



Senator Ted Cruz

Opening Statement – “Proposals to Reduce Gun Violence: Protecting Our Communities While Respecting the Second Amendment”

Senate Judiciary Subcommittee on the Constitution, Civil Rights and Human Rights

February 12, 2013

Thank you, Mr. Chairman. Let me say it is a particular honor to serve as Ranking Member on this Subcommittee with you. It is also a high honor to serve with two former Ranking Members and Chairmen of this Subcommittee—Senator Cornyn and Senator Hatch—as well as the Ranking Member of the full Committee, Senator Grassley.

All of us were rightly horrified by the tragedy in Newtown, Connecticut. To see young children senselessly murdered takes your breath away. Let me say to each of you who has come here today that are the victims of crimes of violence, my heart goes out to you. Thank you for coming. Thank you for standing for your lost loved ones. I have spent much of my own professional career working in law enforcement to prevent these horrible crimes of violence and ensure that anyone that carries them out is subject to the very strictest punishments.

I am hopeful that the fervor that we see on this Judiciary Committee hearing, for standing up for victims of crimes of violence, will carry over to issues other than gun control. I am hopeful that same fervor will be present when judicial nominees are here who have a record and history of allowing those who have committed violent crimes to walk free. I hope that same fervor on a bipartisan

basis will be present when we're talking about how to ensure that laws and resources exist to prevent violent criminals from carrying out their horrific crimes and to ensure that every one of them receives a fair and just punishment.

In my view, the divide on this issue is fairly straightforward. The focus of law enforcement should be on criminals, and we should be unstinting in protecting communities. Sadly, law enforcement has been failing in many of the communities in which each of you has suffered losses. We should be working to fix that problem.

At the same time, we should continue to respect and protect the constitutional rights of law-abiding citizens. It is often lost in the debate over guns that the Second Amendment is a vital part of our Constitution. It is part of the Bill of Rights. It is indeed, as Justice Joseph Story put it, the "palladium of the liberties of a republic." Stripping the constitutional rights of law-abiding citizens does nothing to prevent criminals from carrying out violent crime.

The overwhelming weight of the empirical evidence demonstrates that violent crime *increases* when the rights of law-abiding citizens to protect themselves, to protect their homes, and to protect their families are taken away. Defenseless citizens are more vulnerable to violent criminals.

For that reason, the two cities with the strictest gun control policies in the country, Washington, D.C., and Chicago, have suffered from some of the highest

crime and murder rates, notwithstanding those laws. Both cities had, for years, effectively total bans on firearms ownership and both still have among the highest murder rates in the nation.

Likewise, when Australia banned guns, violent crime went up. And after Great Britain banned guns, its violent crime rate was more than four-times higher than the rate in the United States. If you look in contrast to jurisdictions that have protected the constitutional right to bear arms, you have consistently seen lower crime and murder rates, as individual citizens are able to protect their families.

Aggressive gun control would restrict the constitutional rights of every American. We cannot outlaw evil, but we can remain vigilant in working to deter and punish violent criminals. And we should vigorously defend the constitutional right of law-abiding citizens to protect themselves and others from deadly attacks.

The Supreme Court's decisions in *Heller* and *McDonald* were landmark decisions. They concerned the question whether each of us is protected by the Bill of Rights. The cities took the position, in those cases, that individuals have no right whatsoever under the Second Amendment and that the Second Amendment does not apply to the States. The position of the litigants in those cases, I would suggest, was quite extreme.

Heller made crystal clear that individuals have a Second Amendment right to keep and bear arms. Like virtually all constitutional rights, however, everyone

acknowledges that there are *some* limits on this right. For example, the government may prohibit felons and the mentally ill from possessing firearms, as *Heller* explained.

The key question, which I hope we will explore in this hearing, is the scope of an individual's Second Amendment right to keep and bear arms. But we are not discussing this in a vacuum, as *Heller* and *McDonald* should guide our inquiry. *McDonald* explicitly stated that an individual's Second Amendment right "is fundamental to our scheme of ordered liberty" and is "deeply rooted in this Nation's history and tradition."

And *Heller* establishes that the Second Amendment protects in particular those firearms that are in "common use." So the Second Amendment does not give citizens the right to have "dangerous and unusual" weapons, like fully automatic machine guns—which are already functionally illegal under current law. But it does give individuals the right to keep and bear firearms that are widely used. I therefore have serious doubts about the constitutionality of the proposed Assault Weapons Ban and a ban on magazines with more than 10 rounds—because both of these bans would cover millions of firearms that are "commonly used" by Americans.

In any event, we should not pass legislation that the evidence has proven is utterly ineffective. In particular, the Department of Justice has already concluded

that the so-called “assault weapons ban,” when it was in effect from 1994 to 2004, had no impact on reducing crime. This is unsurprising, because real assault weapons—machine guns—have been functionally illegal since 1934. All an “assault weapons ban” would do is restrict cosmetic features of firearms, in effect, banning “scary-looking guns.” Instead of passing ineffective show legislation—sound and fury, signifying nothing—we should be acting to deter and punish violent criminals and to prevent those with dangerous mental illness from illegally acquiring firearms.

There is wide agreement that guns should not be in the hands of the mentally ill. Current law seeks to identify those individuals, but it relies on states submitting relevant medical records. Not all states are doing this. A July 2012 GAO report explained that the federal government is not enforcing or implementing a 2007 law that was supposed to reward states for submitting mental health records and to punish states that do not. We should make sure current law is enforced and work with states to help them get past the challenges that prevent them from providing more robust data. This is an area of bipartisan agreement and a direct way to address the real problem of the mentally ill getting guns.

In doing so, we can respect the Second Amendment rights of all Americans. So today, as we discuss the limits on the Second Amendment right to bear arms, we should keep in mind that the Supreme Court made absolutely clear that the

Second Amendment is a constitutional right of every American. And I would point out that constitutional rights are designed to be protected not just when they are popular but especially when passions are seeking to restrict and limit those rights. I look forward to this hearing underscoring the vital protections of the Second Amendment to every American.