
Government of the District of Columbia



Metropolitan Police Department

Testimony of
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***License to Carry a Pistol
Amendment Act of 2014***

Committee on the Judiciary & Public Safety
Tommy Wells, Chair
Council of the District of Columbia
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John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Good morning, Councilmember Wells, members of the Committee, and guests. As the Chief of Police, I am testifying on behalf of the Executive in support of the *License to Carry a Pistol Amendment Act of 2014*. As you know, the Executive has worked closely with Chairman Mendelson and you to draft this legislation in response to the ruling by the U.S. District Court in the case of *Palmer v. District of Columbia*. The *Palmer* ruling, which may be subject to revision after further consideration by the district court or in an appeal, is the first in the District finding that a person's Second Amendment right to keep and bear arms for self-defense must extend beyond the home. The judge's ruling in the case – that there is a constitutional right to carry a handgun in public for self-defense – goes beyond the 2008 Supreme Court ruling in *Heller v. District of Columbia*, which ruled that there is a constitutional right to have a handgun for self-defense specifically in the home. The proposed bill maintains our commitment to keeping guns out of the wrong hands, while fully respecting the Second Amendment of the U.S. Constitution.

Since the ruling was made public on July 26, 2014, the Executive has worked closely with Chairman Mendelson and Councilmember Wells on emergency and the proposed permanent legislation amending the District's laws to conform to the Court's ruling. The legislation determines the essential guidelines about who can carry a handgun and where, by adapting a 1931 law enacted by Congress that authorized the Chief of Police to issue a license to carry a concealed pistol if it appears that the applicant has demonstrated:

- Good reason to fear injury to his or her person, including evidence of specific threats or previous attacks;
- Any other proper reason for carrying a pistol, such as employment that requires the applicant to transport cash or other valuables upon the applicants person; and
- That the applicant is a suitable person to be so licensed.

The proposed legislation follows models of states such as New York, New Jersey, and Maryland, which have adopted a similar licensing scheme, each of which has had its state licensing scheme upheld against Constitutional challenges by a federal court of appeals.

Other highlights of the draft bill include that anyone applying for a concealed carry license must:

- Meet the existing requirements for a person to register a firearm;
- Successfully complete a training program on gun safety and relevant District laws; and
- Establish that he or she does not currently suffer nor has suffered in the previous five years from any mental illness or condition that creates a substantial risk that he or she is a danger to him or herself or others.

In response to the court ruling, the legislation also establishes that a non-resident may obtain a license to carry a concealed pistol if they meet the same standards as a District resident. So an applicant from outside the District must meet all other eligibility requirements, aside from residing in or owning a business in the District.

In addition to including criminal and civil penalties for license-holders who fail to follow the duties and requirements for licensees, the law establishes a 5-person panel to hear appeals for any denials or revocations of licenses. The panel will include a representative from the mental health profession, as well as a prosecutor and a current or former law enforcement officer not employed by MPD.

The proposed law would prohibit concealed carry licensees from carrying handguns in the types of places that firearms have been traditionally prohibited such as government buildings, premises where alcohol is sold and served, schools and universities, and in circumstances where protection of public officials, visiting dignitaries, and demonstrators is paramount. The latter is critical here in the District of Columbia. As the Supreme Court noted in *Heller*, “laws forbidding the carrying of firearms in sensitive places such as schools and government buildings” are constitutional.

As I have testified before, the District of Columbia, as the seat of the federal government, with its multitude of critical official and symbolic buildings, monuments, and events, and high-profile public officials traversing its streets every day, is a city filled with sensitive places from a public safety perspective. Our laws should reflect that reality. Government facilities, dignitaries, and public servants are prime targets for terrorists, both foreign and domestic. Protecting government officials and infrastructure is a challenge for every city in the United States. But in the District the likelihood of attack is higher, and the challenges to protecting the city are greater. As recently as 2011, we saw an assassination attempt on the president – where fortunately the only thing the shooter hit was the White House – and another shooter firing at military installations. Both of these incidents were carried out by a lone gunman, angry at one facet or another of the U.S. government.

The high-profile human targets are an obvious and potentially attractive target. The District is vulnerable due to the sheer volume of secure motorcades traveling in Washington on any given day. The daily movements around the city of the President, Vice President, and their families, and the approximately 3,000 foreign dignitaries on official visits or just spending time in our city each year means that all of our roadways are a challenge to secure. And as the September 19th incident earlier this year at the White House demonstrated, even the home and office of the President of the United States has some vulnerability. Law enforcement needs to be able to prohibit guns from entering the perimeter of a secure area in order to be able to lessen the likelihood that an armed gunman will be able to make it close to protected targets.

I would urge the Council to make three changes to the list of places from which handguns will be prohibited.

- First, although the proposed bill prohibits handguns from government buildings, it should be broadened to prohibit them from the grounds and parking lots. We note, for example, the fatal shooting at the Pennsylvania State Police barracks in Blooming Grove, and the 2006 fatal

shooting in the District suburb of Fairfax, Virginia¹. In both instances, officers were gunned down in police parking lots during shift changes. While these two examples are of police, according to a 2013 study published by the U.S. Department of Justice, government employees are more than three times as likely as private-sector employees to be victims of workplace violence.² While prohibiting guns from being carried in the lots is not sufficient to stop a determined gunman, it does give police the authority to stop anyone in the parking lot or on the grounds that they have a reasonable suspicion is armed. This can help to save lives. Of course, people seeking to register a gun at the police headquarters can still bring their unloaded gun. Moreover, the provision in Section 907(d)(2) allows a firearm to be stored in compliance with lawful transportation requirements in relevant parking lots. This currently applies to subsections (a)(2) and (3), and can be expanded to cover (a)(1).

- Secondly, subsections 907(a)(8), (12), and (13) all indicate that guns can be prohibited from certain events or locations, but provide however, that no criminal penalty shall apply unless:
 - A) The licensee has been advised by a law enforcement officer that such a public gathering, dignitary movement, or demonstration is occurring; and
 - B) The licensee has been ordered by the law enforcement officer to leave the area until he or she removes the handgun from his or her possession in compliance with the law.

We have several concerns about these provisions. For one, the licensee should not need to be personally informed of the requirement. There are plenty of opportunities to provide due notice to a licensee, including event materials, signs at all entrances, advertisements, and tickets. It may be a reasonable defense that a licensee did not have due notice, but officers should not have to determine that fact on the spot before being able to take action against someone with a gun at an event open to the public. Moreover, event organizers should not have to rely on hiring police officers to notify attendees that firearms are prohibited. Imagine, for instance, how many officers would be needed at the Barbecue Battle—an annual competition held in the District among restaurants from around the country and dozens of entertainers from around the country—in order to ensure personal notice to licensees? If the fact that the event is a gun-free event is both posted and advertised, that should be sufficient for notice purposes. In addition, once so notified that firearms are prohibited, licensees are already required to know District law directing them to remove the handgun from the event. They should not therefore have another legal defense, to unnecessarily complicate prosecution, that they were not personally directed by law enforcement to remove the gun from the event.

¹ <http://www.washingtonpost.com/wp-dyn/content/article/2006/05/08/AR2006050800968.html>

² US Department of Justice, Bureau of Justice Statistics. *Special Report: Workplace Violence Against Government Employees, 1994-2011*.

- Lastly, the bill would prohibit carrying a concealed handgun on all public transportation except for taxi drivers, who would be authorized to apply for a handgun. We urge the ban to extend to taxi cabs as well. Taxi drivers are no more likely to be subject to specific threats or previous attacks than any other resident. Indeed, one would think it would be more difficult for a person to stalk or ambush a taxi driver because of the randomness of their daily travel. On the other hand, a potential passenger should not have to worry about whether their taxi driver is armed. In New York City, neither taxi drivers nor passengers can carry a firearm. We think this is a better plan for public safety.

We urge the Council to consider these changes to the legislation.

In addition to the legislation, more detailed regulations will be appropriate to establish the process for getting a license to carry a handgun. In consult with District lawyers, the MPD is writing the regulations, based in part on our review of previous regulations in the District and on models from Maryland, New York, and New Jersey, whose licensing programs have already been found to be constitutional by their respective federal Courts of Appeal. To ensure that interested applicants can apply, most of the emergency regulations will be issued no later than October 22nd. Emergency regulations on obtaining certification to provide training will be issued by Monday so that potential trainers can apply for certification. To help ensure that training is available for licensees, any trainer who is already certified to provide firearm training for special police officers – who are essentially the highest level of private building security – will only need to provide training curriculum for initial certification.

This concludes my prepared remarks. At this time, I will be happy to address any of your questions.