

No. 08-1521

In The
Supreme Court of the United States

—◆—
OTIS MCDONALD, *et al.*,

Petitioners,

v.

CITY OF CHICAGO, *et al.*,

Respondents.

—◆—

**On Writ Of Certiorari To The
United States Court Of Appeals
For The Seventh Circuit**

—◆—

**BRIEF AND APPENDIX OF PROFESSORS
OF CRIMINAL JUSTICE AS *AMICI CURIAE*
IN SUPPORT OF RESPONDENTS**

—◆—

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**BRIEF AND APPENDIX OF PROFESSORS
OF CRIMINAL JUSTICE AS *AMICI CURIAE*
IN SUPPORT OF RESPONDENTS**

I. INTEREST OF *AMICI CURIAE*

Amici curiae, professors of criminal justice, submit this brief in support of the Respondents and assert that the empirical evidence demonstrates that the City of Chicago's handgun ban has decreased handgun homicide in certain key regards.

Amici are scholars who teach, write and speak about criminal justice.¹ James Alan Fox is the Lipman Family Professor of Criminal Justice and Professor of Law, Policy and Society at Northeastern University. Jack Levin is the Irving and Betty Rudnick Professor of Sociology and Criminology at Northeastern University.

II. SUMMARY OF ARGUMENT

The City of Chicago's handgun ban has been an effective part of its efforts to reduce handgun crime since 1982. It has helped reduce handgun homicides

¹ 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 or submission of this brief. No person other than *amici curiae* or their counsel made a monetary contribution to its preparation or submission. Counsel of record for all parties received written notice of intent to file this brief on December 16, 2009. The parties have consented to the filing of this brief.

involving family members and intimate partners. It has also favorably impacted Chicago's overall handgun homicide rate relative to other cities once economic and demographic factors are considered. The Chicago handgun ban has saved hundreds of lives.

Chicago's handgun ban also has reduced the supply of handguns, which reduction is correlated with a reduction in handgun crime. The ban has also protected Chicago's citizens from the increase in crime associated with increased availability of handguns.

Finally, the arguments raised by *amici* in support of Petitioners with respect to the efficacy of the handgun ban fail for several reasons. In particular, the data actually show that, post-ban, the number of handgun homicides in homes has decreased and that Chicago residents are now safer in their homes than they were before the ban.

III. ARGUMENT

A. The Chicago Handgun Ban Has Reduced Handgun Violence.

For over 25 years, the City of Chicago's handgun ban has been an effective part of Chicago's efforts to reduce handgun crime. In 1982, the City Council found that the convenient availability of firearms and ammunition had increased firearm-related deaths and injuries. Chicago City Council, Journal of Proceedings, Mar. 19, 1982, at 10049. To address the

significant problem of handgun violence and to protect its citizens, on March 19, 1982, the City Council enacted the handgun ban here at issue.

Today, although its rates of violent crime are at or near a 30-year low, Chicago, like many large U.S. cities, continues to experience significant amounts of handgun violence. Tracy Meares *et al.*, *Homicide and Gun Violence in Chicago: Evaluation and Summary of the Project Safe Neighborhoods Program* 1 (2009), http://www.psnchicago.org/PDFs/2009-PSN-Research-Brief_v2.pdf. The University of Chicago Crime Lab estimates that “the social costs that gun violence imposes on Chicago [over the last ten years] are on the order of about \$2.5 billion each year.” University of Chicago, *Gun Violence Among School-Age Youth in Chicago* 5 (2009), http://crimelab.chicago.edu/pdf/Gun_Violence_Report.pdf.

Because the motives giving rise to homicide are varied,² no single government response alone is capable of reducing homicide. As a result, over the last several decades, Chicago has relied on various approaches (discussed *infra*) to address the different underlying factors that lead to handgun homicide. Its

² The Chicago Police Department ranks the top five motives for homicide in Chicago as street gang altercations, other altercations, domestic altercations, armed robbery, and gangland narcotics. Chicago Police Department, *Murder Analysis in Chicago* 24-25 (2008), <https://portal.chicagopolice.org/portal/page/portal/News/Statistical%20Reports/Homicide%20Reports/2008%20Homicide%20Reports/MA08.pdf>.

handgun ban has played an important role in combating gun violence and has reduced handgun violence, saving hundreds of lives.

1. Background of the Chicago Handgun Ban.

Chicago's handgun ban prohibits the registration of new handguns. Chicago, Ill., Municipal Code § 8-20-050(c). Chicago's handgun ban exempts handguns that were validly registered prior to the effective date of the handgun ban and requires those lawful owners to renew their registration annually. Chicago, Ill., Municipal Code §§ 8-20-050(c); 8-20-200(a). In addition, the ordinance does not prohibit the lawful ownership of long guns, such as rifles and standard shotguns. *See* Chicago, Ill., Municipal Code § 8-20-050.

Chicago's handgun ban is less restrictive, in certain respects, than the handgun legislation at issue in *District of Columbia v. Heller*, 128 S. Ct. 2783 (2008). Chicago does not require registered owners of handguns and long guns to keep their guns unloaded and disassembled or bound by a trigger lock while in their residence. *See* Chicago, Ill., Municipal Code § 8-20-010 *et seq.*; *cf. Heller*, 128 S. Ct. at 2822 (noting that District of Columbia ordinance required lawful firearms to be rendered inoperable in the home, and therefore not available for immediate self defense).

2. The Chicago Handgun Ban Has Effectively Reduced Homicides in Family and Intimate Partner Relationships.

The Chicago handgun ban has been effective in reducing homicides involving family members and intimate partners. The available data indicate that, by diminishing the availability of handguns, the Chicago handgun ban has helped prevent family disputes and domestic violence from escalating to homicide.

(a) Handguns and Fatal Family Violence.

As the Court recently noted, “[f]irearms and domestic strife are a potentially deadly combination nationwide.” *United States v. Hayes*, 129 S. Ct. 1079, 1087 (2009). Handguns contribute to the escalation of violence to a deadly level. See Philip J. Cook, *The Technology of Personal Violence*, 14 *Crime & Just.* 1, 47 (1991). When guns are used in a family or intimate assault, death is twelve times more likely the outcome than if another weapon is used. Linda E. Saltzman *et al.*, *Weapon Involvement and Injury Outcomes in Family and Intimate Assaults*, 267 *JAMA* 3043 (1992). The “combination of the ready availability of guns and the willingness to use maximum force in interpersonal conflict is the most important single contribution to the high U.S. death rate from violence.” F. E. Zimring & G. Hawkins,

Crime is Not the Problem: Lethal Violence in America
122-23 (1997).

(b) The Number of Homicides Involving Family Members and Intimate Partners in Chicago Has Decreased After the Handgun Ban.

Amicus' analysis of the available data³ indicates that the number of homicides involving family members and intimate partners⁴ declined steadily after the enactment of the handgun ban. *See* Appendix at App. 1, Figure 1.

The drop is even more pronounced when homicides involving semiautomatic and automatic handguns, which are associated with gang and drug

³ The Illinois Criminal Justice Information Authority compiled and archived victim-level data on homicides in Chicago from 1965-1995. Carolyn R. Block & Richard L. Block, *Homicides in Chicago, 1965-1995* (2005), <http://www.icpsr.umich.edu/cocoon/NACJD/STUDY/06399.xml>. Covering 17 years before and 13 years after the enactment of the handgun ban, the database contains information such as the type of weapon used, relationship between perpetrator and victim, whether the homicide was gang related, and location of the homicide.

⁴ The term "intimate partners" includes spouses, ex-spouses, boyfriends, and girlfriends. Carolyn R. Block & Richard L. Block, *Homicides in Chicago, 1965-1995: Codebook for Part-1: Victim-Level Data* 84 (2005), <http://www.icpsr.umich.edu/cocoon/NACJD/STUDY/06399.xml>.

activity,⁵ are excluded from the data. *See* Appendix at App. 2, Figure 2.

Chicago's decrease in the number of intimate partner handgun homicides with a female victim was also much larger than the nationwide average. While domestic violence rates have been steadily decreasing nationwide, Chicago's intimate partner homicides with female victims have gone down by a much larger percentage. Because of the relatively small data set and its volatility from year to year, *amici* averaged the number of intimate partner/female victim homicides in the six years before the ban (1976-1981) and the twelve years after the ban (1982-1993).⁶ The United States experienced a 4.3% drop in intimate partner homicides with female victims from the pre-ban period to the post-ban period. Chicago's drop over the same period was 27.2%.

The analysis by *amici* also showed that the reduction in handgun homicides contributed to an

⁵ *See, e.g.*, The Boston Gun Project and Operation Cease Fire, *Case Study* 1 (2005), <http://www.fti.ibis.com/DOWNLOADS/Publications/CaseStudy-BostonGunProject.pdf> (finding preference for semiautomatic handguns among gang members).

⁶ *Amici* selected 1976 as the starting point because it was the first year that the Supplementary Homicide Reports (SHR) compiled by the Federal Bureau of Investigation (FBI) were available. *Amici* used 1993 as the ending point because the Brady Handgun Violence Prevention Act, which prohibited stalkers and domestic violence perpetrators from possessing any firearm, was enacted on November 30, 1993. 18 U.S.C. § 922(g)(8) and (9).

overall reduction in family/intimate partner homicides in Chicago. This suggests that when handguns are not present, a less lethal weapon is used or the dispute does not escalate. Thus, the evidence demonstrates that Chicago's handgun ban saves lives by reducing the number of handgun homicides involving intimate partners and family members.

3. The Chicago Handgun Ban Contributed to an Overall Reduction in the Number of Handgun Homicides.

Chicago's handgun ban has also favorably affected Chicago's overall handgun homicide rate. Although Chicago experienced an increase in handgun homicides in the late 1980s-early 1990s, the increase was part of a nationwide crime surge related to the introduction of crack cocaine. While Chicago's handgun homicide rates were slightly higher than the average of 39 other large cities, those results change once demographic and economic characteristics are considered. After controlling for those factors, the handgun homicide rate in Chicago was actually lower relative to other cities as a result of the handgun ban.

(a) Shortly After the Enactment of the Handgun Ban, Crack-Related Handgun Violence Became a Nationwide Problem.

The trends in Chicago's handgun homicide rate must be examined in the context of national homicide

patterns. Beginning in the latter half of the 1980s, cities across the nation experienced a dramatic increase in violent crimes largely associated with the emergence of the crack cocaine market and related gang activity. See Lawrence Rosenthal, *Second Amendment Plumbing After Heller: Of Standards of Scrutiny, Incorporation, Well-Regulated Militias, and Criminal Street Gangs*, 41 Urb. Law. 1, 4-5, 10 (2009) (noting consensus among criminologists that crime spike was due to introduction of crack cocaine). The increase in violent crime was largely driven by handgun-related crime. Alfred Blumstein & Richard Rosenfeld, *Explaining Recent Trends in U.S. Homicide Rates*, 88 J. Crim. L. & Criminology 1175, 1206 (1998).

Crack markets generally emerged first in the largest cities. Blumstein & Rosenfeld, *supra*, at 1206. “[L]arge cities had a major growth [in handgun homicide] beginning in 1986, increasing 85% from 1985 to the flat 1991-1993 peak, and then declining 37% to the low in 1995.” *Id.* With respect to smaller cities, the increase in handgun homicides did not occur until two years later, in 1988, and the peak was also later. *Id.* In Chicago, where handgun homicides had declined after the ban in 1982, handgun homicides began to increase after 1987, reflecting the emergence of the crack cocaine market and its impact on the City’s homicide rate. See Carolyn R. Block & Richard L. Block, *Homicides in Chicago, 1965-1995*, *supra*, at 2.

Amici analyzed the FBI’s Supplemental Homicide Reports (SHR) data to compare Chicago to 39 other

large cities⁷ whose crime statistics were reported in a manner consistent with FBI protocols. From 1976-2008, handgun homicides in Chicago were slightly higher than the 39 city average, but generally rose and fell along with other cities. *See* Appendix at App. 3, Figure 3.

Thus, the suggestion by International Law Enforcement Education & Trainers Ass'n *et al.* as *amici* in support of Petitioners (hereinafter "ILEETA") that it was Chicago's handgun ban, rather than the introduction of crack cocaine, that caused post-ban crime increases, Brief of ILEETA at 21-22, is simply not supported by the data. Rather, as set forth below, Chicago had fewer handgun homicides than other cities when demographic and economic profiles of cities are considered.

⁷ Those cities are Atlanta, Austin, Baltimore, Birmingham, Boston, Charlotte, Chicago, Cincinnati, Cleveland, Columbus, Dallas, Denver, Detroit, Fort Worth, Houston, Indianapolis, Kansas City, Las Vegas, Long Beach, Los Angeles, Memphis, Milwaukee, Minneapolis, Nashville, New Orleans, New York, Newark, Oakland, Oklahoma City, Philadelphia, Phoenix, Pittsburgh, Sacramento, San Antonio, San Diego, San Francisco, San Jose, Seattle, St. Louis, and Washington D.C. Cities in Florida were not included because their data are not consistent with FBI protocols. James Alan Fox *et al.*, *Multiple Imputation of the Supplementary Homicide Reports, 1976-2005*, 25 J. Quantitative Criminology 51, 53 (2009).

(b) When Demographic and Economic Factors Are Considered, the Chicago Handgun Ban Has Had the Desired Impact on the Reduction of Handgun Violence.

Although Chicago tends to have a slightly higher rate of homicide than average, the ban reduced Chicago's rate of handgun homicide.⁸ Using FBI data, *amici* compared Chicago to 39 other large U.S. cities and evaluated the data before, during, and after the crack-related crime surge of the late 1980s-early 1990s (discussed *supra*), as well as before and after the Chicago handgun ban was enacted.

Cities differ considerably from one another in terms of their economic and demographic profiles. With respect to crime rates, there are two factors that are especially significant. The most critical is relative size of the economic underclass. "Empirical evidence consistently demonstrates that crime rates, and especially rates of violent crime, are particularly high in areas of concentrated poverty." Rosenthal, *supra*, at 9-10; see also Philip J. Cook *et al.*, *Underground Gun Markets*, 117 *Econ. J.* F558, F562 (2007) ("gun

⁸ Some *amici* in support of Petitioners argue that Chicago's handgun ban is ineffective, using direct comparison of the number of homicides in Chicago with those of Los Angeles and New York. Brief of Heartland Institute at 6 n.3; Brief of Buckeye Firearms Foundation Inc. *et al.* at 8, 10. These comparisons do not control for demographic, socio-economic, and geographical variants and thus do not provide a valid basis for assessing the handgun ban's effectiveness.

crime in America is disproportionately concentrated in large cities and within these cities occurs disproportionately in highly disadvantaged neighborhoods”).

The second factor – related to economic disadvantage – is the percentage of the population that is African-American. African-Americans, particularly African-American men, are dramatically overrepresented as both victims and perpetrators of homicide. *See* Rosenthal, *supra*, at 9-10; *see also* Chicago Police Department, *Murder Analysis in Chicago, supra*, at 31, 40 (finding that 74.8% of homicide victims and 76.1% of homicide offenders were African-American in 2008).⁹

The analysis conducted by *amici* includes two variables to account for these correlates of crime rates. A detailed description of the methodology and results is set forth in the Appendix. *See* Appendix at App. 4-7.

Using these variables, *amici* calculated the reduction in Chicago’s handgun homicides attributable

⁹ The nationwide crime spike between the mid-1980s to early-1990s “hit young, African-Americans particularly hard; from 1984 to 1993, the homicide victimization rate per 100,000 for whites aged eighteen to twenty-four rose from 11.9 to 17.1, while the homicide rates for African-American males in the same age range rose from 67.9 to 183.4.” Rosenthal, *supra*, at 9, *citing* James Alan Fox, *Demographics and U.S. Homicide in The Crime Drop in America* 300 (Alfred Blumstein & Joel Wallman eds., 2006).

to the handgun ban. The data suggest that the Chicago handgun ban reduced the number of handgun homicides in Chicago by approximately 6-9%, depending on which alternative model specification is used. See Appendix at App. 1, Figure 1. After the enactment of the Chicago handgun ban, from 1983 to 2008, the handgun ban reduced the homicide rate in Chicago, on average, by nearly 1 person per 100,000 population each year. Over the period 1983-2008, this means that between 677 and 942 handgun homicides were prevented by the ban.

Other studies have made similar findings relative to Chicago's handgun crime rates. Cook *et al.* found that, when controlled for race, urbanicity, and population, Cook County (which is dominated by Chicago and includes the Village of Oak Park) scored six percentage points lower in 1994-1996 for proportions of homicides and robberies involving a firearm than the other 200 largest U.S. counties. Cook, *Underground Gun Markets, supra*, at F580.

ILEETA compared Chicago's performance to that of the mean of 24 other U.S. cities. Brief of ILEETA at 17-24. The ILEETA comparison does not account for important variables among cities that are proven indicators of homicide rates. As a result, from a statistical standpoint, ILEETA's use of averages is not

a reliable indicator of whether Chicago's handgun ban is effective.¹⁰

By contrast, statistical analysis of the handgun homicide data by *amici* and others indicates that the Chicago handgun ban saves lives.

B. Chicago's Handgun Ban Reduces the Supply and Increases the Cost of Handguns.

Chicago's handgun ban, combined with confiscation and other law enforcement activities, effectively reduces the supply of handguns in the City. Decreased availability of handguns reduces crime as well as suicide and accidental shootings. *See Cook, Underground Gun Markets, supra*, at F582 (“The best evidence indicates that an increase in gun prevalence results in more homicides, burglaries, and perhaps suicides as well.”) (citations omitted).

¹⁰ Furthermore, the statement that the difference in crime rates before and after the ban found by ILEETA is “highly statistically significant” is meaningless. Statistical significance is used to determine whether a difference observed in a sample would hold true for the population. When dealing with crime rates, there is no sample; rather, the data being studied constitute all the events that occurred in the population.

1. The Chicago Handgun Ban Makes It More Difficult to Obtain Handguns Illegally.

The Chicago handgun ban inhibits the supply of handguns. Efforts to control the market for handguns follow two basic strategies: supply-reduction and demand-reduction. The supply-side initiatives, such as the Chicago handgun ban and the Brady Handgun Violence Prevention Act, 18 U.S.C. §§ 921-22, attempt to limit the availability of guns either across-the-board or to certain specified groups. *See* Anthony A. Braga *et al.*, *The Illegal Supply of Firearms*, 29 *Crime & Just.* 319, 340-41 (2002). Demand-side approaches, such as gang intervention programs and special prosecution of gun offenders, strive to lessen the need or desire within offender populations to carry and use guns for illegitimate purposes. *See, e.g.*, Cook, *Underground Gun Markets*, *supra*, at F570-71 (describing police intervention to deal with possession of guns by gang members in Chicago).

Chicago employs both supply-side approaches, such as the Chicago handgun ban, and demand-side approaches, such as Project Safe Neighborhoods, which is a Department of Justice funded program that focuses on the reasons offenders use guns and their attitudes toward the law and law enforcers. Meares, *supra*, at 1, 2.

Although guns from jurisdictions with more permissive gun control laws can influence the effectiveness of attempts to regulate the supply of

guns, research shows that even when substitute guns from out-of-state enter a jurisdiction with supply-side regulations, such as Chicago, the price of such out-of-state, illegally imported guns is higher, thereby inhibiting demand.

In cities such as New York and Boston, where the prevalence of gun ownership is low because legal transactions are subject to onerous regulations or are banned, prices in the secondary market are higher than in other east coast locales. The street prices of guns are actually higher than the prices of guns in gun stores. As a result, dealers have long been able to make a profit by buying guns in Virginia or points south and running them northward to the street markets of northeastern cities. The high price of guns in the secondary market in New York and Boston is the direct result of the regulation of the primary market.

Philip J. Cook *et al.*, *Regulating Gun Markets*, 86 J. Crim. L. & Criminology 59, 72 (1995). The increased price of out-of-state guns purchased in jurisdictions with strict gun control measures suggests that even supply-side regulations can decrease the demand for guns by effectively increasing the price for substitute guns. *See id.* at 79.

Moreover, in 2008, Chicago police seized about 7,400 guns and another 6,000 were voluntarily surrendered. Chicago Police Department, *2008 Annual Report: A Year in Review* 36 (2009), <https://portal.chicagopolice.org/portal/page/portal/ClearPath/News/>

Statistical%20Reports/Annual%20Reports/2008%20Annual%20Reports/08AR.pdf. Over the past decade, Chicago police have confiscated an average of 10,800 guns per year. *Id.* The crackdown on illegal guns in Chicago has made them harder to obtain and more expensive.

As a University of Chicago report noted:

With around 250 million guns already in circulation in America (Cook and Ludwig, 2006), it is not surprising that many people have come to believe that it is impossible to keep guns out of the hands of youth, criminals, and other high-risk people. But our own study of the underground gun market in Chicago suggests that, perhaps surprisingly, conventional wisdom may be overly pessimistic. Transaction costs in underground gun markets are substantial: prices are high relative to the legal gun market; wait times are considerable; mistrust is common between buyers and sellers; and many transaction attempts go unfulfilled, even by people who are well-connected in the underground economy.

University of Chicago, *supra*, at 9. Thus, supply-side gun control laws, while unable to completely eliminate the illegal gun market, are nonetheless effective in reducing handgun availability.

2. Increased Availability of Handguns Correlates with Increased Levels of Handgun Violence.

The increased difficulty in obtaining handguns illegally in Chicago is significant because of the correlation between handgun availability and handgun violence. In 2008, handguns were used in 71 percent of murders involving firearms and 47 percent of all reported murders in the United States. See FBI Uniform Crime Reports, *Expanded Homicide Data* Table 8 (2008), http://www.fbi.gov/ucr/cius2008/offenses/expanded_information/data/shrtable_08.html; see also Chicago Police Department, *Murder Analysis in Chicago*, *supra*, at 22 (finding that handguns accounted for 402 out of the 412 homicides committed with a gun in Chicago in 2008). The high rate of handgun homicides in the United States is due, at least in part, to the high rate of handgun ownership. Matthew Miller *et al.*, *Rates of Household Firearm Ownership and Homicide Across US Regions and States, 1988-1997*, 92 *Am. J. of Pub. Health* 1988 (2002) (surveying studies establishing the correlation between firearm availability and homicide). Researchers have found that “increases in gun ownership lead to increases in the number of homicides,” and estimate that a ten percent increase in handgun ownership increases the homicide rate by two percent. See Mark Duggan, *More Guns, More Crime*, 109 *J. Pol. Econ.* 1086, 1095-98, 1100-01, 1104 (2001).

Handgun availability is also correlated with the number of homicides, accidental shootings, and suicides

in children. Matthew Miller *et al.*, *Firearm Availability and Unintentional Firearm Deaths, Suicide, and Homicide among 5-14 Year Olds*, 52 *J. Trauma* 267, 271 (2002). Indeed, within the United States, children aged 5-14 living in the five states with the highest gun levels (Louisiana, Alabama, Mississippi, Arkansas, and West Virginia) were 16 times more likely to die from unintentional firearm injury, 7 times more likely to die from firearm suicide, and 3 times more likely to die from firearm homicide than children in states with the lowest gun levels (Hawaii, Massachusetts, Rhode Island, New Jersey, and Delaware). *Id.* at 271-72. The authors concluded that “on average, where there are more guns children are not protected from becoming, but are rather much more likely to become, victims of lethal violence.” *Id.* at 273.

When United States children aged 5-14 are compared with their counterparts in industrialized nations, the firearm-related homicide rate is 17 times higher, the firearm-related suicide rate is 10 times higher, and the firearm-related unintentional death rate is 9 times higher. Matthew Miller *et al.*, *Firearm Availability and Unintentional Firearm Deaths, Suicide, and Homicide Among 5-14 Year Olds*, *supra*, at 267.

If the Chicago handgun ban were no longer in force, the supply of legal and illegal handguns would naturally increase. Moreover, the price of handguns in illegal sales (for example, to felons and minors) would presumably drop and the supply would

increase as a result of legal sales. The supply in the underground market would also increase due to theft of newly purchased legal handguns.

[T]he legal market for guns and legal ownership patterns affect supply in the underground market through theft. With somewhere between 200 and 250 million guns in private hands in the US, many of which are stored unlocked in order to be readily available for use against criminal intruders, it is not surprising that a large number of guns (over 500,000) are stolen each year.

Cook, *Underground Gun Markets*, *supra*, at F560-61. An increase in legal handgun availability would have the consequential effect of increasing children's access to handguns.

By helping Chicago avoid these undesirable outcomes, the Chicago handgun ban has been an effective means of protecting Chicago's citizens from the increase in crime related to increased availability of handguns.

C. *Amici* in Support of Petitioners Misconstrue the Statistical Data Concerning the Impacts of the Chicago Handgun Ban.

1. Homicides in Homes Have Decreased Post-Ban.

The number of homicides that occurred in victims' homes declined in Chicago after the enactment of the handgun ban. *See* Appendix at App. 8, Figure 4.

The decrease was especially pronounced for those homicides in which handguns other than automatic/semiautomatic firearms (*i.e.* the guns associated with ongoing criminal activity) were used. *See* Appendix at App. 9, Figure 5.

Chicago Police Department data also confirm that the number of homicides in residences has continually declined from 1991, in which there were 359 such homicides, to 2008, in which there were 109 such homicides. Chicago Police Department, *Murder Analysis in Chicago, supra*, at 10.

Thus, the fear of increased crime in the home expressed by some *amici* in support of Petitioners, *see* Brief of Buckeye Firearms Foundation Inc. *et al.* at 8, 25; Brief of Heartland Institute at 12-13; Brief of ILEETA at 22-23; Brief of Professors of Philosophy *et al.* at 5-9, 34, is not supported by the data. Rather, the data show that post-ban, Chicago residents have been safer in their homes.

2. Other Arguments Regarding the Efficacy of Chicago's Handgun Ban Also Fail.

Various *amici* in support of the Petitioners claim that the handgun ban has either been ineffective or has actually increased gun violence and decreased the safety of Chicago's citizens. However, these contentions cannot withstand close scrutiny.

First, the rate of murder of law enforcement officers is not a reliable indicator of whether the handgun ban is effective. Certain *amici* contend that Chicago police officers are killed at a rate higher than the national average. Brief of ILEETA at 24. However, the size of this data set is relatively small. For example, according to the table in the ILEETA brief, over a twelve year period from 1996-2008, twelve law enforcement officers were killed in Chicago. Brief of ILEETA at App. C. At a rate of one episode per year, one additional fatality would cause a 100% rate increase. Meaningful statistical analysis cannot be drawn from data subject to such wide swings with the occurrence or nonoccurrence of rare events.¹¹ Although the rate of murder of law enforcement has understandable emotional appeal, it does not yield valid conclusions on the handgun ban's effectiveness.

Second, at least one *amici* in support of the Petitioners contends that it is "clear" that re-legalization of handgun ownership "has had no deleterious effect" in the District of Columbia. Brief of ILEETA at 12. However, such a contention merits scant consideration given the brief time period that has elapsed since the Court's decision in *Heller*. It will be years before the effects of *Heller* in the District of Columbia can be determined.

¹¹ It was for this reason that when studying handgun homicides involving intimate partners and female victims (which involved a larger data set than law enforcement murders), *amici* aggregated the data.

Finally, certain *amici* in support of Petitioners allege that various scholars in the field of criminology have recanted their support of gun control. Brief of Professors of Philosophy *et al.* at 17-28. Such discussion is neither relevant nor accurate. By way of example, *Amici* Professors assert that the “most dramatic” recantation came from the late Professor Marvin E. Wolfgang. *Id.* at 24. Professor Wolfgang merely commended a group of researchers for their methodology and remained a gun control proponent until his death. Marvin E. Wolfgang, *A Tribute to a View I Have Opposed*, 86 J. Crim. L. & Criminology 188, 191 (1995).

IV. CONCLUSION

Since 1982, the Chicago handgun ban has served as an effective legislative response to the tragedy of urban handgun violence and has saved hundreds of lives. The judgment of the Court of Appeals should be affirmed.

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APPENDIX

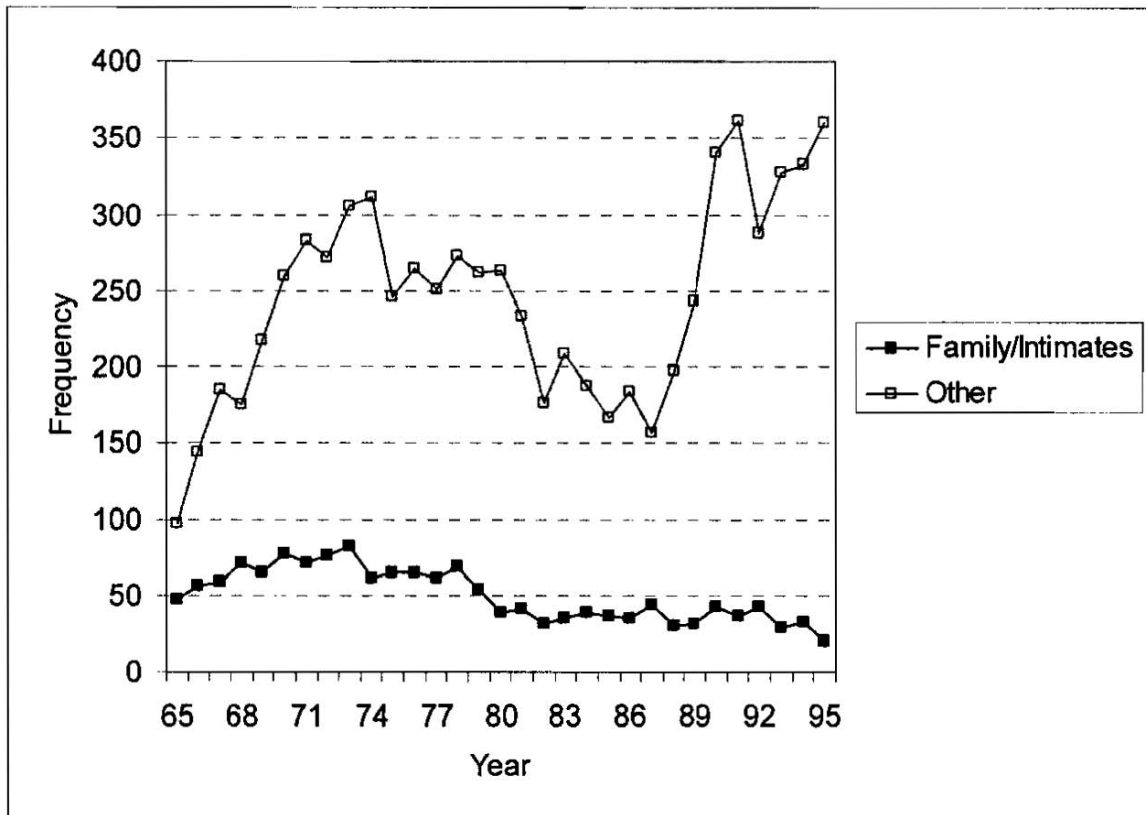


Figure 1: Handgun homicides in Chicago by victim/offender relationship

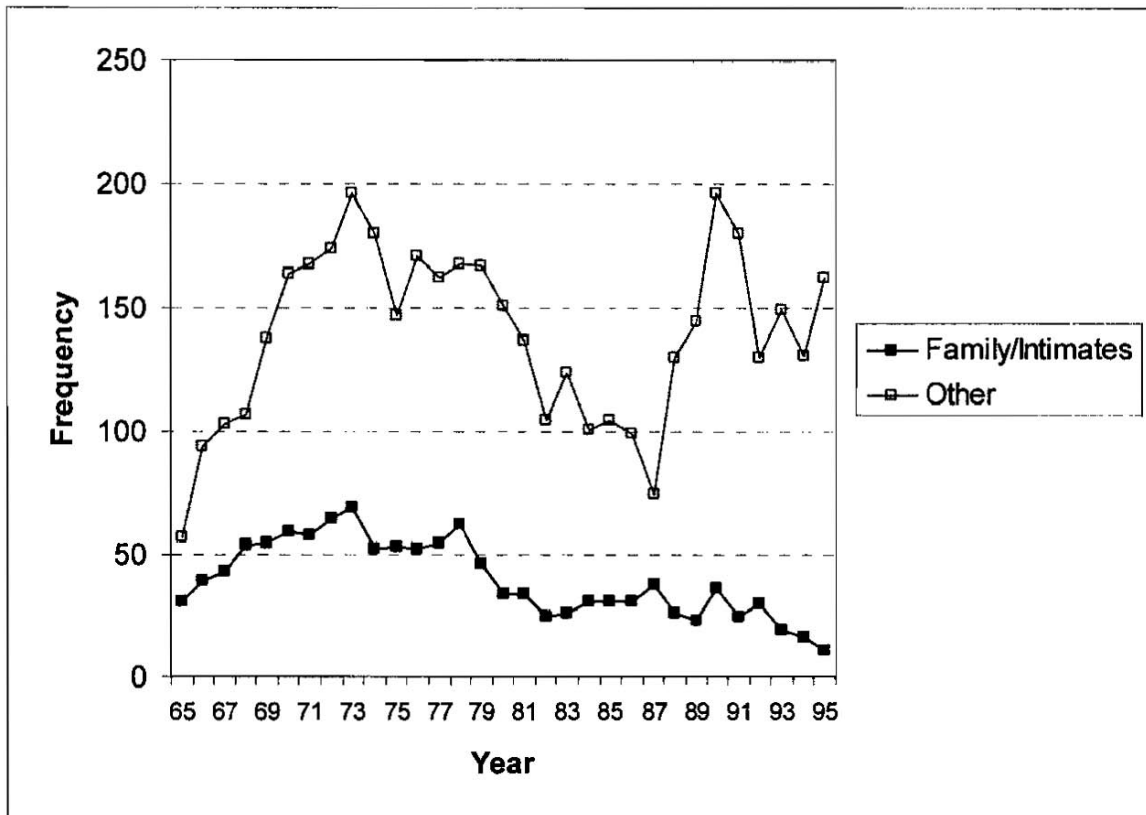


Figure 2: Non-automatic/semiautomatic handgun homicides in Chicago by victim/offender relationship

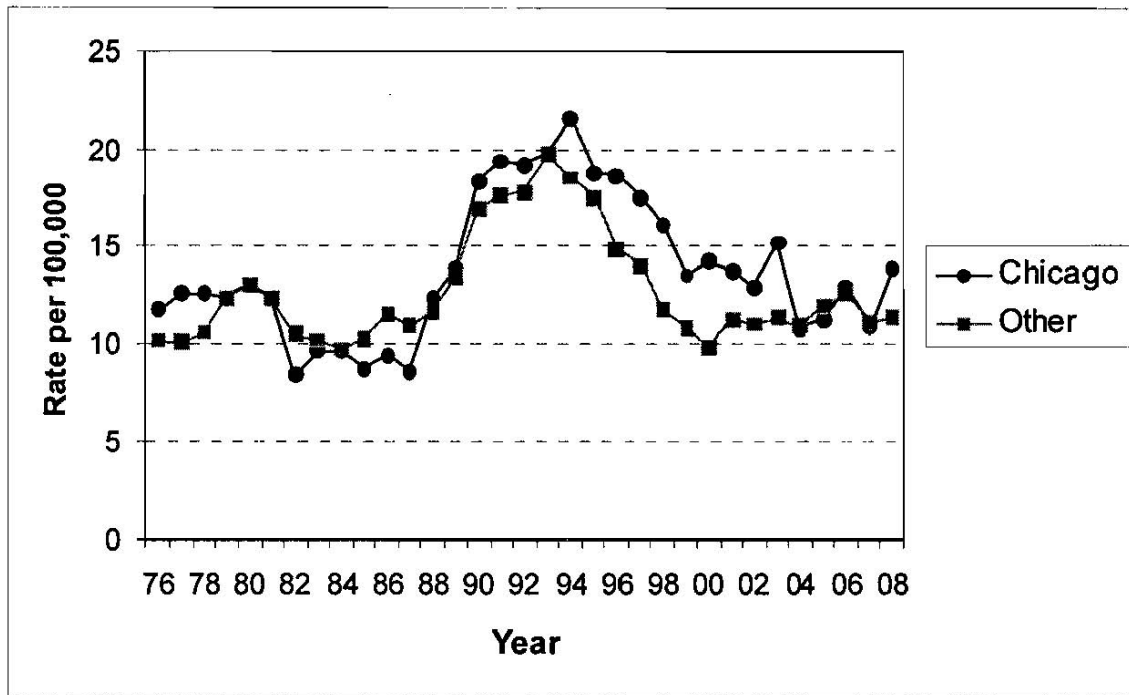


Figure 3: Trends in handgun homicide rate in Chicago and other cities

App. 4

In order to assess Chicago homicide trends relative to other major American cities as a means for evaluating the impact of the Chicago gun ban, Professor Fox developed a multi-level model for change to distinguish within-city trends from differences between cities associated with demographic and economic factors that typically impact on crime levels. The data set used to estimate the parameters of the model was comprised of 40 cities, including Chicago, all of which had populations over one-quarter million and reported homicide data consistently to the FBI.

The multi-level analysis includes several indicator variables to assess the impact of the Chicago gun ban on handgun homicide rates in that city in contrast to trends in the remaining cities, after adjusting for important control variables and time trends. Specifically, the model includes (in addition to a baseline constant reflecting starting values for city handgun homicide rates in 1976) three trend variables (one for 1976-1984, one for 1985-1993, and one for 1994-2008) to segment trends before, during and after the nation's crack epidemic, as well as two economic/demographic control variables (percent of families below the poverty line and percent black population, both based on the 2000 Census) to adjust for important differences among cities in crime-correlates. Moreover, a dummy variable¹ indicating

¹ A dummy variable (also known as an indicator variable) takes the values 0 or 1 to represent the absence or presence of
(Continued on following page)

Chicago data, a dummy variable indicating post-ban Chicago data, and a post-ban trend variable specific to Chicago were used in four alternative specifications to measure the overall effect of Chicago's gun ban.

The results of this analysis are shown in Table 1. Models 1 and 2 omit the Chicago dummy indicator, while Models 3 and 4 include it. Moreover, Models 1 and 3 treat the impact of the gun ban as a constant, while Models 2 and 4 treat the impact as changing over time. Regardless of specification, the Chicago handgun ban appears to have reduced the rate of handgun homicide in that city, relative to handgun homicide trends in other cities, all adjusted for time period and the two demographic/economic correlates. The estimated coefficient for BAN (-0.9053 and -0.9648 for the Chicago dummy absent and the Chicago dummy present, respectively) represents the average difference in handgun homicide rates (just under 1 homicide per 100,000 residents), while alternatively the coefficient for TBAN (-0.0894 and -0.0941 for the Chicago dummy absent and the Chicago dummy present, respectively) indicates the average change in the handgun homicide rate for each year post-implementation (about .09 homicides

some categorical effect expected to impact upon the outcome variable. The coefficient associated with a dummy (or indicator) variable reflects the change in the dependent variable (*e.g.*, handgun homicide rate per 100,000) attributable to the presence of the dummy variable (*e.g.*, presence of the gun ban).

App. 6

fewer per 100,000 population for each year following the ban).

The cumulative reduction in Chicago's handgun homicides attributable to the gun ban as well as the percent reduction in handgun homicides attributable to the ban are calculated for each of the four specifications. Comparing across models, the Chicago gun ban has reduced the number of handgun homicides in Chicago by approximately 6-9%. Accordingly, dozens of homicides have been prevented each year as a result of the gun ban over the period 1983-2008. This means that between 677-942 handgun homicides were prevented by the ban.

Variables in Model	Model Specification			
	1	2	3	4
	Without Chicago Dummy Variable		With Chicago Dummy Variable	
	Constant ban effect	Gradual ban effect	Constant ban effect	Gradual ban effect
INTERCEPT (baseline at 1976)	10.4987	10.5033	10.4858	10.4875
TYEARS1 (growth 1976-1984)	0.0140	0.0146	0.0140	0.0147
TYEARS2 (growth 1985-1993)	0.2953	0.2954	0.2953	0.2955
TYEARS3 (growth 1994-2008)	0.1080	0.1070	0.1081	0.1070
CPCTBLK (Percent Black Pop – centered)	0.0844	0.0845	0.0845	0.0844
CPCTFAMPR (Percent Poor Families – centered)	0.5252	0.5252	0.5245	0.5249
CHICAGO (1 for Chicago, 0 otherwise)			0.5034	0.6254
BAN (1 for Chicago 1983 on, 0 otherwise)		-0.9053		-0.9648
TBAN (Years post ban for Chicago, 0 otherwise)	-0.0894		-0.0941	
Cumulative effect of Chicago gun ban 1983-2008:				
Estimated reduction in handgun homicides	-895	-677	-942	-722
Estimated pct. reduction in handgun homicides	-8.4%	-6.4%	-8.9%	-6.8%

Table 1: Coefficients for alternative specifications of handgun ban impact model and model-specific estimated effects of Chicago gun ban

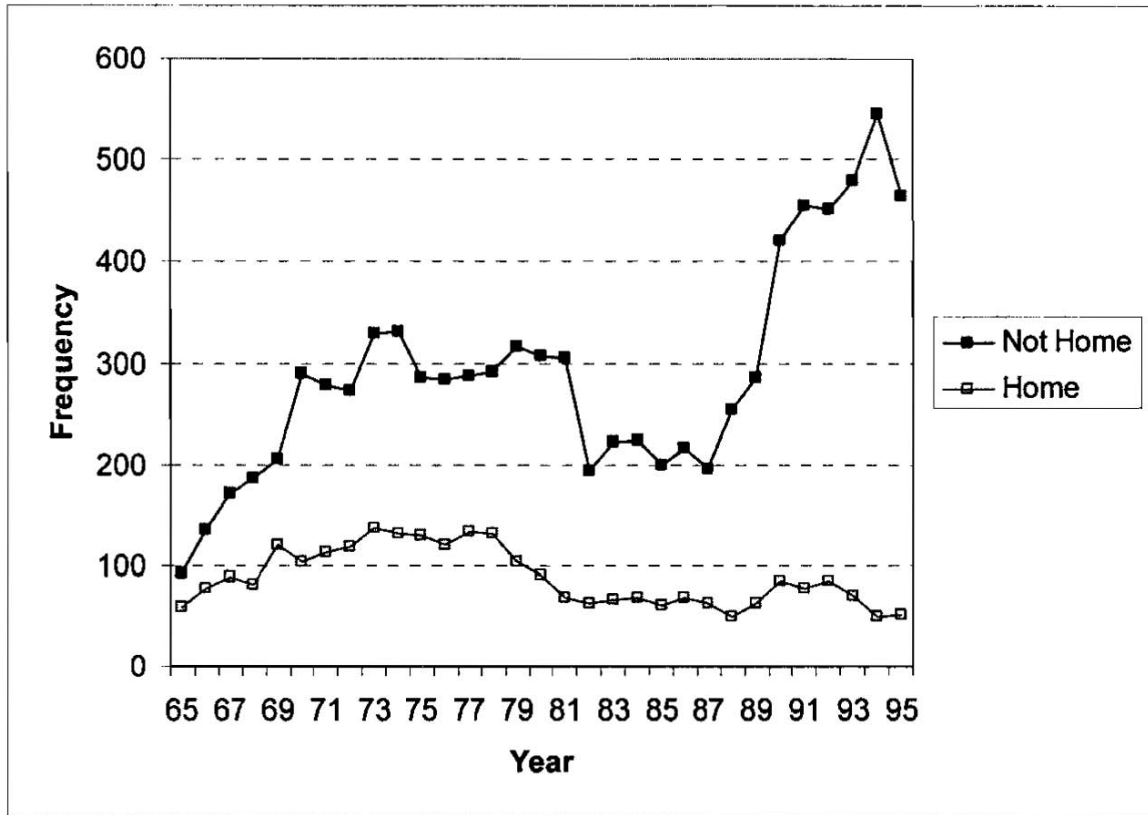


Figure 4: Handgun homicides in Chicago by location

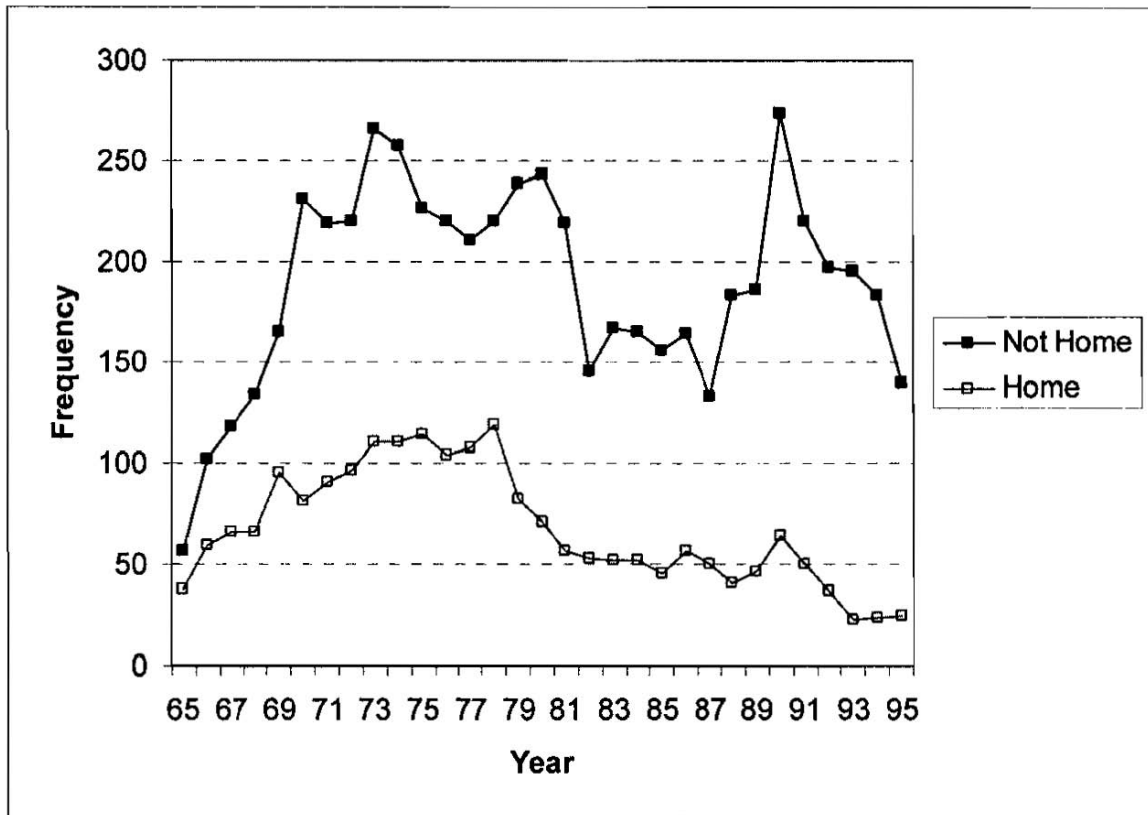


Figure 5: Non-automatic/semiautomatic handgun homicides in Chicago by location