

Senate Committee on Judiciary and Public Safety,



Wisconsin Carry, Inc. is an all-volunteer non-profit organization incorporated in 2009. We seek to preserve and expand the right to keep and bear arms using an “all of the above” approach that includes 1) civil litigation 2) public relations 3) education and 4) grass roots legislative activism. We are the largest state-based gun rights group in WI.

We submit this testimony and urge you to REJECT Assembly Bill 13 because, while well intentioned, it actually makes the process of obtaining the return of lawfully owned firearms seized by Milwaukee Police, MORE difficult.

Since our founding one of the most frequent type of cases that we have funded, and our attorneys litigated, are “return of property petitions” filed in Milwaukee County Circuit Court. I would estimate that we have funded and/or advised individuals on several dozen of these cases in the past few years.

In Milwaukee, the police department has a notable practice of seizing virtually any gun they come across during the course of their daily activities, and refusing to return them without a court ordering them to do so. Many people who have had guns seized have been told by MPD that “you won’t be able to get your guns back” or “it will cost you more in attorneys fee’s to get your gun back than it is worth” and as a result, thousands of citizens have had their 4th amendment rights violated by MPD. Wisconsin Carry has filed federal lawsuits to obtain relief in these cases, however, the cost of those lawsuits is significant. In the absence of “attorney fee shifting” for successful petitions in Wisconsin’s return of property law, its clear to us MPD will be able to unlawfully retain far more guns than we have the resources to litigate the return of (whether via return of property hearings or federal civil rights lawsuits)

These seized guns which we have had to go to court to obtain the return of include guns that were never used in a crime where a crime was never charged, guns that were seized without just cause from individuals who had a legal right to posses them, guns that were seized during an arrest where charges were never filed, guns that were seized during a terry-stop where no arrest was ever made, AND guns that were seized for evidence after they were used in self-defense. (guns seized for evidence after a self-defense shooting are the vast MINORITY of cases).

We believe that in the spirit of the 4th Amendment, MPD should affirmatively return firearms that they have no lawful justification in keeping from citizens without making the process so arduous that people just give up. The current system is de-facto confiscation. MOST of the guns seized by MPD which we get returned were not guns used in self-defense. Most were lawfully possessed guns seized for “safe keeping” or seized during a terry stop where an arrest was never made or seized during an arrest where charges are never even filed.

Under currently law, a citizen may immediately file a return of property petition, get a hearing scheduled, and make their case for the return of property before a judge immediately after their gun was taken by MPD. **If Assembly bill 13 becomes law, the return of any gun could now legally be delayed for 6 months.**

ASSEMBLY BILL 13, while attempting to shorten the length of time a gun used in self-defense can be held by a department, in effect extends the amount of time before any guns can be ordered returned because MOST cases of gun seizures would NOT meet one of the ‘5 qualifying events’ described in the bill. Please be welcome to reach out for more information about MPD’s practices and how this could be addressed legislatively.

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