

No. 12-1437

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

RAYMOND WOOLLARD, *et al.*,

Plaintiffs-Appellees,

v.

DENIS GALLAGHER, *et al.*,

Defendants-Appellants.

On Appeal from the United States District Court for the District
of Maryland (The Hon. Benson E. Legg, District Judge)

**BRIEF AMICI CURIAE OF THE ASSOCIATED GUN CLUBS OF
BALTIMORE, INC., THE MONUMENTAL RIFLE & PISTOL CLUB,
THE ILLINOIS STATE RIFLE ASSOCIATION, THE NEW YORK RIFLE
AND PISTOL ASSOCIATION, THE ASSOCIATION OF NEW JERSEY
RIFLE & PISTOL CLUBS, INC., AND THE HAWAII RIFLE
ASSOCIATION IN SUPPORT OF PLAINTIFFS-APPELLEES URGING
AFFIRMANCE**

Brian Stuart Koukoutchos
28 Eagle Trace
Mandeville, LA 70471
Tel: (985) 626-5052

Counsel for Amici Curiae

RULE 26.1 CERTIFICATION

Pursuant to FRAP 26.1 and Local Rule 26.1, The Associated Gun Clubs of Baltimore, Inc., The Monumental Rifle & Pistol Club, The Illinois State Rifle Association, The New York Rifle and Pistol Association, The Association of New Jersey Rifle & Pistol Clubs, Inc., and the Hawaii Rifle Association, who are amici, make the following disclosures:

1. Are amici publicly held corporations or other public entities? No.
2. Do amici have parent corporations? No.
3. Is 10% or more of the stock of any amici owned by a publicly held corporation or other publicly held entity? No.
4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation (Local Rule 26.1(b))? No.
5. N/A
6. Does this case arise out of a bankruptcy proceeding? No.

Dated: August 6, 2012

s/ Brian Stuart Koukoutchos
Brian Stuart Koukoutchos

Counsel for Amici

TABLE OF CONTENTS

	<u>Page</u>
TABLE OF AUTHORITIES.....	ii
INTEREST OF AMICI CURIAE	1
INTRODUCTION AND SUMMARY OF ARGUMENT	4
ARGUMENT.....	6
FIREARMS CARRIAGE IN PUBLIC BY LAW-ABIDING CITIZENS PROMOTES, RATHER THAN THREATENS, PUBLIC SAFETY.....	6
I. PRIVATE CITIZENS LICENSED AND TRAINED TO CARRY WEAPONS DO NOT THREATEN PUBLIC SAFETY.	6
A. The Only Two Comprehensive Reviews of the Firearms Literature Confirm That There Is No Evidence That Increasing the Number of Handgun Permits Increases Violence.	7
B. Experience In States That, Like Maryland, Permit Law-Abiding Citizens Who Are Trained and Licensed to Carry Handguns In Public Confirms That They Pose No Threat to the Public.....	15
II. ARMED SELF-DEFENSE IN PUBLIC BY LAW-ABIDING, LICENSED GUN OWNERS IS BOTH FREQUENT AND EFFECTIVE.....	24
CONCLUSION	33

TABLE OF AUTHORITIES

<u>Cases</u>	<u>Page</u>
<i>Commonwealth v. Robinson</i> , 600 A.2d 957 (Pa. Super. Ct. 1991)	24
<i>Commonwealth v. Romero</i> , 673 A.2d 374 (Pa. Super. Ct. 1996)	24
<i>District of Columbia v. Heller</i> , 554 U.S. 570 (2008)	4, 5, 24
<i>United States v. Virginia</i> , 518 U.S. 515 (1996).....	12
 <u>Constitutional and Legislative Materials</u>	
COMAR § 29.03.02.12	30
 <u>Other</u>	
A.L. Kellerman <i>et al.</i> , <i>Gun Ownership as a Risk Factor for Homicide in the Home</i> , 329 NEW ENG. J. MED. 1084 (1993)	27
A.L. Kellerman & D.T. Reay, <i>Protection or Peril? An Analysis of Firearm-related Deaths in the Home</i> , 314 NEW ENG. J. MED. 1557 (1986).....	27
A.L. Kellerman <i>et al.</i> , <i>Injuries and Deaths Due to Firearms in the Home</i> , 45 J. TRAUMA 263 (1998)	27
Charles C. Branas, <i>et al.</i> , <i>Investigating the Link Between Gun Possession and Gun Assault</i> , 99 AM. J. PUB. HEALTH 2034 (Nov. 2009)	31
Clayton E. Cramer, <i>Violence Policy Center's Concealed Carry Killers: Less Than It Appears</i> (2012), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2095754	20
Daniel D. Polsby & Don B. Kates, Jr., <i>American Homicide Exceptionalism</i> , 69 U. COLO. L. REV. 969 (1998)	22, 23
David B. Mustard, <i>Comment</i> , in EVALUATING GUN POLICY 325 (Jens Ludwig and Philip J. Cook eds. 2003)	14, 22, 23
David B. Mustard, <i>The Impact of Gun Laws on Police Deaths</i> , 44 J.L. & ECON. 635 (2001).....	22, 23
David Hemenway & Deborah Azrael, <i>The Relative Frequency of Offensive and Defensive Gun Uses: Results from a National Survey</i> , 15 VIOLENCE & VICTIMS 257 (2000)	25

David McDowall <i>et al.</i> , <i>Easing Concealed Firearms Laws: Effects on Homicide in Three States</i> , 86 J. CRIM. L. & CRIMINOLOGY 193 (1995).....	14
<i>First Reports Evaluating the Effectiveness of Strategies for Preventing Violence: Firearms Laws</i> , 52 MORBIDITY & MORTALITY WEEKLY REPORT 11 (CDC Oct. 3, 2003), available at http://www.cdc.gov/mmwr/PDF/rr/rr5214.pdf (last visited July 7, 2012)	9
Florida Department of Agriculture and Consumer Services, Division of Licensing, “Concealed Weapon or Firearm License Summary Report,” available at http://licgweb.doacs.state.fl.us/stats/cw_monthly.pdf (last visited Aug. 2, 2012).....	21
GARY KLECK, <i>TARGETING GUNS: FIREARMS AND THEIR CONTROL</i> (1997)	24, 25, 29, 30
GARY KLECK & DON B. KATES, JR., <i>ARMED: NEW PERSPECTIVES ON GUN CONTROL</i> (2001)	24, 25, 26
JAMES D. WRIGHT & PETER H. ROSSI, <i>ARMED AND CONSIDERED DANGEROUS</i> (2d ed. 2008)	32
Jens Ludwig, <i>Concealed-Gun-Carrying Laws and Violent Crime: Evidence from State Panel Data</i> , 18 INT’L REV. L. & ECON. 239 (1998).....	14
John Donohue, <i>Guns, Crime and the Impact of State Right-to-Carry Laws</i> , 73 FORDHAM L. REV. 623 (2004).....	12, 13
John Donohue, <i>The Impact of Concealed-Carry Laws</i> , in <i>EVALUATING GUN POLICY</i> 287 (Jens Ludwig & Philip J. Cook eds. 2003)	13
John Lott, <i>Responding to Jack D'Aurora's piece in the Columbus Dispatch</i> , available at http://johnrlott.blogspot.com/2011/08/responding-to-jack-auroras-piece-in.html (last visited Aug. 2, 2012)	21
JOHN R. LOTT, JR., <i>MORE GUNS LESS CRIME: UNDERSTANDING CRIME AND GUN CONTROL LAWS</i> (3d ed. 2010)	30
NATIONAL RESEARCH COUNCIL, <i>FIREARMS AND VIOLENCE</i> (Wellford, <i>et al.</i> , eds. 2005)	11, 12, 26, 28

North Carolina Department of Justice, “North Carolina Concealed Handgun Permit Statistics by County, 12/1/1995 thru 6/30/2011,” available at http://www.ncdoj.gov/CHPStats.aspx (last visited Aug. 6, 2012).....	22
Philip J. Cook, Jens Ludwig & Adam M. Samaha, <i>Gun Control After Heller: Threats and Sideshows from a Social Welfare Perspective</i> , 56 UCLA L. REV. 1041 (2009).....	8, 32
Robert Hahn, <i>et al.</i> , <i>Firearms Laws and the Reduction of Violence: A Systematic Review</i> 28 AM. J. PREV. MED. 40 (2005).....	10
Tennessee Department of Safety and Homeland Security, “Handgun Carry Permit Statistics” for “Calendar Year 2011,” available at http://www.tn.gov/safety/stats/DL_Handgun/Handgun/HandgunReport2011Full.pdf (last visited Aug. 6, 2012)	21
Terry Flynn, <i>Gun-toting Kentuckians Hold Their Fire</i> , CINCINNATI ENQUIRER (June 16, 1997), available at http://www.enquirer.com/editions/1997/06/16/loc_kycarry.html	23
Texas Department of Public Safety, Regulatory Services Division, Concealed Handgun Licensing Bureau, “Demographic Information by Race/Sex,” available at http://www.txdps.state.tx.us/administration/crime_records/chl/PDF/2010Calendar/ByRace/CY10RaceSexLicAppIssued.pdf and http://www.txdps.state.tx.us/administration/crime_records/chl/PDF/2010Calendar/ByRace/CY10RaceSexLicRevoked.pdf (last visited Aug. 2, 2012).....	21
Violence Policy Center, www.vpc.org/ccwkillers.htm	17, 18, 19, 20

INTEREST OF AMICI CURIAE

Amici curiae are non-profit organizations committed to defending the rights protected by the Second Amendment and promoting the shooting sports in which their members participate.

The Associated Gun Clubs of Baltimore, Inc. (AGC) was formed in 1944 by World War II veterans and now comprises 29 individual clubs in and around Baltimore, Maryland, with a total membership in excess of 3,000. The AGC operates a shooting range facility, provides firearms safety instruction, and organizes competitive marksmanship events. All of its clubs and club members are subject to the laws of the State of Maryland and will therefore be directly affected by the outcome of this litigation.

The Monumental Rifle & Pistol Club of Baltimore, Maryland was founded in 1947 by a group of World War II veterans; it now has an active membership of approximately 600. The overwhelming majority of its members are Maryland residents who regularly transport their firearms from homes located all over the state for a day of competitive or casual shooting at the Patapsco Range in Baltimore County. The club members' Second Amendment rights will be directly affected by the outcome of this litigation.

The Illinois State Rifle Association (ISRA) is a non-profit educational foundation incorporated in 1913; it now has over 20,000 members. It was originally formed in 1903 in response to the passage by Congress of the National Guard Act and the federal creation of the National Board for the Promotion of Rifle Practice, with the primary purpose of training civilians in marksmanship skills to prepare them for militia service. ISRA also conducts firearms safety instruction and marksmanship training courses for both self-defense and competitive shooting. Illinois is the sole remaining State that flatly forbids the carrying of handguns in public for self-defense; the Second Amendment rights of ISRA's members will therefore be affected by the outcome of this litigation.

The New York Rifle and Pistol Association is New York's largest and oldest firearms advocacy organization. Since 1871, it has been dedicated to the preservation of Second Amendment rights and the promotion of firearms safety, education, and training. Its membership comprises some 75,000 individual New York citizens as well as shooting clubs throughout the state.

The Association of New Jersey Rifle & Pistol Clubs, Inc. (ANJRPC) was founded in 1936 and is New Jersey's oldest and largest Second

Amendment organization. It is the voice of approximately one million New Jersey gun owners. The members of ANJRPC have effectively been denied the right to bear arms in self-defense under a regulatory scheme similar to that of Maryland. ANJRPC is pursuing its own federal litigation similar to this case; it therefore has a significant interest in the outcome of this litigation.

The Hawaii Rifle Association (HRA) was founded in 1857 to promote respect and support for the Second Amendment rights of law-abiding citizens. It has approximately 1500 members and promotes responsible firearms use through education, safety instruction, and the organization of shooting competitions. Hawaii, like Maryland, has severe and restrictive regulations on the right to bear arms in public for self-defense, and the members of the HRA therefore have a significant interest in the outcome of this litigation.

The parties have consented to the filing of this brief. No party's counsel authored this brief in whole or in part, and no party or party's counsel contributed money that was intended to fund preparing or submitting this brief. The National Rifle Association of America, Inc.,

contributed money that was intended to fund preparing or submitting this brief.

INTRODUCTION AND SUMMARY OF ARGUMENT

In addition to its legal arguments, which are refuted in the brief of Appellee Woollard, the State of Maryland and its amici, the American Public Health Association *et al.* (“PHA Brief”) and the Brady Center to Prevent Gun Violence (“Brady Brief”), offer several policy rationales for denying law-abiding citizens the right to carry arms for self-defense when they leave their homes. What Appellant and its allies fail to understand is that the *policy debate* about the right to bear arms has already been resolved by Second Amendment to the United States Constitution. In the words of the Supreme Court, that amendment “guarantee[s] the individual right to ... carry weapons in case of confrontation” – that 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.” *District of Columbia v. Heller*, 554 U.S. 570, 584, 592 (2008) (citation and quotation marks omitted). Maryland would have this Court rebalance that constitutional right against competing interests

including supposed threats of public mayhem. Those threats do not exist, as we will explain shortly.

But the very interest-balancing that Maryland demands, regardless of its outcome, is fundamentally illegitimate because the right to armed self-defense is no longer “subject[] to a freestanding ‘interest-balancing’ approach. The very enumeration of the right” in the Constitution “necessarily takes certain policy choices off the table.” *Heller*, 554 U.S. at 634, 636. Amici respectfully submit that Maryland’s statutory disarmament of all law-abiding citizens who cannot prove that their decision to exercise their Second Amendment right is justified by “ ‘a level of threat beyond that faced by the average citizen,’ ” Brief of Appellants Gallagher *et al.* (“Maryland Brief”) at 6, is one policy choice that is no longer available to the State of Maryland.

Even if this Court were free to rebalance the scales and to judge the utility of the Second Amendment right to bear arms, the evidence mustered by Maryland would be insufficient to shift the balance in the State’s favor — as we will now demonstrate.

ARGUMENT

FIREARMS CARRIAGE IN PUBLIC BY LAW-ABIDING CITIZENS PROMOTES, RATHER THAN THREATENS, PUBLIC SAFETY.

I. PRIVATE CITIZENS LICENSED AND TRAINED TO CARRY WEAPONS DO NOT THREATEN PUBLIC SAFETY.

Maryland predicts that allowing properly licensed, properly trained, law-abiding citizens to carry firearms in public will inevitably lead to mass mayhem. Maryland Brief 11, 41-51. This policy argument runs headlong into two insuperable obstacles.

First, the actual research on firearms violence refutes Maryland's contentions (as we will explain shortly).

Second, the State's dire forecast of public carnage cannot be squared with the experience of the *41 States* that already permit their law-abiding citizens to carry handguns in public without first proving to the state police that they suffer an imminent and individual "level of threat beyond that faced by the average citizen." This is the standard that Maryland imposes on citizens seeking a permit to carry a handgun in public. Maryland Brief 6 (citing J.A. 59-60). But Maryland's prophesy that affirming the judgment below will lead to mayhem *is belied by the State's own experience*. As the State repeatedly assures us, Maryland *already issues tens of thousands of*

handgun permits to its citizens (an approval rate of more than 93%) and broadly allows the possession and transportation of firearms outside the home. Maryland Brief 4-5, 7, 12-13, 18, 19, 28. The State offers *absolutely nothing*—no statistics, no analysis, not even a single anecdote—that remotely suggests (let alone proves) that the incremental number of new permits issued without requiring applicants to demonstrate an imminent, individualized risk of being the victim of criminal violence will spawn wild-west shootouts in the streets.

A. The Only Two Comprehensive Reviews of the Firearms Literature Confirm That There Is No Evidence That Increasing the Number of Handgun Permits Increases Violence.

Maryland and its amici would have this Court believe that trained, law-abiding citizens who have been screened and licensed by the government to carry handguns constitute an acute threat to public safety. Maryland places very heavy reliance on the work of “Philip J. Cook, a professor of public policy at Duke University who has been researching firearms violence since 1975.” Maryland Brief 47 & n.18. Maryland devotes more than forty pages of its appendix to Professor Cook’s opinions and research. (J.A. 66-107). Maryland’s amici likewise place great stock in

Professor Cook's analysis and conclusions. See PHA Brief 5, 11, 12, 13, 17, 18; Brady Brief 10. But what they have overlooked is that, before he became an advocate in this and other lawsuits, *Professor Cook flatly rejected the proposition that increasing the number of handgun permits threatens public safety*. In analysis that he published in the wake of the Supreme Court's decision in *Heller*, Professor Cook concluded that, "[b]ased on available empirical data," there would be "relatively little public safety impact if courts invalidate laws that prohibit gun carrying outside the home." Philip J. Cook, Jens Ludwig & Adam M. Samaha, *Gun Control After Heller: Threats and Sideshows from a Social Welfare Perspective*, 56 UCLA L. REV. 1041, 1082 (2009) (emphasis added). *A fortiori*, since Maryland's law already permits the public carrying of handguns, there would be negligible, if any, "public safety impact" if this Court were to affirm the invalidation of the rule requiring permit applicants to demonstrate a particularized individual self-defense need apart from that of the general public.

This conclusion — by Maryland's own chosen authority — is consistent with the findings of other leading studies that there is no evidence that restrictions on the issuance of handgun-carry permits reduce criminal

violence. Consider for example the conclusions of the independent Community Preventative Services Task Force (“Task Force”), established by the U.S. Department of Health and Human Services and appointed by the Director of the Centers for Disease Control and Prevention (“CDC”). Although amicus Public Health Association is certainly familiar with the work of the CDC and likes to cite isolated statistics from the CDC’s database, *see* PHA Brief 4, 5, 7, neither Maryland nor its amici make any reference to the conclusions the CDC-supported Task Force reached when it examined the published research on firearms violence. The Task Force conducted “a systematic review of scientific evidence regarding the effectiveness of firearms laws in preventing violence, including violent crimes, suicide, and unintentional injury,” and found that it does not support the proposition that increasing the number of citizens permitted to carry handguns in public increases gun violence. *First Reports Evaluating the Effectiveness of Strategies for Preventing Violence: Firearms Laws*, 52 MORBIDITY & MORTALITY WEEKLY REPORT 11 (CDC Oct. 3, 2003) (“MMWR”).¹ The Task Force took pains to note that, unlike other

¹ The report is available at <http://www.cdc.gov/mmwr/PDF/rr/rr5214.pdf> (last visited July 7, 2012).

research – including the studies on which Maryland and its amici rely – its own review included “*systemic epidemiological evaluations and syntheses of all available scientific literature meeting specified criteria.*” Robert Hahn, *et al.*, *Firearms Laws and the Reduction of Violence: A Systematic Review* 28 AM. J. PREV. MED. 40, 42 (2005) (emphasis added). Nearly all the members of the Task Force were physicians or epidemiologists rather than criminologists or lawyers. MMWR at 11. The Task Force reviewed *all* the firearms studies from eleven different databases of public health, medical, sociological, psychological, criminal justice, legal, economics, and public policy research. *See* 28 AM. J. PREV. MED. at 44.

The Task Force concluded that there were insufficient data to support the hypothesis “that the presence of more firearms” being carried in public by licensed citizens “increases rates of unintended and intended injury in interpersonal confrontations.” *Id.* at 53. It noted that, if anything, the more reliable studies – those of “greatest design suitability” – indicated that homicide rates went *down* when more carry permits were issued. *Id.* at 54. But in the end it found that the data employed suffered from “important systematic flaws that preclude reliable conclusions” and that no policy

recommendation could be made – one way or the other – about increasing the issuance of gun permits without “[f]urther research.” *Id.* at 54. Of course, the vast majority of states are “shall-issue” states that do not require a showing of a threat “greater than the average citizen” to obtain a permit, and thus the Task Force’s findings foreclose Maryland’s claims about the dangers of more permissive permitting regimes.

If it were not sufficient that Maryland’s forecast of an epidemic of public violence has been dismissed by both its own chosen authority, Professor Cook, and by the public health authorities of the Task Force, we would like to draw this Court’s attention to another exhaustive review of the entire body of firearms-regulation literature that Maryland ignores. This was conducted by the principal research advisors to the federal government: the National Academies. The National Research Council of the National Academies undertook “an assessment of the strengths and limitations of the existing research and data on gun violence.” NATIONAL RESEARCH COUNCIL, FIREARMS AND VIOLENCE 1 (Wellford, et al., eds. 2005) (“NRC REVIEW”). The NRC surveyed *all* the extant literature on firearms

regulation – hundreds of books, journal articles, and peer-reviewed studies. *See id.* at 22-30, 78, 130-33, 156-61, 174-77, 186-92, 242-68.

The NRC “found no credible evidence that the passage of right-to-carry laws decreases or increases violent crime.” NRC REVIEW at 2.

“[W]ith the current evidence, it is not possible to determine that there is a causal link between the passage of right-to-carry laws and crime rates.” *Id.* at 150. *See also id.* at 7. Oddly enough, amicus PHA actually reiterates and concedes this conclusion in its brief supporting Maryland. PHA Brief 9.

That conclusion dooms the challenged law because it is Maryland’s contention that granting more trained citizens a license to carry a handgun will *increase* violence and, of course, the State bears the burden of proof on that argument. *See United States v. Virginia*, 518 U.S. 515, 531 (1996) (even under intermediate scrutiny, the government “must demonstrate an ‘exceedingly persuasive justification’ ” for the challenged law).

The articles cited by Maryland’s amici are either included in – and therefore discredited by – the comprehensive CDC and NRC research reviews, or actually concede that they fail to prove Maryland’s point. For example, the Brady Center (Brady Brief 9) cites John Donohue, *Guns, Crime*

and the Impact of State Right-to-Carry Laws, 73 FORDHAM L. REV. 623, 633 (2004). But that article did *not* link increased violence to the enactment of laws permitting more citizens to carry handguns. Rather, the article candidly admitted that “[a]ll we can really say is that we know that there is no evidence of *reduction* in violent crime when [right-to-carry] laws are passed.” *Id.* at 638; *see also id.* at 639 (“our statistical models are simply too blunt an instrument to ascertain the likely modest impact of [right-to-carry] laws on overall crime.”). The Brady Center also cited an earlier article by the same author: John Donohue, *The Impact of Concealed-Carry Laws*, in EVALUATING GUN POLICY 289, 320 (Jens Ludwig & Philip J. Cook eds. 2003). Brady Brief 8. But the Brady Center misrepresents the article by quoting a snippet out of context. Donohue did *not* conclude that concealed-carry laws increase crime. In fact, he disavowed as “implausible” the findings of the regression analysis to which the Brady Center refers, *id.* at 324, and he concluded, *contrary* to the Brady Center, that one simply cannot draw conclusions regarding how concealed-carry laws affect crime. *Id.* at 324-25.

The Brady Center’s remaining citations (Brady Brief 8-9) likewise fail to establish a causal connection between greater issuance of handgun-carry

permits and an increase in violent crime. See Jens Ludwig, *Concealed-Gun-Carrying Laws and Violent Crime: Evidence from State Panel Data*, 18 INT'L REV. L. & ECON. 239, 248-49 (1998) (conceding that the data are so incomplete and the sample so small that any supposed increase in homicide is "not statistically significant"); David McDowall *et al.*, *Easing Concealed Firearms Laws: Effects on Homicide in Three States*, 86 J. CRIM. L. & CRIMINOLOGY 193, 203 (1995) (acknowledging that the limited data are varied and inconsistent and disavowing the conclusion "that shall issue licensing leads to more firearms murders"); see also *id.* at 204 ("our analysis does not allow a firm conclusion that shall issue licensing increases firearms homicides").²

² It is important to remember that "no empirical research has made a case for shall-issue laws increasing crime. Instead, the literature has disputed the magnitude of the decrease and whether the estimated decreases are statistically significant." David B. Mustard, *Comment*, in EVALUATING GUN POLICY 326 (Jens Ludwig and Philip J. Cook eds. 2003). See also *id.* at 326 ("Even if one uncritically accepts the most negative reviews of Lott-Mustard [research] at face value, there is still more evidence that shall-issue laws reduce, rather than raise, crime.").

In any event, the burden is on Maryland to justify its restriction of the right to bear arms. Citizens do not need to prove that permitting public gun carriage reduces crime, as noted above.

Maryland and its amici would like to pretend that all articles about firearms regulation are created equal and that any given study that they cite cancels out a study cited by Woollard and his amici. But this brief relies principally on *two non-partisan reviews of the entire body of firearms literature conducted by renowned experts*: the comprehensive reviews conducted by (i) the National Research Council and (ii) the CDC-supported Task Force. Those two massive undertakings reviewed hundreds of books and articles, including most of those cited by Maryland and its allies. These two reviews assessed the state of published scientific knowledge on the efficacy of various types of firearms regulations and concluded that the data are utterly insufficient to justify policy recommendations on firearms regulations – *a fortiori*, the data are inadequate to justify Maryland’s infringement of an enumerated constitutional right.

B. Experience In States That, Like Maryland, Permit Law-Abiding Citizens Who Are Trained and Licensed to Carry Handguns In Public Confirms That They Pose No Threat to the Public.

Maryland defends its policy of denying handgun permits to anyone who cannot demonstrate an imminent, particularized risk of criminal violence by explaining that “[t]he firearm of choice for Maryland’s *criminals*

is the handgun.” Maryland Brief 46 (emphasis added). This is the weapon that is “most frequently used in *criminal* activity,” *id.* at 42 (emphasis added), and the State devotes many pages to reciting general crime statistics, *id.* at 7, 44-47, 49-51, (although *none* of those statistics concerns crimes committed by those licensed to carry handguns). The State stresses that the Maryland Legislature has formally codified its finding that the risk to the public of armed violence is “traceable to the carrying of handguns in public *by criminals.*” *Id.* at 40 (emphasis added). But of course the proper response to violence “traceable to the carrying of handguns in public by criminals” is not to issue handgun permits to *criminals*. And indeed Maryland denies permits to those with a history of crime. *Id.* at 5. What is most telling, however, is that Maryland cites no statistics – indeed, it does not even offer a single anecdote – of a handgun crime committed in public by a citizen holding a Maryland handgun-carry permit. *All* of the evidence proffered by Maryland on the supposed inability to screen out violent applicants comes from *other* jurisdictions, *see id.* at 50-51, and therefore says nothing about Maryland’s handgun-permit regime.

In the district court, the State cited a single incident of a homicide in Maryland by a handgun-permit holder. Doc. 26 at 35 n.14. However, that

individual did not possess a Maryland permit but instead had been issued one by another state, *id.*; therefore that isolated event cannot indict the efficacy of Maryland's rigorous system of background checks. The State worries that it may not be able to screen out all potentially violent applicants by relying on criminal histories *alone*, Maryland Brief 50, but of course Maryland does no such thing – the State's own brief extols the thoroughness of its system, which also screens out (i) anyone who is “an alcoholic, addict or habitual drug user” and (ii) anyone who, on the basis of an independent investigation by the Maryland State Police, has “exhibited a propensity for violence or instability that may render possession of a handgun a danger,” regardless of any record of criminal convictions. *Id.* at 5. Thus the State can conjure a threat from licensed, law-abiding Maryland gun-permit holders only by misrepresenting its own permit system.

Maryland's amici likewise argue that handgun-permit holders constitute a unique and alarming threat to public safety, but their only evidence is a webpage maintained by the Violence Policy Center (“VPC”) which purports to tally the number of people killed by citizens who have permits to carry firearms in public. PHA Brief 18; Brady Brief 8 (both citing www.vpc.org/ccwkillers.htm). Maryland itself cited the same “authority”

in the court below. Doc. 26 at 35. Although presented by Maryland and its amici as scholarly research, the VPC webpage does not purport to be anything of the sort. Instead, it describes itself as a collection of “vignettes” of suicides, homicides and firearms accidents culled from news clippings, and it acknowledges (i) that it does not have “detailed information on such killings,” and (ii) that many of the reported incidents are “pending” and do not represent final dispositions. See www.vpc.org/ccwkillers.htm. If one goes to this website and clicks on the “tally” of “Total People Killed by Concealed Carry Killers,” one arrives at a 200-page compilation of the aforementioned “vignettes,” usually with one per page. (Hereafter, citations to this document will be styled “VPC Vignettes at ___”; unfortunately, the VPC refuses to paginate its document.)

Although Maryland contends that trained, licensed citizens carrying handguns in public pose a threat, dozens of the VPC’s “vignettes” describe incidents that took place *in the home*,³ where Maryland law *already* permits people to keep guns for self-defense. Maryland Brief 4. Plainly, this proves nothing about the supposed risk presented by public carriage of firearms.

³ See, e.g., VPC Vignettes at 5, 6, 8, 16, 18, 24, 34, 39, 42, 47, 50, 52, 57, 64, 69, 79, 81, 89, 91, 99, 100, 101, 105, 107, 110, 113, 115, 116, 122, 131, 136, 137, 153, 156, 170, 184, 185, 186, 189, 191, 192, 199, 200.

Likewise, many of the VPC's "vignettes" involved law enforcement officers or professional security guards who would be licensed to carry handguns (even in Maryland) regardless how Appellee Woollard's constitutional challenge is resolved.⁴

For a host of further reasons, the VPC list consists mostly of incidents that likewise prove nothing about the supposed homicide risk of allowing licensed, law-abiding citizens to carry firearms in public. The VPC list includes: (i) at least 130 incidents that solely involved suicide rather than the killing of another, and that do not even indicate if a firearm was the means of suicide;⁵ (ii) accidental gun discharges (usually in the home) in which nobody was charged with a crime;⁶ (iii) incidents involving rifles and shotguns that Maryland already permits people to carry (Maryland Brief 4-5);⁷ (iv) incidents where other States – not Maryland – had issued a handgun permit to those known to be (a) convicts, (b) drug addicts, (c) drug dealers, (d) Aryan white supremacists subject to domestic-violence restraining orders, or (e) suffering from dementia, multiple-personality

⁴ See, e.g., *id.* at 14, 17, 22, 23, 43, 49, 96, 124, 129, 145, 148, 164, 170.

⁵ See, e.g., *id.* at 71, 75, 82, 88, 119, 196.

⁶ See, e.g., *id.* at 22, 24, 31, 35, 57, 61, 130, 136, 181.

⁷ See, e.g., *id.* at 51, 99, 102, 111, 144, 182, 187, 191.

disorder, paranoid schizophrenia, or other severe mental illness;⁸ and finally (v) a large number of homicides where a firearm was not even identified as the weapon⁹ – including, remarkably, two deaths by strangulation¹⁰ – which hardly prove that the issuance of handgun permits constitutes a public safety threat. The VPC’s website is a sham and proves nothing – that is, except how desperate Maryland and its amici are to grasp at straws. *See also* Clayton E. Cramer, *Violence Policy Center’s Concealed Carry Killers: Less Than It Appears* (2012), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2095754.

Far more probative is the actual experience of the 41 States that either do not deny carry permits on the basis of discriminatory criteria or do not require a permit to carry a handgun at all. In these States, few – if any – permit holders have committed offenses with their firearms. Since they all must pass criminal record checks and other background investigations conducted by the police, it is hardly surprising that permit holders tend to be among the most law-abiding citizens in the land.

⁸ *See, e.g., id.* at 26, 28, 33, 41, 47, 48, 54, 59, 68, 91, 98, 99, 133, 144, 146, 153, 156, 157.

⁹ *See id.* at 72, 76, 87.

¹⁰ *See id.* at 44, 110.

- Florida has perhaps the most extensive experience with a shall-issue statute. In the 25 years since that State adopted its regime of issuing concealed-carry permits to all qualified applicants, Florida has issued 2,227,360 licenses and revoked just 168 due to firearm crimes (including non-violent crimes) by license holders – a revocation rate of less than .008%. Florida Department of Agriculture and Consumer Services, Division of Licensing, “Concealed Weapon or Firearm License Summary Report,” *available at* http://licgweb.doacs.state.fl.us/stats/cw_monthly.pdf (last visited Aug. 2, 2012).
- In Ohio, about 178,000 people had concealed-handgun permits in 2010 and “just 206 – 0.1% – had their permits revoked. Most revocations involved people losing their permits because they moved out of state, died or decided not to hold their license anymore.” John Lott, *Responding to Jack D'Aurora's piece in the Columbus Dispatch*, *available at* <http://johnlott.blogspot.com/2011/08/responding-to-jack-auroras-piece-in.html> (last visited Aug. 2, 2012).
- In 2011, Tennessee issued 94,975 permits and revoked only 97. Tennessee Department of Safety and Homeland Security, “Handgun Carry Permit Statistics” for “Calendar Year 2011” at 7, 8, *available at* http://www.tn.gov/safety/stats/DL_Handgun/Handgun/HandgunReport2011Full.pdf (last visited Aug. 6, 2012).
- In 2010, Texas issued 102,133 licenses and revoked just 610 for any reason. Texas Department of Public Safety, Regulatory Services Division, Concealed Handgun Licensing Bureau, “Demographic Information by Race/Sex,” *available at* <http://www.txdps.state.tx.us/rsd/chl/reports/2010Calendar/ByRace/CY10RaceSexLicAppIssued.pdf> *and* <http://www.txdps.state.tx.us/rsd/chl/reports/2010Calendar/ByRace/CY10RaceSexLicRevoked.pdf> (last visited Aug. 2, 2012).

- In North Carolina from December 1995 through June 2011, 228,072 permits had been issued, and only 1,203 revoked for any reason. North Carolina Department of Justice, "North Carolina Concealed Handgun Permit Statistics by County, 12/1/1995 thru 6/30/2011," available at <http://www.ncdoj.gov/CHPStats.aspx> (last visited Aug. 6, 2012).

As a result of this nationwide experience, "even those who vehemently opposed shall-issue laws have been forced to acknowledge that license holders are extremely law-abiding and pose little threat. The President of the Dallas Police Association, who had lobbied against the Texas concealed-carry law, admitted after it was enacted that '[a]ll the horror stories I thought would come to pass didn't happen. No bogeyman. I think it's worked out well, and that says good things about the citizens who have permits. I'm a convert.'" David B. Mustard, *The Impact of Gun Laws on Police Deaths*, 44 J.L. & ECON. 635, 638 (2001). Similarly, the "president and the executive director of the Florida Chiefs of Police and the head of the Florida Sheriff's Association admitted that despite their best efforts to document problems arising from the law, they were unable to do so." Mustard, *Comment*, in EVALUATING GUN POLICY at 331. See also Daniel D. Polsby & Don B. Kates, Jr., *American Homicide Exceptionalism*, 69 U. COLO.

L. REV. 969, 1007 & n.90 (1998). Finally, “[s]peaking on behalf of the Kentucky Chiefs of Police Association, Lt. Col. Bill Dorsey stated, ‘We haven’t seen any cases where a [concealed-carry] permit holder has committed an offense with a firearm.’ ” Mustard, *Comment, in EVALUATING GUN POLICY* at 331 & n.63 (emphasis in original). A sheriff in Campbell County, Kentucky admitted that, prior to the passage of the concealed carry law, he worried that he would be uncomfortable with the type of people who were applying for concealed-carry licenses, but after the law passed he discovered that “ ‘[t]hese are all just everyday citizens who feel they need some protection.’ ” Terry Flynn, *Gun-toting Kentuckians Hold Their Fire*, CINCINNATI ENQUIRER (June 16, 1997), available at http://www.enquirer.com/editions/1997/06/16/loc_kycarry.html.¹¹

¹¹ Maryland and the Brady Center nevertheless assert that citizens carrying licensed firearms pose a particular threat to the police. Maryland Brief 45; Brady Brief 7, 10. Yet, law enforcement officers across the nation support the carrying of firearms by private citizens. See, e.g., Mustard, *The Impact of Gun Laws on Police Deaths*, 44 J.L. & ECON. at 638 (survey of police officers shows “76 percent of street officers” agree “that all trained, responsible adults should be able to obtain handgun carry permits”).

Maryland and its amici also contend that the ability of the police to protect the public from *criminals illegally* carrying guns would be hamstrung if officers were required to presume that a person carrying a firearm in public was doing so lawfully. Brady Brief 10; see also Maryland

II. ARMED SELF-DEFENSE IN PUBLIC BY LAW-ABIDING, LICENSED GUN OWNERS IS BOTH FREQUENT AND EFFECTIVE.

The right to “carry weapons in case of confrontation,” *Heller*, 554 U.S. at 592, promotes public safety. Defensive gun use is a common and effective way for ordinary citizens to defend themselves from violence. The leading study designed specifically to gauge the frequency of defensive gun use determined that every year there are between 670,000 and 1,575,000 defensive gun uses associated with carrying firearms in public places. GARY KLECK, *TARGETING GUNS: FIREARMS AND THEIR CONTROL* 192 (1997) (describing results of the National Self-Defense Survey); *see also* GARY KLECK & DON B. KATES, JR., *ARMED: NEW*

Brief 45; PHA Brief 14-15. To begin with, Maryland *already* licenses tens of thousands of its citizens to carry handguns, so this problem, even if it were not contrived, would not be affected by the judgment below. Furthermore, the only authority cited for this odd argument are two Pennsylvania state court decisions concerning the standards for probable cause to “approach [an] individual and briefly detain him in order to investigate *whether the person is properly licensed.*” *Commonwealth v. Robinson*, 600 A.2d 957, 959 (Pa. Super. Ct. 1991) (emphasis added). *See also Commonwealth v. Romero*, 673 A.2d 374, 377 (Pa. Super. Ct. 1996). Those cases did not even hint that allowing licensed firearms carriage hinders law enforcement. Plainly, in Pennsylvania, which permits the licensed carrying of handguns, the police can still determine if people carrying guns are in fact licensed. Similarly, the strategy of police sweeps of high-crime areas in which law enforcement officers “confiscat[e] illegally carried firearms,” PHA Brief 14, would be wholly unaffected by the decision below.

PERSPECTIVES ON GUN CONTROL 225-26 (2001). Thus, of the roughly 2.5 million defensive gun uses each year, as many as 63% involve citizens carrying a firearm while outside their homes. KLECK, TARGETING GUNS, *supra*, at 179, 192.

Maryland's amici contest the frequency of defensive gun use, relying on a study by Drs. Hemenway and Azrael. Brady Brief 7-8 (citing David Hemenway & Deborah Azrael, *The Relative Frequency of Offensive and Defensive Gun Uses: Results from a National Survey*, 15 VIOLENCE & VICTIMS 257, 271 (2000)); PHA Brief 11-12 (citing the same article). Drs. Hemenway & Azrael report that estimates based on the National Crime Victimization Survey ("NCVS") "suggest that ... victims use guns in self-defense perhaps 60,000 to 120,000 times" per year. Hemenway & Azrael, 15 VIOLENCE & VICTIMS, *supra*, at 258. What they do not report is that their *own* survey data supports a "conservative" estimate nearly *six times* higher than the upper end of this figure. See KLECK & KATES, ARMED, *supra*, at 227-28. At any rate, Dr. Kleck's results, indicating approximately 2.5 million defensive gun uses per year, with 1.6 million of those occurring outside the home, have been replicated time and again by research conducted *not* by firearms advocates, but by gun-control supporters, including the federal Centers for

Disease Control, the Police Foundation, the U.S. Justice Department, and the WASHINGTON POST. *See* KLECK & KATES, *ARMED, supra*, at 226-29. In particular, the National Research Council concluded that: “*At least 19 other surveys have resulted in estimated numbers of defensive gun uses that are similar (i.e., statistically indistinguishable) to the results found[] by Kleck and Gertz. No other surveys have found numbers consistent with the NCVS.*” NRC REVIEW at 103 (emphasis added). *See also id.* at 113. This is unsurprising given the host of problems with using NCVS survey data to estimate the frequency of defensive gun use, including that “*interviewers never directly ask respondents about defensive gun use.*” KLECK & KATES, *ARMED, supra*, at 231 (emphasis added).

Maryland and its amici also belittle the value of citizens bearing firearms in public as a form of self-defense. Maryland Brief 43-44; Brady Brief 7-11; PHA Brief 11-13. Thus, the Brady Center represents to this Court that “firearms carried in public” by private citizens for self-defense are used “‘far more often to kill and wound innocent victims than to kill and wound criminals’” Brady Brief 7-8 (quoting Hemenway &

Azrael, *supra*, 15 VIOLENCE & VICTIMS at 271).¹² The Brady Center's manipulation of this authority is dishonest and actually subverts its argument. First, the words for which the Brady Center substitutes ellipses at the end of its quotation are "particularly *at home*." 15 VIOLENCE & VICTIMS at 271 (emphasis added). That is, the studies cited in the article that the Brady Center quotes concerned gun use for self-defense *in the home*. Presumably the Brady Center omitted those inconvenient words because this case involves a law regulating the carrying of firearms *in public*, and therefore the risks of firearms in the home are irrelevant to, and unaffected by, this challenge to Maryland law.

Second, the research on which Dr. Hemenway relied for the proposition quoted by the Brady Center – several articles by A. L. Kellerman – was discredited years ago.¹³ Indeed, these articles are so flawed that, when the National Research Council conducted its review of firearms literature, it singled out these Kellerman studies for particular

¹² Amicus Public Health Association makes the same point citing the same authority. PHA Brief 11-12.

¹³ See A.L. Kellerman & D.T. Reay, *Protection or Peril? An Analysis of Firearm-related Deaths in the Home*, 314 NEW ENG. J. MED. 1557 (1986); A.L. Kellerman *et al.*, *Gun Ownership as a Risk Factor for Homicide in the Home*, 329 NEW ENG. J. MED. 1084 (1993); A.L. Kellerman *et al.*, *Injuries and Deaths Due to Firearms in the Home*, 45 J. TRAUMA 263 (1998).

censure as examples of how *not* to conduct responsible research. The NRC concluded that: (i) the studies utterly failed to establish that gun ownership increased the risk of violence to the owner, (ii) the studies were incapable of throwing light on “the impact of firearms on homicide or the utility of firearms for self-defense,” and (iii) the studies’ conclusions “that owning firearms for personal protection is ‘counterproductive,’ and that ‘people should be strongly discouraged from keeping guns in the home’ ” were simply “not tenable.” NRC REVIEW at 118-19. The Brady Center thus can defend Maryland’s law only by misrepresenting its own authorities and by relying on authorities that were discredited long ago.¹⁴

¹⁴ The Brady Center also argues that “[f]irearms kept in the home are primarily a threat to their owners.” Brady Brief 7 & n.2. In the first place, all such evidence, even if it were valid, is irrelevant to the case before this Court, which involves Maryland’s regulation of handguns in *public* places. Maryland law permits citizens to keep firearms at home for self-defense, Maryland Brief 5, so whatever risks accompany gun possession at home *already* exist and cannot possibly be affected by the outcome of this case.

Second, the research cited by Maryland’s amici (or the predecessor studies on which they relied) was reviewed by the National Research Council and dismissed as proving absolutely nothing. *See, e.g.*, NRC REVIEW at 242, 243, 247, 248, 259. Even when statistical *associations* between gun ownership and homicide were found, no *causal link* could be demonstrated. *Id.* at 5. The NRC identified three fatal flaws in the research on which the Public Health Association and the Brady Center rely: “[T]hese studies do not adequately address the problem of self-selection. Second, these studies must rely on proxy measures of ownership that are

Contrary to Maryland's position, defensive gun use is not only common, it is also effective. Data from the U.S. Bureau of Justice Statistics indicate that, in confrontations with criminals, 99% of victims maintain control of their firearms. *See* KLECK, TARGETING GUNS, *supra*, at 168-69.

Numerous studies have found that robbery victims who resist with firearms are significantly less likely to have their property taken and are also less likely to be injured. *See* KLECK, TARGETING GUNS, *supra*, at 170.

"Robbery and assault victims who used a gun to resist were less likely to be attacked or to suffer an injury than those who used any other methods of self-protection or those who did not resist at all." *Id.* at 171. "[V]ictim resistance with a gun almost never provokes the criminal into inflicting either fatal or nonfatal violence." *Id.* at 174. Similarly, "rape victims using armed resistance were less likely to have the rape attempt completed against them than victims using any other mode of resistance," and defensive gun use did not increase the victim's risk of "additional injury

certain to create biases of unknown magnitude and direction. Third, because the ecological correlations are at a higher geographic level of aggregation, there is no way of knowing whether the homicides or suicides occurred in the same areas in which the firearms are owned." *Id.* at 6. Therefore the studies "do not credibly demonstrate a causal relationship between the ownership of firearms and the causes or prevention of criminal violence or suicide." *Id.*

beyond the rape itself.” *Id.* at 175. Justice Department statistics reveal that the probability of serious injury from any kind of attack is 2.5 times greater for women offering no resistance than for women resisting with a gun. *See* JOHN R. LOTT, JR., MORE GUNS LESS CRIME: UNDERSTANDING CRIME AND GUN CONTROL LAWS 4 (3d ed. 2010).¹⁵ Indeed, to prevent completion of a crime it is usually necessary only for the intended victim to display the firearm rather than pull the trigger. A national survey “indicates that about 95 percent of the time that people use guns defensively, they merely have to brandish a weapon to break off an attack.” LOTT, MORE GUNS LESS CRIME, *supra*, at 3. Fewer than one in a thousand defensive gun uses results in a criminal being killed. *See* KLECK, TARGETING GUNS, *supra*, at 178.

¹⁵ Maryland speculates that individuals carrying handguns in public are more easily disarmed and victimized by their own firearms than individuals who keep guns for self-defense in the home, due to lack of “sufficient training to use the handgun effectively for self-defense.” Maryland Brief 44. If training is deficient, the State has only itself to blame because Maryland law mandates handgun training emphasizing safety and requires applicants to obtain a “qualifying score” on “a practical police course.” COMAR § 29.03.02.12. Moreover, if there is any deficiency in training, it afflicts *all* Maryland handgun permits and is not unique to those individuals who have been denied permits for lack of a sufficiently imminent, particularized threat of violence; therefore the point is irrelevant to the constitutional challenge presented here.

Maryland and its amici contend that defensive gun use does not protect crime victims. *See, e.g.,* Brady Brief 9 (citing Charles C. Branas, *et al., Investigating the Link Between Gun Possession and Gun Assault*, 99 AM. J. PUB. HEALTH 2034 (Nov. 2009)). But that study found merely a statistical *association* between gun possession by “urban adults” who become crime victims and the risk of being shot – it did not purport to find a *causal link*. Branas, *supra*, at 2037. Regardless of the effectiveness of defensive gun use, one would expect a positive statistical association between victim gun possession and victim injury, because those urban dwellers *most at risk of victimization* (*e.g.,* because they reside in a dangerous neighborhood) are also the *most likely to arm themselves for protection* – this is known as reverse causation. Going to the doctor has an extremely high positive association with being sick, but that hardly proves that going to the doctor causes illness. In fact, the Branas study acknowledged that it “did not account for the potential of reverse causation between gun possession and gun assault.” *Id.* at 2039. It further admitted that its results had no application to those citizens engaging in “regular training with guns” – precisely the training that most States, including Maryland, reasonably require of gun-permit holders. Consequently, the study concluded with the limited

advice that those bearing arms should “understand that regular possession necessitates careful safety countermeasures.” *Id.* at 2039.

Finally, the Brady Center suggests that carrying a firearm for self-defense increases one’s risk of injury because it initiates a sort of arms race where criminals are more motivated to carry guns by the anticipation that their victims may be armed. Brady Brief 9-10 (citing Philip Cook, *et al.*, *Gun Control After Heller: Threats and Sideshows from a Social Welfare Perspective*, 56 *UCLA L. REV.* 1041, 1081 (2009) (discussing a study conducted by other researchers). But the study discussed by Dr. Cook actually demonstrated that criminals were *deterred* by the prospect of facing armed resistance. *See* JAMES D. WRIGHT & PETER H. ROSSI, *ARMED AND CONSIDERED DANGEROUS* 155 (2d ed. 2008). For example, 69% of the felons interviewed said they knew a fellow criminal who had been “scared off, shot at, wounded, captured or killed by an armed victim,” *id.* at 155, and 56% opined that that “a criminal is not going to mess around with a victim he knows is armed with a gun.” *Id.* at 146. None of this is surprising. The research merely confirms the common-sense expectation that criminals prefer their victims unarmed and defenseless – which is precisely how Maryland leaves any

citizen who cannot prove that he faces an imminent, particularized threat of criminal violence distinct from the general risks that all law-abiding Americans must contend with every day.

CONCLUSION

For the reasons given above, amici curiae respectfully submit that the decision below should be affirmed.

Dated: August 6, 2012

Respectfully submitted,

s/ Brian Stuart Koukoutchos

28 Eagle Trace

Mandeville, LA 70471

Tel: (985) 626-5052

Email: bskoukoutchos@gmail.com

Counsel for Amici Curiae

**CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME
LIMITATION, TYPEFACE REQUIREMENTS, AND TYPE STYLE
REQUIREMENTS**

1. This brief complies with the type-volume limitation of Fed. R. App. P. 32 (a)(7)(B) because this brief contains 6,974 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(a)(7)(B)(iii).
2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because this brief has been prepared in proportionately spaced typeface using Microsoft Office Word 2007 with 14-point Book Antiqua type.

s/ Brian Stuart Koukoutchos
Brian Stuart Koukoutchos
Attorney for Amici Curiae

Dated: August 6, 2012

CERTIFICATE OF SERVICE

I certify that on August 6, 2012 the foregoing document was served on all parties or their counsel of record through the CM/ECF system if they are registered users or, if they are not, by serving a true and correct copy at the addresses listed below:

s/ Brian S. Koukoutchos

Signature

August 6, 2012

Date

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
APPEARANCE OF COUNSEL FORM

BAR ADMISSION & ECF REGISTRATION: If you have not been admitted to practice before the Fourth Circuit, you must complete and return an Application for Admission before filing this form. If you were admitted to practice under a different name than you are now using, you must include your former name when completing this form so that we can locate you on the attorney roll. Electronic filing by counsel is required in all Fourth Circuit cases. If you have not registered as a Fourth Circuit ECF Filer, please complete the required steps at www.ca4.uscourts.gov/cmecftop.htm.

THE CLERK WILL ENTER MY APPEARANCE IN APPEAL NO. 12-1437 as

Retained Court-appointed(CJA) Court-assigned(non-CJA) Federal Defender Pro Bono Government

COUNSEL FOR: Associated Gun Clubs of Baltimore, Inc., et al. (See Attachment for

complete list of represented parties.) as the (party name)

appellant(s) appellee(s) petitioner(s) respondent(s) amicus curiae intervenor(s)

s/ Brian S. Koukoutchos (signature)

Brian S. Koukoutchos Name (printed or typed)

(985) 626-5052 Voice Phone

Firm Name (if applicable)

none Fax Number

28 Eagle Trace

Mandeville, LA Address

bskoukoutchos@gmail.com E-mail address (print or type)

CERTIFICATE OF SERVICE

I certify that on August 6, 2012 the foregoing document was served on all parties or their counsel of record through the CM/ECF system if they are registered users or, if they are not, by serving a true and correct copy at the addresses listed below:

Empty box for listing addresses.

Empty box for listing addresses.

s/ Brian S. Koukoutchos Signature

August 6, 2012 Date

ATTACHMENT – PARTIES REPRESENTED

Associated Gun Clubs of Baltimore, Inc., Monumental Rifle & Pistol Club,
Illinois State Rifle Association, New York Rifle & Pistol Association,
Association of New Jersey Rifle and Pistol Clubs, Inc., Hawaii Rifle
Association