NOS. 10-56971, 11-16255

IN THE
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

EDWARD PERUTA, et al.,
Plaintiffs-Appellants,

v.

COUNTY OF SAN DIEGO, et al.
Defendants-Appellees.

Appeal from United States District Court for the
Southern District of California
No. 3:09-cv-02371-IEG-BGS (Hon. Irma E. Gonzalez)

BRIEF OF AMICI CURIAE PINK PISTOLS, WOMEN AGAINST GUN CONTROL, INC., AND SECOND AMENDMENT SISTERS IN SUPPORT OF PLAINTIFFS-APPELLANTS

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CORPORATE DISCLOSURE STATEMENT

Amicus Curiae Pink Pistols is an unincorporated association without shareholders or parent companies. Amicus Curiae Women Against Gun Control, Inc. is a domestic non-profit corporation without any parent corporation, nor does any publicly held corporation own 10% or more of its stock. Amicus Curiae Second Amendment Sisters is a non-profit corporation organized in accord with Section 501(c)(4); it has no parent corporation, nor does any publicly held corporation own 10% or more of its stock.

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INTEREST OF AMICI CURIAE

Amici are organizations comprising segments of the California population that are disproportionately the targets of armed criminal violence and that therefore vigorously support the right to keep and bear arms.[1]

Pink Pistols is a nationwide shooting society formed by lesbian, gay, bisexual, transgender and heterosexual shooting enthusiasts. Pink Pistols honors gender identity and sexual diversity and advocates the responsible use of firearms for self-defense. It has chapters throughout the United States, the largest of which are in California.

Second Amendment Sisters is an advocacy group dedicated to preserving the right of self-defense. It admits both women and men and advocates responsible gun practices by citizens and parents.

Women Against Gun Control has been a leading national advocacy group for women's Second Amendment rights for more than two decades.

The parties have consented to this filing.

[1] This brief was not authored in whole or in part by a party's counsel, nor has a party or a party's counsel contributed money to fund its submission. No one other than amici, their members and their counsel funded this submission.

ARGUMENT

I. THE SUPREME COURT HAS STRESSED THE IMPORTANCE OF THE SECOND AMENDMENT RIGHT TO MINORITY GROUPS DISPROPORTIONATELY SUBJECT TO ARMED CRIMINAL VIOLENCE.

Amici are a coalition of groups representing those who are more likely than average to become victims of armed violence, including women and members of the Lesbian-Gay-Bisexual-Transgender (LGBT) community. We wish to dispel the misleading and insulting caricature that supporters of Second Amendment rights are either tobacco-chewing, gap-toothed, camouflage-wearing rednecks or militia posers who are morbidly fascinated with firepower. The Supreme Court held in *McDonald v. City of Chicago* that the 14th Amendment recognized in 1868 the need for then-recently emancipated black citizens in the South to bear arms for self-defense against the Klan and others who preyed upon African-Americans on the basis of twisted notions about white-male supremacy. 561 U.S. 742, 770-73 (2010). A century and a half later, it is still the case that some groups have a particularly acute need for armed self-defense.

For example, sexual minorities—whether gay, lesbian, bisexual or transgender—are especially subject to violence based on discriminatory animus. Congress recognized this when it enacted the Matthew Shepard/James Byrd, Jr. Hate Crimes Prevention Act of 2009, which expanded the scope of the federal statute to include violence driven by the perpetrator's animus toward the victim's ac-

tual or perceived sexual orientation or gender identity. *See* 18 U.S.C. § 249(a)(2). The FBI reports that, nationwide, approximately one-fifth of all hate crimes are motivated by such bias, which makes this category of hate crime second only to crimes based on racism.[2]

In California, the problem is even worse: 27.9% of hate crimes are driven by the assailants' loathing of the victim's sexual orientation or gender identity.[3] The hate-crime problem is actually far worse than the official figures suggest, because the Justice Department has concluded that "nearly two-thirds of hate crimes went unreported to police in recent years."[4] In the same period, hate crimes committed by multiple assailants—that is, by gangs venting their hatred against, for example, lesbians, gays and other minorities—increased by more than 200%.[5]

These grim figures make it easy to understand why the legal philosophy of Amicus Pink Pistols is that, "***[w]ithout self-defense, there are no gay rights***."

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[2] *See* FBI, *2012 Hate Crime Statistics, Incidents and Offenses*, www.fbi.gov/about-us/cjis/ucr/hate-crime/2012/topic-pages/incidents-and-offenses/incidentsandoffenses_final.pdf.

[3] *See* Kamala D. Harris, Attorney General, HATE CRIME IN CALIFORNIA, 2013 at 5 (Table 1), https://oag.ca.gov/sites/all/files/agweb/pdfs/cjsc/publications/hatecrimes/hc13/preface13.pdf.

[4] Press Release, Advance for Release at 10:00 A.M. EDT, Thursday, March 21, 2013, Bureau of Justice Statistics Hate Crime Victimization, 2007-2011, http://www.bjs.gov/content/pub/press/hcv0311pr.cfm.

[5] *Id.* (portion of hate crimes committed by a single offender declined while those committed by two or three offenders increased from 11% of all hate crimes in 2003-06 to 25% in 2007-11).

The general crime rate in California likewise demands that the most serious attention be paid to constitutional claims of the right to armed self-defense. Despite—or perhaps because of—having the nation's most restrictive laws limiting the carrying of firearms for self-defense, California's violent-crime problem is worse than the national average, according to the California Attorney General's own evaluation: "Throughout the 1988 to 1998 period, California's homicide [and] aggravated assault . . . crime rates exceeded the rates for both the rest of the nation and the six most populous states category."[6] The same study reported that "California ranked third in homicide rate, fifth in forcible rape rate, fourth in robbery rate," and "third in aggravated assault rate . . . when compared to the six other states with populations over 10 million."[7] To provide a local perspective, Oakland currently ranks as the second most dangerous city in America.[8] In 2013, there were 151,634 serious violent crimes in California—defined as encompassing hom-

[6] *See* Bill Lockyer, Attorney General, CRIME IN CALIFORNIA AND THE UNITED STATES, 1988-1998 at vi, https://oag.ca.gov/sites/all/files/agweb/pdfs/cjsc/publications/misc/caus/intro.pdf. *See also id.* at vii (Figure S-1). There does not appear to have been a subsequent such comparative publication by the California Attorney General's Office.

[7] *Id*. at vi.

[8] *See* Alyssa Pereira, *Oakland Dubbed Second Most Dangerous City In The United States*, LIVE 105 BFD (Nov. 12, 2014), http://live105.cbslocal.com/2014/11/12/oakland-dubbed-second-most-dangerous-city-in-the-united-states-fbi-alameda-county-crime/.

icide, forcible rape, robbery and aggravated assault.[9] That means that approximately seventeen California citizens were murdered, raped, robbed or savagely beaten during every hour of every day in 2013.

In particular, women fall victim to higher rates of violence—especially sexual violence—because of their vulnerability to generally stronger and larger male predators. A rape is reported in the United States every 6.2 minutes.[10] Yet even that horrific statistic drastically understates women's need for armed self-defense because rape usually goes unreported: "the estimated total is perhaps five times as high," "[w]hich means that there may be very nearly a rape a minute in the United States."[11] It is therefore quite fitting that the motto of Amicus Women Against Gun Control is: "The Second Amendment ***is*** the Equal Rights Amendment."

Thus, today, women and the LGBT community are the face of the Second Amendment right to bear arms.

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[9] *See* Kamala D. Harris, Attorney General, CRIME IN CALIFORNIA, 2013 at 5 (Table 1), https://oag.ca.gov/sites/all/files/agweb/pdfs/cjsc/publications/candd/cd13/cd13.pdf.

[10] *See* Rebecca Solnit, *A Rape a Minute, A Thousand Corpses a Year*, THE NATION (Jan. 24, 2013), http://www.thenation.com/article/172408/rape-minute-thousand-corpses-year; Centers for Disease Control, Division of Violence Prevention, SEXUAL VIOLENCE: FACTS AT A GLANCE (2012), www.cdc.gov/ViolencePrevention/pdf/SV-DataSheet-a.pdf.

[11] *Id*.

II. THE CONSTITUTIONAL RIGHT THAT PLAINTIFFS AND THEIR AMICI ASSERT HERE DESERVES PRECISELY THE SAME JUDICIAL RESPECT AND REFLECTION THAT THIS COURT ACCORDS CLAIMS MADE UNDER THE OTHER AMENDMENTS IN THE BILL OF RIGHTS.

This Court has identified within the First Amendment a constitutional right to personally observe not merely the last moments of California's execution of a convicted murderer, but also the entire process of execution by lethal injection, including "view[ing] the condemned as the guards escort him into the chamber, strap him to the gurney and insert the intravenous lines." *California First Amendment Coalition v. Woodford*, 299 F.3d 868, 876 (9th Cir. 2002). In that case, California argued, as do its sheriffs here, that any supposed constitutional right was outweighed by the State's compelling interest in preserving public "safety"—there, the anonymity and safety of the prison staff. *Id*. at 885. *See also id.* at 872, 880, 881, 882, 883 (repeatedly noting California's important "safety concerns"). This Court conceded that even the general public right of access to criminal trials—let alone a particular right to witness every single moment of an execution—"is not enumerated in the First Amendment." *Id*. at 874.

Nevertheless, this Court held that the right to observe such details as the insertion of IV lines into the condemned's veins "is encompassed within the Amendment as a right that is nonetheless necessary to the enjoyment of other First Amendment rights," based not on any constitutional text but rather on a "common

understanding" of "a major purpose" of the First Amendment—namely promoting informed and "free discussion" of "governmental affairs." *Id*. at 874 (citations and quotation marks omitted). The Court also repeatedly emphasized the importance to its conclusion of the "historical tradition" of public executions, *id*. at 875-77, and the "functional importance" of public observation of the minutiae of an execution to informed public debate on capital punishment. *Id*. at 876-77.

It would be worse than merely ironic—it would verge on the perverse—for this Court to recognize the People's right to witness every detail of the execution of a convicted killer while refusing to recognize the People's right to carry a firearm to ward off that same killer before he could commit murder.

Surely the Second Amendment right to bear arms in self-defense is entitled to more judicial solicitude than the right to witness executions that was recognized in *California First Amendment Coalition*. Unlike the unenumerated, derivative and theoretically attenuated right at issue there, the "right of the people to keep and bear Arms" is explicitly set forth in the Second Amendment, which expressly declares that said right "shall not be infringed."

III. THE RECOGNITION BY THE VAST MAJORITY OF STATES OF A LAW-ABIDING CITIZEN'S RIGHT TO A LICENSE TO CARRY A CONCEALED FIRE ARM IN PUBLIC FOR SELF DEFENSE STRONGLY SUPPORTS FEDERAL JUDICIAL RECOGNITION OF THE SECOND AMENDMENT RIGHT THAT PLAINTIFFS INVOKE HERE.

When interpreting the meaning and scope of the Second Amendment, the Supreme Court has identified no guide more authoritative than Founder, law professor and judge St. George Tucker. *See, e.g., District of Columbia v. Heller*, 554 U.S. 570, 594-95 (2008) ("As the most important early American edition of Blackstone's Commentaries (by the law professor and former Antifederalist St. George Tucker) made clear in the notes to the description of the arms right, Americans understood the 'right of self-preservation' as permitting a citizen to 'repe[l] force by force' when 'the intervention of society in his behalf, may be too late to prevent an injury.' ") (quoting 1 BLACKSTONE'S COMMENTARIES 145-46 n.42 (1803)) (brackets added by the Court in *Heller*); *id*. at 606-08 ("St. George Tucker's version of Blackstone's Commentaries, as we explained above, conceived of the Blackstonian arms right as necessary for self-defense. He equated that right, absent the religious and class-based restrictions, with the Second Amendment. *See* 2 TUCKER'S BLACKSTONE 143. In Note D, entitled, 'View of the Constitution of the United States,' Tucker elaborated on the Second Amendment: 'This may be considered as the true palladium of liberty . . . . The right to self defence is the first law of nature: in most governments it has been the study of rulers to confine the right within the

narrowest limits possible.' ") (quoting 1 BLACKSTONE'S COMMENTARIES, Editor's App. 300 (St. George Tucker ed. 1803) (ellipsis in original)); *McDonald*, 561 U.S. at 769 ("Founding-era legal commentators confirmed the importance of the right to early Americans. St. George Tucker, for example, described the right to keep and bear arms as 'the true palladium of liberty' and explained that prohibitions on the right would place liberty 'on the brink of destruction.' ") (quoting 1 BLACKSTONE'S COMMENTARIES, Editor's App. 300 (St. George Tucker ed. 1803)).

Judge Tucker himself identified another source of authority for interpreting the Bill of Rights: "A bill of rights may be considered, not only as intended to give law, and assign limits to a government about to be established, but as giving information to the people. ***By reducing speculative truths to fundamental laws, every man of the meanest capacity and understanding may learn his own rights, and know when they are violated***; a circumstance, of itself, sufficient, I conceive, to counterbalance every argument against [a bill of rights]." 1 BLACKSTONE'S COMMENTARIES, Editor's App. 308 (St. George Tucker ed. 1803) (emphasis added).

It is beyond cavil that St. George Tucker was correct. For two centuries, only a single decision issued by the lower federal courts mentioned the Second Amendment's individual right to bear arms with anything other than dismissive

scorn.[12] Yet during that same period, the People of the United States were being schooled by the explicit text of the Second Amendment in precisely the fashion that Judge Tucker foresaw. The People had come to understand what most jurists had not: that the Second Amendment enshrines a fundamental right to armed self-defense. Before the Supreme Court ruled in 2008 that "individual self-defense is 'the ***central component***' of the Second Amendment," *McDonald*, 561 U.S. at 744 (quoting *Heller*, 554 U.S. at 599) (emphasis added by the Court in *Heller*), the People of the United States, acting through their respective State Legislatures, had enacted (in some 37 States) statutes entitling responsible, law-abiding, adult citizens to a license to carry a concealed firearm in public for the purpose of self-defense. These are generally known as "shall-issue" licensing laws. In the years since the Supreme Court put Second Amendment jurisprudence to right in *Heller*, the number of States broadly guaranteeing a license to armed self-defense has risen to 40.[13]

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[12] *See United States v. Emerson*, 270 F.3d 203 (5th Cir. 2001). The dissenters in *Heller* provided a partial litany of these erroneous rulings by the lower federal courts. *See* 554 U.S. at 638 n.2 (Stevens, J., dissenting).

[13] *See generally* Government Accountability Office, Report GAO-12-717, GUN CONTROL: STATES' LAWS AND REQUIREMENTS FOR CONCEALED CARRY PERMITS VARY ACROSS THE NATION (July 2012). Arguably, as the panel decision noted, the number is 42, insofar as California is one of only eight remaining States that has a "may-issue" rather than a "shall-issue" regime for concealed-carry permits. *See Peruta v. County of San Diego*, 742 F.3d 1114, 1169 n.17 (9th Cir. 2014).

California is one of the dwindling number of States sitting on the wrong side of this balance. California law requires that an individual seeking a license to exercise her Second Amendment right to armed self-defense in public demonstrate "good cause." *See* Cal. Penal Code § 25400 (prohibiting concealed carry of a firearm); *id.* § 25850 (prohibiting carry of a loaded firearm); *id.* §§ 26150, 26155 (requiring license applicant to demonstrate "good cause"). As the panel decision explained:

> In California, the only way that the typical responsible, law-abiding citizen can carry a weapon in public for the lawful purpose of self-defense is with a concealed-carry permit. And, in San Diego County, that option has been taken off the table. The San Diego County policy specifies that concern for "one's personal safety alone" does not satisfy the "good cause" requirement for issuance of a permit. Instead, an applicant must demonstrate that he suffers a unique risk of harm: he must show "a set of circumstances that distinguish [him] from the mainstream and cause[ ] him . . . to be placed in harm's way." Given this requirement, the "typical" responsible, law-abiding citizen in San Diego County cannot bear arms in public for self-defense; a ***typical*** citizen fearing for his "personal safety"—by definition—cannot "***distinguish* [*himself*] *from the mainstream***."

742 F.3d at 1169 & n.17 (quoting the licensing policy of San Diego County) (emphasis and other alterations added by the panel in *Peruta*).

This policy cannot be reconciled with the right recognized in *Heller* and *McDonald*—nor with the People's own reading of the Second Amendment as set forth in the 40 state statutes embodying a "shall issue" licensing regime. In *Heller* the Court held that the Second Amendment "guarantee[s] the individual right to

possess and carry weapons in case of confrontation." 554 U.S. at 592. "At the time of the founding, as now, to 'bear' meant to 'carry,' " and "[w]hen used with 'arms,' . . . the term has a meaning that refers to carrying for a particular purpose—confrontation." 554 U.S. at 584. Accordingly, the Second Amendment "guarantee[s] the individual right to . . . carry weapons in case of confrontation." *Id*. at 592. Relying on prior authority interpreting federal firearms statutes, *Heller* stressed that "the natural meaning of 'bear arms' " is to " 'wear, bear, or carry . . . upon the person or in the clothing or in a pocket, for the purpose . . . of being armed and ready for offensive or defensive action in a case of conflict with another person.' " *Id*. at 584 (quoting *Muscarello v. United States*, 524 U.S. 125, 143 (1998) (Ginsburg, J., dissenting) (quoting BLACK'S LAW DICTIONARY)).[14] And when the *McDonald* Court discussed State statutes typical of what the Second Amendment (as incorporated in the Fourteenth Amendment) would invalidate, it prominently identified 19th-century laws enacted by former slave States to disarm African-Americans by requiring anyone carrying a firearm to possess a license that

[14] The definition of bearing arms that *Heller* adopted from *Muscarello* has long commanded widespread support among the Justices of the Supreme Court. Justice Scalia's opinion for the Court in *Heller* was joined by Chief Justice Roberts and Justices Kennedy, Thomas and Alito. The opinion in *Muscarello* from which *Heller* quoted was written by Justice Ginsburg and joined by the late Chief Justice Rehnquist and Justices Scalia and Souter. Finally, even the authors of the two dissenting opinions in *Heller*, Justices Stevens and Breyer, embraced this definition as a subset of the activity described by the phrase "carrying of arms" when they joined the opinion of the Court in *Muscarello*. *See* 524 U.S. at 130-32.

a local county or parish police official had broad discretion to deny. *See McDonald*, 561 U.S. at 771-73.

The error of the district court below is the same error committed by every federal court that has upheld a restrictive "may issue" licensing scheme: they have—despite the unambiguous language of the Second Amendment—all conceived of the right at issue here as some sort of discretionary privilege. But carrying a firearm in public for self-defense is not a privilege granted to commoners by the grace of a lord, nor a license grudgingly issued (or more often arbitrarily denied) by the whim of a government minister. Indeed, even referring to an enumerated constitutional right as a mere "privilege" is a misnomer. Webster defines a "privilege" as an "immunity, benefit or advantage granted to some person, group or persons, or class, ***not enjoyed by others***." WEBSTER'S NEW TWENTIETH CENTURY DICTIONARY 1432 (2d unabridged ed. 1976) (emphasis added). The noun "privilege" is derived from the Latin *privilegium*: "an ***exceptional*** law made in favor of or against any individual, from *privus*, ***separate, peculiar***, and *lex*, *legis*, a law." *Id*. (emphasis added).

The "individual right to possess and carry weapons in case of confrontation," *Heller*, 554 U.S. at 592, is not a special or peculiar benefit conferred by the State upon a privileged elite. It is a right enjoyed by all law-abiding adult citizens. It is not some special dispensation for which the Plaintiffs—nor the gay or female

California residents who are their amici—petition here. It is an ancient and fundamental right that we preserved for ourselves in the Second Amendment to the Constitution. And that document does not derive its power from a California county sheriff, nor from the California Legislature, nor even from the honorable Judges of this Federal Court of Appeals. The Second Amendment, like the rest of the Constitution, derives its authority directly from the sovereign People of the United States—from "We the People." There is a reason why the first three words of the Constitution are also its most important words.

IV. CALIFORNIA'S INFRINGEMENT OF SECOND AMENDMENT RIGHTS CANNOT BE JUSTIFIED BY THE SUPPOSED THREAT THAT ARMED CITIZENS POSE TO PUBLIC SAFETY.

Appellees' proffered "public safety" defense for California's restrictive licensing regime fails as a matter of law. "[T]he Supreme Court made clear in *Heller* that it wasn't going to make the right to bear arms depend on casualty counts," *Moore v. Madigan*, 702 F.3d 933, 939 (7th Cir. 2012). Thus *Heller* "expressly rejected the argument that the scope of the Second Amendment right should be determined by judicial interest balancing." *McDonald v. City of Chicago*, 561 U.S. 742, 785 (2010) (controlling opinion of Alito, J.). And *McDonald* reaffirmed that resolving Second Amendment cases would not "require judges to assess the costs and benefits of firearms restrictions and thus to make difficult empirical judgments in an area in which they lack expertise." *Id*. at 790-91. Because the Second

Amendment itself "is the very ***product*** of an interest-balancing by the people," "[t]he very enumeration of the right takes out of the hands of government . . . the power to decide on a case-by-case basis whether the right is ***really worth*** insisting upon." *Heller*, 554 U.S. at 634, 635 (original emphasis by the Court).

As Justice Alito explained in *McDonald*, where Chicago, like San Diego County here, labored to defend its firearms restrictions on grounds of public safety, the "right to keep and bear arms . . . is not the only constitutional right that has controversial public safety implications. All of the constitutional provisions that impose restrictions on law enforcement and on the prosecution of crimes"—such as the Fourth Amendment exclusionary rule—"fall into the same category," because they inflict " 'substantial social costs' " by " 'return[ing] a killer, a rapist or other criminal to the streets . . . to repeat his crime.' " 561 U.S. at 783 (collecting cases) (citations omitted). The profound interest in public safety has not been weighed against the People's rights under the Fourth, Fifth, or Sixth Amendments, nor should courts be allowed to "balance" away the People's rights under the Second Amendment.

Yet San Diego County and its amici nevertheless struggle to justify California's virtually universal denial of the right to carry firearms in public for self-defense on the supposition that armed, law-abiding citizens pose a threat to public safety. This is hardly the first time that California has tilted against this particular

windmill and thwarted the Constitution in the supposed service of public health, safety and welfare. In 1941, California's Attorney General, the Honorable Earl Warren, later Chief Justice of the United States, argued that the State could exercise its "police power" to criminalize the act of "assisting in bringing an indigent person into the state" because such activity by California's citizens during a devastating economic depression would "create a hazard to the health, safety and welfare" of the state's inhabitants. Brief of the Attorney General of the State of California in *Edwards v. People of the State of California*, 1941 WL 52965 (U.S.) (Appellate Brief) at *31, *45 (Oct. Term 1941). *See also id*. at *48 (invoking California's power to enact legislation "related to a local problem affecting the health, safety, [and] welfare" of the state); *id*. at *31-32 (invoking California's power to legislate on "problem[s] affecting the health" and "general welfare of the state").

But the Supreme Court was unpersuaded and the statute was struck down. *See Edwards v. People of the State of California*, 314 U.S. 160 (1941). The case produced multiple opinions condemning the challenged law, but none more memorable nor more compelling than that of Justice Jackson, who focused on the federal right of every citizen to go and come among the several States as she wished:

> Unless this Court is willing to say that citizenship of the United States means at least this much to the citizen, then our heritage of constitutional privileges and immunities is only a promise to the ear to be broken to the hope, a teasing illusion like a munificent bequest in a pauper's will.

314 U.S. at 186 (Jackson, J., concurring). The same is true here with respect to the Second Amendment's right to armed self-defense. If it means only that the right to bear arms in public for self-defense is a rare and elusive privilege available only at the whim of a government official, then the Second Amendment, too, is merely a teasing illusion.[15]

[15] The "public safety" rationale for California's regime also fails on the facts. The restrictive licensing law cannot be defended on the premise that civilians, unlike the police, cannot be trusted to identify when it is proper to use a firearm in self-defense. Armed civilians—even though they outnumber police by several orders of magnitude—make far fewer mistakes with their firearms than do the police. Each year there are approximately thirty instances in which a civilian mistakenly shoots and kills an innocent individual who was not actually a burglar, mugger, or similar assailant—but "[o]ver the same period the police erroneously kill five to eleven times more innocent people." *See* Joyce Lee Malcolm, GUNS AND VIOLENCE: THE ENGLISH EXPERIENCE 239 & n.71 (2002). Armed civilians are an asset—not a threat—to public safety: "Regardless of which counts of homicides by police are used, the results indicate that civilians legally kill far more felons than police officers do." *See* Gary Kleck, *Keeping, Carrying, and Shooting Guns for Self-Protection*, *in* DON B. KATES, JR. & GARY KLECK, THE GREAT AMERICAN GUN DEBATE: ESSAYS ON FIREARMS & VIOLENCE 199 (1997).

CONCLUSION

California's gay community and the women of California respectfully submit that the Court should confirm the panel's application of the Second Amendment, reverse the district court decision and remand for entry of the declaratory and injunctive relief sought by the Plaintiffs.

Dated: April 28, 2015

Respectfully submitted,

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