

Banning Handguns

Background

Handguns are a generic class of weapons to be differentiated from long guns (i.e., rifles and shotguns) and generally include revolvers and pistols.¹ The policy issue of whether all handguns should be banned, as opposed to regulated, is a topic of debate inside, as well as outside, the gun violence prevention movement.² As noted below, there are no federal or state laws banning all handguns.³ The District of Columbia, Chicago and at least 12 other Illinois communities have adopted bans on the possession and/or sale of handguns as a generic class of weapons.

Handguns are a particular focus of regulatory efforts – up to and including total bans – because of their frequent use in violent crime as compared to other firearms. From 1993 to 2001, an average of 737,360 violent crimes were committed with handguns in the U.S. each year, making handguns seven times more likely to be used to commit violent crimes than other firearms.⁴ Although handguns make up only 34% of firearms, approximately 80% of firearm homicides are committed with a handgun.⁵ Women face an especially high risk of handgun violence.⁶ In 2005, 72% of female homicide victims were killed with a handgun.⁷

Suicides committed with handguns are also a major area of concern. A California study found that in the first year after the purchase of a handgun, suicide was the leading cause of death among handgun purchasers.⁸ In the first week after the purchase of a handgun, the firearm suicide rate among purchasers was 57 times as high as the adjusted rate in the general population.⁹

Several studies have documented the risks associated with guns in the home. Adults living in homes with guns are at a significantly higher risk of homicide and suicide than

¹ Federal law defines a handgun as “a firearm which has a short stock and is designed to be held and fired by the use of a single hand,” and any combination of parts from which such a firearm can be assembled. 18 U.S.C. § 921(a)(29).

² For a thorough discussion of various regulatory models other than outright bans for reducing death and injury caused by handguns, see generally David Hemenway, *Private Guns, Public Health* (2004).

³ A number of jurisdictions ban some types of handguns, including “ultracompact” handguns, junk guns and other unsafe handguns, assault pistols and 50 caliber handguns. These laws are described in the sections on [Dealer Regulations](#), [Design Safety Standards for Handguns: Regulating Junk Guns/Saturday Night Specials](#), [Assault Weapons](#) and [50 Caliber Rifles](#), respectively.

⁴ Office of Justice Programs, U.S. Department of Justice, *Bureau of Justice Statistics Special Report, National Crime Victimization Survey, 1993-2001 -- Weapon Use and Violent Crime* 3 (Sept. 2003).

⁵ Violence Policy Center, *Handgun Ban Background* (1999), at http://www.vpc.org/fact_sht/hgbanfs.htm.

⁶ Garen J. Wintemute et al., *Mortality among Recent Purchasers of Handguns*, 341 *New Eng. J. Med.* 1583, 1585 (Nov. 18, 1999).

⁷ Violence Policy Center, *When Men Murder Women: An Analysis of 2005 Homicide Data* 7 (Sept. 2007), at <http://www.vpc.org/studies/wmmw2007.pdf>.

⁸ Wintemute, *supra* note 6, at 1583-84.

⁹ *Id.* at 1585.

adults in homes without guns.¹⁰ The risk of unintentional firearm injury is also substantially higher for adults living in homes with guns,¹¹ with handguns in the home posing a particular threat.¹² For every incident in which a gun in the home is used in self-defense or in another legally-justified shooting, there are 22 unintentional or criminal shootings or suicide attempts using a gun kept at home.¹³

A 1991 study documented the effectiveness of Washington, D.C.'s law banning handguns.¹⁴ Following the enactment of the ban in 1976, there was a 25% decline in homicides committed with firearms and a 23% decline in suicides committed with firearms within the District of Columbia.¹⁵ No similar reductions were observed in the number of homicides or suicides committed by other means, nor were similar reductions found in the adjacent metropolitan areas in Maryland and Virginia.¹⁶ A recent study concluded that, as a result of the District's handgun ban, the District of Columbia had the lowest rate of youth suicide in the nation – lower than any state.¹⁷

This report discusses a number of policies that would reduce the risks of injury and death associated with handguns, short of banning the possession and/or sale of all handguns. The many gaps in federal regulation have prompted some communities to advance and test aggressive policies, such as handgun bans, in their attempt to solve the problem of gun violence – policies that would not be politically viable on a statewide or national level.

Handgun bans may prohibit a range of activities, such as possession and/or sale, manufacture, purchase, and transfer. Bans that include a prohibition on possession are generally more restrictive than bans prohibiting sale, manufacture, purchase and transfer because of their impact on existing gun owners.

Summary of Federal Law

There is no federal law banning handguns, although there is a ban on certain handgun ammunition.¹⁸

¹⁰ Douglas J. Wiebe, *Homicide and Suicide Risks Associated with Firearms in the Home: a National Case-Control Study*, 41 *Annals Emergency Med.* 771, 777-78 (June 2003).

¹¹ Douglas J. Wiebe, *Firearms in U.S. Homes as a Risk Factor for Unintentional Gunshot Fatality*, 35 *Accident Analysis & Prevention* 711, 713-14 (2003) (finding the relative risk of dying from an unintentional gunshot injury to be 3.7 times higher for adults living in homes with guns).

¹² *Id.*

¹³ Arthur L. Kellerman et al., *Injuries and Deaths Due to Firearms in the Home*, 45 *J. Trauma* 263, 265 (1998).

¹⁴ Colin Loftin et al., *Effects of Restrictive Licensing of Handguns on Homicide and Suicide in the District of Columbia*, 325 *New Eng. J. Med.* 1615, 1615-1620 (Dec. 5, 1991).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Violence Policy Center, *Safe at Home: How D.C.'s Gun Laws Save Children's Lives* (July 2005), at <http://www.vpc.org/studies/dcsuicide.pdf>.

¹⁸ Federal law prohibits the manufacture, importation, sale or delivery of armor-piercing ammunition for use in handguns, except for certain uses (including use by federal, state or local governments, and for export). 18 U.S.C. § 922(a)(7), (8). For additional information on armor-piercing ammunition, see section on [Ammunition Regulation](#).

SUMMARY OF HANDGUN BANS IN THE U.S.

No state bans all handguns. Chicago, a number of other Illinois communities¹⁹ and the District of Columbia²⁰ currently ban handguns.²¹

Chicago and District of Columbia Handgun Bans²²

Chicago

Chicago, Ill., Code §§ 8-20-040, 8-20-050(c), 8-20-190, 4-144-061, 4-144-062

[District of Columbia](#)

D.C. Code Ann. §§ 7-2502.01, 7-2502.02, 7-2504.01, 7-2505.01, 7-2505.02, 7-2506.01

In both Chicago and the District of Columbia, handguns are banned via a regulatory scheme that requires all firearms within the jurisdiction to be registered. In both Chicago and the District of Columbia, handguns are defined as unregistrable weapons.

Chicago bans possession, retail sales and private sales or transfers of handguns and also bans the sale and/or transfer of certain handgun ammunition.

¹⁹ At least twelve other Illinois communities also ban handguns, making Illinois unique among the states in the number of local ordinances banning handguns. Other Illinois communities that ban the sale or transfer of handguns include Deerfield, Elk Grove Village, Evanston, Forest Park, Highland Park, Morton Grove, Niles, Northbrook, Oak Park, River Grove, Westmont and Wilmette. Evanston, Morton Grove, Oak Park and Wilmette also ban possession of handguns.

²⁰ In 2007 the U.S. Court of Appeals for the District of Columbia Circuit struck down the District of Columbia's strict laws banning most handgun possession in the District, and requiring lawfully owned firearms to be kept unloaded and disassembled or bound by a trigger lock or similar device. *Parker v. District of Columbia*, 478 F.3d 370 (D.C. Cir. 2007). The court held that the laws violate the Second Amendment, interpreting the Amendment to protect an individual right to keep and bear firearms unrelated to service in the militia. The U.S. Supreme Court granted *certiorari* on the following question: Whether the challenged provisions violate the Second Amendment rights of individuals who are not affiliated with any state-regulated militia, but who wish to keep handguns and other firearms for private use in their homes? *District of Columbia v. Heller*, 128 S. Ct. 645, 169 L. Ed. 2d 417 (2007). The Supreme Court is expected to issue its ruling in the case by June 2008.

²¹ In November 2005, San Francisco voters approved Proposition H, an ordinance to prohibit the possession of handguns by San Francisco residents and ban the manufacture, distribution, sale and transfer of firearms and ammunition in the city. The National Rifle Association and others immediately challenged the ordinance, and in a recent decision an appellate court struck down the ordinance, finding it preempted by state law. *Fiscal v. City & County of San Francisco*, No. A115018, 2008 Cal. App. LEXIS 21 (Cal. Ct. App. Jan. 9, 2008). The City has indicated that it will appeal the decision. Additional information on state preemption of local firearm regulation is contained in the section of this report titled "[The Legal Background.](#)"

²² Several courts have upheld local handgun bans. *See, e.g., Quilici v. Village of Morton Grove*, 695 F.2d 261 (7th Cir. 1982) (rejecting Second, Fifth and Ninth Amendment challenges and state "right to bear arms" challenge to Village of Morton Grove handgun ban); *Seegars v. Ashcroft*, 297 F. Supp. 2d 201 (D.D.C. 2004), *rev'd in part* (on standing grounds), 396 F.3d 1248 (D.C. Cir. 2005), *en banc hearing denied sub nom. Seegars v. Gonzales*, 413 F.3d 1 (D.C. Cir. 2005), *cert. denied*, 546 U.S. 1157 (2006) (rejecting, on standing grounds, Second Amendment challenge to D.C. handgun ban); *Kalodimos v. Village of Morton Grove*, 470 N.E.2d 266 (Ill. 1984) (rejecting state "right to bear arms" challenge to Village of Morton Grove handgun ban). *But see Doe v. City and County of San Francisco*, 136 Cal. App. 3d 509 (Cal. Ct. App. 1982) (upholding state preemption challenge to San Francisco ordinance banning all handgun possession in the city).

The District of Columbia's ban is more comprehensive, prohibiting possession, sale, transfer, manufacture, purchase and repair of handguns.²³ The District also bans the possession and manufacture of handgun ammunition, as well as the sale and transfer of handgun ammunition to residents of the District (except to owners of validly registered handguns).

The District of Columbia and Chicago both require surrender of handguns to law enforcement but also allow registration of certain handguns owned prior to the effective date of the ban. In the District of Columbia, handguns registered prior to September 24, 1976 are exempt from the ban. Chicago allows possession of handguns registered prior to March 30, 1982, provided they have a safety mechanism and load indicator device.²⁴

FEATURES OF COMPREHENSIVE LAW BANNING HANDGUNS

The features listed below are intended to provide a framework from which policy options may be considered and debated. LCAV has not attempted to include every provision or every creative approach identified in the analysis above, nor have we addressed appropriate exceptions so that the regulation does not produce unintended consequences. A jurisdiction considering modifying existing, or developing new legislation in this area should consult with counsel to ensure its legal sufficiency and compatibility with existing codes and statutes, as appropriate.

- Prohibited activities include possession and/or sale, purchase, transfer, loan, pledge, transportation, distribution, importation, and manufacture of handguns (*District of Columbia has most comprehensive list of prohibited activities*)
- If pre-ban handguns are grandfathered, there is a registration mechanism for grandfathered handguns, with strict limits on their transferability, use and storage²⁵ (*District of Columbia and Chicago require registration; Chicago requires registered handguns to have safety mechanism and load indicator*)
- Ban applies to handgun ammunition (*District of Columbia*)

²³ The ban on possession does not apply to federal, state or local law enforcement officers or members of the armed forces, so long as they are authorized to possess the firearm while on duty in the performance of authorized functions. D.C. Code Ann. § 7-2502.01. The manufacture ban applies to all firearms and ammunition. D.C. Code Ann. § 7-2504.01.

²⁴ "Load indicator" is defined as "a device which plainly indicates that a bullet is placed in the handgun in a way that pulling the trigger or otherwise handling the handgun may result in detonation." Chicago, Ill., Municipal Code § 8-20-030(z).

²⁵ See section on [Registration of Firearms](#) for features of comprehensive registration laws. The most comprehensive system of regulating the purchase, possession and ownership of firearms combines registration of firearms with licensing of gun owners. Additional information on licensing of firearm owners is contained in the section on [Licensing of Gun Owners or Purchasers](#).