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LETTER TO THE HONORABLE RICHARD SEEBORG, DATED 4/26/2011

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NRA/CRPAF Lawsuit Forces San Francisco to Amend City Law; City Still Gets It Wrong

4/7/2011

San Francisco just can't seem to get self-defense civil rights right. San Francisco politicians reacted hostilely to the U.S. Supreme Court's rulings affirming that the Second Amendment does protect an individual civil right to keep and bear arms from infringement by any level of government. And despite the express guidance from the Supreme Court that individuals have a right to use firearms to defend themselves from violent criminals, the City has nonetheless maintained a blanket prohibition on the discharge of firearms since 1938 – *even in self-defense emergencies*. For 73 years, San Francisco law was no firearm discharges allowed – no exceptions.

Then the National Rifle Association (NRA) and California Rifle and Pistol Association Foundation (CRPAF) filed a lawsuit challenging the City's discharge prohibition, along with the City's requirements that all firearms be stored inoperable in the home so they are useless for immediate self-defense, and its ban on the sale of self-defense ammunition. [Jackson v. City and County of San Francisco, No. C09-2143 \(N.D. Cal\)](#)

While the *Jackson* case was being litigated the City amended its [firearm discharge prohibition ordinance on March 15, 2011](#), acknowledging in the process that it cannot completely prohibit the rights of citizens to discharge a firearm in self-defense. The City claims the amendment had nothing to do with the lawsuit. Considering the timing, and the fact that the City has never cleaned up its municipal code on other gun control ordinances, including those struck down by courts, call us skeptical.

Regardless, in typical San Francisco style, the City's amendment got more wrong than it got right. The ordinance provides only one self-defense exception to the ban on the discharge of firearms.

"(a)The provisions of Section 4502 [discharge prohibition] shall not apply to or affect: 'Persons in lawful possession of a handgun who discharge said handgun in necessary and lawful defense of self or others while in a personal residence.' San Francisco Police Code section 4506 (a)(2)."

So the City's recalcitrant effort to comply with the Constitution only authorizes residents to discharge lawfully possessed *handguns*, in the *home*, for self-defense or the defense of others.

Rather than acknowledge its residents' broad constitutional right to self-defense, San Francisco opted to send a message to its residents that if they discharge a rifle or shotgun (as opposed to a handgun) in self-defense, or if they discharge any type of firearm to thwart a violent attacker at their place of business or anywhere else outside the home, that the only right they have is "the right to remain silent" in the face of criminal prosecution for violating the city ordinance.

San Francisco has been aggressively pushing the legal limits of gun control for years. The City's latest effort reflects its consistent inclination to resist and limit the fundamental civil right to self-defense, and the right to choose to own a gun for that purpose. Considering that San Franciscans have historically embraced and zealously defended the concepts of freedom and individual rights, it's particularly ironic that San Francisco refuses to embrace the fundamental individual civil right to keep and bear arms. This approach reflects same bigotry and hostility to the rights of others that San Francisco is quick to condemn in other civil rights contexts. And it makes city politicians hypocrites.

San Francisco's officials now find themselves conflicted, because they have been handed a constitutional civil right that does not fit in with their personal notions of what constitutes one. But the Constitution does not allow them, or us, to pick and choose. The only honest, unbigoted choice is to swallow hard, embrace that newly confirmed right, and defend it adamantly—like every other. Those

who chose to own a gun to defend themselves or their families seem to understand the civics of individual rights better than the city's self-anointed civil rights champions.

The ludicrous new ordinance is far from constitutionally compliant. NRA and CRPAF will continue to aggressively litigate the issue until the right of law abiding individuals to defend themselves from violent criminals is completely restored. To follow the progress of this case and other efforts to defend the rights of firearm owners in California, please register at www.calgunlaws.com.

Seventeen years ago the NRA and CRPA joined forces to fight local gun bans being written and pushed in California by the gun ban lobby. Their coordinated efforts became the NRA/CRPA "Local Ordinance Project" (LOP) - a statewide campaign to fight ill conceived local efforts at gun control and educate politicians about available programs that are effective in reducing accidents and violence without infringing on the rights of law-abiding gun owners. The NRA/CRPA LOP has had tremendous success in beating back most of these anti-self-defense proposals

In addition to fighting local gun bans, for decades the NRA has been litigating dozens of cases in California courts to promote the right to self-defense and the 2nd Amendment. In the post *Heller* and *McDonald* legal environment, NRA and CRPA Foundation have formed the NRA/CRPA Foundation Legal Action Project (LAP), a joint venture to pro-actively strike down ill-conceived gun control laws and ordinances and advance the rights of firearms owners, specifically in California. Sometimes, success is more likely when LAP's litigation efforts are kept low profile, so the details of every lawsuit are not always released.

To see a partial list of the LOP and LAP accomplishments, or to contribute to the NRA or to the NRA/CRPAF LAP and support this and similar Second Amendment cases, visit www.nraila.com and www.crpafoundation.org.

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