



# GOVERNMENT OF THE DISTRICT OF COLUMBIA POLICE COMPLAINTS BOARD OFFICE OF POLICE COMPLAINTS

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## PCB POLICY REPORT #20-1: Lawful Firearms

### Introduction:

While it is a necessary priority of the Metropolitan Police Department (MPD) to recover and investigate illegal firearms in Washington, DC, this work needs to be balanced with the rights of community members who lawfully abide by the District's firearms laws and regulations. This Report examines the recent changes to firearms laws in the DC Code and regulations in the DC Municipal Regulations, the current MPD firearms registration General Order, and issues presented in some Office of Police Complaints (OPC) investigations.<sup>1</sup>

### History of the District's Firearms Laws and Regulations:

In 2008, in *District of Columbia v. Heller (Heller I)* the Supreme Court held the District of Columbia's "prohibition of handguns held and used for self-defense in the home" was unconstitutional.<sup>2</sup> This overturned the District's three-decade-old handgun ban, and declared that the Second Amendment conferred an individual right to own a handgun. This 2008 decision was the first of several that lead to several revisions in the District's firearms laws and regulations.

*Heller I* was followed in 2014 with *Palmer v. District of Columbia*. This case held "[ . . . ] the District of Columbia's complete ban on the carrying of handguns in public is unconstitutional. Accordingly, the Court grants Plaintiffs' motion for summary judgment and enjoins Defendants from enforcing the home limitations of D.C. Code § 7-2502.02(a)(4) and enforcing D.C. Code § 22-4504(a) unless and until such time as the District of Columbia adopts a licensing mechanism consistent with constitutional standards enabling people to exercise their Second Amendment right to bear arms. Furthermore, this injunction prohibits the District from completely banning the carrying of handguns in public for self-defense by otherwise qualified non-residents based **solely** on the fact that they are not residents of the District."<sup>3</sup>

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<sup>1</sup> The Police Complaints Board (PCB) is issuing this report pursuant to D.C. Code § 5-1104(d), which authorizes the Board to recommend to the District of Columbia Mayor, Council, MPD Police Chief, and the Director of District of Columbia Housing Authority reforms that have the potential to improve the complaint process or reduce the incidence of police misconduct.

<sup>2</sup> *District of Columbia v. Heller*, 554 U.S. 570, 636 (2008).

<sup>3</sup> *Palmer v. District of Columbia*, 59 F. Supp. 3d 173,183 (D.D.C. 2014).

Following *Palmer*, on February 6, 2015 the DC Council passed the “License to Carry a Pistol Amendment Act of 2014,”<sup>4</sup> allowing people and businesses to apply for a concealed-carry permit, but the law stated that anyone seeking such a permit needed to present a “good reason” for it. This led to *Wrenn v. District of Columbia* in 2017, where the Court of Appeals ruled the concealed-carry law was so restrictive that it made it virtually impossible to carry a handgun and thus the requirement to present a “good-reason” for a concealed-carry permit was found unconstitutional.<sup>5</sup>

In 2015, the DC Circuit Court decided *District of Columbia v. Heller (Heller III)*. Previously, District law required firearm registrants to renew their registration certificates every three years, but the renewal requirement was struck down under the Second Amendment.<sup>6</sup> The case determined that the re-registration requirement was unnecessary because “background checks could be conducted at any time without causing the registrations to expire” and because other District laws already require gun owners to report lost or stolen firearms, as well as other “relevant changes in their information, such as a new address.”<sup>7</sup> This case also struck down requirements that potential firearm registrants pass a test on the District’s gun laws, that owners bring their firearm to MPD when they register it, and the court additionally invalidated the one-firearm-per-month registration limitation.<sup>8</sup>

Each case, *Heller I*, *Palmer*, *Heller III*, and *Wrenn*, led to changes in the law and regulations for firearms ownership. Currently, no person or organization in the District may possess or control a firearm unless the person or organization holds a valid registration certificate for the firearm.<sup>9</sup> If the gun is being brought into the District, an application for registration must be filed immediately after the gun is brought into the District or within 48 hours if such person personally communicates with MPD and provides any information demanded.<sup>10</sup> A registration application requires the applicant to provide personal details to MPD and they must be photographed and fingerprinted.<sup>11</sup> Once a firearm is registered, this registration does not expire, however it is incumbent upon the registrant to report any lost or stolen firearms and inform MPD of any changes to their personal information.<sup>12</sup> A person is eligible for a “license to carry a concealed pistol (concealed carry license or license)” if the person meets the requirements in the regulation, but the person does not need to provide “good reason” to apply for the license.<sup>13</sup>

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<sup>4</sup> D.C. Act 20-621, available at <http://lims.dccouncil.us/Download/32576/B20-0930-SignedAct.pdf>.

<sup>5</sup> *Wrenn v. District of Columbia*, 864 F. 3d 650 (D.C. Cir. 2017).

<sup>6</sup> *Heller v. District of Columbia* (“*Heller III*”), 801 F.3d 264, 277-278, 281 (D.C. Cir. 2015) (striking down D.C. Code Ann. § 7-2502.07a).

<sup>7</sup> *Id.* (citing D.C. Code Ann. §§ 7-2502.08(a)(1); D.C. Code § 7-2502.08).

<sup>8</sup> *Id.*

<sup>9</sup> D.C. Code Ann. §§ 7-2502.01, 7-2502.06(a).

<sup>10</sup> *Id.*

<sup>11</sup> D.C. Code Ann. §§ 7-2502.04(a), (b). See also D.C. Mun. Regs tit. 24 §2312.1.

<sup>12</sup> D.C. Code § 7-2502.08.

<sup>13</sup> D.C. Mun. Regs tit. 24 §2332

### **Current MPD General Order and Case Example:**

MPD General Order 902.01: Firearms Registration and Receipt of Abandoned or Found Weapons went into effect on June 27, 2012.<sup>14</sup> While this was after the *Heller I* decision, it was before the *Palmer*, *Heller III*, and *Wrenn* decisions. Thus, while the General Order does state MPD registers firearms in accordance with D.C. Official Code, it does not include the changes that came after the General Order's effective date. The decisions in *Palmer* (2014), *Heller III* (2015), and *Wrenn* (2017), all came after the current version of GO 902.01 in 2012, and these decisions made significant changes to the District's firearm laws and regulations, for instance D.C. Code §7-2500, and § 22-4500. Since the current version of GO 902.01 makes no mention of these changes, it may lead MPD members to question what laws they should be enforcing.

In a recent complaint made to OPC, the body-worn camera footage of a vehicle stop showed that several officers were unaware of the fact that firearms registrations do not expire.<sup>15</sup> Four MPD officers and a sergeant were involved in the stop and all of them initially believed that the complainant's firearm registration was expired as there was a past date printed on the registration card. The complainant himself attempted to inform the officers that registrations do not expire and that they should look up the law. OPC's investigation found that the officers were later informed about the change to the registration expiration law by the Gun Recovery Unit. While this fact did not turn out to be determinative in this specific complaint, it does show that there is confusion among MPD members on the firearms registration laws and regulations, and how they should be enforcing them. There have been other instances where MPD officers appear to be unsure of firearm registration or concealed carry license issues. And this is after MPD devoted a portion of its 2019 annual professional development training to a refresher on the laws surrounding firearms in the District, and issued teletypes and circulars on this topic.

Since the recovery and investigation of illegal firearms is a priority for MPD, and the District community, it is of vital importance that MPD members be familiar with the firearms registration process and guidelines for registrants to properly determine the difference between lawfully registered firearms and illegal firearms. The laws surrounding firearms ownership have changed several times in the past twelve years since the *Heller I* decision, and in the eight years since GO 902.01 was issued in 2012. MPD must ensure that its members have updated knowledge and information on these issues through written guidance and updated training.

### **Recommendations:**

To help improve and facilitate better relations and increase trust between MPD officers and community members, the PCB recommends that:

1. MPD should update General Order 902.01: Firearms Registration and Receipt of Abandoned or Found Weapons to reflect current firearms registration laws and regulations in the District. This updated guidance should specifically include that

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<sup>14</sup> Available at: [https://go.mpdconline.com/GO/GO\\_902\\_01.pdf](https://go.mpdconline.com/GO/GO_902_01.pdf).

<sup>15</sup> OPC Complaint No. 19-0604.

firearms registrations do not expire and that concealed-carry permits are lawful, among any other changes that MPD incorporates into the updated guidance.

2. Updated training should be provided for all MPD members to ensure they are familiar with the current firearms laws and regulations and the changes that are made to General Order 902.01, so that the members can perform their duties in accordance with current law.