

Policies on Guns

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.

– Second Amendment to the U.S. Constitution (1791)

Americans possess more than 200 million firearms. Each year about 640,000 violent crimes, including 16,000 murders are committed with guns, mostly handguns. Some people believe gun-control laws, which restrict gun ownership, can reduce the bloodshed. Others believe that guns help protect Americans and gun laws should be less strict.

Americans have highly conflicting views on gun laws. According to a 2011 Gallup Poll, the public splits 44 percent in favor of stricter gun laws, 43 percent in favor of keeping gun laws as they are now, and 11 percent in favor of making our gun laws less strict. This is a record low favoring stricter gun laws. Twenty years earlier, the same poll found almost 80 percent of Americans favoring stricter gun laws.

Gun control faces stiff opposition in the United States. Millions of Americans point out that gun ownership is a right and that guns serve a legitimate purpose in society. They argue that guns are not the problem. Rather than penalizing law-abiding gun owners, they favor punishing more harshly those who use guns to commit crimes.

The opposition is led by the National Rifle Association (NRA) and the gun industry. The NRA represents almost 4-million hunters and gun enthusiasts. The gun industry, made up of manufacturers and retailers, earns billions of dollars annually. Together they form a powerful opposition to legislation imposing control on guns.

Over the years, however, the federal government has enacted five major nationwide gun laws. In 1934, it prohibited the possession of machine guns, sawed-off shotguns, and silencers. The Gun Control Act of 1968 limited the importation and sale of cheap handguns, known as Saturday Night Specials, and prohibited the interstate sale of handguns. The Brady Act, passed in 1993, requires a five-day waiting period for all handgun purchases. The 1994 crime bill banned the import and manufacture of certain military assault weapons. A 1996 law banned anyone convicted of a domestic violence offense from owning or using a gun.

The 1994 assault-weapon ban expired in September 2004. President George W. Bush stated that he favored extending the ban, but Congress refused to extend it.



Firearms on display at the Houston Gun Show. (Wikimedia Commons)

Supporters of the ban say that assault weapons pose tremendous dangers to the public, and there is no good reason for private citizens to possess them. Opponents say that few crimes are committed with assault weapons (and those are by criminals who can easily get around the ban) and the ban violates the Second Amendment.

The Second Amendment in the Courts

The Second Amendment grants the right to “keep and bear Arms.” The extent of this right was debated until recently as the U.S. Constitution Supreme Court made only one ruling on the Second Amendment in the 20th century. In 1939 in *U.S. v. Miller*, a defendant was convicted of transporting a sawed-off shotgun in violation of the federal government’s 1934 gun law. The defendant appealed his conviction saying the law violated the Second Amendment. A unanimous court rejected this argument. The court noted that the “obvious purpose” of the Second Amendment was “to assure the continuation and render possible the effectiveness of” militias. “It must be interpreted and applied with that end in view.” The court concluded: “In the absence of any evidence tending to show that possession or use of a . . . [saw-off shotgun] . . . has some reasonable relationship to the preservation or efficiency of a well regulated militia, we cannot say that the Second Amendment guarantees the right to keep and bear such an instrument.”

In the wake of the *Miller* decision, federal appeals courts upheld gun-control laws when they were challenged on Second Amendment grounds. In 2008, however, in *D.C. v. Heller*, the U.S. Supreme Court in a 5–4 vote struck down a D.C. law that essentially banned handguns and ruled that the Second Amendment secures “an individual right to keep and bear arms.” It

held that government could not ban “handguns held and used for self-defense in the home.” Two years later, in *McDonald v. Chicago*, the court ruled that this right applied to state governments under the 14th Amendment, because “the right to keep and bear arms” is “among those fundamental rights necessary to our system of ordered liberty.”

The effect of these decisions on gun-control laws is not clear. The decision in *Heller* stated:

Like most rights, the right secured by the Second Amendment is not unlimited. From Blackstone through the 19th-century cases, commentators and courts routinely explained that the right was not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose. . . . For example, the majority of the 19th-century courts to consider the question held that prohibitions on carrying concealed weapons were lawful under the Second Amendment or state analogues. . . . [N]othing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms.

Thus far, following the *Heller* decision, federal courts have continued to uphold gun-control laws. The debate has moved from whether the Second Amendment confers an individual right to whether a particular law is a reasonable regulation under the Second Amendment.

Measures Favored by Gun Enthusiasts

For many years, gun enthusiasts and proponents of gun control have been fighting over gun measures, those currently in existence and proposed measures. Below are a few measures favored by gun enthusiasts.

Right to Carry Laws. Over the last 30 years, gun enthusiasts have been successful in getting many states to pass laws allowing more people to carry concealed handguns. Currently, four states have no restrictions on people carrying such weapons: Alaska, Arizona, Vermont, and Wyoming. Thirty-eight states have “shall-issue” laws. These laws provide that if a person meets certain requirements, the authorities shall issue a concealed gun permit. The conditions typically include being a resident, being over 18, passing a criminal background check, attending a handgun-safety class, and paying a fee.

The remaining states have laws that gun enthusiasts would like to change. Ten states have “may issue” laws, meaning that the authorities may issue a permit if the person meets certain requirements, but they don’t have to issue it and often do not. One state, Illinois, does not allow anyone to carry a concealed handgun.



Workers destroy weapons confiscated by police. (Mark Ide)

Extention of Places Where Weapons May Be Carried.

Many gun enthusiasts believe law-abiding people should be able to carry their guns almost anywhere, and they are seeking to break down legal barriers preventing them from carrying their guns.

For almost 100 years, guns were banned in National Parks, where hunting is not allowed. A new federal law was passed in 2010, making it legal for people to carry guns into National Parks if they are complying with federal law and the gun laws of the state the park is in. Thus, today a person with a state concealed weapon permit may carry a concealed handgun in almost all national parks.

Many states outlaw carrying loaded guns (even with a permit) into bars and other places that serve alcohol. Recently, four states — Tennessee, Arizona, Georgia and Virginia — have passed laws allowing people to enter such establishments with weapons as long as they are otherwise complying with state law. Eighteen other states permit guns in restaurants serving alcohol.

Gun enthusiasts support right to carry laws and extending places where guns may be carried because they believe law-abiding citizens should be allowed to protect themselves and others and that criminals will carry guns regardless of what the law says. Opponents of these laws assert that more guns will put more people in danger and result in more gunshot wounds and deaths.

ARGUMENTS ON HANDGUN CONTROL

Against Handgun Control

Gun control impinges on a basic right of all Americans – the right to protect themselves. This right is so important that the Second Amendment to the Constitution guarantees the right to bear arms.

With our society's high rate of violence and lack of adequate policing, guns offer citizens protection.

"Guns don't kill people. People kill people." Switzerland, which has a low rate of murder, requires most adult males to keep automatic weapons at home for the army.

"When guns are outlawed, only outlaws will have guns." Criminals will always find ways of getting guns or other weapons. Washington, D.C., and other jurisdictions with strong gun-control laws have the worst murder rates in the country.

Instead of penalizing ordinary citizens, the proper way to keep criminals from using guns is to impose harsher penalties on criminals who use them.

Our country has too many guns in circulation for gun-control laws to be effective.

Even if gun-control laws did reduce the use of handguns, criminals would simply shift to other weapons.

For Handgun Control

The Second Amendment is not an unlimited right. Most gun-control laws are reasonable restrictions on this right.

Guns are far more likely to harm members of the owner's household than offer protection against criminals.

Guns make bad situations worse. Our murder rate is higher than other countries because handguns are so readily available.

Most of the crimes committed with guns in Washington, D.C., are committed with guns bought in nearby states with lax gun laws.

We already impose mandatory sentences on criminals using guns.

Canada had similar laws to ours until the 1920s. Gun control has worked there.

Guns are more lethal than other weapons. A person shot with a gun is five times more likely to die than a person stabbed with a knife.

Gun-Control Measures

In addition to renewing the assault weapons ban, supporters of gun control favor a number of proposed gun-control laws, each of them opposed by gun enthusiasts.

Requiring gun owners to register firearms and to have a state firearms license. Supporters say that just as the state registers cars and licenses to people who drive, the state should also license gun owners and register guns. They think such a system would help keep guns out of the wrong hands. Opponents believe this is the first step to outlawing guns, which will only keep guns away from law-abiding people. They also say the car comparison is faulty. Cars, they say, cause many more deaths than guns and, unlike gun ownership, car ownership is a privilege, not a right.

Compel gun manufacturers to install safety devices. Proposals include requiring built-in locks and eventually "smart guns," which can be operated only by the lawful owner. Supporters believe these will prevent

others from using the gun. Opponents believe these devices increase the costs, may cause the weapons to misfire, and may be unconstitutional.

Make bullet manufacturers put serial numbers on every bullet. The serial number would also be on the box of ammunition and sellers would record who bought each box. Supporters say bullets are often recovered at a crime scene and having serial numbers would help solve crimes. Opponents respond that criminals would remove serial numbers and the high cost to manufacturers would be passed on to everyone buying bullets.

Limit gun purchases to one a month per person. Much of the illegal gun trade is carried on by middlemen who buy guns from dealers in bulk and sell them to juveniles and criminals. Supporters say this law will stop the middlemen from buying guns. Opponents think criminals can easily get around this law by using groups of people to buy guns. Again, they say, only the law-abiding will be prevented from buying guns.

Ban large-capacity ammunition clips. Under this proposal, it would be against the law to possess or sell ammunition clips that contain more than 10 rounds of ammunition. Supporters point out that these clips are not necessary for hunting or self-defense, but have been used in several recent mass slayings. Opponents argue that these clips do promote self-defense, particularly if a person is attacked by a mob.

Supporters and opponents have long debated the merits of gun control. (See **Arguments on Handgun Control** on page 3 for some of the most common arguments.)

Supporters of gun control point to other Western democracies, such as Canada, which have strict gun-control laws and far lower rates of violent crime. They cite a 1988 study in the *New England Journal of Medicine* comparing a Canadian city, Vancouver, with an American city, Seattle, which are about 100 miles apart. The risk of being murdered by a handgun was about five times higher in Seattle. And a person assaulted in Seattle was twice as likely to die as a person assaulted

in Vancouver. Supporters of gun control argue that strict gun-control laws will reduce violent crime in America.

Opponents of gun control question the link between guns and violent crime. They cite countries, such as Switzerland and Israel, which mandate that citizen-soldiers keep guns at home and yet have low murder rates. Opponents say that gun-control laws have no effect on criminals. They point to Washington, D.C. Until recently, it in effect banned handguns, and yet it still had one of the worst murder rates in the country. Gun-control laws, they say, only make it more difficult for law-abiding citizens to buy firearms, which is a citizen's right under the Constitution.

FOR DISCUSSION

1. Do you agree with the *Heller* and *McDonald* decisions? Explain.
2. Do you think gun control can reduce violent crime? Why or why not?
3. Which of the gun-control policies mentioned seem the best? The worst? Why?

CLASS ACTIVITY

Gun Policies

In this activity, students debate the merits of different gun policies.

1. Each student should read and decide which one of the following seven policies he or she favors the most:
 - a. Get rid of all federal gun-control laws.
 - b. Enforce the laws we have. They are enough.
 - c. Reinstate the assault weapon ban.
 - d. Register guns and license gun owners.
 - e. Ban large-capacity ammunition clips.
 - f. Pass right-to-carry laws.
 - g. Extend right-to-carry laws to bars.
2. Students should meet in groups according to the policy they favor most. All who think policy "a" is best meet together, and so on for each policy. Each group should:
 - a. Create arguments favoring its policy.
 - b. Develop a one-minute presentation to make to the class to convince others to favor the policy.
3. Regroup as a class. The groups should make their presentations. Conclude by taking a class vote on each policy.