

No. 18-280

IN THE
Supreme Court of the United States

NEW YORK STATE RIFLE & PISTOL ASSOCIATION, INC.,
ET AL.,
Petitioners,

v.

THE CITY OF NEW YORK AND THE NEW YORK CITY
POLICE DEPARTMENT-LICENSE DIVISION,
Respondents.

**On Writ of Certiorari to the
United States Courts of Appeals
for the Second Circuit**

**BRIEF OF MARCH FOR OUR LIVES ACTION
FUND AS *AMICUS CURIAE* IN SUPPORT OF
RESPONDENTS**

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STATEMENT OF INTEREST

Amicus curiae March for Our Lives Action Fund (“MFOL”) is a non-profit organization of young people from across the country who are fighting for sensible gun violence prevention policies that will save lives. After the mass shooting at Marjory Stoneman Douglas High School in Parkland, Florida, on February 14, 2018, MFOL was formed and immediately began organizing the largest single day of protest against gun violence in history. Hundreds of thousands of people joined the March 24, 2018 march

in Washington, D.C., and sibling marches all over the world.¹

Since then, students seeking to effect change have formed MFOL chapters across the country. And MFOL leaders have traveled the country on a “Road to Change” to discuss policy solutions, registering more than 50,000 new voters along the way. These young people—all too familiar with mass shootings and other forms of gun violence—have a vital interest in ensuring that the Constitution is interpreted to allow the political process at the local, state, and federal levels to enact gun violence prevention measures that will protect all Americans, in all communities.²

INTRODUCTION AND SUMMARY OF ARGUMENT

As this Court is “aware,” there is a pressing “problem of handgun violence in this country.” *District of Columbia v. Heller*, 554 U.S. 570, 636 (2008). This epidemic, which extends far beyond handguns, has provoked sustained public engagement in an effort to develop and coalesce around solutions to this complex problem.

¹ “[T]he March for Our Lives event brought out 1,380,666 to 2,181,886 people at 763 locations.” Kanisha Bond et al., *Did You Attend the March for Our Lives? Here’s What it Looked Like Nationwide*, Wash. Post (Apr. 13, 2019), <https://wapo.st/2YwCoFu>.

² No party or counsel for a party authored this brief in whole or in part. No party, counsel for party, or person other than *amicus curiae* or counsel made any monetary contribution intended to fund the preparation or submission of this brief. All parties have filed with the Clerk a notice of blanket consent.

This brief presents the voices and stories of young people from Parkland, Florida, to South Central Los Angeles who have been affected directly and indirectly by gun violence. For these students and activists, preventing gun violence is nothing short of an existential issue impacting their public health, public safety, and our democracy. And they have only just begun making their voices heard through the democratic process.

In light of their efforts, this brief urges this Court to adhere to its promise that its Second Amendment jurisprudence “by no means eliminates” the ability of Americans, and their governments, “to devise solutions to social problems that suit local needs and values.” *McDonald v. City of Chicago, Ill.*, 561 U.S. 742, 785 (2010). This promise leaves room for participation in the political process, and for an appropriate government response. Cutting off this important debate with a ruling that risks prohibiting sensible firearm policies would silence the voices of millions of Americans—many of whom are young people coming of age in an era of school shootings and rampant urban gun violence—and endanger the American public.

ARGUMENT

I. THE PREVENTION OF GUN VIOLENCE IS AN ISSUE OF CRITICAL IMPORTANCE TO YOUNG AMERICANS.

Young Americans nationwide have taken a stand. Their country—the country that they will inherit—faces an unsustainable crush of gun violence. The harms inflicted by this epidemic have disproportion-

ately fallen on them.³ This issue weighs on them every day.⁴ And so they have resolved to harness the power of their generation to fight for sensible gun violence prevention policies that will save lives.

Many of those affiliated with MFOL are victims of school shootings and urban gun violence. They, like the rest of the “Mass Shooting Generation,”⁵ are

³ Americans between the ages of 15 and 29 accounted for just 2.2% of deaths nationwide in 2016, but 31% of all firearm deaths and nearly 50% of firearm-related homicides. Chelsea Parson et al., *America’s Youth Under Fire*, Ctr. for Am. Progress (May 4, 2018), <https://ampr.gs/2jujpcF>. And as a country, the United States “has the highest rate of firearm-related deaths among children in high-income countries, as well as the highest rate of gun ownership and the loosest laws.” Michelle Cortez, *Fewer American Kids Die in States With Tougher Gun Laws, According to This New Study*, TIME (July 15, 2019), <https://bit.ly/336zj2l>.

⁴ According to the American Psychological Association, 75% of “Gen Z” youth, aged 15 to 21, cite mass shootings as a primary source of stress, and more than 20% report that the possibility of a shooting at their school is a source of stress on a day-to-day basis. Am. Psychol. Assoc., *Stress in America: Generation Z*, 2 (Oct. 2018), <https://bit.ly/2JrCisG>; see also Nikki Graf, *A Majority of U.S. Teens Fear a Shooting Could Happen at Their School, and Most Parents Share Their Concern*, Pew Research Ctr. (Apr. 18, 2018), <https://pewrsr.ch/2HrmMif>.

⁵ See Audra D. S. Burch et al., *A ‘Mass Shooting Generation’ Cries Out for Change*, N.Y. Times (Feb. 16, 2018), <https://nyti.ms/2GkXrSF>. “[T]he pervasiveness of lockdowns and school-shooting drills in the U.S. has created a culture of fear that touches nearly every child across the country.” Joe Pinsker, *When Was the Last Time American Children Were So Afraid?*, The Atlantic (May 9, 2019), <https://bit.ly/2VewdEy>; see Steven Rich & John Woodrow Cox, *What if Someone Was Shooting?*, Wash. Post (Dec. 26, 2018),

uniquely qualified to participate in the public debate about gun violence prevention efforts at the state, local, and national levels. And they have only just begun to make their voices heard.

Nine of their stories are shared here to acquaint the Court with the pain and trauma that gun violence has inflicted on them, and the hope that their ability to advocate for change through the political process affords them. These nine voices represent tens of thousands of other young people who are weighed down by the threat of gun violence every day, and who are pushing policymakers to keep them safe. The Court's ruling here must not deprive them of their hope and their ability to effect change through the political process.

A. Aalayah Eastmond

Aalayah Eastmond did not want to go to school on February 14, 2018. She was a 16-year-old junior at Marjory Stoneman Douglas High School in Parkland, Florida, and wanted to skip the Valentine's Day festivities to "avoid the lovey-dovey couples." But knowing her mom would not let her skip class, Aalayah steeled herself for the school day.

A sound Aalayah had never heard before, explosions of gunfire, interrupted her last class on the history of the Holocaust. Her classmates looked around, confused, before a second volley of gunshots sent them scrambling frantically to the corners of the classroom. Aalayah found herself in the corner closest to her desk, but opposite the "safe corner"

<https://wapo.st/2KhYeYnl>; see also MFOL, *Generation Lock-down*, YouTube (Apr. 29, 2019), <https://bit.ly/2WeEPfH>.

designated during previous active shooter drills. A classmate quickly passed around textbooks to shield their heads.

As soon as Aalayah picked up her cell phone to call her mother, the shooter opened fire into her classroom. She immediately saw blood pooling on the floor; the student who had handed out textbooks was slumped against the wall, dead. Aalayah crouched in the corner behind a friend—a tall, athletic boy. Seconds later he was shot too. As he fell backward, Aalayah fell slowly with him, tucking herself underneath him to play dead. She kept one eye open to follow the shooter's steps around the classroom so she knew when to hold her breath. Having grown up hearing about mass shootings, Aalayah had previously thought to herself that if she could not escape through a window, she would try to hide under a dead body. As she lay on the cold tile beneath her friend's corpse, Aalayah prayed for a quick and painless death.

Mercifully, the shooter moved on. Aalayah rolled her friend's body over and propped up his head. She called her parents to tell them how much she loved them and to apologize for anything she had done to upset them. She was certain the shooter would return. "I was just waiting for the moment I was going to die."

Paralyzed by fear, Aalayah was dragged by classmates behind a nearby filing cabinet. There she came face-to-face with a student who had a gaping, bloody wound where her eye used to be. Aalayah began to hyperventilate. Her classmates, afraid that the shooter would hear her, covered Aalayah's nose and mouth until she nearly suffocated.

After police arrived, Aalayah sprinted down familiar hallways covered in bloody bodies, backpacks, shattered glass, and bullet casings. She ran from the school building and made it to a Walmart parking lot, where a friend's mother noticed pieces of flesh and brain trapped in Aalayah's hair. Aalayah was required to remain on the scene for hours for evidence collection. Emergency personnel extracted body matter from her hair, seized her blood-stained clothes, and made her change into a blue biohazard suit. She gave a sworn statement.

Aalayah was finally allowed to return home in the evening. She washed her hair several times and recalls watching the water, tinted red with blood that had remained caked on her skin, trickle down the drain. For two weeks, Aalayah slept in a bed with her mother. She was easily startled and stopped eating. She lost her motivation to do much of anything. Even now, more than a year later, small things—like classroom doors with windows, and the color red—trigger daily flashbacks and trauma.

At first, Aalayah did not want to share her experience. That changed two weeks after the shooting. "I was sitting in my mom's room and she said, 'Aalayah, your story could possibly save someone's life.'" Since then, she has bravely stepped out into the national media spotlight, sitting for interviews and amplifying the often underrepresented voices of black and brown communities affected by gun violence. She has lobbied Congress for reasonable gun violence prevention measures, like universal background checks. She spoke at the March for Our Lives rally in Washington, D.C., dedicating her

speech to her fallen classmate whose body shielded her during the shooting.

Aalayah is now a college student and intends, along with her activism, to make her voice heard in the voting booth by supporting candidates who make gun violence prevention a priority.

B. Edna Chavez

Edna Chavez was only ten when her 19-year-old brother, Ricardo, was shot and killed on the sidewalk in South Central Los Angeles in 2009. “It was the same pop we heard every day, but I convinced myself for a moment that it was just fireworks.” For nine years after his death, Edna did not say her brother’s name aloud. Edna still finds it almost impossible to talk about the day Ricardo was murdered.

Having grown up in South Central, Edna describes her community as “beautiful chaos”—rich with racial and cultural history, but plagued by gun violence. She cannot recall when she first learned about guns; the sound of gunshots was a daily occurrence. Gunfire was so engrained in Edna’s life that her mother had devised a system: Turn off the lights, move away from the windows, and try to reach the bathroom or a closet. Edna remembers nights hiding in the bathtub in the dark with her mother and siblings. And if a shootout erupted while she was outside, she knew to crouch under a raised car or truck. “I learned to duck from bullets before I learned how to read.”

Edna vividly remembers a period during the summer of 2015, dubbed “#100days100nights,” when a

gang killing sparked a surge in gun violence.⁶ Just teenagers walking home from school and without any gang-affiliations, Edna and her friends were shot at. Edna's social media feeds filled with warnings to steer clear of certain areas and pictures of the aftermath of deadly shootings. On one night, Edna remembers grabbing her five-year-old nephew and hiding away from windows as gunshots startled them awake. Hearing helicopters above, Edna looked out the mail slot and saw that a man had been shot right in front of their porch. "You could literally step outside and see the body." She went to sleep every night, and woke up every day, with the same prayer, asking God to protect her and her family.

That year, Edna joined South Central Youth Empowered thru Action, an organization that helps black and brown communities develop leaders and access academic and employment opportunities. Through her community engagement, Edna is focused on the root causes of gun violence. She understands that gangs, while offering resources, purpose, and protection, exploit the availability of firearms to perpetuate a culture of violence.

In 2018, Edna brought her message to the nation, speaking to hundreds of thousands of people at the March for Our Lives rally in Washington, D.C. After suppressing her trauma for nine years, Edna spoke Ricardo's name out loud for the first time since his death. "As soon they asked me if I lost someone to

⁶ See Nick Allen, *Los Angeles Gangs 'Compete to Shoot 100' People in 100 Days*, The Telegraph (July 28, 2015), <https://bit.ly/2TlQ9Gd>.

gun violence, it all rushed back.” Edna was nervous to take the stage, but she drew inspiration from her late brother.

Edna was determined on that day, as she is now, to make Americans understand that her story is the daily reality for many in South Central and other communities reeling from gun violence. But, she says, it does not need to be this way.

C. Lourdes Russell

Lourdes Russell, 16, is a rising junior at Stone Ridge School of the Sacred Heart in Bethesda, Maryland. Though she attends one of the Washington, D.C.-area’s elite preparatory schools, she still fears for her safety at school and in her community.

Lourdes remembers watching the news after the Sandy Hook shooting in 2012 when she was only nine. It was the first time she grasped that life can end at any moment. In 2016, when Lourdes was in middle school, there was a shooting at the nearby Westfield Montgomery Mall.⁷ As her school went into lockdown, with all the students in her grade gathering in one room with the doors locked and the blinds lowered, Lourdes remembers crying with her classmates.

Having grown up hearing about mass-shootings, Lourdes thinks about her safety whenever she is in a crowd, on the Metro, or at concerts. She thinks through how to escape if a shooting erupts. Whether

⁷ See John Woodrow Cox, et al., *Suspect in Custody in Shootings at Mall, Grocery Store, High School*, Wash. Post (May 6, 2016), <https://wapo.st/1ZmZLvR>.

Lourdes feels safe even at school is “a complex question.”

Last November, Lourdes’ history class was interrupted by a sudden announcement over the intercom: “There is a possible active shooter next door at Walter Reed [National Military Medical Center]. Please shelter in place until further notice. This is not a drill.” Lourdes and her classmates huddled in the corner of their classroom, out of sight of the room’s door. Like many of her classmates, Lourdes texted her parents that she loved them, which she knew from the news that many Parkland victims had done.

Though the incident was a false alarm, Lourdes recognized that a school shooting could happen anywhere, and nowhere is completely safe. “It really shook me up, and that’s when I decided to get a lot more involved.” Lourdes helped organize a school walk-out, gathering at the White House with 3,000 Washington-area students for a moment of silence to remember victims of gun violence, and a congressional town hall forum focused on gun violence prevention. Lourdes plans to continue these and other forms of activism focused on this issue. When she is able to cast a ballot in 2022, gun violence prevention will be one of the most important issues for her. “Many politicians walk around with a security detail or work in guarded buildings. Normal people don’t have that.” To Lourdes, the refrain that “children are the future” will ring hollow until elected officials do more to stem the epidemic of senseless gun violence.

D. LaNiyah Murphy

As a child, LaNiyah Murphy got into trouble for walking to school by herself, numb to the danger around her. But as she grew older and experienced the loss of friends and relatives to gun violence, LaNiyah began to view her South Side Chicago community as a war zone.

On July 11, 2018, when she was 16 years old, LaNiyah left a friend's barbeque to buy a soda from a nearby gas station. On her way back, LaNiyah heard a commotion down the street. She looked up just as she heard gunshots ring out. Instinctively, she dashed to a stranger's front porch to take cover. In shock, LaNiyah realized that her hand was covered in blood. She had been caught in the crossfire of a drive-by shooting.

LaNiyah dialed 911 and ran back to the barbeque. Sitting on the curb, she raised her hand to her head and felt something burn, "like a hot stove." She began crying and shaking, frightened that she was about to die. But she forced herself to think over and over again: "I've just got to live. I've got to survive. Death is not an option right now."

When her father arrived, his face wore a look of terror that LaNiyah had never seen before. He held her as they sat together on the curb, waiting for emergency personnel.

The police were the first to arrive and assessed the crime scene. One officer eventually took a pair of scissors and began cutting LaNiyah's hair to locate the wound. When an ambulance finally arrived, she was loaded onto a stretcher and taken to the hospital. As the adrenaline began to wear off, LaNiyah

was gripped by searing pain—the worst she had ever experienced.

Doctors informed LaNiyah that the bullet narrowly missed her spine, which would have killed or paralyzed her. They explained that it was too risky to remove the bullet fragments that remained, and discharged LaNiyah from the hospital that evening with those fragments still lodged below her skull. For three days, LaNiyah was too scared to fall asleep. When she finally could sleep, she heard the sound of gunshots and dreamed of getting shot again and again. These nightmares plagued LaNiyah each night for weeks after the shooting.

By December, LaNiyah's wound had become infected repeatedly, bubbling with pus. Her doctors had no choice but to remove the bullet. And so, five months after the shooting, LaNiyah finally saw the piece of metal that nearly killed her. The bullet was sent to the police as evidence.

LaNiyah only allows her sister to cut her hair to avoid explaining her scar to hairdressers. She goes to bed early during the Fourth of July holiday to escape explosive bursts of fireworks. The shooting also changed LaNiyah's personality. "It made me lose patience quickly. It made me angry at everybody. I didn't know how to handle it. Nobody knew what I was going through." She turned to counselors and teachers at school, and with their help LaNiyah has channeled her pain into activism. She helped organize and participated in community marches with members of her church to raise awareness of gun violence and violence prevention efforts.

Once she turns 18 next year, LaNiyah plans to vote for candidates who prioritize gun violence preven-

tion. And she is committed to making a difference. “It’s not going to be easy, but I’m in it for the long haul.”

E. Jackson Mittleman

Jackson Mittleman was an 11-year-old sixth grader at Reed Intermediate School on December 14, 2012, when an armed gunman murdered 26 students and teachers just two miles away at Sandy Hook Elementary School.

Jackson was in orchestra, learning to play the violin, when an emergency lockdown commenced. Following protocol, the students gathered away from the classroom door. Jackson and several others were small enough to crouch under the teacher’s desk as they waited for the drill to end.

As the hours passed, Jackson and his classmates began to understand that something was wrong. Students panicked as rumors spread that a gunman was loose inside their school. The locked door to their classroom shook violently in its frame as someone tried to enter. Students screamed and cried, fearing that the assailant was coming inside. Jackson thought he was about to die. But the person at the door was a police officer coming to usher the children to the safety of an auditorium.

When Jackson’s parents picked him up he learned that there had been a shooting at nearby Sandy Hook Elementary School. Dozens had been killed. Jackson’s image of idyllic Newtown, Connecticut, crumbled immediately.

As police and media swarmed his hometown, Jackson and his mother drove to check on a family friend. Jackson noticed police cars in the driveway. Walking

inside the house, he witnessed officers informing a father that his six-year-old son had been killed. Jackson was asked to keep company with the victim's sisters—also students at Sandy Hook—while their parents absorbed the earth-shattering news. The sisters told Jackson, “We saw dead people today.” For the next three hours, he tried to provide comfort to the sisters who did not yet understand that they would never see their brother again.

Jackson has yet to fully process the trauma of losing friends and neighbors in the massacre and facing, as a sixth grader, the prospect of imminent death. And he has experienced that trauma all over again when a Newtown parent committed suicide this year and each time another school shooting is covered in the news. Jackson will never be able to shake a lingering feeling that he is not safe. In public areas—movie theaters or grocery stores—he immediately looks for the exits and identifies places suitable for hiding.

To cope, Jackson embraced community activism. He began working with Newtown Action Alliance, a grassroots organization formed after the tragedy to advocate for legislative and cultural change to reduce gun violence. By the time he was 13 years old, Jackson had participated in events with his home-state senators and shared his story with lawmakers in Washington, D.C. And on March 24, 2018, Jackson stood atop a stage on Pennsylvania Avenue and addressed hundreds of thousands of people who gathered for the March for Our Lives rally.

Jackson, just 17, cannot yet vote. But he has hosted voter registration drives, pays close attention to political candidates' policy platforms, and speaks to

candidates about gun violence prevention. To Jackson, the issue is nonpartisan; it is about innocent people dying every day. As he prepares for college this fall, Jackson is optimistic that local, state, and federal leaders will take incremental steps to promote public safety and support a culture of sensible gun ownership.

Jackson already has his mind on the next generation. “Taking action today will determine the kind of lives other children will have, and whether or not they grow up scared to go to school, the grocery store, or the movie theater.”

F. Zion Kelly

In September 2017, Zion and Zaire Kelly were 16-year-old twin brothers on a bright path. Though often described as polar opposites, they complemented each other perfectly and did almost everything together. While Zion was reserved, Zaire was known for his outgoing and engaging personality. Both were standout athletes and scholars at Thurgood Marshall Academy, a charter school in Washington, D.C. They ran on the same track team and shared the same circle of friends. They also had their sights set on a new, exciting chapter in their lives—college. To prepare, the brothers enrolled in an after-school mentoring program called College Bound.

On his way home from school, Zion was approached by an unfamiliar man in the neighborhood. As the man began to pull something from his pocket, Zion escaped and ran home where he texted Zaire a warning. Zaire was occupied at College Bound, but he received Zion’s message. It was the last conversation Zion would share with his brother and best friend.

Two hours later, Zion was anxious because Zaire had not returned. Zion noticed the flashing lights of emergency vehicles at the end of his street. He went outside and overheard neighbors speculating that someone had been shot. Zion's heart sank as he learned the truth: The same man who confronted Zion earlier in the evening shot Zaire in the head just steps from the Kelly family's home. Zion met his family at the hospital, where Zaire was pronounced dead. Zion remembers looking down at his twin brother, whose head was marred by a bullet wound.

Zion stopped eating and going to school. But after weeks of silent anguish, he summoned the courage to do what he knew Zaire would have done: Speak out. Activism became a coping mechanism. "It allows me to teach people who Zaire was. It keeps his spirit alive." Zion fights to shine a spotlight on urban gun violence that often goes unnoticed by the media. He helped found Pathways 2 Power, a student-led activist group that convenes and empowers young people in Washington to speak out about issues including gun violence, mental health, and poverty. And just months after Zaire's death, Zion bravely honored his brother's memory by addressing close to one million people at the March for Our Lives rally in the nation's capital.

Promoting public safety by changing our nation's gun laws is *the* issue for Zion. "Easy access to guns is a major problem today. The person who killed my brother had an ankle monitor and was still able to get a gun." A rising college sophomore, Zion's summer internship with the D.C. Office of the Attorney General allowed him to focus on community engagement programs targeted at preventing gun violence

in high-risk areas. And Zion, along with the entire Kelly family, has lobbied in support of commonsense firearm legislation in Zaire's name that would extend gun-free zones and create safe passage areas for D.C. students on their way to and from school.

G. Marcel McClinton

When an armed man sprayed 212 rounds from an AR-15 assault rifle outside of Houston's Memorial Drive United Methodist Church on May 29, 2016, Marcel McClinton, then a ninth grader, was inside the church teaching Sunday School. The indiscriminate shooting spree continued for over an hour, leaving one person dead and six others injured. And Marcel was left with enduring trauma.

It was Marcel's first year teaching Sunday School, and he was in his classroom with more than two dozen three- and four-year-olds. The pastor's wife burst through the door, pushing several kids inside, and screamed, "There's a shooting. Get the kids, get the kids!" Marcel moved the children away from the windows and door as they sheltered in place before moving to the sanctuary down the hall. He recalls carrying one child, hugging him so tight that he could feel his rapid heartbeat. Sensing danger, the children were obedient and unusually quiet.

As Marcel and several others exited the sanctuary, they heard gunfire outside. "It sounded like a war zone. Gunshots everywhere." Marcel threw himself on the floor and crouched on his knees. His mother, also a Sunday School teacher, was frozen nearby. Her hands covered her mouth and her eyes looked black, pupils dilated from fear. Marcel had never seen his mother so scared. Marcel felt certain that death was imminent. "There was no doubt in my

mind the shooter was going to come into the church and kill us all.” He called his father and told him there was a shooting and that he loved him.

After police killed the gunman, Marcel emerged into the church parking lot draped with yellow police tape and covered in shattered glass. Congregants’ cars were riddled with bullet holes and across the street a gas station was on fire. Marcel and his mother returned home that evening safe and alive, but Marcel felt no relief. He suffered intense migraines for weeks after the shooting, and he would lie in bed listening to white noise in an attempt to drown out the sound of gunshots in his head. Even today, while the migraines have subsided, Marcel’s heart races when he hears loud, sudden sounds. And he relives his trauma each time he hears of another shooting in the news.

Marcel, now 18, embraced activism after the Marjory Stoneman Douglas shooting last year. He helped organize the March for Our Lives rally in Houston, which drew approximately 15,000 attendees, and served on the mayor’s Gun Violence Prevention Commission. He has testified before the Texas state legislature and lobbied for commonsense gun violence prevention measures in Austin and Washington, D.C.

Frustrated by the lack of progress, Marcel is now taking a gap year before college to run for a seat on Houston’s City Council. “It feels like we’re okay with people dying in vain. It scares me how slowly we’re moving.” Marcel grew up with guns—his dad owned five—but he sees gun violence prevention as a human issue, not a political one. And he plans to fight for practical solutions that would prevent shootings

like the one he lived through, where the gunman was a former military veteran suffering from depression and posttraumatic stress disorder who should never have been permitted to own a gun.

H. Trevon Bosley

Trevon Bosley is a bright young man studying electrical engineering at Southern Illinois University Edwardsville. Next, he plans to attend graduate school to become a biomedical engineer. Despite his talents, Trevon never imagined these opportunities for himself. He grew up on the South Side of Chicago where rampant gun violence taught him early on to temper expectations for his future. “I learned not to plan too far ahead. So many people around you are killed that you believe it’s likely you won’t make it, so you don’t form aspirations.”

Trevon was aware of Chicago’s gun violence at a young age. As a six-year-old, he learned that his teenage cousin had been shot and killed sitting in his car. Although too young to process it, Trevon remembers always feeling unsafe in his community—so much so that he strategically charted his path to and from elementary school, block by block, to avoid gang territories. He estimates that three out of five people in his community own a gun. “If you think the people over there have guns, you have to carry one as well. You can’t be the only one around not prepared.” Some are obtained legally, and others are sold on the black market by second-hand dealers, sometimes out of the trunks of their cars.

When Trevon was just seven, his 18-year-old brother, Terrell, was shot and killed a few blocks from their home. Terrell was an aspiring bass player and the most vibrant, outgoing member of the Bosley

family. He was playing live concerts and on television, gaining recognition on Chicago's music scene. In April 2006, Terrell was unloading drums outside of a church before gospel choir rehearsal when he was shot and killed, likely mistaken for someone else.

Terrell's death devastated Trevon's family. They tore down the walls of Terrell's bedroom and stopped attending church. Trevon recalls the family leaving Chicago every New Year's Eve to distract from the reality of another year without their son and brother. The Bosley family even stopped listening to music, which brought back too many painful memories of Terrell.

Before Trevon graduated from high school, he had also lost a teacher, basketball teammates, classmates, and fellow church members to gun violence. But it was not until Trevon left the South Side for college in Edwardsville that he realized the gun violence and trauma that defined his upbringing was foreign to most of his classmates. "There are places outside of Chicago where people live in peace, where getting shot and killed is not simply accepted as the norm."

Determined to create safe spaces for children on the South Side, Trevon turned to activism. He is a prominent member of B.R.A.V.E., Bold Resistance Against Violence Everywhere, a local youth program committed to preventing violence and promoting social justice. Trevon has organized and led protests, rallies, voter registration campaigns, and youth mentorship programs. He has voted in local elections, attended legislation signings, and shared his experiences with elected officials and celebrities. He

travelled to Washington, D.C., to speak at the March for Our Lives rally, and he spent this summer interning on Capitol Hill, working on bills to prevent gun violence. Trevon intends to keep fighting until “kids on the South Side can grow up to be doctors, lawyers, and community leaders, and reasonable gun laws will help them achieve their goals.”

I. Brooke Harrison

Brooke Harrison arrived at her English class on February 14, 2018, with a backpack full of chocolates. She was a freshman at Marjory Stoneman Douglas High School and had waited all day to exchange Valentine’s Day gifts with some of her friends.

Brooke was working on an essay assignment, waiting for the end of class to pass out her gifts, when she heard loud bangs and saw the narrow window of her classroom door shatter. Without thinking, she crawled on her hands and knees toward her teacher’s desk in the far corner of the room. Brooke only realized it was a shooting when she reached a classmate whose arm was wounded. He coughed up blood onto Brooke and the tiled floor.

She looked up to see a lifelong friend still sitting at his desk where he had been writing his essay. His shirt was soaked red and he was shaking violently. Brooke recalls watching his body go limp as blood pooled under his seat. “The worst part was that everyone in class ran for cover, but he didn’t even get a chance. He was murdered before he could get up from his chair.”

As the gunfire subsided, Brooke encountered another classmate who had been shot three times and was breathing heavily. She encouraged him to slow

his breathing and tried applying pressure to his wound, just like in the action movies she watched with her dad. Recognizing the severity of his injuries, Brooke and another student told their classmate how well-liked and smart he was. “We both realized that if this was one of his last few moments, we wanted him to hear all the great things about himself. We wanted him to know he was loved.”

Suddenly, before Brooke could find cover, the shooter returned and fired into her classroom again. This time, two more students were shot dead, including her best friend. As students sobbed and prayed, they heard the gunfire become more distant as the shooter moved on to classrooms upstairs. When the SWAT team finally reached Brooke’s classroom, they instructed students to leave everything behind and run as fast and as far as they could. Brooke and her classmates gathered at makeshift meeting places throughout the afternoon, listening in shock to reports of the mounting death toll.

Brooke could barely speak for days. She replayed the shooting on a continuous loop, unable to shake gruesome images from her head. She cried so hard that she did not make a sound. When she retrieved her backpack that had been next to her in the classroom she found holes where a bullet entered and exited. Now, more than a year later, Brooke accepts that she will experience nightmares and flashbacks for the rest of her life. Each mass shooting in the news brings back horrific memories of the Parkland massacre. And when stores began installing Valentine’s Day displays this past January, she wanted to take them down and burn the decorations. “The

shooting changed the trajectory of my life, and no amount of medication or therapy will change that.”

For Brooke, continuing to attend class where 17 classmates and teachers were murdered became nearly impossible. “I’m constantly on edge at school. I don’t feel like a kid anymore.” Several months after the shooting, Brooke turned to activism to manage her trauma. She participated in school walkouts and voter registration drives. She spoke directly to the governor of Florida about passing reasonable gun safety laws. Brooke is not against responsible gun ownership; her father is a gun-owner and took Brooke to a shooting range just weeks before the Parkland massacre. But Brooke *is* focused on commonsense reforms, like restricting access to the kind of assault weapons “that left giant holes in [her] friends’ bodies” and requiring the safe transportation of firearms. Although she will not be eligible to vote in 2020, Brooke is working to encourage others to support candidates who prioritize gun violence prevention policies.

“What I’m hoping by telling my story is that by hearing what I had to see and experience, it’s enough for others to want to make a change. I hope no one else ever has to go through what I did in order to want to do something.”

* * *

These students, and many others like them, have responded to gun violence by seeking change. The political process offers them a mechanism to prevent gun violence from reaching others the way it has reached them. In this moment, keeping that avenue of hope alive has never been more important.

II. THIS COURT’S RULING SHOULD NOT DEPRIVE THE AMERICAN PEOPLE OF THE RIGHT TO DECIDE HOW TO ADDRESS THE COMPLEX, OFTEN DEADLY, PROBLEM OF GUN VIOLENCE.

This Court has already recognized the virtue of caution when it comes to the Second Amendment. When holding that the District of Columbia’s prohibition on all gun ownership in the home could not be squared with the “core protection” of the amendment, this Court expressly declined to address all “applications of the right.” *Heller*, 554 U.S. at 634–635. And it declined to sweep away more policy choices than the case at hand presented, explaining that there would be “time enough” to make those decisions when a case actually called for it. *Id.* at 635; *see id.* at 626–627 (listing exceptions to the scope of the right recognized).

If any area of constitutional law requires leaving room for political engagement to shape policy choices, it is this one: No other constitutional right directly implicates other Americans’ rights to stay alive, and in one piece. *See* Jonathan Lowy & Kelly Sampson, *The Right Not To Be Shot: Public Safety, Private Guns, and The Constellation of Constitutional Liberties*, 14 *Geo. L.J. & Pub. Pol’y* 187, 190 (2016) (describing the “right to live” and public safety interests as “paramount”). “Providing for the safety of citizens within their borders has long been state government’s most basic task.” *Kolbe v. Hogan*, 849 F.3d 114, 150 (4th Cir. 2017) (Wilkinson, J., concurring), *cert. denied*, 138 S. Ct. 469 (2017). For this reason, citizens have demanded, and deserve, a say in making these fundamental policy choices. The

blanket imposition of strict scrutiny would smother public debate, rendering Americans effectively helpless to choose their own fate and enact reasonable gun violence prevention measures that promote public safety.

Even though this Court has expressed a preference for acting *incrementally*, Petitioners want to go full bore. They ask this Court to expand the “core” right identified in *Heller*, see Pet. Br. at 41–42, and to apply strict scrutiny to all laws that touch on that expanded “right.” See *id.* at 40. But doing so would deprive citizens, acting through the political process, of the ability to make life-and-death firearm policy choices for themselves. This Court should decline the invitation to claim for itself the authority to set nationwide firearm policy and instead leave these sensitive decisions to the political process.

Petitioners’ conception of the Second Amendment would close off all space for local experimentation to develop practical solutions that address gun violence. *Heller* defined a Second Amendment right of “law-abiding, responsible citizens to use arms *in defense of hearth and home*.” 554 U.S. at 635 (emphasis added). That right, this Court explained, is “not unlimited.” *Id.* at 626. Indeed, this Court made clear that the Second Amendment does not include “a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose.” *Id.* But that is precisely the right that Petitioners have asked this Court to create now.

Creating that right would cut off the ability of governments to address the problem of gun violence. The causes of gun violence are multi-faceted and still being researched. Citizens need the ability to ask

their government to address these causes, and governments need the ability to respond. This Court has already recognized this truth. *See id.* at 636 (recognizing “the problem of handgun violence in this country” and stating that our “Constitution leaves” open “a variety of tools for combating that problem, including some measures regulating handguns”); *id.* at 627 n.26 (stating that this Court’s list of “presumptively lawful regulatory measures” represented “examples” and did “not purport to be exhaustive”). Petitioners’ position, which would prohibit governments from regulating firearm use to protect public safety, whatever the costs, cannot be reconciled with this Court’s promise to leave room for government regulation that tackles the problem of gun violence.

For similar reasons, the federal appellate courts have found that strict scrutiny *does not* govern every challenge to firearm laws.⁸ These courts’ approach

⁸ Federal courts of appeals nationwide have embraced a bifurcated, “two-step” approach to determine whether a regulation violates the Second Amendment. *See GeorgiaCarry.Org, Inc. v. U.S. Army Corps of Eng’rs*, 788 F.3d 1318, 1322 (11th Cir. 2015); *United States v. Chovan*, 735 F.3d 1127, 1136 (9th Cir. 2013); *Nat’l Rifle Ass’n of Am., Inc. v. Bureau of Alcohol, Tobacco, Firearms & Explosives*, 700 F.3d 185, 194 (5th Cir. 2012); *United States v. Greeno*, 679 F.3d 510, 518 (6th Cir. 2012); *Heller v. District of Columbia*, 670 F.3d 1244, 1252 (D.C. Cir. 2011); *Ezell v. City of Chicago*, 651 F.3d 684, 703–704 (7th Cir. 2011); *United States v. Chester*, 628 F.3d 673, 680 (4th Cir. 2010); *United States v. Reese*, 627 F.3d 792, 800–801 (10th Cir. 2010); *United States v. Marzzarella*, 614 F.3d 85, 89 (3d Cir. 2010). The two-step approach applies either intermediate or strict scrutiny depending on: “(1) ‘how close the law comes to the core of the Second Amendment right’ and (2) ‘the severity of the law’s burden on the right.’” Laws that neither implicate the core protections of the Second Amendment nor substantially

takes seriously this Court’s repeated declarations that the Constitution leaves significant space for citizens to debate and legislate on these public safety issues. *See McDonald*, 561 U.S. at 785 (preserving local communities’ “ability to devise solutions to social problems that suit local needs and values”); *Heller*, 554 U.S. at 636 (“The Constitution leaves [government officials] a variety of tools for combating that problem, including some measures regulating handguns[.]”). As Judge Wilkinson has explained, “[w]hile courts exist to protect individual rights,” courts “are not empowered to court mass consequences we cannot predict, and we are not impaneled to add indefinitely to the growing list of subjects on which the states of our Union and the citizens of our country no longer have any meaningful say.” *Kolbe*, 849 F.3d at 151 (Wilkinson, J., concurring).

That is what is at stake: the safety of the American public. *See Heller*, 554 U.S. at 636 (recognizing that “the enshrinement of constitutional rights necessarily takes certain policy choices off the table”). Even as this Court deliberates, the problems posed by gun violence are growing.⁹ And because the causes of,

burden their exercise do not receive heightened scrutiny.” *New York State Rifle & Pistol Ass’n v. City of New York*, 883 F.3d 45, 56 (2d Cir. 2018) (internal citation omitted).

⁹ “[2017] was the third consecutive year that the rate of firearm deaths rose in the United States, after remaining relatively steady throughout the 2000s and the first part of this decade.” Sarah Mervosh, *Nearly 40,000 People Died From Guns in U.S. Last Year, Highest in 50 Years*, N.Y. Times (Dec. 18, 2018), <https://nyti.ms/2POQ9v0>. And the dangers posed by firearms are increasingly unprecedented, as untraceable ghost guns and 3D-printed firearms are on the rise. *See, e.g.*, Nick Corasaniti,

and contributors to, gun violence are complex and evolving, citizens and their representatives must be allowed the chance to develop solutions to address them. *See New State Ice Co. v. Liebmann*, 285 U.S. 262, 311 (1932) (Brandeis, J., dissenting) (stating that in our federal system states “serve as a laborator[ies]” of democracy, and the “[d]enial of the right to experiment may be fraught with serious consequences to the nation”).

MFOL activists and young Americans understand the value of public debate and action through the democratic process better than most. MFOL’s efforts helped to spur historic youth turnout in the 2018 midterm elections—a significant increase over the last midterm election.¹⁰ And MFOL is continuing to

The Target Was a Drug Ring. They Found ‘Ghost Guns’, N.Y. Times (Mar. 18, 2019), <https://nyti.ms/2OesDrQ>; Andy Greenberg, *I Made an Untraceable AR-15 ‘Ghost Gun’ In My Office—And It Was Easy*, WIRED (June 3, 2015), <https://bit.ly/28Uffbu>.

¹⁰ MFOL activists toured the country on the “Road to Change” and registered voters through the “Mayors for Our Lives” initiative. *See* Katie Reilly, *A Record 800,000 People Registered to Vote on National Voter Registration Day*, TIME (Oct. 1, 2018), <https://bit.ly/31xyUo0> (“The students who organized the March for Our Lives [event] spent the summer on a bus tour, rallying and registering young voters.”). As a result, “[m]idterm voter turnout reached a modern high in 2018, and Generation Z, Millennials and Generation X accounted for a narrow majority of those voters[.]” Anthony Cilluffo & Richard Fry, *Gen Z, Millennials and Gen X Outvoted Older Generations in 2018 Midterms*, Pew Research Ctr. (May 29, 2019), <https://pewrsr.ch/2VYBjF0>. And turnout among 18-to-29-year-old voters surged between 2014 and 2018, increasing by 79%. Jordan Misra, *Voter Turnout Rates Among All Voting Age and Major Racial and Ethnic Groups Were Higher Than in 2014*, U.S. Census Bureau (Apr. 23, 2019), <https://bit.ly/2Gh3YjA>.

organize, register voters, and lobby legislatures in an effort to curb the gun violence epidemic in America.¹¹

For MFOL to continue its political engagement to work for commonsense gun reform that keeps American youth, and Americans in general, safe, there must be space for the political branches to make policy choices. The judiciary must be wary of being “even minutely responsible for some unspeakably tragic act of mayhem because in the peace of our judicial chambers we miscalculated as to Second Amendment rights. * * * If ever there was an occasion for restraint, this would seem to be it.” *United States v. Masciandaro*, 638 F.3d 458, 475–476 (4th Cir. 2011) (Wilkinson, J., concurring).

The last time this Court addressed the Second Amendment in detail, it assured Americans that “state and local experimentation with reasonable firearm regulations will continue under the Second Amendment.” *McDonald*, 561 U.S. at 785 (citation and brackets omitted). It should keep that promise.

CONCLUSION

The young people who have shared their stories here, and others across the country, have only just begun to make their voices heard through the democratic process. MFOL urges the Court to preserve the latitude that legislatures at the federal, state, and local levels enjoy to enact public safety measures that limit the carnage visited by gun violence. This, in turn, enables MFOL and youth nationwide to

¹¹ See Lois Beckett, ‘We Can’t Let Fear Consume Us’: Why Parkland Activists Won’t Give Up, *The Guardian* (Feb. 11, 2019), <https://bit.ly/2MWWtm3>.

participate in the body politic in a meaningful way at a time when their civic engagement is sorely needed.

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AUGUST 2019

¹² We are grateful to the MFOL leaders and Hogan Lovells summer associates who provided invaluable assistance in support of this submission.