

## Statement of Stephen M. McNabb

What I'd like to address today is the Big Lie: the notion that the Second Amendment to the United States Constitution somehow prohibits the State from enacting reasonable restrictions on the possession of firearms. This is the Lie employed by persons who are sure they know what the Second Amendment requires even though they may never have read it and by politicians who are afraid to do anything that they perceive to be politically controversial.

As the Legislature prepares for its next session, let's be clear: nothing in the Second Amendment prohibits the State from enacting reasonable restrictions on the possession of firearms. The Second Amendment may not apply to the states; and even if it does, it allows states to impose reasonable restrictions on the possession of firearms.

The Supreme Court previously has suggested that the Second Amendment does not apply to state efforts to control firearms. This conclusion flows from the language of the Second Amendment, which provides that "A well regulated Militia, being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed." The premise of the Second Amendment, then, is that the states need to maintain militias, and the federal government should not interfere with their ability to do so. The Second Amendment leaves the states free to impose any restrictions they want consistent with their interests in maintaining militias.

Even if the Second Amendment applies to the states, it does not prohibit them from enacting reasonable restrictions. The United States government historically took the position that the protections of the Second Amendment are quite narrow, protecting "only such acts of firearm possession as are reasonably related to the preservation or efficiency of the militia." In 2002, the current administration acknowledged the federal government's prior position but announced to the Supreme Court that "the current policy of the United States...is that the Second Amendment more broadly protects the rights of individuals...to possess and bear their own firearms." Critically, however, the Bush Administration advised the Court that those rights were "subject to reasonable restrictions designed to prevent possession by unfit persons or to restrict the possession of firearms that are particularly suited to criminal misuse."

There is simply no respectable legal argument that the states cannot enact reasonable restrictions on the possession of firearms. This should not be surprising. Even the First Amendment, the most sacrosanct of the rights contained in the Bill of Rights, is subject to reasonable restrictions.

The legislature of this State should have acted long ago. It did not, and the State and this community suffered a great tragedy. The State needs to take all reasonable steps to ensure that a similar tragedy is less likely to happen in the future. It simply cannot permit the Big Lie to get in the way of its legislative and moral responsibility.