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**Supreme Court 2nd Amendment Decision
May Implicate Local Gun Ordinances**

Last week the U. S. Supreme Court issued its decision in *District of Columbia v. Heller*, holding for the first time that the Second Amendment protects an individual right to possess firearms unrelated to militia service. The 5-4 opinion affirmed a lower court decision striking down two District of Columbia firearms laws.

The opinion of the Court, authored by Justice Scalia, concluded that the "inherent right of self-defense" is central to the individual right protected by the Second Amendment. Applying that rationale to the challenged laws, the Court found that each law impermissibly interferes with this "core lawful purpose of self-defense" especially with respect to defense of "hearth and home." The Court held that the District's handgun possession ban violates the Amendment because it "amounts to a prohibition on an entire 'class' of arms that Americans overwhelmingly choose for the lawful purpose of self defense" in the home, where the "need to defend self, family and property is most acute."

The Court also acknowledged that the individual right is not unlimited, setting forth a non-exhaustive list of "presumptively valid" firearms laws, including prohibitions on possession by felons and the mentally ill, bans on concealed weapons, bans on possession in sensitive places such as schools, and laws regulating commercial sale of firearms.

For California local governments concerned with assessing the decision's impact on their existing or proposed firearms ordinances, the *Heller* case leaves undecided whether the Second Amendment applies to state and local regulation. Because the District is not a state or political subdivision, the Court determined it did not need to address this issue (i.e., whether the Amendment is "incorporated" against state and local governments by the Fourteenth Amendment or applies to them through other provisions of the Constitution).

However, the Court did give strong hints that it views the Second Amendment's individual right to possess firearms as a limit on state and local firearms laws. The NRA is already pursuing litigation to resolve this issue: The day after the *Heller* decision was handed down, the NRA filed Second Amendment challenges to Chicago's handgun ban and

similar ordinances in several other Illinois cities, and to San Francisco Housing Authority's ban on firearms possession in public housing. The NRA has also threatened to challenge San Francisco's trigger lock ordinance.

The *Heller* decision is also unclear on the scope of the individual right protected by the Amendment, or what standard of review the courts should use in determining the validity of firearms laws when challenged under the Second Amendment. Thus, although local ordinances regulating handgun possession are apparently the first targets of lawsuits invoking the "individual right," it is widely anticipated that challenges to other local firearms laws will also be filed.

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