



Councilmember Phil Mendelson's

# At-Large Update

Councilmember  
Phil Mendelson  
(At-Large)

September 24, 2008

## Gun Control: The New Era After *Heller*

The Council has voted on a second emergency bill to revise our gun control laws in light of the June 26<sup>th</sup> decision in *Heller vs. District of Columbia*. The *Heller* decision was not a complete surprise in that White House appointments to the federal courts have been conservative. And at the oral argument in March the Justices signaled their disapproval of our strict gun control law.

But the Court's decision was surprising in that it reversed over 60 years' of jurisprudence holding that the Second Amendment was more about a collective right ("A well regulated Militia being necessary...") than an individual right.

The *Heller* Court very specifically ruled that two provisions in the District's law were unconstitutional: "we hold that the District's ban on handgun possession in the home violates the Second Amendment, as does its prohibition against rendering any lawful firearm in the home operable for the purpose of immediate self-defense."

Four days after the decision, I co-introduced with all councilmembers a bill to permit the registration of pistols, require ballistics tests in conjunction with handgun registration, and to provide explicit permission to render a firearm operable in the home "for the purpose of immediate self-defense." A somewhat revised version, worked out with the Mayor, was adopted two weeks later on an emergency basis (i.e., effective immediately).

We moved quickly. Still, I heard innumerable complaints from gun advocates across the country that the District was dragging its feet and thumbing its nose at the Supreme

Court. The complaint was obnoxious. The National Rifle Association was in the front line of the chorus, even though the NRA has yet to reach out and communicate any views whatsoever to us.

Nevertheless, it was clear our immediate work had been insufficient. Buried in the law was a definition of "machine gun" which precluded the registration of typical semi-automatic pistols. It was an unusual definition, not found anywhere else. Further, the "self-defense" provision was confusing to most people.

So I sat down with the Mayor's folks and worked out additional changes, which the Council adopted last week. Most semi-automatics may now be registered and safe storage is tied to access by children (if a juvenile gets hold of an operable gun the registered owner may be criminally prosecuted).

We've held two hearings on gun control, with another October 1<sup>st</sup>. It is my intention to borrow the best practices from other states regarding child access, ballistics records, limitations on who may or may not register, training, gun safety features, etc.

The *Heller* case was not the victory for gun advocates that they claim. The *Heller* Court held that: "The Constitution leaves the District of Columbia a variety of tools for combating that problem [of handgun violence], including some measures regulating handguns." In a limited, but significant way *Heller* was a victory affirming the constitutionality of gun control.

## Constituent Services Corner

A District resident called Councilmember Mendelson's office frustrated because, for two years, he'd been trying to get final project approval for a retaining wall on his property, and the return of his substantial construction deposit.

Our office quickly contacted the Department of Consumer and Regulatory Affairs (DCRA) and the District Department of Transportation (DDOT) to request they research the permits associated with the property's retaining wall, determining why final approval has been delayed and the construction deposit hadn't been released.

After a conference call between DCRA and DDOT, it was determined that an additional adjustment application was filed and DCRA was not aware that the wall was complete.

As a result of our intervention, the constituent's application for final approval was fast-tracked and the deposit was returned.

When dealing with District government feels like you're banging your head against a wall, call Councilmember Mendelson's office, we'll help soften the blow.

## Phil's Reflections on the Proposed Teachers' Contract

DCPS Chancellor Michelle Rhee is offering a new labor contract with teachers that would pay them a lot more money in exchange for relinquishing their seniority rights. The basic idea is to put merit above seniority and to reward quality teaching.

Who can disagree with the idea of rewarding good teachers and firing the bad? Not me. Even the teachers union claims it does not want to keep bad teachers.

So what's missing? Trust. For such a sensible proposal to work in practice, everyone involved must trust that *only* bad employees will be fired and those who perform well actually *will* be rewarded.

The teachers union cites the lack of due process provisions in the contract and the absence of any mechanism whereby a teacher could appeal an arbitrary firing. Critics of the teachers union say this is just another instance of a union protecting its own, regardless of how lazy or bad the teacher. But organized labor and the workforce itself has become distrustful of this government – and why is that?

One doesn't have far to look to find examples of mistreatment of union employees that have fostered the atmosphere of mistrust:

- Earlier this month, an arbitrator ruled that three DC government social workers had been fired improperly and had to be reinstated. It was not a technicality or a process issue that the arbitrator relied on. The arbitrator said the workers had been fired without even an investigation into what, *if anything*, they had done wrong. Although this was binding arbitration, D.C. Attorney General Peter Nickles responded that the city will not reinstate the workers.
- In June, the city settled with six DC government lawyers who had been fired from the Attorney General's Office earlier that month. The employees' union had sued, saying the city had failed to follow proper procedure for terminations.
- In April, five employees in the Office of Labor Management Partnerships were converted to civil service and made permanent. But 3-1/2 months later, each received a letter stating that the Department of Human Services had acted "without the appropriate authorization" from the City Administrator and that they were losing their jobs.

How can the administration be trusted to treat employees fairly? Then there is the case of Art Siebens, an 18-year, award-winning science teacher at Wilson Sr. High School. He was forced to "reapply" for his job this summer because the school had failed to meet adequate yearly progress (in subject areas unrelated to Mr. Siebens' teaching, however). He was not rehired. Newspaper reports say he was told he did "not fit in." Was this because he had occasionally been outspoken about problems at Wilson? DCPS has not explained, despite enormous protest.

Mr. Siebens is now teaching at a different school, because he had civil service protection. But what does this incident say to the teachers' union at a time when management wants a contract without civil service protection (that puts them "at will")?

There is another point about the removal of Art Siebens. By all accounts, he was excellent: 41 of the 43 public school students citywide who last year achieved the highest AP test scores in biology were Siebens' students. How, then, can his removal be reconciled with Chancellor Rhee's dogma of great teachers and high test scores? Or with the slogan posted in her office: "ensuring that adult issues never come before the best interests of children"?

It seems to me that the adults running the show at DCPS need to refocus their sights on kids, and value the need for trust in the process.



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### Upcoming Hearings of the Judiciary Committee

Follow Up on Capital Projects and  
Space Needs for Public Safety  
Agencies, Monday, September 29, at  
11:00 a.m. in Hearing Room 123.

Bill 17-26, "Litter Control Admini-  
stration Amendment Act of 2008",  
Tuesday, September 30, at 10:00 a.m.  
in Hearing Room 412.

Bill 17-804, "Representation of the  
District in IV-D Cases Amendment  
Act of 2008", Tuesday, September  
30, at 12:00 p.m. in Hearing Room 412.

Bill 17-841, "Eyewitness Identifica-  
tion Procedures Act of 2008", Tues-  
day, September 30, at 2:00 p.m. in  
Hearing Room 412.

Call (202)724-7808 for more information.