

Testimony of Gayle S. Trotter
Senior Fellow, Independent Women's Forum
Partner and Co-Founder, Shafer & Trotter PLC

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“What Should America Do About Gun Violence?”

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Chairman Leahy, Ranking Member Grassley, and Members of the Committee, thank you for inviting me to appear before you today. We have seen unspeakable tragedy and now hear calls to action. This Committee has asked what America should do about gun violence.

Asking that question will undoubtedly invite impassioned debate in an area where reasonable and well-intentioned people can disagree on specific approaches. We all want a safer society. We differ on how to make our society safer and on whether some proposals, however appealing they may be, will actually increase public safety. And that is a key element of this debate. We need more than political philosophies to guide our discussion: We should consider the effectiveness of proposed changes. In a similar vein, President Obama said in his first inaugural address, “The question we ask today is not whether our government is too big or too small, but whether it works.”

This Committee should ask the same question about proposed gun regulations: What works? We should decline to accept any call to action that will fail to make Americans safer and, in particular, harm women the most.

I would like to begin with the compelling story of Sarah McKinley. Home alone with her baby, she called 911 when two violent intruders began to break down her front door. The men wanted to force their way into her home so they could steal the prescription medication of her

deceased husband, who had recently died of cancer. Before the police could arrive, while Ms. McKinley was on the line with the 911 operator, these violent intruders broke down her door. One of the men brandished a foot-long hunting knife. As the intruders forced their way into her home, Ms. McKinley fired her weapon, fatally wounding one of the violent attackers and causing the other to flee the scene. Later, Ms. McKinley reflected on the incident: “It was either going to be him or my son,” she said. “And it wasn’t going to be my son.”

Guns make women safer. Most violent offenders actually do not use firearms, which makes guns the great equalizer. In fact, over 90 percent of violent crimes occur without a firearm. Over the most recent decade, from 2001 to 2010, “about 6 percent to 9 percent of all violent victimizations were committed with firearms,” according to a federal study.¹ Violent criminals rarely use a gun to threaten or attack women. Attackers use their size and physical strength, preying on women who are at a severe disadvantage.

Guns reverse that balance of power in a violent confrontation. Armed with a gun, a woman can even have the advantage over a violent attacker. How do guns give women the advantage? An armed woman does not need superior strength or the proximity of a hand-to-hand struggle. She can protect her children, elderly relatives, herself or others who are vulnerable to an assailant. Using a firearm with a magazine holding more than 10 rounds of ammunition, a woman would have a fighting chance even against multiple attackers. In the Appendix to my testimony, I have summarized news accounts selected from the last twelve months involving women who, like Sarah McKinley, used a firearm to protect themselves and their loved ones against violent men who sought to harm these women.

¹ U.S. Department of Justice Bureau of Justice Statistics, “National Crime Victimization Survey” (Sept. 2011), at 8 (noting that “[d]uring the 10-year period, about 6% to 9% of all violent victimizations were committed with firearms” and that “[t]he percent of violent victimizations involving firearms has remained generally stable from 2004 to 2010”).

Concealed-carry laws reverse that balance of power even before a violent confrontation occurs. In this way, armed women indirectly benefit those who choose not to carry. For a would-be criminal, concealed-carry laws dramatically increase the cost of committing a crime, paying safety dividends to those who do not carry. All women in these jurisdictions reap the benefits of concealed-carry laws because potential assailants face a much higher risk when they attempt to threaten or harm a potential victim. As a result, in jurisdictions with concealed-carry laws, women are less likely to be raped, maimed or murdered than they are in states with stricter gun ownership laws.

Research has shown that states with nondiscretionary concealed handgun laws have 25 percent fewer rapes than states that restrict or forbid women from carrying concealed handguns.² The most thorough analysis of concealed-carry laws and crime rates indicates that “there are large drops in overall violent crime, murder, rape, and aggravated assault that begin right after the right-to-carry laws have gone into effect” and that “in all those crime categories, the crime rates consistently stay much lower than they were before the law.”³ Among the ten states that adopted concealed-carry laws over a fifteen-year span, there were 0.89 shooting deaths and injuries per 100,000 people, representing less than half the rate of 2.09 per 100,000 experienced in states without these laws.⁴

Armed security works. Brave men and women stand guard over Capitol Hill, including the building where we are now. Snipers stand guard on the White House roof. Politicians and other high-profile individuals, including prominent gun-control advocates, have admitted to having gun permits either currently or in the past.

² See John R. Lott, Jr., *MORE GUNS, LESS CRIME* 46 (3d ed. 2010).

³ *Id.*

⁴ *Id.* at 100-01.

Armed guards often serve in the employ of those who themselves advocate for more restrictions on gun rights. Political figures seek to restrict gun rights, and Hollywood celebrities somberly urge Americans to “demand a plan” to reduce gun violence despite their own roles in graphically depicting lethal violence on the screen. In both cases, however, many of these political figures and celebrities already have their own plan: They rely on guns to safeguard their own personal safety. For example, armed guards protected a suburban newspaper in New York after the newspaper published the names and residential addresses of gun permit holders, and the newspaper’s own reporter already used a gun for his protection. After publishing the story, the editors disclosed that their reporter owns a Smith & Wesson .357 Magnum and has “a residence permit in New York City.”

While armed security works, gun bans do not. Anti-gun legislation keeps guns away from the sane and the law-abiding — but it does not keep guns out of the hands of criminals. Nearly all mass shootings have occurred in “gun-free” zones. Law-abiding citizens do not bring firearms to gun-free zones, so psychotic killers know they can inflict more harm in these unprotected environments. These laws make easy targets of the sane and the law-abiding. Gun-control advocates cheer the creation of legally mandated gun-free zones, touting increased safety while actually making citizens in those locations more vulnerable to the next horrible monster in search of soft targets. A moment’s reflection confirms that statutory provisions and bold signs do not create a gun-free environment. No sober-minded person would advocate that approach when protecting banks, airports, rock concerts and government buildings. Instead, these publicly designated areas have the effect of creating high-visibility soft targets — conspicuous environments where madmen can wreak havoc.

We need sensible enforcement of the gun laws that are already on the books. Currently, we have more than 20,000 under-enforced or selectively enforced gun laws. Gun regulation affects only the guns of the law-abiding. Criminals will not be bound by such gestures, especially as we continually fail to prosecute serious gun violations or provide meaningful and consistent penalties for violent felonies using firearms.

Recently, a talk show host inadvertently exposed the absurdity of gun regulation in the District of Columbia when he displayed a 30-round magazine on national television, thereby embroiling himself in a police investigation. Ultimately, the Attorney General of the District of Columbia decided not to prosecute the matter. “Despite the clarity of the violation of this important law,” he concluded, “a prosecution would not promote public safety.” Why is it permissible to possess magazines to persuade people that guns are dangerous, but not for a woman to possess one to defend herself against gang rape? Overbroad anti-gun regulations unduly increase prosecutorial discretion and result in selective enforcement of the law. Equal justice under law should not depend on whether a prosecutor has a political or ideological motivation to seek enforcement. Nor should justice depend on whether a prosecutor has the good sense to decline enforcement of a knowing violation that does nothing more than unwittingly demonstrate the law’s absurdity and overbreadth.

In lieu of empty, self-defeating gestures, we should address gun violence by doing what works. By safeguarding our Second Amendment rights, we preserve meaningful protection for women. Our nation made significant progress in that regard when, in recent memory, the United

States Supreme Court held that the Second Amendment protects an individual’s right to possess a firearm for traditionally lawful purposes, such as self-defense within the home.⁵

For those who believe in safeguarding the civil liberties enshrined in our Bill of Rights, you would think this was an unremarkable conclusion. The constitutional text expressly guarantees the right “to keep and bear Arms,” and that right is specifically enumerated — not implied — and guaranteed to “the people.” In other words, unlike many of the individual rights that the Supreme Court has recognized — some would say invented — you can actually find the right to bear arms in the literal text of the Second Amendment. Moreover, the Constitution guarantees a “right of the people” only two other times, both of which clearly describe individual rights: The First Amendment protects the “right of the people” to assemble and to petition the government, and the Fourth Amendment protects the “right of the people” against “unreasonable searches and seizures.”

Even so, dissenting liberals decried “the Court’s announcement of a new constitutional right to own and use firearms for private purposes.”⁶ Ironically, this claim originated from those who agree with the judicial philosophy that has discovered new fundamental individual rights hiding within “penumbras” that are “formed by emanations” from “specific guarantees in the Bill of Rights.” Adherents to this view maintain that the Bill of Rights generates “penumbral emanations” that create assorted individual rights. However, they simultaneously claim that enforcing an individual right expressly written in the black letter of the constitutional text is the “announcement of a new constitutional right.” One the one hand, shadowy secretions reveal the

⁵ *District of Columbia v. Heller*, 554 U.S. 570 (2008) (holding that the Second Amendment guarantees an individual right to possess a firearm unconnected with service in a militia and to use that arm for traditionally lawful purposes, such as self-defense within the home); *McDonald v. City of Chicago*, 561 U.S. 3025 (2010) (holding that the Second Amendment applies to the states as well as the federal government).

⁶ *Heller*, 554 U.S. at 681 (Stevens, J., dissenting).

hidden meaning of rights secretly embedded in the Constitution and awaiting judicial divination. On the other hand, they view a specifically enumerated guarantee in the Bill of Rights as “a new constitutional right.”

Moreover, the dissenting justices claimed that a local law could ban private possession of any form of operable firearm because “the adjacent states do permit the use of handguns for target practice, and those states are only a brief subway ride away.”⁷ They called this a “minimal burden” on the Second Amendment right to bear arms,⁸ as if a law-abiding citizen who is facing down an attacker might somehow have the ability to coax him onto the subway and take a brief ride to the adjoining jurisdiction’s nearest target range. Adherents of this judicial philosophy — which purports to allow the restriction of individual liberties as long as “a brief subway ride” would transport an aggrieved citizen to another jurisdiction where the penumbral emanations flow freely — would assuredly provide more robust protection for rights of their own judicial invention.

These are two dramatically different views of our Bill of Rights. One approach has repeatedly created new rights found nowhere in the Constitution while unflinchingly limiting the Second Amendment’s “right of the people to keep and bear Arms” to protect only the right to have a gun in the army, as peculiar as that would be. The other approach, which has twice prevailed in the Supreme Court, takes seriously the people’s enumerated rights — the ones actually written in the Constitution — and respects the Second Amendment.

In lieu of empty gestures, we should address gun violence based on what works. Guns make women safer. The Supreme Court has recognized that lawful self-defense is a central

⁷ *Id.* at 712 (Breyer, J., dissenting) (citing the online Metrorail System Map of the Washington Metropolitan Area Transit Authority).

⁸ *Id.* (Breyer, J., dissenting).

component of the Second Amendment's guarantee of the right to keep and bear arms. For women, the ability to arm ourselves for our protection is even more consequential than for men because guns are the great equalizer in a violent confrontation. As a result, we preserve meaningful protection for women by safeguarding our Second Amendment rights. Every woman deserves a fighting chance.

Thank you. It has been a pleasure to be here with you this morning to discuss these issues of such paramount importance to the safety of our citizens. I welcome any questions you may have.

Appendix

Selected News Accounts of Women Using Firearms for Protection Against Violent Men*

Indianapolis, Ind. — A woman used her firearm to stop an intruder who had forced himself into the woman's home and fired a shot. The woman fired several shots at the violent attacker, who fled.¹

Oklahoma City, Okla. — A woman defended herself from five burglars attempting to break into her home. She shot one of the intruders, causing the others to flee the scene.²

Casper, Wyo. — A woman working as a hotel clerk used her gun to thwart a robbery. After two men with covered faces approached her to rob the hotel, the woman brandished a gun from her lunchbox, and the would-be robbers fled.³

Loganville, Ga. — A woman hiding in her attic with her children shot a violent intruder and fled to safety. The woman was working at home, saw a man outside her window and took her nine-year-old twins to a crawlspace before the man broke into the home using a crowbar.⁴

Abilene, Tex. — A woman's estranged ex-boyfriend twice attempted to break into her home on Christmas night. After succeeding, he assaulted her while her 16-year-old and newborn child were present. The woman retrieved her firearm and shot the violent intruder.⁵

San Antonio, Tex. — A woman working security in a movie theater shot a gunman who had chased restaurant patrons into the theater's lobby and began shooting, preventing the violent attacker from entering the theater.⁶

Casper, Wyo. — A woman receiving a manicure in a nail salon retrieved a firearm from her purse after a man entered the salon and wielded a pistol. Seeing the woman's weapon, the menacing gunman left.⁷

* This Appendix summarizes selected news accounts, primarily from the last twelve months, involving women who used a firearm to protect themselves and their children against violent attackers or intruders. Many similar stories are aggregated online, such as those available at <http://bit.ly/WifldI>.

¹ "Resident Fires Back at Intruder" (Jan. 22, 2013), available at <http://bit.ly/XAe6DS>.

² "Burglars Shot in Southeast Oklahoma City" (Jan. 18, 2013), available at <http://bit.ly/VGu1mz>.

³ "Casper Hotel Worker Uses Lunchbox Gun to Thwart Robbery" (Jan. 4, 2013), available at <http://bit.ly/TPbz9H>.

⁴ "Woman Hiding With Kids Shoots Intruder" (Jan. 4, 2013), available at <http://bit.ly/134dM6d>.

⁵ "Abilene Woman Shot and Killed Estranged Ex-Boyfriend" (Dec. 26, 2012), available at <http://bit.ly/TnvrBO>.

⁶ "Terror at Southwest Side Movie Theater" (Dec. 17, 2012), available at <http://bit.ly/12jVMV9>.

⁷ "Nail Salon Customer Packs Heat, Gunman Leaves" (Dec. 11, 2012), available at <http://bit.ly/W5iZG1>.

Atlanta, Ga. — A 77-year-old grandmother used a firearm to defend her home from an intruder trying to gain entry after throwing a brick through her bedroom window. The woman shot twice, and the intruder fled.⁸

Columbia, S.C. — A woman working as a store clerk used her firearm to defend herself from three armed men who attempted to rob the store, demanding money and lottery tickets and shooting into the air. The woman shot one of the violent attackers, and the others fled.⁹

Alcalde, N.M. — A man followed a woman home from a gas station and knocked on her door. While speaking with him at the door, he forced his way into her home, picked up a knife from her kitchen table, put the knife to her chin and ordered her to undress. As he continued to assault her, the woman used a firearm in her home to shoot the violent intruder.¹⁰

Bryan County, Okla. — A 12-year-old girl was home alone when a man rang the doorbell, went around to the back door and kicked it open. She called her mother, who told her to get the family gun, hide in a closet and call 911. As the mother raced home, the intruder began opening the door to the closet where the girl was hiding. The girl shot the intruder, who immediately fled the house before police caught him.¹¹

Blooming Grove, Wis. — A woman heard a robber's footsteps in her home in the middle of the night. As she was dialing 911, the intruder assaulted her with pepper spray. She fired at the man, who fled.¹²

St. Paul, Minn. — A woman walked into her home, where her 34-year-old daughter was asleep at the time, to find a man stealing money from her purse. The burglar struggled with the woman until the daughter entered the room, armed with a handgun. Using the weapon, the women held the man in custody until police arrived.¹³

Athens, Ohio — A 68-year-old woman looked in her driveway at 8 p.m. to see why her dogs were barking. As she rounded her vehicle, a man in a ski mask hit her in the head, knocked her to the ground and kicked her in the stomach. Pulling a handgun from her pocket, the woman fired at the violent attacker, who fled.¹⁴

⁸ “Woman, 77, Shoots at Would-Be Burglar” (Dec. 6, 2012), available at <http://bit.ly/11ZjJ2W>.

⁹ “Store Clerk Fears for Her Life, Shoots Robbery Suspect” (Nov. 14, 2012), available at <http://bit.ly/Tp4sTt>.

¹⁰ “Alcalde Woman In Fatal Shooting Tells Deputies Stranger Barged In, Assaulted Her” (Nov. 7, 2012), available at <http://bit.ly/Uv2Efa>.

¹¹ “Twelve-Year-Old Girl Shoots Intruder During Home Invasion” (Oct. 18, 2012), available at <http://bit.ly/Xvbrh3>.

¹² “Woman Says Shooting at Home Intruder Saved Her Life” (Sept. 22, 2012), available at <http://bit.ly/UsmoAJ>.

¹³ “Mom, Daughter Hold Burglar for Police with Pink Gun” (Sept. 19, 2012), available at <http://bit.ly/Ryzf42>.

¹⁴ “Rhoric Road Woman Uses Gun to Fend Off Attacker” (Sept. 13, 2012), available at <http://bit.ly/RMJNvW>.

Gaffney, S.C. — A woman, home alone with her toddler, hid in her bedroom when she heard an intruder kick in her front door. When the 200-pound man kicked in the woman’s bedroom door, she shot at the intruder, who fled.¹⁵

Detroit, Mich. — As a woman walked out of a store, two carjackers confronted her and shot at her in an attempt to rob her and steal her sport utility vehicle. Although wounded, she used her handgun to return fire, causing the violent attackers to flee.¹⁶

Fresno County, Calif. — A woman and her two-year old daughter heard a man breaking into her home. The man robbed the woman and tried to kidnap her child. The woman, armed with a shotgun, demanded that the man leave her daughter. The intruder released the child and fled.¹⁷

Dora, Ala. — A woman called 911 and woke her daughters after hearing the loud crash of an intruder kicking in her front door. Ignoring several warnings, the 25-year-old intruder continued upstairs toward the woman, who shot the man, immobilizing him. “There’s so much talk about banning guns and gun control, but they’re for protection,” she said. “There’s no way I could have fought him off.”¹⁸

Blanchard, Okla. — A woman, home alone with her baby, called 911 when two violent intruders attempted to break down her front door. The men wanted to steal medication prescribed to her husband, who had just died of cancer. Before police could arrive, the intruders broke down the door. The woman shot one of the men, brandishing a foot-long hunting knife, and the other fled. “It was either going to be him or my son,” she said. “And it wasn’t going to be my son.”¹⁹

Gwinnett County, Ga. — A woman getting out of the shower faced a strange man attacking her with a kitchen knife. The attacker, who had stalked her for several days before, forced the woman into her bedroom. Telling him she had money there, she reached her handgun and shot the violent attacker, who ran out of a back door and collapsed in the yard.²⁰

Blountville, Tenn. — A woman serving as the resource officer at Sullivan Central High School stopped a violent attacker as he pointed a gun at the principal’s head. The woman drew her own gun, pushed the principal to safety and kept the attacker at bay until police arrived, when they shot and killed the violent attacker during a standoff.²¹

¹⁵ “Woman Protecting Toddler Fires Shots at Intruder” (Sept. 7, 2012), available at <http://bit.ly/UawOmQ>.

¹⁶ “Detroit Woman Shoots Back At Would-Be Carjackers” (Aug. 27, 2012), available at <http://bit.ly/OqzSdd>.

¹⁷ “Fresno County Woman Stops Kidnapping By Pulling Gun on Home Intruder” (Aug. 28, 2012), available at <http://bit.ly/SO7gNp>.

¹⁸ “Woman Forced to Shoot Intruder to Protect Herself and Children” (Aug. 16, 2012), available at <http://bit.ly/Q4ItxX>.

¹⁹ “Blanchard Mother Who Shot, Killed Intruder Recalls Home Invasion Terror” (Jan. 1, 2012), available at <http://bit.ly/sGcdTr>.

²⁰ “Woman Shot Intruder Nine Times in Self Defense” (May 11, 2011), available at <http://bit.ly/HwqfGe>.

²¹ “Police Officers Kill Gunman at Sullivan Central” (Aug. 30, 2010), available at <http://bit.ly/aCuFSl>.