exceptionalism*, 69 U. Colo. L. Rev. 969 (1998); *Firearms*

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Lawrence Southwick is Professor Emeritus at the State University of New York-Buffalo and has authored: *Self-Defense with Guns: The Consequences*, 28 J. Crim. Just. 351 (2000); *An Economic Analysis of Murder and Accident Risks for Police in the United States*, 30 Applied Econ. 593 (1998); and *Do Guns Cause Crime? Does Crime Cause Guns? A Granger Test*, 25 Atlantic Econ. J. 256 (1997).

Lance Stell is the Charles A. Dana Professor and Director of Medical Humanities at Davidson College. He is the author of *Self Defense and Handgun Rights*, 2 J.L. Econ. & Pol'y 265 (2006); *Gun Control*, in *A Companion to Applied Ethics*, R.G. Frey & C.H. Wellman (eds.) 192 (2003); *The Production of Criminal Violence in America: Is Strict Gun Control the Solution?*, 32 J.L. Med. & Ethics (2001); *Gun Control and the Regulation of Fundamental Rights*, Crim. Just. Ethics (2001); and *Guns, Politics and Reason*, 9 J. Am. Culture 71 (1986).

William Tonso is a professor of sociology at the University of Evansville. He edited *The Gun Culture and Its Enemies* (1989), and authored *Social Science and Sagecraft in the Debate Over Gun Control*, 5 Law & Pol'y Quarterly 325 (1983).

Walter E. Williams is the John M. Olin Distinguished Professor of Economics at George Mason University. A nationally syndicated columnist, he is the au-

thor of six books and numerous publications on various issues relating to economics and public policy, including gun control.

Additional *amici* are listed in the Appendix.

SUMMARY OF ARGUMENT

Handgun prohibition is simply not effective to produce good and valuable effects in society. Handgun prohibitions such as those enacted by the City Council of the District of Columbia (“the District”) appear to be effective only at removing from law-abiding citizens the best means of protecting themselves, their loved ones and others from violent criminals. The District’s 30-year social experiment with handgun prohibition has, if anything, illustrated this sad fact. Rather than becoming safer, our Nation’s Capital has unfortunately become known as the “murder capital” of the United States, one of the most violent cities in the country. In light of the District’s gun prohibitions, there is little that the residents can realistically do but hope that they do not become victims themselves.

This case involves various statistics and differing analyses of those statistics. But, in the end, the reality is that the District is claiming that its gun laws—the most restrictive gun prohibitions in the Nation—have been effective in reducing violent crime when, among other things:

- since the implementation of the 1977 ban, the District's murder rate has only *once* fallen below what it was in 1976;
- since 1977, there have been only *four years* when the District's violent crime rate fell below the rate in 1976; and
- in an incredible 15 years that the ban has been in place the District has ranked #1 or #2 in murders; in four of those years it was #4.

The District and its *amici* assert that the District's gun bans actually reduced violent crime notwithstanding the increased crime rates. However, the studies advanced in support of this position are fundamentally flawed and reach conclusions favorable to the District only through questionable selection of data and extremely unorthodox methodologies—such as ignoring large population changes, and counting only raw numbers of homicides (which incorrectly included justifiable homicides as well as murders) rather than per capita murder rates. Correctly analyzed, the District's crime statistics confirm that there is no real evidence that the handgun ban helped, and reason to believe that it may have hurt the District's residents.

Underlying the District's gun ban is the theory that the presence of more guns in a given society means there will be more violence and death. National and international data refute this; if anything they show that areas with more gun ownership often have lower violent crime or murder rates than those that forbid guns. Nor do such bans avert suicide, though they do cause the suicidal to turn to equally effective methods other than guns.

The District's policies are not backed by evidence justifying the need to divest law-abiding persons of the only reliable means of self-defense. This is especially true because those citizens virtually never commit violent crimes. The unique importance of firearms is that only they allow weaker people to resist predation by stronger ones:

Reliable, durable, and easy to operate, modern firearms are the most effective means of self-defense ever devised. They require minimal maintenance and, unlike knives and other weapons, do not depend on an individual's physical strength for their effectiveness. Only a gun can allow a 110 pound woman to defend herself against a 200 pound man.

Linda Gorman & David B. Kopel, *Self-defense: The Equalizer*, 15 Forum for Applied Research & Pub. Pol'y 92, 92 (2000).

ARGUMENT

I. **There Is No Evidence that the District's Gun Prohibitions Have Produced Good Results.**

A. *Following the enactment of the District's handgun ban, the District has not been made safer—indeed, the District has only become an even more dangerous place to live.*

Contrary to the assertions of the District and its *amici*, there is simply no persuasive evidence that the District's handgun ban has reduced violent crime. In-

deed, if there is anything to be discerned from the state of affairs in the District, it is that the handgun ban has made things worse, as murder and other violent crime has skyrocketed.

Over the five pre-ban years the murder rate fell from 37 to 27 per 100,000 population. *See* Appendix at 3a (FBI data on the District's murder rates since 1960²). In the five post-ban years the murder rate rose to 35. *Id.* Averaging the rates over the 40 years surrounding the bans yields a pre-ban DC rate (1960-76) of 24.6 murders. The average for the post-ban years is nearly double: 47.4 murders per 100,000 population. The year before the bans (1976), the District's murder rate was 27 per 100,000 population; after 15 years under the bans it had *tripled* to 80.22 per 100,000 (1991). *Id.*

After 1991, the homicide toll declined in the District and still “the percentage of killings committed with firearms remained far higher than it was when the ban was passed.” Paul Duggan, “Crime Data Underscores Limits of D.C. Gun Ban's Effectiveness,” *Washington Post*, Nov. 13, 2007, at B01.³ In 2003 the Secretary of Defense noted that the District's murder rate was higher than Baghdad's. Robert Endorf, *The District of Columbia Gun Ban: Where the Seductive Promise of Gun Control Meets Reality*, 19 *J. Firearms & Pub. Pol'y* 43, 44 (2007). In 2006, even after a decade of drops in the murder rate, the District's murder rate “was more than five times higher than the national average, and more than double the rate in comparably sized cities.” Nelson Lund,

² 1960 is the first year for which this data is available.

³ <http://www.washingtonpost.com/wp-dyn/content/article/2007/11/12/AR2007111201818.html?sid=ST2007111300923>

D.C.'s Handgun Ban and the Constitutional Right to Arms: One Hard Question?, 18 Geo. Mason U. Civ. Rts. L.J. 229, 230 n.5 (2008) (citing FBI statistics on murder data from DC and other jurisdictions).

After the gun prohibitions, the District became known as the “murder capital” of America. Before the challenged prohibitions, the District’s murder rate was declining, and by 1976 had fallen to the 15th highest among the 50 largest American cities. *See* Appendix at 4a. After the ban, the District’s murder rate fell below what it was in 1976 *only one time*. *Id.* at 3a. In half of the post-ban years, the District was ranked the worst or the second-worst; in four years it was the fourth worst. *Id.* at 4a.

Nor is there evidence that the bans have reduced overall violent crime rates. From 1977 to 2006, there were only *four years* when the District’s violent crime rate fell below the rate in 1976. *See* District of Columbia Crime Rates 1960-2006, <http://www.disastercenter.com/crime/dccrime.htm> (reporting data from FBI Uniform Crime Reports⁴). In 2006, the District’s “overall violent crime rate was about triple the national average, and about fifty percent higher than in comparably sized cities.” Lund, *supra*, at n.5.

It is theoretically possible that the gun bans had some small positive effect that has been continually overwhelmed by other, more powerful factors causing the murder and violent crime rates to climb. However, in light of this undisputed statistical evidence, the

⁴ Regarding the FBI Uniform Crime Reports, see <http://www.fbi.gov/ucr/ucr.htm>.

counter-evidence for any “positive effects” would have to be extraordinary. No such counter-evidence exists.

B. Studies relied upon by the District and amici to try to explain away the District’s substantial increase in murder during the handgun ban period are unreliable.

1. The Loftin study

The only evidence for the District’s and *amici*’s claim that the District’s handgun ban reduced murder is a study published in 1991 by Colin Loftin and others. Colin Loftin, *et al.*, *Effects of Restrictive Licensing in Handguns on Homicide and Suicide in the District of Columbia*, 325 *New Eng. J. Med.* 1615 (1991). However, the Loftin study—which compared statistics from two time periods: 1968-76 and 1977-87—contains many errors that render the study unreliable.

The fundamental error in the Loftin study is that, contrary to standard criminological practice, it utilizes only the *raw number* of “homicides” (as Loftin defined that term)⁵ per month in the District rather than murder

⁵ The Loftin study’s definition of “homicide” (from data from the National Center for Health Statistics) included civilian self-defense killings. *See* Loftin *et al.*, at 1616 (defining “homicide” so as to include homicide by legal intervention with a firearm, which has its own ICD-9 code: E970). It is reasonable to assume that more defensive killings took place before the 1977 implementation of the ban on using any firearm for home defense. Accordingly, Loftin’s reported decline in “homicide” may have partly reflected the disappearance of justifiable homicide against violent home invaders. By contrast, the FBI data concerns only criminal killings (murders and non-negligent manslaughters), which we use here. *See* FBI Uniform Crime Reporting Methodology, http://www.fbi.gov/ucr/cius2006/about/table_methodology.html.

rates per year, which, as noted above, continued to rise during the handgun ban period. *See id.*

The extremely unorthodox methodology of using raw numbers rather than rates was buttressed by the Loftin study's use of the wrong before/after date. The study used October 1976 (the date the bans were enacted), and failed to consider the lawsuit which delayed the effective date of the ban until February 1977.⁶ *See* Chester L. Britt, Gary Kleck & David J. Bordua, *A Re-assessment of the D.C. Gun Law: Some Cautionary Notes on the Use of Interrupted Time Series Designs for Policy Impact Assessment*, 30 *Law & Soc'y Rev.* 361, 374 (1996) (discussing the fact that the law became "fully effective" on February 21, 1977).

The Loftin study accurately reports that the raw number of "homicides" declined in the first few years after the ban. *But murder rates did not.* The Loftin study's incorrect use of raw numbers instead of murder rates obscures the more plausible reason behind the drop in raw numbers: a substantial decline in the District's population. During the Loftin study period, the District's population declined from 809,000 in 1968 to 622,000 in 1987. *See* <http://www.disastercenter.com/crime/dccrime.htm>. Murder rates rose after the ban.

The Loftin study acknowledges the possibility of population decline, but, rather than examine population estimates for the period, simply concludes based on vital statistics that there was no population decline. Loftin, et

⁶ An injunction against the entire law was granted by the D.C. Superior Court in December 1976. The injunction was lifted by the District of Columbia Court of Appeals on February 4, 1977. *See McIntosh v. Washington*, 395 A.2d 744 (D.C. 1978).

al., *supra*, at 1616. Yet population estimates for the District clearly show the large decline between the two study periods (1968-76 and 1977-87).

Moreover, again contrary to criminological practice, the Loftin study takes no account of other changes (e.g., large police personnel increases) which may also have impacted the total homicides.

However, even using Loftin's own data, when analyzed under correct criminological methodology (examining yearly murder rates per 100,000 (to correct for population changes)) the 25% number vanishes. Thus, when adjusted for population decline, the most that Loftin's own data shows is a drop in the *total* homicide rate of 33.0 per 100,000, to 31.2 per 100,000. This change (5.7%) is smaller than the one that the Loftin study authors themselves call statistically insignificant. *See* Loftin, et al., *supra*, at 1617 (stating that a decline of 7% in gun-related homicides and a 12% increase in gun-related suicides occurring outside the District was statistically insignificant).

Also, re-creating the Loftin study using the FBI's data on murder and non-negligent homicide rates (not the Loftin study's broader definition of homicide) reveals no significant change in the District's murder rate. Instead, the difference between the mean murder rate for 1968 through 1976 (33) and for 1977 through 1987 (30) is statistically insignificant. *See* Appendix at 3a.

Furthermore, the Loftin study is, in statistical terms, a "fragile" study. *See* Britt, et al., *supra*, at 375 (discussing "fragility"). That is, the Loftin study and its conclusions hold together only if certain variables are carefully chosen and not altered. If virtually any vari-

able is adjusted even slightly, the study's conclusions are unsupported—or even contradicted. For example, using the correct “effective date,” 1977 (the year that the injunction against the ban was lifted), makes the resulting pre-ban to post-ban change in murder rates insignificant. Adding one more year of data to either the beginning or end of the sample also makes the resulting change insignificant. *See id.* (demonstrating the fragility of the Loftin's study even using the study's incorrect “raw number” methodology). And if all available data is used (1960-2006), one would conclude, under Loftin's methodology, that the handgun ban caused a large and significant increase in the murder rate. *See* Appendix at 3a, 4a.

Among other issues, the “fragility” of the Loftin study and its incorrect “effective date” were part of a larger published debate concerning the reliability of the Loftin study. *See* Britt, et al., *supra* (criticizing the Loftin study); David McDowall, Colin Loftin & Brian Wiersema, *Using Quasi-Experiments to Evaluate Firearm Laws: Comment on Britt et al.'s Reassessment of the DC Gun Law*, 30 Law & Soc'y Rev. 381 (1996); Britt, et al., *Avoidance and Misunderstanding: A Rejoinder to McDowall et al.*, 30 Law & Soc'y Rev. 393 (1996). In 2004, the National Academy of Sciences rendered its verdict on the debate, finding the Britt, *et al.* critique (and other studies) to be sound, stating:

Britt et al. (1996) ... demonstrate that the earlier conclusions of Loftin et al. (1991) are sensitive to a number of modeling choices. They demonstrate that the same handgun-related homicide declines observed in Washington, DC, also occurred in Baltimore, even though Baltimore did not

experience any change in handgun laws. Thus, if Baltimore is used as a control group rather than the suburban areas surrounding DC, the conclusion that the handgun law lowered homicide and suicide rates does not hold. Britt et al. (1996) also found that extending the sample frame an additional two years (1968-1989) eliminated any measured impact of the handgun ban in the District of Columbia. Furthermore, Jones (1981) discusses a number of contemporaneous policy interventions that took place around the time of the Washington, DC, gun ban, which further call into question a causal interpretation of the results.

In summary, the District of Columbia handgun ban yields no conclusive evidence with respect to the impact of such bans on crime and violence. The nature of the intervention—limited to a single city, nonexperimental, and accompanied by other changes that could also affect handgun homicide—make it a weak experimental design. *Given the sensitivity of the results to alternative specifications, it is difficult to draw any causal inferences.*

Charles F. Wellford, John V. Pepper & Carol V. Petrie (eds.), *Firearms and Violence: A Critical Review* 98 (National Academies Press 2005) (emphasis added; footnote omitted).

After the ban, how did the murder rate in the District change in relation to the murder rates in nearby

Virginia and Maryland? The District always had a higher murder rate relative to Maryland and Virginia. As the following graph indicates, before the ban, murder was declining in all three. After the ban, all three had generally stable murder rates for a decade until all three began rising—the District much more than the other two. The claim that the bans have succeeded simply does not square with the District’s failure to reduce its murder rate even slightly relative to its neighbors. *See* graph, Appendix at 6a.

The reality is that one’s chance of being murdered in the District has not dropped, but has continually gone up following the enactment of the gun ban. In only one of the 30 post-ban years has the District’s murder rate been lower than its pre-ban 1976 rate. *See* Appendix at 3a. And, as to overall violent crime, in only *four* of the post-ban years was the District’s rate below the pre-ban year 1976. *See* <http://www.disastercenter.com/crime/dccrime.htm>.

In response to the fact that the District’s homicide rates continued to increase (sometimes drastically) during the handgun ban period, *amici* for the District argue that, “in the mid-1980s,” “the entire nation experienced an increase in violent crimes during this period because of the emergence of the crack cocaine market and related gang activity.” Brief of Professors of Criminal Justice as *Amici Curiae* in Support of Petitioners, at 14. However, this explanation ignores the fact that, as the attached graphs illustrate, *see* Appendix at 7a & 8a, the District’s murder rate grew much worse relative to the 50 largest U.S. cities and to the United States as a whole. The crack epidemic and gang activity was na-

tional; but while murder in other cities rose, murder in the District skyrocketed.

Some other factors unique to the District must have been at work. It is possible that the District's gun law itself may have been a contributing factor in the increased crime. What is certain is that the Loftin study's conclusion that murder was reduced is unreliable.

2. The Kellermann study

The District and its amici claim that merely living in a house with a gun triples the chance of becoming a homicide victim, citing Arthur L. Kellermann, et al., *Gun Ownership as a Risk Factor for Homicide in the Home*, 329 New Eng. J. Med. 1084 (1993). See Cert. Petition at 25; Petitioners' Brief at 52; Brief of *Amici Curiae* American Public Health Ass'n, et al., at 14. Yet, though the Kellermann study analyzed over 400 homicides, "the authors did not document a single case in which the victim was killed with a gun kept in the victim's home." Gary Kleck, *Targeting Guns: Firearms and Their Control* 245 (1997). Apparently in over 95% of the cases the gun was brought to the home by the killer. *Id.* at 245-46.

It seems the decedents may have been unrepresentative of ordinary gun owners; their deaths may have stemmed from high risk career or personal relationship choices, not from their gun ownership. A national study of gun murders between acquaintances in homes finds "the most common victim-offender relationship was ... between persons involved in drug dealing, where both parties were criminals who knew one another because of prior illegal transactions." *Id.* at 236.

Moreover, the Kellermann study vastly underestimates the defensive benefits of guns in the home by acknowledging only instances when guns killed an intruder, even though the vast majority of defensive uses result in criminals fleeing rather than being shot. See Brief of *Amici Curiae* International Law Enforcement Educators & Trainers Ass'n, et al., at 15 (discussing defensive benefits). And, if they were shot, six times more criminals would survive than would die. Don B. Kates, *The Value of Civilian Arms Possession as Deterrent to Crime or Defense Against Crime*, 18 Am. J. Crim. L. 113, 135-36 (1991).

Furthermore, the Kellermann study is founded upon flawed assumptions as to causation, rendering the study unreliable and leading to absurd conclusions. For example: if a group of people who died in a particular year were compared with a group who did not die, it is highly probable that that comparison will reveal that many more of the decedents visited a hospital in that year. Under the Kellermann methodology, one would be allowed to erroneously conclude that hospitals cause death. See John R. Lott, Jr., *More Guns, Less Crime* 24 (Univ. of Chicago Press 2000) (2d ed.) (giving this example); see also Kleck, *Targeting Guns*, at 243-47; Gary Kleck, *Can Owning a Gun Really Triple the Owner's Chances of Being Murdered? The Anatomy of an Implausible Causal Mechanism*, 5 Homicide Studies 64-77 (2001).

Noting these problems with the Kellermann study, the National Academy of Sciences found that the Kellermann "conclusions are not tenable." Charles F. Wellford, John V. Pepper & Carol V. Petrie (eds.), *Fire-*

arms and Violence: A Critical Review 118-19 (National Academies Press 2005).⁷

II. Criminological Evidence from the United States and from Foreign Jurisdictions Discredits the Notion that “More Guns Equals More Murder.”

The District’s lack of evidence supporting its gun policies are not surprising, given the shaky foundations and erroneous assumptions underlying those policies. The primary pillar of the argument that gun prohibition produces good results is the notion that “more guns equals more murder.” *See* Cert. Pet. at 22-29; Petitioners’ Br. at 49-55; Brief of *Amici Curiae* American Public Health Ass’n, et al., at 8-20; Brief of Professors of Criminal Justice as *Amici Curiae* in Support of Petitioners, at 5. However, this notion is demonstrably untrue.

A. *United States statistics show that increased gun availability does not increase the number of murders.*

The United States has the most extensive data on gun ownership and murder. The earliest reliable gun

⁷ *Amici* American Academy of Pediatrics, et al., rely on a later Kellermann study in asserting such a relationship between home gun ownership and homicide. AAP Br. at 9 (citing Arthur L. Kellermann, et al., *Injuries and deaths due to firearms in the home*, 45 *J. Trauma, Injury, Infection, & Critical Care* 263 (1998)). However, the 1998 study contains many of the same flaws. For example, in that study only 14.2% of the homicides studied involved the gun kept in the home where the homicide occurred. Additionally, “many these shootings almost certainly occurred in the home of the attacker and not of the victim....” These and other problems render the 1998 Kellermann just as unreliable as the 1993 study. *See* Kleck, *supra*, 5 *Homicide Stud.* at 69-71.

ownership data begin right after WWII. In 1946 there were 34,400 civilian firearms per 100,000 Americans and the murder rate was 6.9 per 100,000 population; 60 years later in 2004, gun ownership had almost tripled (85,000 guns per 100,000). *See* Appendix at 1a. Yet the murder rate had actually *declined* to 5.5 per 100,000. *Id.* This evidence discredits the simplistic notion that increasing the civilian gunstock produces concomitant (or any) increases in murder.

TABLE I⁸

Year	Guns per 1000 persons	Murders per 1000 persons
1946	344	0.069
1950	381	0.053
1960	431	0.051
1970	549	0.079
1980	738	0.101
1990	853	0.094
2000	885	0.055
2001	876	0.056
2002	867	0.056
2003	858	0.057
2004	850	0.055

These figures discredit the theory that predicts increased murder from an increase in guns. For example, the gunstock per 1000 persons rose from 627 to 858 over the 30-year period between 1974-2003, but the murder rate fell 41%. *See* Appendix at 1a.

⁸ *See* Appendix at 1a.

Additionally, according to the National Crime Victimization Survey, despite the increasing gunstock, nonfatal firearms crimes fell by over 50% since 1993.⁹ Consideration of such data led one researcher to conclude that, while rising crime rates might cause frightened citizens to acquire guns, such rises in the civilian gunstock do not increase violent crime. Lawrence Southwick, *Do Guns Cause Crime? Does Crime Cause Guns? A Granger Test*, 25 *Atlantic Econ. J.* 256 (1997).

Professor Southwick's conclusions confirmed those of a study of gun ownership and crime over 170 American cities with widely varying levels of gun ownership; the study controlled for other factors in violence rates. The results showed that higher violence levels increased gun ownership; but increased gun ownership did not increase murder or other crimes. Gary Kleck & Britt Patterson, *The Impact of Gun Control and Gun Ownership Levels on City Violence Rates*, 9 *J. Quant. Criminology* 249-87 (1993); see also Lott, *More Guns, Less Crime*, *supra*, at 113-14 (reaching the same conclusion from data from states across the entire country).

Subsequently, the most extensive and sophisticated econometric analysis (covering 20 years in 50 states) of whether increased levels of gun handgun ownership, or of gun ownership in general, increases crime concluded: "The estimated net effect of guns on crime... is generally very small and *insignificantly different from zero*." Carlisle Moody & Thomas Marvell, *Guns*

⁹ See United States Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, Nonfatal firearm-related violent crimes 1993-2005 <http://www.ojp.usdoj.gov/bjs/glance/tables/firearmnonfataltab.htm>.

and Crime, 71 So. Econ. J. 720, 735 (2005) (emphasis added).

B. *The Duggan study relied on by the District and amici is fundamentally flawed.*

To counter such evidence, the District and its *amici* cite a study by Mark Duggan for the proposition that “increases in gun ownership lead to increases in the number of homicides.” Brief of Professors of Criminal Justice as *Amici Curiae* in Support of Petitioners, at 5 (quoting Mark Duggan, *More Guns More Crime*, 109 Pol. Econ. 1086, 1100-01 (2001)); *see also* Petitioners’ Brief at 52; Cert. Pet. at 27; Brief of *Amici Curiae* American Public Health Ass’n, et al., at 15. However, the Duggan study is fundamentally flawed, as are these conclusions.

The Duggan study was not based on actual data about gun distribution evidence. That is, Duggan never measured whether any city had more guns or less guns. Instead, his study is based solely on the circulation of one magazine, *Guns & Ammo*.

What the Duggan study does not tell its readers is that, because of commitments to advertisers to guarantee certain levels of circulation during the 1990s, between 5% and 20% of *Guns & Ammo* copies were bought by the magazine itself and distributed free to doctors’ and dentists’ offices. The counties in which these self-purchases were made were where the magazine thought that crime rates were increasing. *See* Florenz Plassmann & John Lott, Jr., *More Readers of Gun Magazines, But Not More Crimes*, Soc. Sci. Research Network (July 2, 2002) (available at <http://ssrn.com/abstract=320107>). Because of the self-purchases, *Guns*

& *Ammo* is probably the only magazine that implies the relationship that Duggan finds. See John R. Lott, Jr., *The Bias Against Guns* 232-34 (2003).

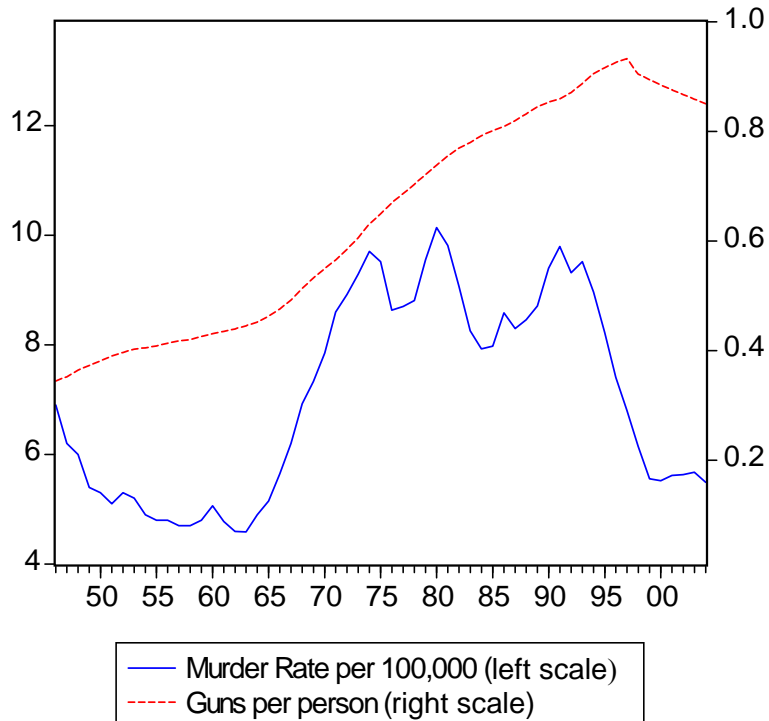
Simply put, the Duggan study is fundamentally unsound. The study stands in sharp contrast to a much more exhaustive econometric analysis of the subject, which concluded that gun ownership does not cause violence. Moody & Marvell, *supra*, at 726-30, 733-35. The Moody study so found after analyzing *actual* gun ownership survey data plus circulation data from the three more popular gun magazines. *Id.* See also Lott, *More Guns, Less Crime*, *supra*, at 113-14 (discussing survey gun ownership survey data indicating that the number of guns is inversely related to the amount of crime).

In sum, although American murder rates have fluctuated substantially since 1946, none of those fluctuations fulfilled the prediction that prodigious increases in guns would increase violence. As the standard text on the criminology of firearms states:

The per capita accumulated stock of guns (the total of firearms manufactured or imported into the United States, less exports) has increased in recent decades, yet there has been no correspondingly consistent increase in either total or gun violence... About half of the time gun stock increases have been accompanied by violence decreases, and about half the time [they have been] accompanied by violence increases, *just what one would expect if gun levels had no net impact on violence rates.*

Kleck, *Targeting Guns*, *supra*, at 18 (emphasis added).

**Gun Rates and Murder Rates in the United States
1946-2004**



Source: Murder rate from FBI, Uniform Crime Reports; Guns per capita from Kleck, *Targeting Guns*, at 96-97 and BATF Annual Firearms Manufacture and Export Report, <http://www.atf.gov/firearms/stats/index.htm>. See Appendix at 1a.

C. *Foreign criminological evidence discredits the notion that more guns equals more murder.*

The evidence from foreign jurisdictions leads to the same conclusion as the United States data. In gen-

eral, comparison of “homicide and suicide mortality data for thirty-six nations (including the United States) for the period 1990-1995” to gunstock levels shows “no significant (at the 5% level) association between gun ownership and the total homicide rate.” Kleck, *Targeting Guns, supra*, at 254. Additionally, in a 2001 European study of 21 nations’ data, “no significant correlations [of gunstock levels] with total suicide or homicide rates were found.”¹⁰

A 2007 study compared gun ownership and murder in every European nation on which the data could be found. Don B. Kates & Gary Mauser, *Would Banning Firearms Reduce Murder and Suicide: A Review of International Evidence*, 30 Harv. J.L. & Pub. Pol’y 651-94 (2007). Again, nations with more guns did not exhibit higher murder rates. Indeed, the tendency is generally the opposite: murder rates for the seven nations having 16,000+ guns average out to 1.2 per 100,000 population while the murder rates for the nine nations having just 5,000 or fewer guns is well over three times higher, at 4.4 per 100,000. *Id.*; see also Appendix at 5a (table of European gun ownership and murder rates).

These national comparisons suggest that the determinants of murder are factors such as basic socioeconomic and cultural factors, and not the mere availability of guns.

Leading gun control advocates have admitted that “Israel and Switzerland [have] rates of homicide [that]

¹⁰ Quoted from the Abstract to Martin Killias, et al., *Guns, Violent Crime, and Suicide in 21 Countries*, 43 Canadian J. Criminology 429-48 (2001).

are low despite rates of home firearm ownership that are at least as high as those noted in the U.S.” Arthur L. Kellermann, et al., *The Epidemiologic Basis for the Prevention of Firearm Injuries*, 12 Annual Rev. Pub. Health 17, 28 (1991). Cf. Lott, *More Guns, Less Crime*, at 113 (making the same point about Finland and New Zealand as well as Israel and Switzerland). To the same effect, within Canada,¹¹ “England, America and Switzerland, [the areas] with the highest rates of gun ownership are in fact those with the lowest rates of violence.” Joyce Lee Malcolm, *Guns and Violence: The English Experience* 204 (Harvard 2002).¹²

The non-relation of gunstock rates to murder is confirmed by studies of the effects of gun bans on murder and suicide in various jurisdictions. Some studies show no effect; in others *gun* deaths declined somewhat after gun bans—but this produced no net benefit—killings with other deadly instruments just rose to make up the difference. Kleck, *Targeting Guns*, *supra*, at 265-89 (collecting studies).

¹¹ Philip C. Stenning, *Gun Control - A Critique of Current Policy*, 15 Pol’y Options 13 (1994).

¹² In fact, in the 1990s, English, Canadian and Australian violence rates escalated to twice American rates despite decades of increasingly restrictive controls. John van Kesteren, et al., in Esther Bouten, et al., *Crime Victimization in Comparative Perspective: Results from the International Crime Victims Survey, 1989-2000*, 13, 15-16 (2002).

III. Even National Gun Bans Fail to Reduce Violence.

The District officials who enacted the bans did not expect to reduce criminal activity; the bans were primarily intended to “start a trend, eventually leading to a federal handgun ban.” Paul Duggan, “Crime Data Under-score Limits of D.C. Ban’s Effectiveness,” *Washington Post*, Nov. 13, 2007 (also noting that then-Councilman Marion Berry admitted that the bans would “not take one gun out of the hands of one criminal”). Yet the experience of other nations suggests that even a national handgun ban would not reduce homicide.

Consider Russia, where handguns have been banned to civilians for over 90 years, and this strictly enforced by methods forbidden to American police. Kates & Mauser, *supra*, at 650-51. The ban has been successful in the irrelevant respect that *gun* murders are rare in Russia. But other murder weapons are substituted—and the Russian murder rate has always been higher than gun-ridden America’s. *Id.* In recent years Russia’s murder rate has been nearly four times higher. *Id.*; see Appendix at 5a. Former Soviet nations like Belarus and Lithuania also ban handguns and their murder rates are two or three times higher than America’s. See Jeffrey A. Miron, *Violence, Guns, and Drugs: A Cross-Country Analysis*, 44 *J.L. & Econ.* 615, 625ff. (2001) (listing rates).

In England, violent crime steadily rose over decades of ever more restrictive controls, culminating in its 1997 handgun ban. Despite confiscation of hundreds of thousands of guns, by 2000 English violence rates far surpassed American. John van Kesteren, et al., in

Esther Bouten, et al., *Crime Victimization in Comparative Perspective: Results from the International Crime Victims Survey, 1989-2000*, 13, 15-16 (2002). Specifically, the number of deaths and injuries from gun crime in England and Wales increased 340 percent in the seven years from 1998 to 2005. David Leppard, "Ministers 'covered up' gun crime," the *Sunday Times* (London), Aug. 26, 2007.¹³ The rates of serious violent crime, armed robberies, rapes and homicide have also soared. Today, English headlines resemble the melodramatic American headlines of the 1960s.¹⁴

¹³ <http://www.timesonline.co.uk/tol/news/uk/crime/article2328368.ece>

¹⁴ See, e.g., "Violent Crime is Out of Control," Jul. 21, 2005, <http://uk.news.yahoo.com/050721/140/fntfz.html>; "Police fear gun crime explosion," *Evening Standard* (London), Apr. 12, 2005, [<http://www.thisislondon.com/news/londonnews/articles/17867375?source=Evening%20Standard>]; "Gun Crimes Growing 'Like Cancer,'" *BBC News*, May 21, 2003; "Handgun Crime 'Up' Despite Ban," *BBC News*, Jul. 16, 2001; "[PM Blair] Pledge[s] to Tackle Soaring Street Crime," *BBC News*, Jul. 12, 2002; "Britain's Tough Gun Control Laws Termed Total Failure: Land of Hope and Gun-running," *Punch*, May 3-16, 2000; "Gun crime soars in Britain," *Reuters* (London), Jan. 9, 2003.

See also the following articles for the dates indicated a) from the *Times* (London), Jan. 16, 2000: "Killings Rise As 3 Million Illegal Guns Flood Britain."; Oct. 13, 2002: "Murder rate soars to highest for a century"; b) from the *Independent*: Jan. 15, 2002: "Police Move to Tackle Huge Rise in Gun Crime"; Dec. 27, 2002: "Firearms amnesty to tackle surge in gun crime" [<http://news.independent.co.uk/uk/crime/story.jsp?story=364549>]; c) from the *Telegraph* (London): Aug. 25, 1999: "[Home Secretary Jack] Straw Braced for 20% Increase in Crime Rate"; Jul. 17, 2001: "Gun crime rises despite Dunblane pistol ban"; Feb. 24, 2002: "Gun crime trebles as weapons and drugs flood British cities."

When it had no firearms restrictions [19th and early 20th Century] England had little violent crime, while the present extraordinarily stringent gun controls have not stopped the increase in violence....

Armed crime, never a problem in England, has now become one. Handguns are banned but the kingdom has millions of illegal firearms. Criminals have no trouble finding them and exhibit a new willingness to use them. In the decade after 1957 the use of guns in serious crime increased a hundredfold.

Joyce Lee Malcolm, *Guns and Violence: The English Experience*, 209, 219 (Harvard 2002).

It may be remarked that despite its burgeoning violence, England's murder rate is still far below America's. This is true; but when England allowed anyone to own handguns, and had guns laws vastly less restrictive than any modern American state, England's murder rate was minuscule—far below either its current rate or the contemporary American rate. Colin Greenwood, *Firearms Control: Armed Crime and Firearms Control in England and Wales*, Ch. 1 (1972) (“An Unrestricted Era”); Malcolm, *supra*, at 137.

The current difference between English and American murder rates reflects socio-economic and cultural differences, not any shortage of guns for English criminals. The 1997 handgun ban has proved unenforceable even over a relatively small island; England's National Crime Intelligence Service 2002 Report laments that while “Britain has some of the strictest gun laws in

the world [i]t appears that *anyone who wishes to obtain a firearm [illegally] will have little difficulty in doing so.*” Don B. Kates, *The Hopelessness of Trying to Disarm the Kind of People who Murder*, 12 Bridges 313, 319 (2005) (quoting the NCIS) (emphasis added).

IV. Handgun Bans Do Not Reduce Suicide Rates.

“If there were a strong causal connection between firearms and suicide the United States would be a world leader in suicide... [but] the U.S. suicide rate is average for industrialized nations.” James B. Jacobs, *Can Gun Control Work?* 6 (Oxford Univ. Press 2003).

The District’s and *amici*’s claim that handgun bans reduce suicide is contradicted by local, national and international studies showing that nations with fewer guns do not have fewer suicides. Kleck, *Targeting Guns*, *supra*, at 254; *see* Killias, et al., *supra*. For instance, “if the Brady Act did have the effect of modestly reducing firearms suicides ... this effect was completely offset by an increase of the same magnitude in nonfirearm suicide” resulting in the same number of deaths. Jacobs, *Can Gun Control Work?*, *supra*, at 120. Nor, conversely, have vast increases in American gun ownership led to increased suicide. Kleck, *Targeting Guns*, *supra*, at 265. Some nations with more guns have higher *gun* suicide, but nations with fewer guns just have more suicide using other means. *See id.* at 265-89 (collecting studies). A World Health Organization report cites studies “conclud[ing] that removing an easy and favored method of suicide was not likely to affect substantially the overall suicide rate because other methods would be chosen.” W.H.O., *Changing Patterns in Suicide Behavior* 20 (1982). And in suicide attempts “guns are not signifi-

cantly more likely to end in death than those involving hanging, [car exhausts] or drowning.” Kleck, *Targeting Guns*, *supra*, at 266.

The evidence indicates that people so determined on suicide that they would use a gun will find another instrument if guns are unavailable. And handgun bans just turn the suicidal to long guns: “handguns have no significant advantages over long guns for committing suicide[;] probably half of [American] gun suicides are committed with long guns....” *Id.* at 282. In Canada, where handguns are less common, “[n]inety percent of [gun suicides] are committed with long guns.” Philip C. Stenning, *Gun Control - A Critique of Current Policy*, 15 *Pol’y Options* 13, 15 (1994).

In 2001, the largest study on youth suicides was performed, involving two surveys of 17,004 adolescents (12-18) and samples of national, state and county level cross-sectional data for various years from 1950 on. David Cutler, et al., *Explaining the rise in youth suicide* in J. Gruber (ed.), *Risky behavior among youths: An economic analysis* 219-269 (Univ. of Chicago Press 2001). That study found

the most important explanatory variable [for juvenile suicide] is the increased share of youths living in homes with divorced parents. [This eclipses] ... either the share of children living with step-parents or the share of female-headed households.

Id. at 219.

The Cutler study found some evidence of a relationship between higher gun ownership and suicide, but

that relationship disappears and is in fact reversed with the inclusion of a variable for the rate that people go hunting. *Id.* at 31-34. The higher suicide rate is related to higher rates that people in certain counties go hunting, not whether people own a gun. *Id.* The problem is that studies like those relied on by the District and their *amici*, which use very low numbers of sample cases, have confounded the fact that people in counties with a lot of hunters are also more likely to own guns.

The Cutler study authors were unable to discern whether the apparent hunting effect is due to some other cultural factors in areas with a lot of hunters, or whether it was due to hunting itself. In any case, an examination of gun ownership rates, omitting the hunting effect will cause a spurious positive correlation between suicide and gun ownership. *Id.*

From long before the bans—the District has *always* had among the nation’s lowest suicide rates. This may be because of its very high African-American population. Differing population segments often have very different suicide rates for various reasons. African-Americans have a much lower suicide rate than whites.¹⁵ Women commit suicide much less than men.¹⁶ Indian

¹⁵ Centers for Disease Control and Prevention, National Center for Health Statistics. Compressed Mortality File 1979-1998. CDC WONDER On-line Database, compiled from Compressed Mortality File CMF 1968-1988, Series 20, No. 2A, 2000 and CMF 1989-1998, Series 20, No. 2E, 2003. Accessed at <http://wonder.cdc.gov/cmfiled9.html> on Jan 30, 2008 11:24:13 AM. White suicide rate: 13.1/100,000 per year. African-American suicide rate: 6.4/100,000 per year. Other races: 7.4/100,000 per year.

¹⁶ *Id.* Male suicide rate: 19.5/100,000 per year. Female suicide rate: 5.0/100,000 per year.

women on the island of Fiji have a suicide rate several times higher than that of Fijian women. Kates & Mauser, *supra*, at 692-93.

As with murders, the Loftin study discussed above created the misimpression that the bans reduced District suicide because Loftin reported raw suicide data without considering the District's precipitously declining population. When the Loftin methodology is corrected to account for population changes, Loftin's own data show that there was a decline in gun suicide rates, and an *increase* in non-gun suicide rates—for a statistically insignificant decline of 11.4 per 100,000 to 11.2 per 100,000 (1.5%) in total suicide rates. *See* Loftin, *supra*, at 1617 (stating that a 12% increase in gun-related suicides outside the District was insignificant).

The evidence shows that several years before the bans, the District's gun suicide rate started declining; later, the non-gun rate began declining as well. In fact, the non-gun suicide drop was slightly greater after the bans. That greater drop in non-gun suicides continues to date. *See* graph, Appendix at 9a.

Obviously some factor other than the bans caused a suicide reduction that included both gun and non-gun suicides.

V. The District's Ban of Armed Home Defense Admits of No Implied Exception.

Apparently for the first time, the District now claims that its residents may keep long guns for defense in the home. Petitioners' Br. at 49, 54. This assertion was not made below where it would have been subject to discovery. Discovery would have revealed that the Dis-

trict has never (so far as we can find) announced this purported exception either to the public or to its police.

We leave to the Brief of *Amicus Curiae* Citizens Committee for the Right to Keep and Bear Arms (the “Errors Brief”), the refutation of this newly asserted exception. We note, however, that the District has made no attempt to outline what such an exception would entail. This is understandable because such an exception would be incoherent unless carefully drafted—a legislative, not a judicial, task. Consider at least seven different forms which such a defense might take:

a) Despite the challenged ordinances, there is an implicit self-defense exception allowing a District resident to keep an un-trigger locked handgun loaded and assembled in her night stand; or

b) Despite those ordinances there is an implicit exception allowing a District resident to keep an un-trigger-locked shotgun assembled and loaded by her bedside¹⁷; or

c) There is an implicit exception allowing a woman who has been stalked, raped, or threatened with death by her ex-husband or someone else to keep an un-trigger locked handgun loaded and assembled in her night stand for self-defense; or

d) There is an implicit exception allowing a woman who has been stalked, raped, or threat-

¹⁷ Note that these possible “exceptions” would nullify the ordinances.

ened with death by her ex-husband or someone else to keep an un-trigger-locked shotgun assembled and loaded for self-defense by her bedside; or

e) The obverse of (a)—(d): yes, it was illegal for her to have a handgun or a loaded shotgun, but now that she has shot an intruder with it, that shooting gives her a defense to prosecution for the gun law violations; or

f) There is an implicit exception allowing a woman who has been stalked raped or threatened by her ex-husband or someone else to assemble, load and unlock her shotgun if she spies him lurking outside her home; or

g) When a woman is attacked by a knife-wielding attacker in her home there is an implicit exception allowing her to go and assemble, load and unlock her shotgun.

We reiterate there is no exception in the challenged ordinances—and it is not the province of a court to define them. Compare Chicago: it has a handgun ban, Chicago Mun. Code § 8-20-050, but Illinois law specifies that self-defense use precludes prosecution. 720 Ill. Comp. Stat. 5/24-10 (West 2004). Moreover, law-abiding adult Chicagoans can keep loaded long guns for self-defense.

Also, New York City, famous for its restrictive gun laws, requires a license to possess a handgun, but it is undisputed that a licensed handgun may properly be used “for protection of person and property in the dwell-

ing.” *Archibald v. Codd*, 59 A.D.2d 867, 868, 399 N.Y.S.2d 235, 237 (1977).

And, as discussed in the Brief of *Amici Curiae* International Scholars at Section III, numerous countries—even those with stringent handgun regulation—allow the owning of handguns and other firearms for home self-defense.

VI. Whatever Benefits Gun Control Offers Can Be Accomplished By a Permit or Background Check System.

There are less drastic, but fully adequate, means to regulate guns at the District’s disposal. For example, federal law conditions gun purchases on a background check to exclude juveniles, felons and the persons adjudicated mentally unfit.¹⁸ Many states have their own supplementary background checks and also forbid gun ownership by juveniles, felons and the deranged.¹⁹ The efficacy of such provisions is confirmed by two facts: First, almost without exception murderers and gun criminals have life histories of violence, felony, psychopathology and/or substance abuse.²⁰ The whole corpus of research shows that

¹⁸ See Jacobs, *supra*, at ch.2.

¹⁹ *Id.*

²⁰ Kates & Mauser, *supra*, 30 Harv. J.L. & Pub Pol. at 885-70 (collecting studies); Delbert S. Elliott, *Life Threatening Violence is Primarily a Crime Problem: A Focus on Prevention*, 69 U. Colo. L. Rev. 1081, 1089 (1998) (life-threatening criminals/murderers “almost always have a long history of involvement in criminal behavior”); Philip J. Cook & Jens Ludwig, *Principles for Effective Gun Policy*,

the vast majority of persons involved in life-threatening violence have a long criminal record with many prior contacts with the justice system... There are some life-threatening violent offenders who have n[ever previously] been apprehended and charged, but there is no evidence to suggest that their violence is the result of some unique or different set of causal factors.

Delbert S. Elliott, *Life Threatening Violence is Primarily a Crime Problem: A Focus on Prevention*, 69 U. Colo. L. Rev. 1081, 1093 (1998).

Second, over the past decade 48 states have issued permits to carry concealed handguns for lawful protection to about five million Americans; most of those states have been issuing under statutorily standardized criteria by which an adult with a clean record and safety training can obtain a permit.²¹ These permit-holders' subsequent histories show virtually no crime, contrary to the mythology that ordinary people commit violent crimes if given access to guns. Lott, *More Guns, Less Crime*, *supra*, at 219-22.

Liberal gun carry permit issuance under objective standards has not resulted in the thousands of murders that the District's theory predicts. *See id.* In every state

73 Fordham L. Rev. 589 (2004) (gun misuse is concentrated among people with arrest records).

²¹ See David Kopel, "Nebraska is 40th State to Enact Shall Issue Licenses for Defensive Handgun Carrying," *The Volokh Conspiracy*, Apr. 1, 2006, http://volokh.com/archives/archive_2006_03_26-2006_04_01.shtml#1143873304.

where they were considered, these laws were opposed in editorials claiming that ordinary people commit most murders and predicting that if enacted the laws would vastly increase murder.²² To the contrary, the laws' enactments have been followed by an outpouring of news articles with titles like: "Records Say Licensed Gun Owners Are Least of Florida's Crime Problem";²³ "Michigan Sees Fewer Gun Deaths—With More Permits";²⁴ "Gun Permits Surge, But Not Violence";²⁵ "Gun Law: Concealed Weapons Advocates Were Right: Crime Didn't Go Up in North Carolina";²⁶ "CCW Law Fares Well So Far: Officials Satisfied with Controversial Gun Permits";²⁷ "Concealed Weapons Owners No Trouble";²⁸ "Pistol Packing and Proud of It";²⁹ "Handgun Law's

²² See, e.g., Editorial: "Turning Florida Into the Wild West," *Daytona Beach Evening News*, Apr. 10, 1985; Editorial: "Johnson Bill is Deadly Plan," *Tallahassee Democrat*, Feb. 17, 1987.

²³ *Tallahassee Democrat*, Nov. 4, 1990.

²⁴ Dawson Bell, *Detroit Free Press*, Jan. 6, 2008 [<http://www.freep.com/apps/pbcs.dll/article?AID=/20080106/news06/801060602/1008>]

²⁵ *Detroit News*, Mar. 21, 2002.

²⁶ *Chapel Hill Herald*, May 6, 1997, at 4 ("I am glad I was wrong. I haven't had a single report of a licensed concealed weapon being used to commit a crime.").

²⁷ *Detroit Free Press*, Jan. 2, 2002.

²⁸ *Gainesville Sun*, Nov. 4, 1990 (quoting a state legislator who led opposition to the new law as stating: "My fears have not been borne out.").

²⁹ *Roanoke Times*, May 19, 2002.

First Year Belies Fears of ‘Blood in the Streets’”,³⁰ “Gun-Toting Kentuckians Hold Their Fire”,³¹ “Police Say Concealed Weapons Law Has Not Brought Rise in Violence.”³² See, e.g., Alan Bartley & Mark Cohen, *The Effect of Concealed Weapons Laws: An Extreme Bound Analysis*, 36 Econ. Inquiry 258 (1998) (demonstrating that right-to-carry laws reduce violent crime).

Gun possession by ordinary people does no harm because responsible law-abiding adults virtually never commit violent crimes.³³ All that gun controls can usefully do is forbid guns to criminals, juveniles and the deranged. If such laws fail it is not because they are too narrow but because those against whom the laws are aimed do not obey laws.

Confirming this fact are two recent general studies of gun control. In 2005, the U.S. National Academy of Sciences released its evaluation based on review of 253 journal articles, 99 books, 43 government publications and some empirical research of its own. Wellford, et al., *Firearms and Violence: A Critical Review*, *supra*, at 98. The Academy could not identify *any* gun control that had reduced violent crime, suicide or gun accidents. The same conclusion was reached in a 2003 evaluation by the Centers for Disease Control’s then-extant studies. *First*

³⁰ *Texas Lawyer*, Dec. 9, 1996, at 2.

³¹ *Cincinnati Enquirer*, Jun. 16, 1997, at A1.

³² *Palm Beach Post*, Jul. 26, 1988, at A1.

³³ See Lott, *More Guns, Less Crime*, at 219-22.

*Reports Evaluating the Effectiveness of Strategies for Preventing Violence: Firearms Laws (CDC 2003).*³⁴

CONCLUSION

In this case, the facts simply do not fit the rhetoric behind the District's gun ban. Such bans do not produce good results. Rather, such bans irrationally strip law-abiding citizens of the most effective means of defending themselves and their loved ones—and, if the evidence indicates anything, it is that criminals take full advantage.

Amici respectfully submit that the judgment of the Court of Appeals was correct and should be affirmed.

Respectfully submitted,

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³⁴ <http://cdc.gov/mmwr/preview/mmwrhtml/rr5214a2.htm>.

APPENDIX

**Guns per 1000 persons and the murder rate per
100,000 persons in the United States from 1946-2004**

Year	Guns	Mur- der rate	Year	Guns	Mur- der rate
1946	344	6.90	1973	606	9.29
1947	352	6.20	1974	631	9.71
1948	364	6.00	1975	649	9.52
1949	373	5.40	1976	669	8.63
1950	381	5.30	1977	686	8.70
1951	390	5.10	1978	703	8.81
1952	396	5.30	1979	721	9.56
1953	402	5.20	1980	738	10.14
1954	405	4.90	1981	755	9.81
1955	408	4.80	1982	769	9.07
1956	413	4.80	1983	780	8.26
1957	417	4.70	1984	792	7.93
1958	420	4.70	1985	801	7.98
1959	425	4.80	1986	809	8.58
1960	431	5.06	1987	819	8.30
1961	435	4.78	1988	832	8.46
1962	439	4.59	1989	845	8.71
1963	445	4.59	1990	853	9.40
1964	452	4.90	1991	859	9.80
1965	463	5.15	1992	871	9.32
1966	476	5.65	1993	887	9.52
1967	492	6.20	1994	905	8.96
1968	513	6.92	1995	916	8.22
1969	532	7.33	1996	925	7.41
1970	549	7.85	1997	933	6.80
1971	565	8.60	1998	905	6.15
1972	584	8.92	1999	894	5.56

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Year	Guns	Mur- der rate	Year	Guns	Mur- der rate
2000	885	5.52	2004	850	5.49
2001	876	5.62			
2002	867	5.63			
2003	858	5.68			

Source: Murder rate from FBI, Uniform Crime Reports; Guns per capita from Kleck, *Targeting Guns*, *supra*, at 96-97, and BATF Annual Firearms Manufacture and Export Report, <http://www.atf.gov/firearms/stats/index.htm>.

**Murder rates in the District of Columbia
from 1960-2006**

Year	Murder Rate	Year	Murder Rate	Year	Mur- der Rate
1960	10.6	1976	27.0	1992	74.1
1961	11.3	1977	28.2	1993	76.3
1962	11.5	1978	28.2	1994	67.7
1963	11.9	1979	27.5	1995	62.0
1964	16.5	1980	31.3	1996	69.4
1965	18.6	1981	35.0	1997	53.0
1966	17.8	1982	30.6	1998	46.0
1967	22.5	1983	28.9	1999	42.3
1968	25.1	1984	27.6	2000	41.9
1969	37.7	1985	23.2	2001	40.6
1970	29.3	1986	30.4	2002	46.8
1971	36.6	1987	35.3	2003	44.7
1972	32.9	1988	58.5	2004	35.8
1973	36.5	1989	69.5	2005	35.4
1974	38.4	1990	78.0	2006	29.1
1975	33.1	1991	80.2		

Source: FBI Uniform Crime Reports, various years

**The District of Columbia's Murder Rate Rankings
Compared to the 50 Largest United States Cities
1976-2005**

YEAR	RANK
1976	15th
1977	9th
1978	9th
1979	10th
1980	12th
1981	8th
1982	12th
1983	8th
1984	9th
1985	15th
1986	11th
1987	4th
1988	1st
1989	1st
1990	1st

YEAR	RANK
1991	1st
1992	1st
1993	2nd
1994	2nd
1995	2nd
1996	1st
1997	1st
1998	1st
1999	1st
2000	2nd
2001	4th
2002	2nd
2003	2nd
2004	4th
2005	4th

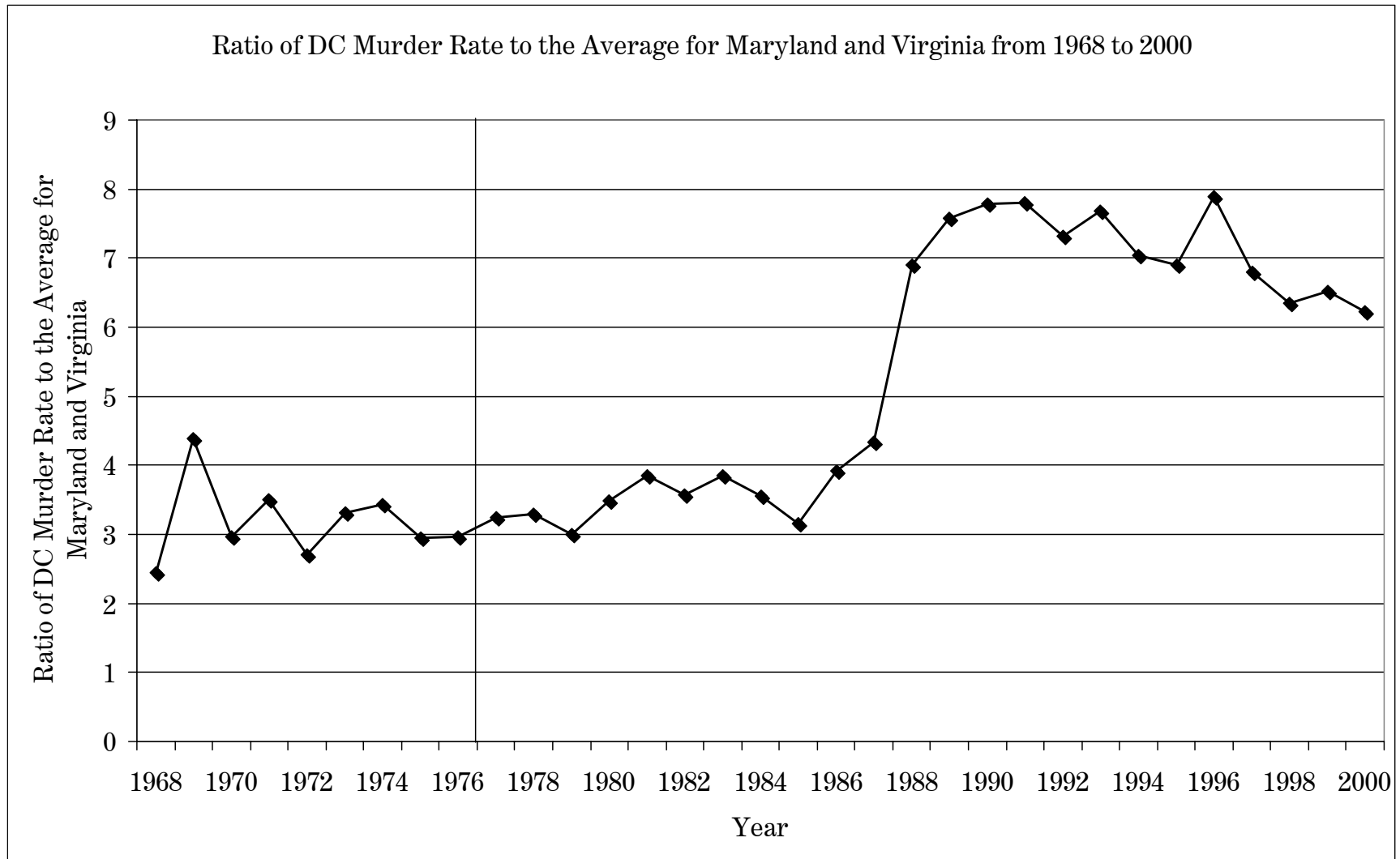
Source: Data compiled from FBI Uniform Crime Reports;
<http://www.disastercenter.com/crime/dccrime.htm>.

European Gun Ownership & Murder Rates³⁵

[both rates given are per 100,000 population for the year
2002 unless that year is unavailable]

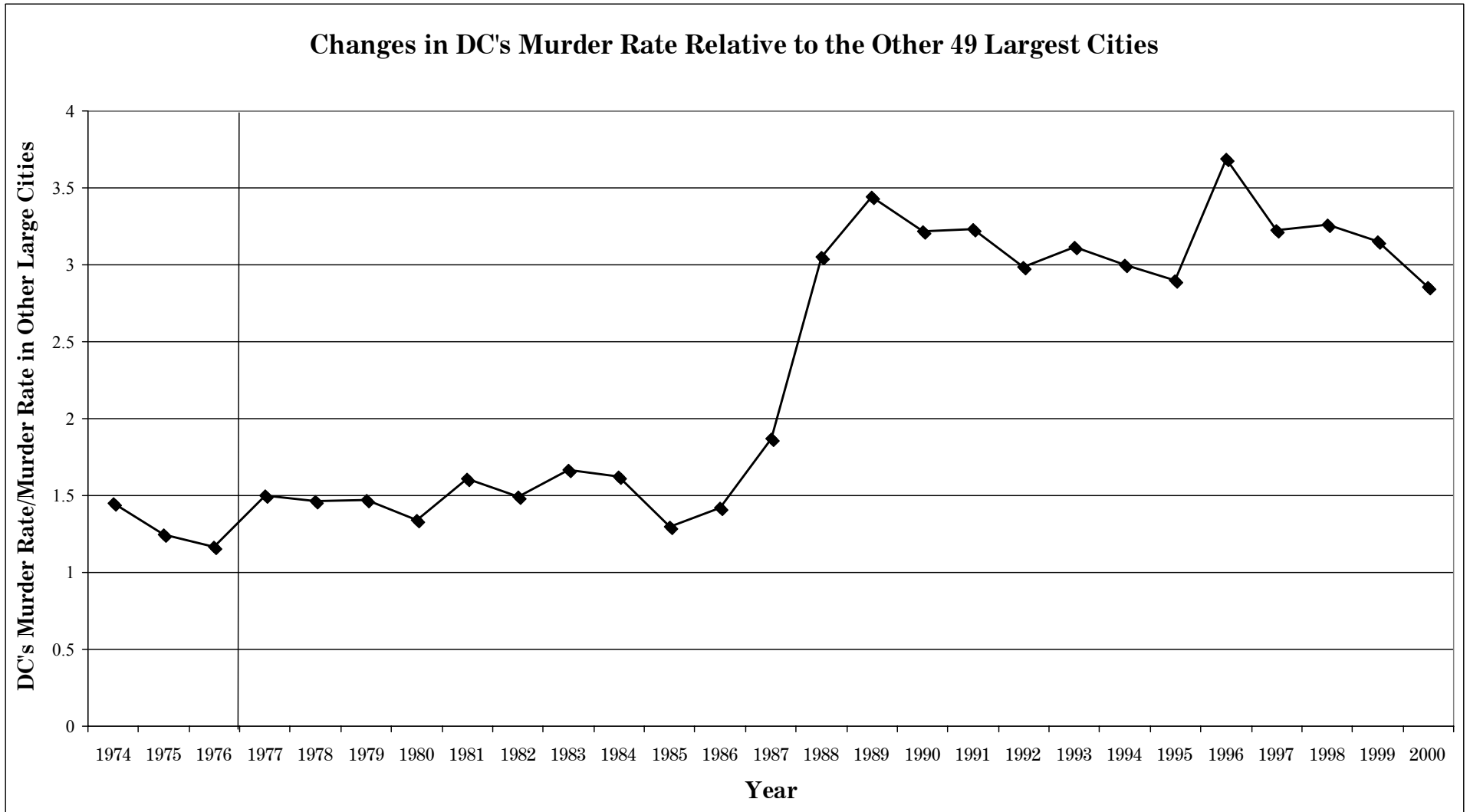
NATION	MURDERS	Gun Owner- ship Rates
Russia	20.54	4,000
Moldova	07.81	1,000
Slovakia	02.63	3,000
Romania	02.50	300
Macedonia	02.29	16,000
Hungary	02.22 [2003]	2,000
Finland	01.98 [2004]	39,000
Poland	01.79 [2003]	1,500
Slovenia	01.79	5,000
Cz. Republic	01.69	5,000
France	01.65 [2003]	30,000
Denmark	01.21 [2003]	19,000
Greece	01.12 [2003]	11,000
Switzerland	00.99 [2003]	16,000
Germany	00.93 [2003]	30,000
Luxembourg	00.90	0
Norway	00.81 [2001]	36,000
Austria	00.80 [2002]	17,000

³⁵ This table, which covers all European nations for which we have data on both gun ownership and murder rates, combines Tables 1 and 3 from Don B. Kates & Gary Mauser, *Would Banning Firearms Reduce Murder and Suicide: A Review of International Evidence*, 30 Harv. J.L. & Pub. Pol'y 651 (2007). It differs because we have corrected that article's Table 1 whose listing for Luxembourg was erroneous because of a misprint in an Interpol report.

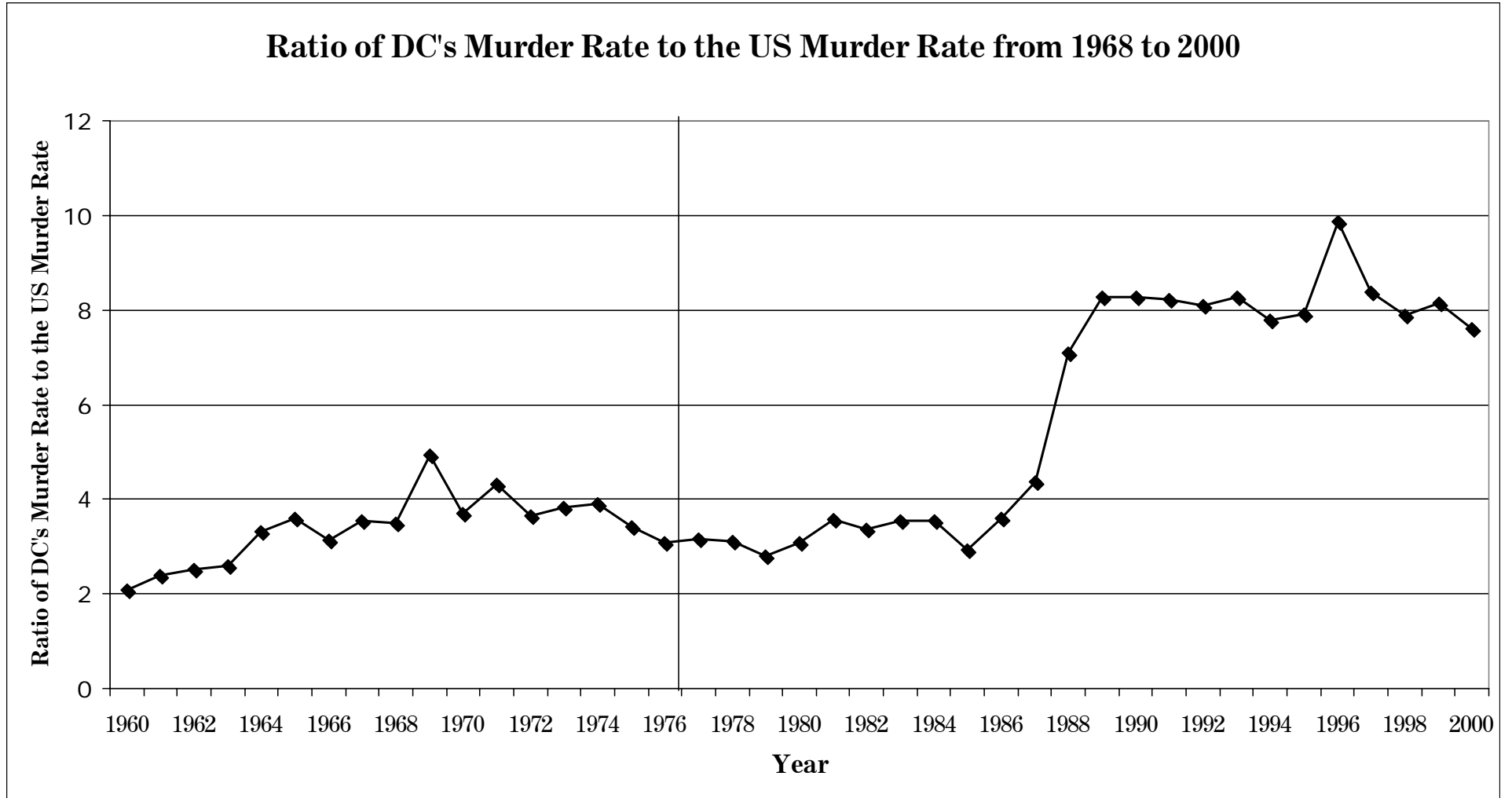


Source: FBI Uniform Crime Reports; *see also* United States Crime Rates 1960-2006, <http://www.disastercenter.com/crime/uscrime.htm> (reporting data from FBI Uniform Crime Reports).

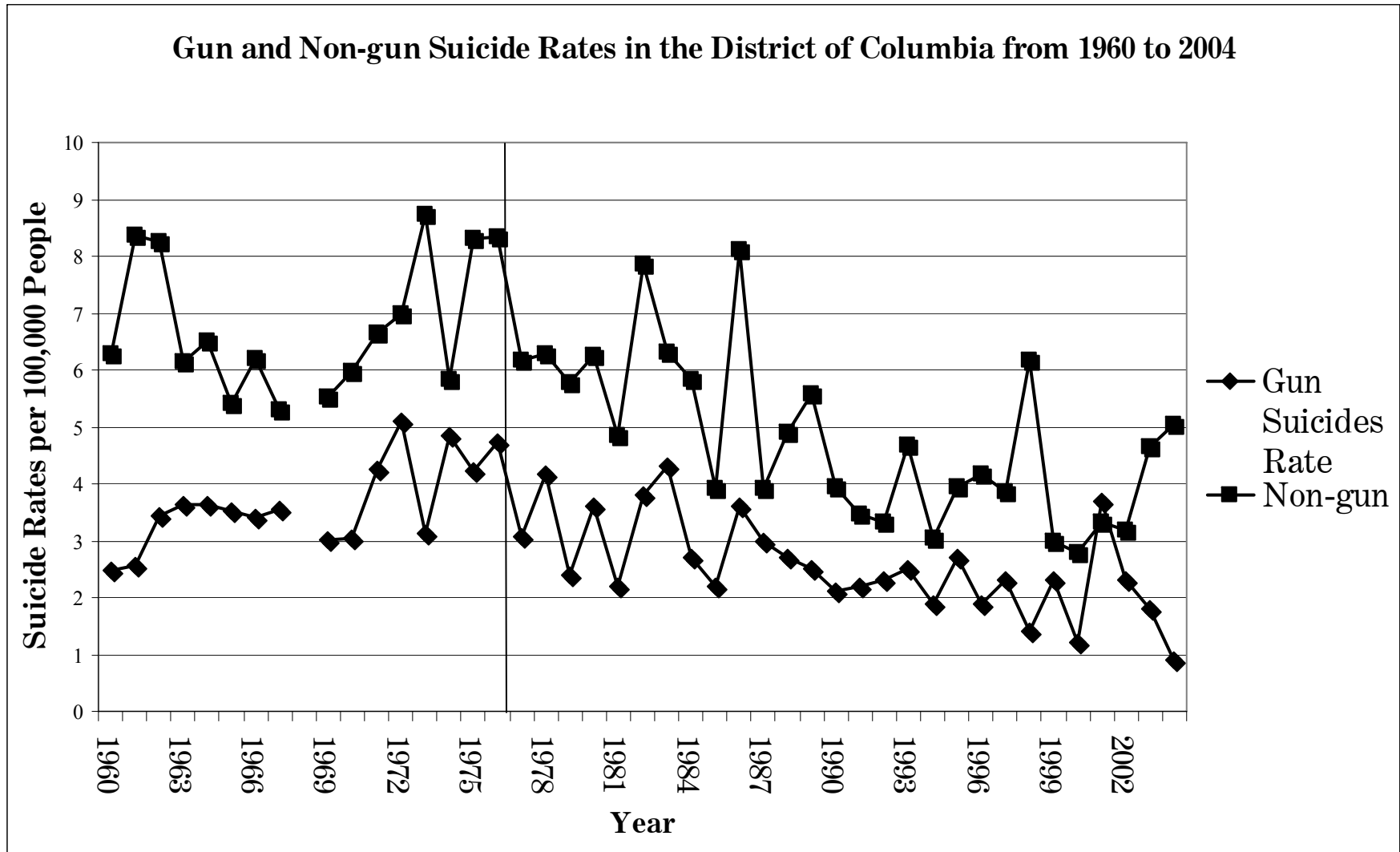
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Source: FBI Uniform Crime Reports; see <http://www.disastercenter.com/crime/uscrime.htm> (US rates), and <http://www.disastercenter.com/crime/dccrime.htm> (DC rates).



Source: FBI Uniform Crime Reports; *see* <http://www.disastercenter.com/crime/userime.htm> (US rates), and <http://www.disastercenter.com/crime/dccrime.htm> (DC rates).



Source: National Center for Health Statistics, Vital Statistics of the United States, Volume II Mortality, various years and <http://wonder.cdc.gov/mortSQL.html>.

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