

**Statement to The House Select Committee on Mass Violence Prevention and
Community Safety
from
Benedict D. LaRosa**

I would like to comment on certain statements made by gun control advocates to your committee, and make certain recommendation to enhance public safety.

Red Flag laws, which gun control advocates promote, under whatever name, are in violation of the due process clauses in the Texas and U.S. Constitutions, in that no one may be deprived of life, liberty, or property without substantive due process. The reason for this provision in the federal and every state constitution is because it promotes simple and effective justice, and counters the tendency of those in power to violate natural rights. In addition to opening the door to abuse of power, Red Flag laws also tend, in some cases, to disarm intended victims and deny the accused the opportunity to defend himself against physical and legal aggression. There can be no justification for such legislation.

As for universal background checks, they violate an individual's property rights by making it illegal to sell, loan, or otherwise transfer to another person their firearm. Since the acquisition and disposal of property is a fundamental right, no one needs government permission to acquire and dispose of legally acquired property. As Armen A. Alchian (1914-2013), professor of economics at UCLA – often called “the Armenian Adam Smith” - pointed out in his article Property Rights:

"A property right is the exclusive authority to determine how a resource is used. . . . A private property right includes the right to delegate, rent, or sell any portion of the rights by exchange or gift at whatever price the owner determines. . . . Private property rights are the rights of humans to use specified goods and to exchange them."

The federal government, in my opinion, illegally forces individuals who purchase their firearms through a dealer to undergo a background check. It is because the dealer, as a condition of his license, cannot sell to anyone who does not do so, that

the buyers must submit to one. This is in violation of the legal principle of colorable legislation which states that what may not be done directly, may not be done indirectly. Universal background checks would compound this illegal act. It would also add an unnecessary expense by forcing everyone to go through a firearms dealer for every exchange of a firearm. This would be especially difficult for those living in rural areas where dealers are few and far between, and people routinely borrow, sell, and trade firearms. Such people would find it difficult if not impossible to comply. Background checks have done little, if anything to curb illegal gun violence. Criminals obtain guns regardless. All background checks do is irritate legitimate buyers, raise the cost of gun ownership, encourage governmental usurpation, and put otherwise lawful buyers in legal jeopardy.

If the intent of such legislation were truly to make it difficult for prohibited persons to acquire firearms, it could be done easily without placing economic and other burdens on anyone, or violating their rights. Right now, background checks are done by the FBI through licensed dealers at the expense of the gun purchaser, with the purchaser's social security number exposed to strangers. Instead, the FBI could simply put the list of prohibited persons, updated at its discretion, on its website so anyone can determine who is a prohibited person. Criminals won't use this site any more than they will comply with a universal background check law. Law abiding citizens, however, will gladly use this system because they have an incentive to keep firearms out of the hands of criminals, for they may be their next victim.

The broad use of the term "gun violence" by gun control advocates is misleading as are the statistics they use to justify gun control. Police, victims of crime, and Good Samaritans may use gun violence legitimately. You may recall that in November 2018, Stephen Willeford of Southerland Springs fatally shot the criminal who murdered several churchgoers in that community, thus saving lives. We should not deter such behavior. The statistics used by gun control advocates includes legitimate gun violence purposely to confuse and stigmatize firearms and

their legal uses. Even the courts agree. The Ninth Circuit Court of Appeals ruled in 2018:

“Violent gun use is a constitutionally-protected means for law-abiding citizens to protect themselves from criminals. The phrase “gun violence” may not be invoked as a talismanic incantation to justify any exercise of state power. Implicit in the concept of public safety is the right of law-abiding people to use firearms and the magazines that make them work to protect themselves, their families, their homes, and their state against all armed enemies, foreign and domestic. To borrow a phrase, it would indeed be ironic if, in the name of public safety and reducing gun violence, statutes were permitted to subvert the public’s Second Amendment rights — which may repel criminal gun violence and which ultimately ensure the safety of the Republic.” - Ninth Circuit Court of Appeals [2018]

Therefore, the claim by gun control advocates that fewer guns would result in less gun violence is spurious, discriminatory, and unproductive of public safety.

The ongoing riots and subsequent rise in criminal violence in many of our cities, especially those in which political leaders hamstringing the police and abandon citizens to mobs, public safety demands the loosening of restrictions to the acquisition, carrying, and use of firearms by law-abiding people for their own protection and that of the community in which they live.

I had a life changing experience in this regard some years ago when I was attacked by a pit bull and another dog while walking in my neighborhood. All I had was a bamboo stick for protection, which was useless. If it had not been for the fortuitous intervention of a postal worker with his vehicle, I would not be here today. The dogs had bitten me seven times by then and had me on the ground with the pit bull going for my throat. I did not have a pistol on me because of I was prohibited from carrying one by state law. No one should need permission to carry a weapon for self-defense. It should be the criminal misuse of a firearm which alone should be unlawful.

"To prohibit a citizen from wearing or carrying a war arm . . . is an unwarranted restriction upon the constitutional right to keep and bear arms. If cowardly and dishonorable men sometimes shoot unarmed men with army pistols or guns, the evil must be prevented by the penitentiary and gallows, and not by a general

deprivation of constitutional privilege." - Wilson vs. State, Arkansas Supreme Court (1878)

I still suffer the physical effects of that encounter which require medical attention from time to time.

The best solution, therefore, to enhance public safety is the end to gun free zones, which are nothing but free fire zones for those with criminal intent, constitutional carry where no one needs permission to exercise a God given right, and the swift prosecution of rioters and other criminals.