

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

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No. 562 MD 2020

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STANLEY CRAWFORD, TRACEY ANDERSON, DELIA CHATTERFIELD,  
AISHAH GEORGE, RITA GONSALVES, MARIA GONSALVES-PERKINS,  
WYNONA HARPER, TAMIKA MORALES, CHERYL PEDRO, ROSALIND  
PICHARDO, CEASEFIRE PENNSYLVANIA EDUCATION FUND, and THE  
CITY OF PHILADELPHIA,  
*Petitioners,*

v.

THE COMMONWEALTH OF PENNSYLVANIA; THE PENNSYLVANIA  
GENERAL ASSEMBLY; BRYAN CUTLER, IN HIS OFFICIAL CAPACITY AS  
SPEAKER OF THE PENNSYLVANIA HOUSE OF REPRESENTATIVES; and  
JOSEPH P. SCARNATI III, IN HIS OFFICIAL CAPACITY AS PRESIDENT  
PRO TEMPORE OF THE PENNSYLVANIA SENATE,  
*Respondents.*

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**BRIEF *AMICUS CURIAE* OF  
GUN OWNERS OF AMERICA, INC.,  
GUN OWNERS FOUNDATION,  
HELLER FOUNDATION, AND  
CONSERVATIVE LEGAL DEFENSE AND EDUCATION FUND  
IN SUPPORT OF RESPONDENTS**

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**INTEREST OF THE *AMICI CURIAE***<sup>1</sup>

*Amicus curiae* [Gun Owners of America, Inc.](#) (“GOA”) is a California non-stock corporation with its principal place of business at 8001 Forbes Place, Springfield, Virginia. GOA has over 2 million members and supporters, including tens of thousands throughout Pennsylvania, including Philadelphia. Its Pennsylvania branch is [Gun Owners of Pennsylvania](#), which has its headquarters in Harrisburg, Pennsylvania. GOA operates as a nonprofit organization exempt from federal income taxes under Internal Revenue Code (“IRC”) § 501(c)(4). GOA’s mission is to preserve and defend the inherent rights of gun owners.

*Amicus curiae* [Gun Owners Foundation](#) (“GOF”) is a Virginia non-stock corporation with its principal place of business in Springfield, Virginia. GOF is organized and operated as a nonprofit legal defense and educational foundation that is exempt from federal income taxes under IRC § 501(c)(3). GOF is supported by gun owners from across the country, including Pennsylvania residents.

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<sup>1</sup> Petitioners and all Respondents, except the General Assembly which was unable to provide a final response, have consented or have stated they have no objection to the filing of this brief *amicus curiae*. No party’s counsel authored the brief in whole or in part. No party or party’s counsel contributed money that was intended to fund preparing or submitting the brief. No person other than these *amici curiae*, their members or their counsel contributed money that was intended to fund preparing or submitting this brief.

*Amicus curiae* [Heller Foundation](#) was formed by Dick Heller, plaintiff in the Second Amendment landmark decision of *District of Columbia v. Heller*, 554 U.S. 570 (2008). It is a nonpartisan educational organization defending firearms rights, headquartered in the District of Columbia, and is exempt from federal income taxes under IRC § 501(c)(3).

*Amicus curiae* [Conservative Legal Defense and Education Fund](#), with headquarters in Vienna, Virginia, was formed 38 years ago to resist governmental assault on the written text of the Constitution and is exempt from federal income taxes under IRC § 501(c)(3).

All *amici* have filed scores of *amicus* briefs in firearms-related cases in state and federal courts.

## STATEMENT

The Respondents raise five principal defenses to the Petition, all of which are well founded.<sup>2</sup> These *amici* believe each establishes the basis for dismissal of the Petition for failure to state a claim upon which relief may be granted.

These *amici* do not focus in this *amicus* brief on these defenses which are well supported by Respondents, but rather on two other issues: Separation of Powers arguments and the unsupported and false presuppositions associating guns and crime which underlie the Petition. However, these *amici* would like to add one

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<sup>2</sup> Respondents raise these defenses:

(i) There is no actual case or controversy before the Court. See Preliminary Objections of Respondent Commonwealth of Pennsylvania (“Pennsylvania Objections”) at 3-4; Preliminary Objections of Respondent General Assembly (“General Assembly Objections”) at 17-18; and Preliminary Objections of Respondent President Pro Tempore Joseph Scarnati (“President Pro Tempore Objections”) at 3-4.

(ii) The relief sought is non-justiciable. See Pennsylvania Objections at 3, 5; Preliminary Objections of Respondent Speaker Bryan Cutler (“Speaker Objections”) at 3; General Assembly Objections at 15-17; and President Pro Tempore Objections at 4.

(iii) Petitioners lack standing to assert their claims. See Pennsylvania Objections at 3, 5-6; Speaker Objections at 3-7; and President Pro Tempore Objections at 2.

(iv) Collateral estoppel and/or res judicata preclude Petitioners’ claims. See Pennsylvania Objections at 3, 6; Speaker Objections at 3, 7-10; General Assembly Objections at 12-15; and President Pro Tempore Objections at 6.

(v) The relief sought is preempted by state statute, as upheld by long-standing Supreme Court precedent. See Pennsylvania Objections at 3, 4-9; Speaker Objections at 8-10, 16-20; General Assembly Objections at 4-5, 7-10, 14-15; and President Pro Tempore Objections at 4-6.

comment on standing. One organizational Petitioner, CeaseFirePA, asserts standing based on the following:

A principal way in which CeaseFirePA carries out its **mission** is by proposing, supporting, advocating, and educating the public about **legislative efforts to reduce gun violence**. In particular, CeaseFirePA works with communities hit hardest by gun deaths and injuries to **advance** local measures aimed at making their residents safer.... The Firearm Preemption Laws have impaired and continue to impair CeaseFirePA’s ability to pursue its core **mission** by blocking its ability to advance a broad range of **effective, evidence-based local gun regulations**. [Petition for Review (“Petition”), paras. 43, 45 (emphasis added).]

These allegations are purely political and highly debatable. *Amicus* GOA has the same mission, “legislative efforts to reduce gun violence,” but it pursues that objective by **opposing** “gun regulations” because such measures: (i) violate the natural law of self-defense; (ii) violate federal and state constitutions; and (iii) are proven by evidence to be counter-productive, as discussed in Section II, *infra*. The allegation that a lobbying group is impeded in its ability to achieve its lobbying objectives might create standing to challenge a governmental restriction on lobbying, but it certainly does not provide standing to challenge the legislative choice of the General Assembly to reserve to itself the authority to enact gun regulations for all of the Commonwealth.



## ARGUMENT

### I. THE RELIEF REQUESTED WOULD VIOLATE THE SEPARATION OF POWERS.

#### A. Philadelphia Asks this Court to Usurp a Legislative Function.

It would appear to be undisputed that the anti-gun politicians who have long dominated the government of the City of Philadelphia have been in a running political battle with most of the rest of the Commonwealth of Pennsylvania for decades over 18 Pa. C.S. section 6120 — Pennsylvania's firearms preemption statute. That political battle now has been brought into this Court — a place where it most certainly does not belong.

Philadelphia's Petition evinces its frustration at having been unsuccessful in its repeated lobbying efforts to have the General Assembly jettison the gun rights of Philadelphians by weakening Pennsylvania's preemption statute. Beginning 25 years ago, Philadelphia turned to the courts of the Commonwealth to override the constitutional powers of the General Assembly. *See Ortiz v. Commonwealth*, 545 Pa. 279, 681 A.2d 152 (1996); *see also City of Philadelphia v. Beretta U.S.A., Corp.*, 126 F. Supp. 2d 882, 889-90 (E.D. Pa. 2000) *aff'd*, 277 F.3d 415 (3d Cir. 2002). Unsuccessful in Pennsylvania courts in the past, Philadelphia now brings yet another virtually identical challenge, presumably hoping that this court will

reject established principles of *res judicata* and collateral estoppel, causing a change in how Pennsylvania courts evaluate Philadelphia's claims.

The petition filed herein is a truly remarkable document, much more partisan and political than legal. For example, it begins by alleging:

[Y]oung Black and Hispanic lives are being lost at an alarming rate. The General Assembly is not alarmed. To the contrary, its reaction has been a longstanding campaign to **handcuff** local governments, aiming to prevent Philadelphia and other municipalities from enacting or enforcing policies that will save lives, all while refusing to enact **statewide** gun safety laws. **The General Assembly's actions have stoked the gun violence epidemic** in the Commonwealth's hardest-hit communities. They cannot continue. [Petition, paras. 2-3 (emphasis added).]

Also, the Petition's "General Allegations" also sound more like campaign literature than legal pleadings, as they begin with the politically charged statement that "Gun violence in Pennsylvania is a public health crisis in which Respondents have actively played a key role." Petition, para. 28.

It should be noted that Petitioner has revealed that its hostility to the General Assembly is not limited to the issue at hand — a preemption law which restricts the powers of Philadelphia to disarm its residents. The Petition also attacks the General Assembly for not having clamped down on gun rights statewide: "the General Assembly has repeatedly blocked any attempt to loosen preemption restrictions, while steadfastly **refusing to act to curb gun violence at the state**

**level.”** Petition, para. 55 (emphasis added). The Petition blames the alleged “gun violence epidemic” on “the General Assembly’s refusal to enact effective **statewide** laws.” Petition, para. 61 (emphasis added). By predicating its claim on the General Assembly’s failure to enact anti-gun laws statewide, Philadelphia shows its Petition is grounded in politics, not preemption.

**B. The Relief Sought Cannot Be Granted by any Court.**

Seeking a declaratory judgment, the Petition calls upon this Court to “[d]eclare that by prohibiting the City of Philadelphia from enacting firearm regulations ... Respondents have violated” Article I, Sect. 1 of the State Constitution. Petition, para. 153. The extraordinary nature of the relief being sought is best illustrated by attempting to postulate how an order granting Petitioners’ relief might read:

The Court declares that the General Assembly has failed to exercise in a proper fashion the legislative power exclusively vested in it by the State Constitution, both by its refusal to enact sensible gun control statewide, and also by its previously judicially approved exercise of its well established authority to preempt Philadelphia from imposing additional unconstitutional gun controls on the residents of that city.

Seeking injunctive relief, the Petition asks the Court to “[e]nter a permanent injunction that (a) compels Respondents to cease their violations of Article I, Sect. 1 of the Pennsylvania Constitution, and to cease their violation of their obligation to maintain order and to preserve the safety and welfare of all citizens, and

(b) prohibits further enforcement of the Firearm Preemption Laws....” Petition, para. 156. Presumably, such an injunction might read something like this:

The Court reverses all contrary prior decisions of Pennsylvania courts and enjoins the General Assembly from having enacted the Firearms Preemption Act of 1996, and hereby directs and orders the General Assembly to enact a new law which restricts the gun rights of all Pennsylvanians as well as empowering Philadelphia to impose any firearms infringement it might choose to impose on its residents.

No court has the authority to issue orders of this kind.

**C. The Separation of Powers Principal Is Necessary to Protect against Tyranny.**

Most of the Preliminary Objections raised by Respondents have focused on the Pennsylvania Constitution’s allocation of authority between the General Assembly, the Commonwealth’s legislative branch, and the Philadelphia City Government under Home Rule and the Firearms Preemption law. Respondent General Assembly began its preliminary objections with a defense of its own prerogatives with the heretofore unquestioned principle that “[t]he legislative power of the Commonwealth is vested exclusively in the General Assembly.”

General Assembly Objections at 1. These preliminary objections included a robust defense of those powers against intrusion by the judiciary:

The General Assembly, as a co-equal branch of government, has discretion under the Pennsylvania Constitution to decide for itself whether to enact a particular piece of legislation; the judiciary has no authority to interfere with the General Assembly’s exercise of such

discretion, which is for the legislative body alone to decide. [*Id.* at 16.]

The General Assembly objections correctly concluded that “it is the province of the legislature, not the judiciary, to determine the means necessary to address issues of public concern.” *Id.* Similarly, Respondent Commonwealth of Pennsylvania’s objections noted that “[t]he relief Petitioners seek indeed not only infringes upon the Legislative Branch’s Article II, Section 1 powers, but also runs afoul of other constitutional safeguards....” Pennsylvania Objections at 5.

Respondent Speaker of the House explained that granting relief to Philadelphia would require the Court to issue an order directing legislation to be enacted by the General Assembly: “it would ignore every constitutional norm for this Court to enjoin enforcement of Section 6120 and compel the General Assembly to pass that which it previously chose not to.” Speaker Objections at 12. The Speaker’s filing raises a critical issue: does this Court have authority to order the General Assembly to enact legislation?

The Pennsylvania Supreme Court robustly embraces the principle of the separation of powers embedded in the Commonwealth’s governmental structure:

[A]lthough not expressed in our Constitution, [Separation of Powers principle] is implied by the specific constitutional grants of power to, and limitations upon, each co-equal branch of the Commonwealth’s government. Our Constitution vests legislative power in the General Assembly, which consists of the Senate and the House of

Representatives. See Pa. Const. art. II, § 1. [*Robinson Twp. v. Commonwealth*, 623 Pa. 564, 606-07 (2013).]

Indeed, the Constitution declares: “The legislative power of this Commonwealth shall be vested in a General Assembly, which shall consist of a Senate and a House of Representatives.” Pa. Const. Art. II, § 1.

Separation of Powers is a vital structural protection for liberty. Although this case addresses separation of powers at the state level under the Constitution of Pennsylvania, James Madison’s defense of the doctrine in Federalist No. 47 is instructive: “The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny.” G. Carey & J. McClellan, eds., Federalist 47, The Federalist (Liberty Fund: 2001) at 249.

Throughout the Petition for Review, Petitioners challenge the General Assembly’s enactment of Section 6120, rehearsing the losing policy arguments made on the floor of the House and Senate against its passage. However, nowhere does the Petition allege that the General Assembly was without authority to enact such a law. That is a fatal flaw in the Petition.

Instead, the sole constitutional claims of the Petition against Section 6120 and subsequent amendments (discussed by Petitioners at paras. 131-138) are that

they violate the Constitution's Article I Declaration of Rights, not that the General Assembly acted *ultra vires*.<sup>3</sup> Article I, Section 1 of the Pennsylvania Constitution is a weak reed indeed on which to rely. Respondents' preliminary objections demonstrate that Petitioners are actually asking the Court to re-weigh the policy considerations aired in the General Assembly and to reach a different conclusion, thereby usurping the legislative power exclusively vested in the General Assembly. *See, e.g.*, General Assembly Objections at 16.

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<sup>3</sup> The Petition further reveals the political nature of this action when it alleges that the General Assembly's failure to repeal Section 6120 — a purely legislative/political action — has caused harm to Petitioners. *See* Petition, paras. 133, 138, 144, 151.

## **II. THE PETITION IS ENTIRELY PREDICATED ON FALSE ASSUMPTIONS ABOUT GUN VIOLENCE.**

The Petition is based upon unstated presuppositions about the evils of firearm ownership, as if the very existence of a firearm causes people to commit violent acts. The statistics give lie to this implicit assumption. Firearm ownership in cities is significantly lower than ownership in suburbs and rural areas. In 2013, the household gun ownership rate in rural areas was 2.11 times greater than in urban areas. Suburban households are 28.6 percent more likely to own guns than urban households. *See* “Why Own a Gun? Protection Is Now Top Reason,” PEW Research Center (Mar. 12, 2013). Yet, despite lower gun ownership, urban areas experience much higher murder rates. “The worst 1% of counties have 19% of the population and 37% of the murders.... But even within those counties the murders are very heavily concentrated in small areas.” *See* [“Murders in US very concentrated: 54% of US counties in 2014 had zero murders, 2% of counties have 51% of the murders.”](#) Crime Prevention Research Center (Apr. 25, 2017). So, clearly, other factors are driving gun violence in Philadelphia instead of what Petitioners allege — the presence of firearms.

Moving from the presuppositions to the allegations, the Petition can be summarized as follows:



1. Philadelphia<sup>4</sup> alleges that it suffers from what it calls massive “gun violence,” thereby placing the blame entirely on state laws which do not sufficiently restrict the presence of guns. Philadelphia fills 34 pages of its 87-page Petition with descriptions of tragic incidents of “gun violence,” in what could be an effort to trigger an emotional response, so as to mask the weakness of its legal case. Notably, many, if not all, of the tragedies described in those 34 pages were the product of action that is already criminal, yet Philadelphia appears to think that further criminalizing the firearms involved will serve as a deterrent, rather than focusing efforts on those who commit criminal actions.

2. Philadelphia assigns exclusive blame for “gun violence” to the Pennsylvania General Assembly for limiting the City’s power to impose restrictions on the right to keep and bear arms. Other factors are never addressed. For example, Philadelphia never mentions that criminals are less likely to commit crimes when they have increased concern about being arrested, convicted, and sentenced for violent and unlawful actions, than when they do not. There is good reason to believe that in Philadelphia the manner in which crime is being responded to has become one of the reasons for increased gun violence.

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<sup>4</sup> For ease of reference, these *amici* refer to the Petitioners as Philadelphia.

The District Attorney of Philadelphia, Larry Krasner, has served since January 1, 2018. He was elected with almost \$1.45 million in campaign spending from billionaire George Soros.<sup>5</sup> He originally campaigned based on promises to reform the criminal justice system and reduce incarceration. During his time in office, his performance caused more than 150 former assistant district attorneys to sign a letter calling for his ouster, and for voters to back his challenger in an upcoming election. These former prosecutors wrote: “Homicides, violent crime, and illegal gun possessions in the city of Philadelphia have rapidly increased under the current administration.” *See* C. Brennan, “[153 ex-prosecutors slammed DA Larry Krasner in a letter](#),” *The Philadelphia Inquirer* (Apr. 20, 2021). This article states:

The race enters its final month amid a **historic spike in homicides and gun violence in the city**. An Inquirer analysis last month found that although arrests for illegal gun possession have nearly tripled during Krasner’s time in office, **conviction rates have fallen** from 63% to 49%. [*Id.* (emphasis added).]

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<sup>5</sup> *See* C. Stimson, “[Meet Larry Krasner, the Rogue Prosecutor Wreaking Havoc in Philadelphia](#),” *The Daily Signal* (Oct. 29, 2020) (“A straight line can often be drawn from their anti-cop attitudes and their radically dangerous policies to increases in violent crime. And in Krasner’s case, even to the death of a Philadelphia police officer.... The United States attorney in Philadelphia, William McSwain, laid it all out this past March in a press statement, saying, ‘The murder was the direct result of Philadelphia District Attorney Larry Krasner’s pro-violent defendant policies.’”)

Not surprisingly, Philadelphia’s Petition ignores all of the factors identified by these former prosecutors as reasons that gun crime has increased.

3. Philadelphia’s Petition often implies, and occasionally alleges in passing,<sup>6</sup> that more gun regulations would reduce the incidence of “gun violence.” In paragraph 96, it alleges that “[s]tudies ... confirm the life-saving effects of licensing laws,” with footnotes that take two-thirds of a page. Among the “authorities” cited is the Giffords Law Center, which is one of the most aggressive anti-firearms groups in the nation. However, studies used by anti-gun groups are often deeply flawed. *See, e.g.,* John R. Lott, Jr., *Gun Control Myths* (2020). Moreover, there are other studies not cited which reach very different conclusions. Americans have been conditioned by the anti-gun lobby (and its friends in the mainstream media) to automatically assume that, if you restrict or ban gun ownership, people will be safer, but that would be a false assumption for many reasons. Consider the following:

- “Every place that has banned guns (either all guns or all handguns) has seen murder rates go up. You cannot point to one place where murder rates have fallen, whether it’s Chicago or D.C. or even island

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<sup>6</sup> The Petition asserts that Philadelphia would like to enact “an effective gun safety approach that would save the lives, property, and bodily integrity of Pennsylvania residents,” but saying it certainly doesn’t make it so. Petition, para. 56.

nations such as England, Jamaica, or Ireland.” See “Updated: Murder and Homicide Rates Before and After Gun Bans,” Crime Prevention Research Center (Apr. 16, 2016).

- In big cities, there are many factors at play other than restrictions on guns, including drug trafficking and gang violence. For example, “[h]omicides in Baltimore largely involve criminals killing criminals. 82% of victims have criminal record. The average victim had 10.8 arrests, with 4.1 of those being drug offenses. Sixty-seven percent had an arrest record for drugs. Forty-four percent had an arrest record for gun crimes. Twenty-nine percent of victims were clearly known by the police to be members of ‘drug crews or gang’ members. Obviously, some of those 18% who didn’t have an arrest record were probably also engaging in or suspected of criminal activity.” [“Analysis of Murder Data in Baltimore,”](#) Crime Prevention Research Center (Apr. 6, 2020).
- Whenever guns are restricted, the persons who will comply with the gun laws are law-abiding persons. Criminals have already demonstrated that they do not obey criminal laws, and they do not and will not obey gun laws. As law-abiding persons are disarmed, they

are prevented from exercising their right to defend themselves from persons who have and will continue to have guns. *See, e.g.,*

[“Defensive Gun Uses by People Legally Carrying Guns: Cases from April to May 2020,”](#) Crime Prevention Research Institute (Apr. 27, 2021).

- Firearm bans create gun free zones which facilitate mass public shootings. “During the 21<sup>st</sup> Century, 89 percent of mass public shootings in the United States occurred in places where Americans were prohibited from carrying. A. Hawkins, [“Study: 89% of 21st Century Mass Shootings Occurred in Gun-Free Zones,”](#) *Breitbart* (July 31, 2019).
- Whereas law violating criminals in Philadelphia appear to be well armed, law-abiding Philadelphians find that it is not that easy to arm themselves. In fact, there are only 26 Federal Firearms Licensed Dealers (“FFLs”) listed on the [website of the Bureau of Alcohol, Tobacco, and Firearms](#) operating within the City of Philadelphia to serve its 1.6 million residents, or a ratio of one FFL for every **61,538** persons. Compare that to the rest of the Commonwealth which has one FFL to serve every **3,575** persons (where the state population of

12.8 million is served by 3,159 FFLs). Among the reasons for this vast difference are Philadelphia’s highly restrictive rules as to where a FFL may be located — zoning rules which are not preempted by the Commonwealth. *See Gun Range, LLC v. City of Phila.*, 189 A.3d 28 (Pa. Commw. Ct. 2018).

4. While never directly challenging the authority of the General Assembly to impose restrictions on its home rule charter, Philadelphia indirectly challenges the General Assembly’s authority under three bogus theories.

**Count I** asserts that this Court should find that the General Assembly’s policy decisions have resulted in a “state-created danger” in violation of the Commonwealth’s duty under Article I, Section 1 of the Pennsylvania Constitution to protect “life and liberty.” The Petition fails to cite even one case in support of this novel theory.

**Count II** asserts a substantive due process claim, also based on Article I, Section 1 of the Pennsylvania Constitution, even though other provisions of the Constitution provide for specific due process of law.

**Count III** alleges interference with delegated public health powers, apparently seeking to ride the wave of concern about COVID-19 by converting “gun violence” into a public health problem.

Lastly, it is notable as to what the Philadelphia Petition **fails** to do:

1. The only section of the Pennsylvania Constitution on which Philadelphia relies is Article I, Section I, but that provision does not do what Philadelphia claims. It protects the “certain inherent and inalienable rights” including “defending life and liberty,” as well as “acquiring, possessing and protecting property...” Thus, two aspects of self-defense are expressly protected: protection of one’s own life, and one’s own property — including “acquiring” and “possessing” property required to do so. Rather than supporting Philadelphia’s broad assertion of power over firearms, the Declaration of Rights recognizes the “inherent” right of all Pennsylvanians to acquire the means to defend themselves, even if Philadelphia’s current office holders would want to restrict their “liberty.”
2. Philadelphia takes no responsibility, and gives no attention whatsoever, to other causes of “gun violence” which do not fit its theory of the case to assign blame to the General Assembly and to law abiding gun owners.
3. Philadelphia fails to mention even once any of the several reasons that restrictions on gun ownership have been shown to result in more, not less, crime.
4. Philadelphia fails to address Article I, Section 21 of the Pennsylvania Constitution, which protects “[t]he right of the citizens to bear arms.” (The only two occasions in the Petition which even vaguely reference this provision of the

Constitution are: page 48 in a quotation from a legislative journal) and on page 81 (in a quotation from a case with respect to its substantive due process argument).<sup>7</sup>

5. Philadelphia fails to acknowledge situations where a firearm possessed by a law-abiding citizen was used in self-defense against criminals. For example, just in the past six months alone, there have been at least five publicized self-defense shootings of criminals in the city of Philadelphia. In these reported cases, the presence of a firearm prevented or stopped a crime of violence. However, there are likely countless other unpublicized and possibly unreported instances where the presence of a lawfully possessed firearm was sufficient by itself to deter a violent crime. However, if successful in this suit, Philadelphia's proposed gun restrictions would restrict the ability of law-abiding citizens to acquire firearms to protect themselves. The publicized examples include:

- On November 30, 2020, a customer with a permit shot a would-be robber who was armed. "[Customer Shoots, Kills Robbery Suspect Inside NE Philly Chicken Wing Takeout Spot](#)," *NBC10* (Nov. 30, 2020).

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<sup>7</sup> Since Philadelphia has not enacted any of the gun restrictions that it discusses, only stating it would enact such restrictions if allowed to do so, Philadelphia lacks standing because there is no current case and controversy. At best, its Petition seeks an advisory opinion from this Court, which it may not give. *See* Pennsylvania Objections at 4.



- On December 5, 2020, a man attempting a carjacking was shot by a security guard. “[Alleged carjacker shot dead by security officer in CVS parking lot in East Germantown,](#)” *The Philadelphia Inquirer* (Dec. 5, 2020).
- Another attempted carjacker was shot on December 13, 2020 by a driver who “had a legal permit to carry a handgun.” “[Man dead following attempted carjacking at gas station in Tioga-Nicetown, police say,](#)” *6ABC* (Dec. 13, 2020).
- Yet another carjacker was shot on February 16, 2021 by a victim “who had a permit to carry a gun.” “[Carjacking Victim Shoots Suspect in Head in Center City, Philadelphia Police Say,](#)” *CBS Philly* (Feb. 16, 2021).
- On February 21, 2021, a woman shot an intruder in her home in the middle of the night using a legally owned firearm. A neighbor told news reporters, “if he was getting into my house, I probably would have done the same thing if I had a gun.” “[Woman Shoots, Critically Wounds Intruder in Kensington, Philadelphia Police Say,](#)” *CBS Philly* (Feb. 21, 2021).

## CONCLUSION

For the reasons set forth by Respondents, and for the additional reasons set out above, the Petition fails to state a claim upon which relief can be granted, and should be dismissed.

Respectfully submitted,

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**Certificate of Compliance with PA. R.A.P. 127**

I, Gilbert Ambler, as counsel for the *Amicus Curiae* Gun Owners of America Inc., Gun Owners Foundation, Heller Foundation, and Conservative Legal Defense and Education Fund hereby certify, pursuant to PA. R.A.P. 127, that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

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**Certificate of Compliance with PA. R.A.P. 531(3)**

I, Gilbert Ambler, as counsel for the *Amicus Curiae* Gun Owners of America Inc., Gun Owners Foundation, Heller Foundation, and Conservative Legal Defense and Education Fund, hereby certify that pursuant to PA. R.A.P. 531(3) the foregoing brief complies with the word count limit set forth by PA. R.A.P. 531(3) in that it contains 4488 words in 14 point Times New Roman font as determined by the “word count” feature in Microsoft Word.

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