



January/February 2016 LD Topic Analysis

For the first topic of 2016, Lincoln-Douglas debaters will be discussing the resolution **“Resolved: In the United States, private ownership of handguns ought to be banned.”** This promises to be an interesting topic, given its current newsworthiness and high degree of controversy. LDers would be smart to keep an eye on the news throughout the next two months, as there will certainly be a huge amount of data, scholarship, and analysis being released on this hot-button issue.

First and foremost, I want to impress upon debaters the importance of keeping a level head. This is an emotional issue for many people on both sides, but I encourage you not to let your personal feelings on the topic get the better of you. At the same time, do not lose sight of the fact that some of your judges may enter the round with strong, preexisting opinions on gun control. Tailor the rhetoric of your cases to avoid impugning the character of those who disagree with you.

With that warning out of the way, let’s conduct a brief resolutorial analysis, so we’re all clear on what is up for discussion in this topic.

Definitions

In the United States is a straight-forward phrase. It is included to instruct you to focus on the merits of a possible handgun ban enacted by the American government, enforced by American law enforcement, and applying to citizens/residents/visitors within the boundaries of the USA. In other words, the desirability of handgun bans in outside nations is not the focus of the debate... except, perhaps, in terms of offering some empirical data (more on that later).



Regardless, affirmatives on this topic will be advocating for the passage and enactment of legal restrictions forbidding handgun ownership within the United States.

This is a bit unusual for LD. To affirm this topic seems to call for a policy. Luckily, the resolution's strict wording insulates you from having to craft much of a true plan— "banning handguns in the United States" largely speaks for itself. As the aff, you can read a policy-style case if you want (and your circuit allows), but it's not really necessary. As long as you're defending a national handgun ban, you will be meeting your affirmative burden.

Moving on, **private ownership** means possession by [individual citizens \(or organizations\), as opposed to governments or public bodies](#). In other words, law enforcement agencies, border control officials, etc. would still be legally able to own handguns in the world of the affirmative. "Regular people," however, would not.

Technically speaking, "ownership" and "possession" are distinct, but that's unlikely to matter much to this resolution. Since all private ownership is banned, the only way a citizen could legally possess a handgun would be if the gun was owned by a public entity, and entrusted to that citizen for use. For example, a police officer could possess a firearm that is owned by the sheriff's department.

Handguns is the key term in this topic, and knowing how to distinguish handguns from other types of firearms may become important to your debates.



The [US Code of Law \[Title 18, Part I, Chapter 44, § 921, \(29\)\]](#) defines “handgun” thusly:

(29) The term “**handgun**” means—

(A) a firearm which has a short stock and is designed to be held and fired by the use of a single hand; and

(B) any combination of parts from which a firearm described in subparagraph (A) can be assembled.

The category of handguns includes, according to [the Wikipedia article on the subject](#): “revolver and pistol (including single-shot pistols, semi-automatic pistols, and machine pistols); other subtypes include derringers and pepperboxes.”

In short, a “handgun” is a gun that is meant to be operated with one hand. It is distinguished from “long guns,” such as rifles and shotguns, which must be braced against the shoulder.

Because the resolution does not restrict other types of firearms, the distinction is significant. We’ll return to the strategic implications of this discrepancy later on in this guide.

Ought is old news to LD debaters, so I won’t bore you with it. Any novices reading this and feeling confused about the meaning of “ought” can certainly [contact me](#) for more clarification.

Finally, we reach the other key word in the resolution: **banned**. Most of you should already understand that “to ban” means “[to formally or legally prohibit](#).”

This, once again, is important because it demonstrates that the debate is about whether the government should create a law which bans ownership of handguns—presumably with corresponding criminal and/or civil punishments for violation. The debate is *not* about the moral desirability of handgun ownership in the abstract (except as such things relate to legal prohibitions).



So, overall, we can see that this resolution asks us to debate whether or not governments in the US ought to legally prohibit citizens from owning handguns.

Now that we comprehend the meaning of each term in the topic, let's quickly cover some relevant background information.

Background

It's probably not news to any of you that gun control in the United States is a topic that is both frequently discussed and highly controversial. Any guide that attempted to cover the history of the entire subject would be a thousand pages long before we even started giving you cards! So, consider this an extremely abbreviated overview.

The [Second Amendment](#) to the United States Constitution reads:

"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."

This has most recently been interpreted by the courts to mean that American citizens are entitled to own guns for the purposes of sporting or self-defense, and that this right should not be eliminated or significantly burdened. This reading is *not* universally agreed-upon, however, which has strategic implications.

The Supreme Court's (SCOTUS) formal ruling on this issue came in 2008, in the case of [District of Columbia vs. Heller](#). (Fun fact: at issue in this case happened to be D.C.'s handgun ban.) Prior to 2008, there was no official SCOTUS opinion on the subject, and legal scholars wrote endless papers arguing



with each other about its true meaning. Viewpoints typically fell into one of two camps: the individual rights interpretation, and the states' rights interpretation.

The individual rights reading of the Second Amendment is the one supported by SCOTUS in *D.C. vs. Heller*. This is the idea discussed above, that the Second Amendment protects private citizens' right to own firearms.

The states' rights reading was actually more common prior to the last several decades. Under this interpretation of the Constitution, the Second Amendment ensures that states are able to raise and control their own militias, but it does not protect gun ownership by individual civilians.

We'll discuss how these two schools of legal thought might play into the substance of your debate rounds later on. For now, just understand that scholars disagree as to whether or not the original intention of the Second Amendment was to protect individual gun ownership. For a more in-depth discussion of these disputes, click [here](#).

As of today, gun ownership rights are provided for all US citizens and permanent residents, but not to visitors possessing a non-immigrant visa, unless they meet [certain criteria](#) (such as being on a documented hunting trip or a dignitary from a friendly foreign government).

That said, do not make the mistake of assuming that the US has no laws regulating gun ownership. Indeed, the federal government, all 50 states, and numerous cities and jurisdictions each have laws applying to the manufacture, sale, transfer, ownership, and usage of firearms. There are far too many for me to go over even a fraction of them all, but further details are available [here](#).



To highlight the most significant status quo gun laws in the US: the [1934 National Firearms Act](#) requires registration of certain kinds of weapons, such as machine guns—but not handguns. The [Omnibus Crime Control and Safe Streets Act of 1968](#) requires handgun purchasers to be at least 21 years old, and prohibits selling handguns across state lines. The [Undetectable Firearms Act of 1988](#) bans all guns that are made in such a way as to disguise them from metal detectors and airport screening systems. In 1990, George H.W. Bush signed into law the [Gun-Free School Zones Act](#), which prohibits knowingly possessing a firearm on school premises. Finally, [The Brady Handgun Violence Prevention Act](#), passed in 1993, requires gun purchasers to first pass a federal background check (with several exceptions).

State laws vary considerably, as you might expect. A detailed breakdown of each can be found [here](#). Regardless, since the resolution calls for a nationwide ban, any contradictory lower-level laws would be superseded by federal law.

The idea of banning handgun ownership is not entirely new. A number of US cities have experimented with handgun bans in the past, although none of these bans remain in effect today. Washington D.C. (as well as several of its suburbs) and Chicago formerly prohibited handgun ownership or use within the city limits.

These laws, however, have so far failed to pass Constitutional scrutiny. As we already noted, in 2008, SCOTUS overturned D.C.'s handgun ban in *D.C. vs. Heller*, and ruled that Americans have an individual right under the Second Amendment to possess firearms "for traditionally lawful purposes, such as self-defense within the home." The Supreme Court later invalidated Chicago's ban in 2010.

That said, many cities continue to have gun control laws strict enough to significantly restrict residents' ability to purchase or own guns (legally, at least).



Americans' opinions on gun control have varied over time. [Pew data](#) shows that support for stricter gun laws peaked at 67% in 2000, and stands at about 50% today. Obviously, though, feelings change according to what specific type of restrictions are proposed. For example, 85% of Americans favor background checks, while other options draw less than 50% support.

The distinction between the handgun ban called for in the resolution and "gun control" in general is important. Although some evidence that speaks to "gun control" as an umbrella topic might be useful to your debates, you must avoid conflating all discussions of firearms regulation with the specific policy introduced by the resolution.

As a part of our cultural heritage, many Americans feel strongly about the benefits of gun ownership. The United States is home to less than 5% of the world's people, but [35-50%](#) of the world's civilian-owned guns, according to one study. That's about [88.8 guns for every 100 people](#). This makes us #1 worldwide in firearms per capita.

Recently, the frequency of mass shooting events has sparked a renewed call for stricter gun control laws. Researchers from Harvard School of Public Health and Northeastern University [confirmed](#) the public's sense that mass shootings were becoming more common, finding that the rate of mass shootings in the US has tripled since 2011. [Other research](#), however, disputes this finding. The original Harvard study authors refute that alternate research [here](#).

Regardless, it is also important to note the difference between "mass shootings" (defined by the Harvard study as "public attacks in which the shooter and victims were generally unknown to each other and four or more people were killed") and shootings in general.



While polls show that the majority of Americans believe that *overall* gun violence has increased in recent years, [data](#) actually shows that it has dropped substantially since 1993, and has levelled out over the past several years.

So, mass shootings might be up (depending on who you ask), and overall shootings are down (historically) and stable (recently). At least, so says those particular studies.

That brings us to the last piece of contextual information I want to draw your attention to.

Your debates on this topic are certain to involve a large amount of competing statistical claims, so it is critical that you understand the different metrics and methodologies researchers might use to analyze data. If your case relies heavily on a certain study (or studies), you would be smart to read the original report cover-to-cover, and familiarize yourself with exactly how the research was conducted. Being able to cogently explain the superiority of your evidence over contradictory evidence will make or break you in at least some of your rounds.

For those of you who don't have much of a background in statistical analysis, [this](#) is a pretty good primer on the variety of ways that data can be used to confuse and mislead people. To summarize, the creators of any given study are responsible for determining how to collect their data and what mathematical techniques they'll use to analyze it. Different choices can sometimes lead to wildly different results. This accounts for a phenomenon you're sure to notice quickly when debating this resolution: studies on the exact same subject often reach opposite conclusions. Whether this is caused by deliberate manipulation or honest mistake, it can make it hard to determine who is correct. That is why it will be advantageous for you to be prepared to defend, in detail, the validity of the research you cite.



Let's consider an example. Imagine that two students, Ann and Bob, both wanted to research what percentage of kids at their high school ate lunch in the cafeteria vs. those who leave campus to eat at home or in a restaurant. Ann and Bob both chose the same basic research methodology: they decided to count the students who purchased a lunch from the cafeteria, and compare that to the total number of students in the school. But, they ended up with totally different results. Ann found that 75% of students eat in the cafeteria, while Bob found that only 40% do. Why did this happen? Maybe Ann took her count on a Friday, when the cafeteria serves pizza, while Bob took his on a Tuesday, when it serves meatloaf. Maybe the discrepancy was caused by the popularity of the day's menu. Or, maybe Bob only counted students purchasing a complete meal (entrée, side, drink) from the cafeteria, while Ann counted any purchase, regardless of content. Maybe the school's basketball team was in the state tournament during the study, so the entire team, plus the cheerleaders, the pep band, etc. had missed school that day, and one of the studies didn't take that into account. There are an infinite number of possible explanations. The point is, when it comes to quantitative research, details matter.

Be vigilant. Remember that this is an extremely controversial topic. On both sides, most of your sources of information will have some form of agenda, and will often cherry-pick the data that suits their desired conclusion. Even those who sincerely try not to bias their studies may end up falling victim to confirmation bias—that is, seeing in the data only what they want to see. You will need to hone your ability to analyze and compare these numbers critically.

As Mark Twain famously said, "There are three kinds of lies: [lies, damn lies, and statistics.](#)"

Strategy

Now, with all of the necessary contextual information out of the way, we'll begin discussing your options for approaching your debates strategically.

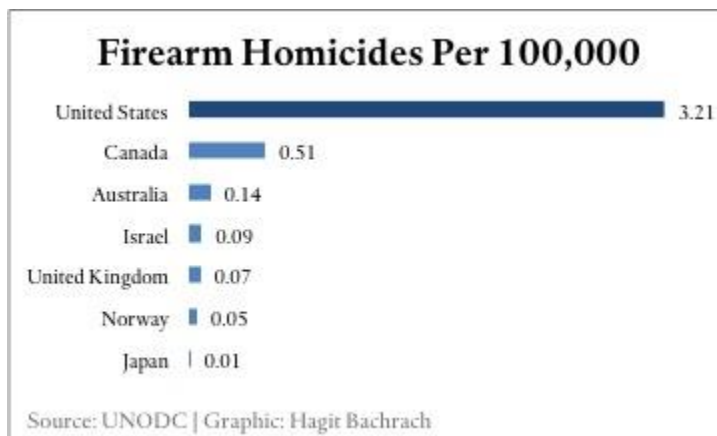


The first, and most obvious, area of contention will be whether or not banning handguns could prevent gun-related violence and deaths. I expect this question will be the focus of many of your rounds.

Homicide & Gun-Related Deaths

We will begin by focusing on general, big-picture arguments about the relationship between guns and violence, before then zooming in on some particular sub-points of discussion related to this theme.

The aff, of course, will say that handgun bans do reduce violence. US leads the world in gun possession, as well as in gun-related homicides per capita, according to the [Council on Foreign Relations](#):



It therefore seems easy to conclude that gun possession is correlated with gun violence. Reduce the number of guns, the aff says, and gun violence accordingly is also reduced. This is perhaps the simplest articulation of the argument. Good debaters, of course, will want to dig deeper.



Here is a piece of affirmative **evidence** that spells out the prevalence of gun-related deaths in the United States:

(Jonathan Stray, Prof of computational journalism at Columbia University, "Gun Violence in America: The 13 Key Questions (With 13 Concise Answers)," The Atlantic, <http://www.theatlantic.com/national/archive/2013/02/gun-violence-in-america-the-13-key-questions-with-13-concise-answers/272727/>, Feb 4 2013)

There were 8,583 homicides by firearms in 2011, out of 12,664 homicides total, **according to the FBI**. This means that **more than two-thirds of homicides involve a firearm**. 6,220 **of those** homicides by firearm (**72%**) are known to have **involved a handgun**. It's worth noting that violent crime rates of all types have been steadily decreasing since the early 1990s. No one is quite sure what is causing this decrease, though there are many theories, ranging from tighter gun control laws to more innovative policing and changes in the drug market. Whatever the cause of this decline, **America still has a homicide rate** of 4.7 murders per 100,000 people, **which is one of the highest of all developed countries** (see: international comparison). Gun violence also affects more than its victims. In areas where it is prevalent, just the threat of violence makes neighborhoods poorer. It's very difficult to quantify the total harm caused by gun violence, but by asking many people how much they would pay to avoid this threat -- a technique called contingent valuation -- researchers have estimated a cost to American society of \$100 billion dollars. **Guns are also involved in suicides and accidents**. 19,392 of 38,264 **[50% of] suicides** in 2010 **involved a gun** (50%), **according to the CDC**. **There were 606 firearm-related accidents in the same year** -- about 5% of the number of intentional gun deaths.

This next piece of **evidence** echoes the claim that the U.S. outpaces most of the rest of the developed world in violence, which is an argument you are bound to hear frequently throughout your debates on this topic:

(Jonathan Stray, Prof of computational journalism at Columbia University, "Gun Violence in America: The 13 Key Questions (With 13 Concise Answers)," The Atlantic, <http://www.theatlantic.com/national/archive/2013/02/gun-violence-in-america-the-13-key-questions-with-13-concise-answers/272727/>, Feb 4 2013)

The U.S. has one of the highest rates of violent crime and homicide, per capita, **of any developed country**. According to 2008 figures compiled by the United Nations Office on Drugs and Crime, **the U.S. homicide rate** for 2010 **is 5.1 per 100,000** people. **Only Estonia's is higher**, at 6.3. **The next most violent country is Finland, which has** a homicide rate of 2.5, **half that of the U.S.** **The remaining 28 developed countries are even lower**, with an average of 1.1 homicides per 100,000 people. But many less developed countries have much higher homicide rates -- for example Columbia (35.9), South Africa (36.8) and Sudan (24.2). This analysis uses the 2012 IMF list of developed countries. **The U.S. also has the highest rate of civilian gun ownership in the world, by far**. The best data is from the 2007 Small Arms Survey, which notes: **With less than 5% of the world's population, the U**_{nited States} **is home to** roughly **35-50 per cent of the world's civilian-owned guns**, heavily skewing the global



geography of firearms and any relative comparison. U.S. gun violence has had several decades-long cycles over the past three centuries, but shows a long-term downward trend. **Overall homicide rates were similar to Western Europe until the 1850s, but since then violence has declined more slowly in the U.S.** It's tempting to plot the relationship between gun ownership and gun violence across countries, but recent research suggests that gun violence is shaped by "socio-historical and cultural context," which varies regionally, meaning that it's not always possible to make direct comparisons. However, **it's still reasonable to compare places with similar histories, and more guns still correlate with more homicides in Western nations. Meanwhile, in developing countries, cities with more guns have more homicides.**

One way the neg might answer this is by indicting the aff's data. The numbers the aff is using—which, FYI, will be referenced by a large amount of affirmative evidence from myriad sources—comes from one primary survey called the Small Arms Survey. If the data in this Survey is inaccurate or misleadingly analyzed, the neg could make significant progress towards undermining one of the aff's central points.

The **evidence** below outlines a couple of objections to the Small Arms Survey. First, it argues that the Survey dramatically undercounts the true rate of gun possession in certain countries, which then resultantly skews the comparison in multiple ways. Additionally, because of differences in the way nations track and report their homicide rates, the picture is distorted further still. Finally, this author argues, the comparison wholesale excludes several relevant nations. Taken together, according to this card, the same data used to show positive correlation between gun ownership and gun-related homicides actually shows a negative correlation—that is, that guns *reduce* murder rates:

(Crime Prevention Research Center, "Comparing Murder Rates And Gun Ownership Across Countries," <http://crimeresearch.org/2014/03/comparing-murder-rates-across-countries/>, March 31 2014)

Charles Blow in the New York Times last year made the very common argument: **"America has the highest gun homicide rate, the highest number of guns per capita . . ."** In another story, the New York Times quotes researcher David Hemenway as claiming: "Generally, if you live in a civilized society, more guns mean more death." CNN's Piers Morgan believes: "America has the worst incidents of gun murders of any of what they call the civilized world." Bloomberg's Businessweek also made similar claims this spring. **The one common feature for these claims is that they rely on the Small Arms Survey.** So how do homicide rates compare across countries? (Click on figures to make them larger. It is necessary to greatly enlarge the picture to read the names of individual countries. UNODC data. Here it is as an Excel file.) Much of the debate is focused on gun ownership rate data for 109 countries from the Small Arms Survey. **There are real problems with this survey. For example,** the rates of gun ownership for **Israel** (7 per 100 people) **and Switzerland** (supposedly 47 guns per 100 people) . Anyone who has ever been to Israel knows that this estimate is ridiculously



low. Indeed, over time about 12 to 15 percent of the adult Jewish population in Israel is allowed to carry handguns in public. The problem with this survey excludes weapons that are technically owned by the government. The vast majority of guns in Israel are technically owned by the government, but if people have possession of guns in their homes for decades, the issue should be that public possession, not who technically owned the guns. Similarly, at that time of the Small Arms Survey, all able bodied Swiss males between the age of 18 and 42 kept their military weapons in their homes. After age 42, they could apply for permission to continue to keep their military weapons. Israeli guns are also excluded for the same reason. The Small Arms Survey claims that the United States has by far the highest level of gun ownership, with 88.8 guns per 100 people. Both Israel and Switzerland probably have much higher gun ownership rates, but including them the way the Small Arms Survey does biases the results to The US gun ownership is so high compared to other countries that it drives any regression results. There are also other problems with the survey. For example, a much better measure of gun ownership would be the percentage of the population owning guns, and not the number of guns per 100 people as used by the Small Arms Survey. Presumably the issue is whether people have access to guns, not the number of guns greater than one that an individual has access to. Looking at all countries for which the Small Arms Survey measured gun ownership, and using the Small Arms Survey data the way that it measures gun ownership, implies that more guns equals fewer homicides. Usually only a small set of countries are used in any comparison, typically limited to so-called “civilized,” as Hemenway or Morgan calls them, or “developed” countries. It isn’t clear what is meant by “civilized” countries, so what can Americans learn from these other “developed” nations? Using the developed nations as defined by the Organisation for Economic Co-operation and Development (OECD), developed countries in fact show that more gun ownership as measured by the Small Arms Survey is associated with fewer homicides. First, this is how homicide rates vary across developed countries. The relationship between homicide rates and the supposed measure of gun ownership provided the Small Arms Survey shows that even with their obviously biased measure of gun ownership, more guns ownership is associated with fewer homicides, though the relationship is not statistically significant. Because the US is claimed to be such an outlier, it makes the relationship between gun ownership and homicides less negative than it actually is. (Regressions fit the regression line to “minimize the sum of the squared errors” so you can see how much extra weight one extreme value is given.) But so what can Americans learn from these other “developed” nations? Yet, even though the cross-country data implies that more guns equals fewer homicides, this type of comparison isn’t very convincing. There is a real problem in using cross-sectional data. Suppose for the sake of argument that high-crime countries are the ones that most frequently adopt the most stringent gun control laws. What if gun control actually lowered crime, but not by enough to reduce rates to the same low levels prevailing in the majority of countries that did not adopt the laws. Looking across countries, it would then falsely appear that stricter gun control resulted in higher crime. Economists refer to this as an “endogeneity” problem. The adoption of the policy is a reaction to other events (that is, “endogenous”), in this case crime. To resolve this, one must examine how the high-crime areas that chose to adopt the controls changed over time — not only relative to their own past levels but also relative to areas that did not institute such controls. Below is part of a long discussion in *The Bias Against Guns*, Chp. 5 (*More Guns, Less Crime* also has a long discussion in Chp. 2). Unfortunately, many contemporary discussions rely on misinterpretations of cross-sectional data. The New York Times recently conducted a cross-sectional study of murder rates in states with and without the death penalty, and found that “indeed, 10 of the 12 states without capital punishment have homicide rates below the national average, Federal Bureau of Investigation data shows, while half the states with the death penalty have homicide rates above the national average” (Raymond Bonner and Ford Fessenden, “States With No Death Penalty Share Lower Homicide Rates,” *New York Times*, September 22, 2000, p. A1.). However, they erroneously concluded that the death penalty did not deter murder. The problem is that the states without the death penalty (Alaska, Hawaii, Iowa, Maine, Massachusetts, Michigan, Minnesota, North Dakota, Rhode Island, West Virginia, Wisconsin, and Vermont) have long enjoyed relatively low murder rates, something that might well have more to do with other factors than the death penalty. Instead one must compare, over time, how murder rates change in the two groups — those adopting the death penalty and those that did not. It is because of this concern that we also provide another post that looks at crime rates before and after regulations such as bans. Finally, as an aside, one has to be very careful in making comparisons across countries because numbers are not always comparable. For example, homicides in England and Wales are not counted the same as in other countries. Their homicide numbers typically “exclude any cases which do not result in conviction, or where the person is not prosecuted on grounds of self defence or otherwise” (Report to Parliament). A more detailed discussion of the difference between “offenses initially recorded as homicide” and “offenses currently



recorded as homicide” in England and Wales based on the outcomes of trials is available starting on page 9 here. While this adjustment reduces overall homicides by about 15 percent, it has a larger impact on firearm homicides because those tend to be the ones most likely to involve gang fights that are much more difficult to solve. The problem isn’t just that it reduces the recorded homicide rate in England and Wales, but there would be a sizable reduction in the reported US homicide rate if this approach were used here. For example, from 2000 to 2008 only about 62 percent of US homicides are even cleared by arrest. The numbers in the UK appear to be only adjusted based on cases where charges are brought. In that case, it is useful to note that in the US only about half of those arrested are eventually convicted (also here). You also need to be very careful before relying too heavily on homicide rates in other countries. If the United States is relatively more accurate in measuring its homicide rate and other countries try to hide their rates, it will look like it look like the US has a relatively higher rate than it actually does. Take two examples. Argentina — Some countries might deliberately mischaracterize homicides into another category. The breakdown of official statistics also raises the critical question of whether the extent of youth homicides is being obscured. With gun suicides and accidental deaths separately categorized, many of the violent deaths involving a firearm that La Nacion reports are currently listed as “unknown intent” could be homicides. . . . UK — Homicides in England and Wales are not counted the same as in other countries. Their homicide numbers “exclude any cases which do not result in conviction, or where the person is not prosecuted on grounds of self defence or otherwise” (Report to Parliament). The problem isn’t just that it reduces the recorded homicide rate in England and Wales, but what would a similar reduction mean for the US. If taken literally, and there is significant evidence that in practice the actual adjustment is no where near this large, a simple comparison can be made. In 2012, the US murder rate was 4.7 per 100,000, a total of 14,827. Arrests amounted to only 7,133. Using only people who were arrested (not just convicted) would lower the US murder rate to 2.26 per 100,000. More information on the adjustment for England and Wales is available here and it suggests that while many homicides are excluded it isn’t as large as it would appear (in 1997, the downward adjustment would be about 12 percent). Many gun control advocates prefer to look at only firearm homicides, not total murders. The United States has neither the highest firearm homicide rates for all countries or for developed countries. Among OECD countries, Mexico has the highest firearms homicide rate, with a rate about 3 times higher than the US rate. Brazil’s and Russia’s are much higher, though Russia does not report firearm homicides so it is only a guess for that country. By the way, despite Israel and Switzerland having very high gun possession rates, their firearm homicide rates are extremely low. In the data shown below, Switzerland had a firearms homicide rate of 0.77 per 100,000 people and Israel has a rate of just 0.09 per 100,000. Note that there are many countries that clearly have higher gun homicide rates than the United States that don’t have data available. Indeed, while 192 countries report total homicides, only 116 countries report firearm homicides. The average homicide rate for the countries that don’t have firearm homicides is 11.1 per 100,000. The median homicide rate for those that are missing is 8.7 per 100,000. Among the countries with higher homicide rates is Russia with a homicide rate of 11.6. The bottom line is that the countries that are missing the data are among the worst homicide countries. Again, all the concerns provided over relying on cross-sectional data still apply here. In addition, the firearm homicide data is not available for many of the countries with the highest homicide rates, suggesting that this cross-sectional comparison is even much more misleading than the discussion on homicides. Click on figures to enlarge.

There’s also another warrant against Small Arms Survey info, laid out in this next piece of **evidence**. The Survey uses cross-sectional data, meaning it looks at the rate at which a certain phenomenon occurred in different places during the same time period. This is a bad way to think about crime data, the card



argues, because of the “endogeneity problem.” Essentially, by including nations that have low murder rates for reasons unrelated to gun ownership, the numbers are skewed:

(Crime Prevention Research Center, “Comparing Murder Rates And Gun Ownership Across Countries,” <http://crimeresearch.org/2014/03/comparing-murder-rates-across-countries/>, March 31 2014)

Yet, even though the cross-country data implies that more guns equals fewer homicides, this type of comparison isn’t very convincing. **There is a real problem in using cross-sectional data. Suppose for the sake of argument that high-crime countries are the ones that most frequently adopt the most stringent gun control laws. What if gun control actually lowered crime, but not by enough to reduce rates to the same low levels prevailing in the majority of countries that did not adopt the laws.** Looking across countries, **it would then falsely appear that stricter gun control resulted in higher crime.** Economists refer to this as an “endogeneity” problem. **The adoption of the policy is a reaction to other events** (that is, “endogenous”), in this case crime. **To resolve this, one must examine how the high-crime areas that chose to adopt the controls changed over time — not only relative to their own past levels but also relative to areas that did not institute such controls.** Below is part of a long discussion in *The Bias Against Guns*, Chp. 5 (*More Guns, Less Crime* also has a long discussion in Chp. 2).

Because of these sorts of arguments, it would be smart for debaters to make sure to carry off evidence that gathers its data from sources other than the Small Arms Survey.

Here is such a piece of aff **evidence** that does not use the Survey. Instead, it uses a study from the University of Washington. It argues that, statistically, gun crime makes the United States as dangerous as Afghanistan—certainly a striking claim!:

*(David Francis, award-winning journalist specializing in terrorism and national security, “These Charts Show Why the U.S. Is Almost as Dangerous as Afghanistan,” *Foreign Policy*, <http://foreignpolicy.com/2016/01/05/these-charts-show-why-the-us-is-almost-as-dangerous-as-afghanistan/>, Jan 5 2016)*

A tearful President Barack **Obama**, whose administration has been plagued by a spate of mass shootings, unveiled new measures Tuesday meant to curb gun violence in the United States. In doing so, he **argued that peer nations don’t have the same epidemic firearm violence** that Americans deal with on a routine basis. “We are the only advanced country on Earth that sees this kind of mass violence erupt with this kind of frequency,” Obama told a White House audience of gun-control advocates. “It doesn’t happen in other advanced countries. It’s not even close.” The charts below show **he’s right — assuming the United States does not consider Afghanistan its equal.** The first chart is compiled from **data from** the Global Burden of Diseases, Injuries, and Risk Factors Study, which was conducted by **the University of**



Washington's Institute for Health Metrics and Evaluation, and collaborators around the world. It shows all deaths by firearm per 100,000 people in the United States in 2013, compared to other advanced countries. As you can see, the U.S. is far ahead. The second chart, made with data from the same study, shows accidental deaths by firearms per 100,000 people. Again, the United States is the clear leader. Finally, using data from the World Bank, here's the U.S. murder rate per 100,000 in 2012, compared to two relatively peaceful countries — Germany and Canada — and some of the more violent countries in the world. As you can see, in 2012 a U.S. citizen was almost as likely to be murdered in America as an Afghan was to be killed in their country, wrecked by nearly 15 years of war.

Another piece of **evidence**, provided below, comes from a meta-analysis of numerous studies on the subject of gun violence. It concludes that more guns result in more violence, and supports that assertion with several different warrants—none of them reliant on the Small Arms Survey:

(Matthew D. Makarios & Travis C. Pratt, prof at Univ of Cincinnati, Ohio & Arizona State University, Phoenix, "The Effectiveness of Policies and Programs That Attempt to Reduce Firearm Violence: A Meta-Analysis," Accessed via Journalist's Resource (A project of the Harvard Kennedy School's Shorenstein Center and the Carnegie-Knight Initiative, we're an open-access site that curates scholarly studies), originally published in Crime and Delinquency, Vol. 58, No. 2, pp 222-244, <http://journalistsresource.org/studies/government/criminal-justice/effectiveness-policies-programs-reduce-firearm-violence-meta-analysis#sthash.1f5fKKjz.dpuf>, March 2012)

Nearly 12,700 homicides were committed with weapons — 8,583 [homicides were committed] with firearms — in the United States in 2011, according to FBI data. Of the murders where firearm types were identified, 6,220 were committed with handguns; 323 with rifles; and 356 with shotguns. Another roughly 1,700 were committed with firearms either of unknown type or in other categories. Data from the Centers for Disease Control and Prevention (CDC) shows that 81,363 people were injured by firearms in 2012, although statistics about wounded persons are known to be incomplete. Behind these figures are a variety of significant cultural trends and shifts, as well as myriad efforts by law enforcement across the country employing different tactics and strategies. First, there is a long-term trend toward fewer violent crimes and murders across the population: Since 1991, the rate of violent crime has been cut nearly in half, according to FBI data. In May 2013, the Pew Research Center issued a report titled "Gun Homicide Rate Down 49% Since 1993 Peak; Public Unaware." Despite differences in numbers, both FBI and CDC researchers agree that the overall number of gun-related murders has declined in recent years. (For more on this varying data, see this post from Annenberg Public Policy Center's FactCheck.org.) Despite shocking rampage violence in places such as Aurora, Colo., and Newtown, Conn., some scholars have argued that there is actually a declining culture of violence and guns in America. U.S. gun ownership rates have also declined in recent decades, going from about 50% in the 1970s to 34% in 2012, according to a New York Times analysis of General Social Survey data. Yet a 2011 study in the Journal of Trauma from Harvard and UCLA compared the United States with similar nations and found that U.S. homicide rates were "6.9 times higher than rates in the other high-income countries, driven by firearm homicide rates that were 19.5 times higher. For 15- to 24-year-olds, firearm homicide rates in the United States were 42.7 times higher than in the other countries." This crime data has also been playing out against political shifts: In recent years the public has been roughly split over whether gun regulation or rights are more important; this follows a long period where the majority favored regulating guns, according to Pew Research Center data. However, the Newtown, Conn., school shootings appears, for the first time in years, to have shifted public opinion back toward increased support for some gun control, according to a New York Times/CBS poll. A 2013 survey and report published in the New England Journal of Medicine has data on the public's views on guns, mental illness issues and violence, in the wake of the Newtown; overall, it also shows a greater embrace of gun restrictions. A 2013 study published in the journal Internal Medicine — from the American Medical Association — examined the strength of laws across the 50 states and looked at the relationship with the number of homicides and suicides over the period 2007-



2010. **The study found that “higher number of firearm laws in a state are associated with a lower rate of firearm fatalities in the state, overall and for suicides and homicides individually.”**

However, the researchers admitted that the precise relationship could not be established, and a related comment published by an independent researcher underscored the study's limits. Another 2013 study, from Johns Hopkins, looks at the same problem by isolating specific cases of gun violence in different states; its conclusions are also mixed, though the researchers do note[s] that “stricter gun ownership laws in states with the lowest standards would have made firearm possession illegal for many who used a gun to commit a crime.” As trauma surgeons and first-responders are well aware, the precise type and capacity of weapons can matter a great deal in terms of damage done to the human body. Though assault weapons are used in relatively few incidents, some researchers suggest that their prevalence likely “amplifies pre-existing risks of violence.” Further, the availability of semi-automatic pistols, for example, likely drives up homicide rates, compared with more conventional revolvers, according to researchers at the University of Pennsylvania.

Scholarship on the effectiveness of the 1994 assault weapons ban – which expired in 2004 — has **suggested that the law may have reduced gun-related homicides** in the immediate aftermath of the law's passage, **but** gun market forces (particularly **the increase in manufacturing just prior to the ban**) complicate this picture. **Researchers believe** that the failure to curb the use of large capacity magazines, also technically banned by the new law, **muted the law's** intended **effects**. As noted in a 2004 study from the University of Pennsylvania's Jerry Lee Center for Criminology, **the use of assault weapons** — primarily assault pistols — **in gun crimes after the 1994 ban was implemented dropped by 17% to 72% across cities such as Baltimore, Miami, Milwaukee, Boston, St. Louis and Anchorage.** However, assault weapons were used in only 2% to 8% of gun crimes before the ban; by far the most pressing issue was the use of large capacity magazines, which were used in 14% to 26% of gun crimes before the ban. The use of these magazines continued at high rates. **The scholars conclude that the millions of pre-existing (“grandfathered”) assault weapons and large capacity magazines in private hands diminished the power of the ban** in the short term, **and** they suggest that **the ban's 10-year duration was not yet long enough to see significant changes.** A 2000 study titled “Homicide and Suicide Rates Associated with Implementation of the Brady Handgun Violence Prevention Act” found that implementation of mandatory waiting period for gun purchases through licensed gun dealers and mandatory background checks yielded mixed results. The study, from Georgetown University, found that these new rules were “associated with reductions in the firearm suicide rate for persons aged 55 years or older but not with reductions in homicide rates or overall suicide rates.”

However, the argument that the U.S. is the most violent nation in the industrialized world is not universally accepted. Once again, we must return to the problem of statistics. Here we can see another example of how conclusions often hinge on the decisions of what data is included, what data is excluded, and exactly how the analysis is computed.

Here is neg **evidence** on this point. It lists nations that, while not as wealthy as the United States, certainly qualify as “industrialized,” that outpace America in homicides:

(Glenn Kessler, award-winning journalist, foreign policy lecturer, and author of Washington Post's “Fact Checker” feature, “Obama's odd series of exaggerated gun claims,” Washington Post, <https://www.washingtonpost.com/news/fact-checker/wp/2015/03/12/obamas-odd-series-of-exaggerated-gun-claims/>, March 12 2015)

Our homicide rates are so much higher...by like a mile’ When we first saw this quote, we thought **the president said the United States had the highest homicide rate among industrialized nations.** So did our reader. After all, the



president even used the phrase “by like a mile.” We got some push-back from the administration on this interpretation so just to be sure, we surveyed six colleagues and asked them what they thought the quote meant. The result was unanimous: the president was telling students the United States had the highest homicide rate among the industrialized world. **That is factually incorrect. The best proxy for “industrialized countries” is the membership of the Organization for Economic Cooperation and Development.** There are currently 34 countries in the OECD, but the agency also includes Brazil and Russia in its statistical data. (The two countries have been negotiating for membership but talks have been suspended with Russia because of the Crimea crisis.) **The OECD says the average homicide rate among the 36 countries is 4.1 per 100,000 people. According to the 2014 data, at the top of the list is Brazil, with a homicide rate 25.5, or six times the average. Next on the list is Mexico, with a homicide rate of 23.4, followed by Russia at 12.8. Then comes a tie for fourth place—Chile and the United States both have a homicide rate of 5.2. Estonia follows close behind with a homicide rate of 4.7.** So the United States certainly has a rate that is above average—and indeed, countries such as Japan, Germany, France and the United Kingdom all have homicide rates that are well below 1 per 100,000. But **the** president said that **U.S. rate** was higher “by a mile” when **in fact** the rate **is five times lower than Brazil and four times lower than Mexico.**

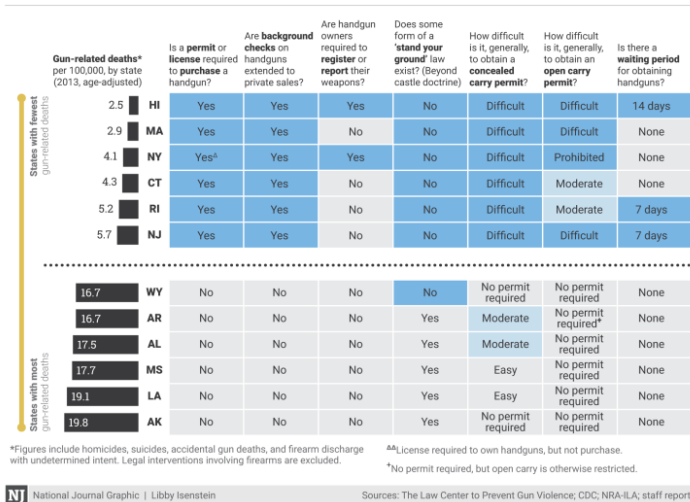
Empirical Evidence- State Laws

As we already discussed in the background section, gun ownership is not a complete free-for-all in the status quo. The federal government and all 50 states do have laws on the books regulating civilian possession of firearms. So, one way to evaluate whether a handgun ban would reduce casualties might be to compare gun-related death rates between states where acquiring a gun is legally difficult, versus states with loose gun control laws.

The **evidence** below supports the aff’s case, suggesting that such a comparison indicates that less access to guns does reduce violence:

(Libby Isenstein, “The States With The Most Gun Laws See The Fewest Gun-Related Deaths,” National Journal, <http://www.nationaljournal.com/s/53345/states-with-most-gun-laws-see-fewest-gun-related-deaths>, August 28 2015)

While it’s certainly true that a number of factors contribute to the high rates of gun violence in the U.S., **a comparison of state laws versus rates of shooting deaths does show a correlation. The states that impose the most restrictions on gun users also have the lowest rates of gun-related deaths, while states with fewer regulations typically have a much higher death rate from guns.**



The neg, however, might counter that the above report lumps homicides in with suicides, which are categorically different. When removing suicides from the data set, the result is inconclusive. Here's evidence:

(Amber Phillips, analyst, "The gun control debate, explained in 5 questions," *Washington Post*, www.washingtonpost.com/news/the-fix/wp/2015/10/08/how-to-argue-about-gun-control/, 12/3/15)

Do more gun laws prevent gun deaths? The data on this is incomplete. **National Journal published a chart** in August **proclaiming to show that states with stricter gun laws** — Hawaii, Massachusetts, New York and New Jersey — **had fewer gun death rates**. **But when the Washington Post's Fact Checker team removed suicides** from those gun deaths **(which accounted for more than 60 percent of gun-related deaths in 2013), the results changed**, sometimes **dramatically**. **In this new calculation, half the top 10 states with the lowest gun-death rates** (per 100,000 residents here) **have less-restrictive gun laws**.



However, the aff might respond that, even without suicides included, the correlation holds. Here is **evidence** speaking to this:

(Glenn Kessler, fact checker, "Obama's claim that 'states with the most gun laws tend to have the fewest gun deaths'", Washington Post, <https://www.washingtonpost.com/news/fact-checker/wp/2015/10/05/obamas-claim-that-states-with-the-most-gun-laws-tend-to-have-the-fewest-gun-deaths/>, October 5 2015)

Speaking at the White House on Thursday evening, a visibly frustrated and emotional President **Obama remarked** on the deadly shooting at a community college in Oregon. (AP) "We know that **states with the most gun laws tend to have the fewest gun deaths**. So the notion that gun laws don't work, or just will make it harder for law-abiding citizens and criminals will still get their guns is not

borne out by the evidence." —President Obama, remarks on Shootings at Umpqua Community College, Oct. 1, 2015 Many readers requested a fact check of this statement, believing it to be untrue. It certainly is a sweeping comment, and it depends in part on which gun laws to count and how to evaluate them. The president is also referring to the rate of gun deaths, not an absolute total (as the biggest states are almost always going to have the most number of gun deaths). But **this is also an issue**

about scope. Most gun deaths — more than 60 percent in 2013 — are actually suicides. The president made his remarks in the aftermath of the tragic shooting rampage at an Oregon community college, and so it's a judgment call as to whether counting suicides is appropriate. After all, Obama wants to thwart mass shootings by enacting universal background checks aimed at people with criminal histories. Some might argue that it is wrong to exclude suicides from the data, as less access to guns might result in fewer suicides. The data on that is mixed. Gun-related suicides might decline, but studies have shown little connection between suicides and access to guns. A 2004 report published by the National Academy of Sciences concluded that "some gun control policies may reduce the number of gun suicides, but they have not yet been shown to reduce the overall risk of suicide in any population." Japan, for instance, has among the world's most-restrictive gun-control regimes — and yet also has among the world's highest suicide rates, almost double the U.S. suicide rate. As we will show below, **the numbers**

change, sometimes dramatically, when suicides are not counted. The president's statement was based on a chart published by National Journal in August, officials say, with a title even more emphatic than the president's statement: "The States With The Most Gun Laws See The Fewest Gun-Related Deaths." The data used in this chart calculates the number of gun-related deaths per 100,000 people by including all gun deaths, including homicides, suicides, accidental gun deaths and legal intervention involving firearms. The states at the top of the chart — Hawaii, Massachusetts, New York, Connecticut, Rhode Island and New Jersey — are listed as having tough restrictions, based on seven kinds of criteria. The states at the bottom — Alaska, Louisiana, Mississippi, Alabama, Arkansas and Wyoming — have virtually none of these restrictions. But even in this chart, there are some outliers. New Hampshire and Vermont, for instance, have few gun restrictions but also have relatively low rates of gun deaths. Gun rights advocates have disputed some of National Journal's criteria as arbitrary and haphazard. John R. Lott Jr., a gun rights analyst, noted that California, Illinois and Washington are coded by National Journal as states without "stand your ground" laws — which permit the use of deadly force in self-defense in public. A footnote says that court decisions in those states have in effect permitted "stand your ground" actions with no requirement to retreat. Lott asks: "Who cares whether you have 'stand your ground' provisions because of a law or court precedents?" In any case, **we were curious to see what would happen if suicides were**

removed from the totals. After all, rural areas (which may have less-restrictive gun laws) have a lot of suicides of older single men who become lonely. So we ran the numbers — and in some cases, it made a huge difference. Alaska, ranked 50th on the National Journal list, moved up to 25th place. Utah, 31st on the list, jumped to 8th place. Hawaii remains in 1st place, but the top six now include Vermont, New Hampshire, South Dakota, Iowa and Maine. Indeed, half of the 10 states with the lowest gun-death rates turn out to be states with less-restrictive gun laws. Meanwhile, Maryland — a more urban state — fell from 15th place to 45th, even though it has very tough gun laws. Illinois dropped from 11th place to 38th, and New York fell from 3rd to 15th. Here's a chart showing the results of our research. We highlighted the 25 states deemed to have the least-restrictive gun laws, based on criteria from a 2013 paper looking at gun-death data between 2007 and 2010 assembled by a team headed by Eric W. Fleegler, a pediatric emergency medicine physician at Boston Children's Hospital. (The paper's criteria, which assigned each state a score based on gun purchasing and ownership requirements during the period studied, is also disputed by gun rights advocates such as Lott, but this seemed the easiest way to distinguish the states.) **most of the states at**

the bottom appear to **have less-restrictive gun laws**. But the results are much more jumbled than the National Journal approach of counting every gun death. Fleegler, however, argues that **the results**, as shown in his paper, **still support the case that more gun laws result in lower death rates**. He **likened the results to an antibiotic that would work for 80 percent** of the people who take it. "Some people do not have the same response, just as not every states has the same response to gun laws," he said.



Suicide

Since it has been raised, let's take a minute to examine the relationship between gun possession and suicides.

This one, in my opinion, is a pretty clear toss-up. There is some **evidence** that gun ownership increases the likelihood of completed suicide...:

(Philip J. Cook (Sanford Professor of Public Policy, Duke University, and Research Associate at the National Bureau of Economic Research) & Jens Ludwig (Associate Professor of Public Policy, Georgetown University, and Faculty Research Fellow at the National Bureau of Economic Research), "AIMING FOR EVIDENCE-BASED GUN POLICY," Journal of Policy Analysis and Management, Vol. 25, No. 3, pp. 691–735, http://home.uchicago.edu/~ludwigj/papers/JPAM_aiming_for_evidence_gun_policy_2006.pdf, 2006)

Do **guns** also **increase the lethality or frequency of suicide attempts**? The research on this point is less strong than for homicides, but seems to point—albeit tentatively—in the direction of more guns, more completed suicides. Much of the evidence here comes from case-control studies (see Miller & Hemenway, 1999; and Chapter 7 of Wellford et al., 2005), the limitations of which are mentioned above. **The best available study to date of how gun prevalence affects suicide completion rates** is by Duggan (2003), using gun magazine subscription rates as a proxy for gun prevalence. Duggan **presents** cross-sectional evidence that exploits **the fact that men are far more likely than women to own guns** (Cook & Ludwig, 1996; Kleck, 1997) **and to use a gun in a suicide attempt** (Cook & Ludwig, 2000). He finds that **states with relatively high gun ownership rates also have a higher ratio of male-to-female suicides compared with states with fewer guns. These findings are consistent with the idea that guns increase the lethality of suicide attempts.** Duggan also presents panel-data estimates that compare variation across counties or states in gun ownership rates, yielding estimates for the effects of guns on suicide that are positive but much smaller than for homicide, and not statistically significant.

...However, the experts all seem to concede that the study methodology isn't airtight, and the statistical relationship is weak. Even assuming the relationship holds, though, it's not hard to understand what might be going on. A self-inflicted gunshot wound is much more likely to be immediately lethal than most other common suicide methods. This may make them attractive options for those considering suicide, as well as decrease the possibility that another party may intervene and prevent death.



Regardless, a person determined to commit suicide could find a way to do it, with or without access to a handgun.

Because of the weakness of this argument, as well as the delicate nature of the subject, I would recommend avoiding it.

Empirical Evidence- U.S. Cities

Returning to the question of whether handgun bans can prevent violent crime, another area ripe for exploration is the results of historical gun bans. Although, as we already discussed, all outright bans have been overturned at this point, we can nevertheless look to them as examples of what the results of handgun prohibition might be.

One promising example for the aff comes New York City. Although New York has never had a total ban, the city has recently enacted the nation's strictest firearms laws, which make legally carrying a gun within the city limits nearly impossible. New York also boasts a surprisingly low homicide rate for a city of its size. Some experts chalk this up to the value of limiting gun ownership. Here is **evidence**:

(Colleen Long, AP journalist, "Bloomberg Says Gun Control Responsible For Lower New York Crime Rates, Experts Agree," Huffington Post, http://www.huffingtonpost.com/2013/01/23/bloomberg-gun-control-lower-new-york-crime-rates_n_2535522.html, originally published Jan 23 2013, updated March 25 2013)

In his nationwide effort for tighter gun control, Mayor Michael **Bloomberg attributes historic crime lows in New York to strict gun laws that are strictly enforced**. "If we are serious about protecting lives," he wrote in a recent newspaper editorial, "we have to get serious about enforcing our laws." **The National Rifle Association** has dismissed Bloomberg's anti-gun campaign over the years as a publicity stunt and **said** last week that **tighter laws would have no effect on public safety and crime. But leading criminologists around the country say Bloomberg is right**, for the most part. While acknowledging policing isn't the only factor in reducing gun violence, **they cite the all-time low number of slayings in a city where most people are killed with guns**. "New York is showing the way for some good strategies in policing," said Harold Pollack, co-director of the University of Chicago Crime Lab. **Getting a thin layer of guns off the streets matters**, said Franklin Zimring, author of "The City that Became Safe: New York's Lessons for Urban Crime and Its Control." "Gun policing in New York got much more effective as every kind of street policing got more effective," he said. Bloomberg is leading the charge but is backed by Mayors Against Illegal Guns, a coalition he started that now has more than 800 mayors from around the country. "The more of us that we have together, the better we'll be able to make the case to Congress why sensible gun laws have to be on the books and have to be enforced," he said last week in Washington. **"We** just cannot



continue to have 33 people a day killed in the United States with guns, and over 40 people commit suicide with guns every single day." New York state had strict laws even before legislators passed the nation's toughest last week. And city regulations augment them. For example, in New York City, gun permits must be renewed every three years; there were no restrictions in other parts of the state until the new action. Obtaining a permit to carry a pistol or a revolver is incredibly difficult, and carrying a rifle or shotgun in the city is illegal. Out-of-state permits to carry a gun aren't recognized in the city. At Bloomberg's urging in 2007, the state passed mandatory minimum sentencing laws for gun convictions. A city gun offender registry was created in which officers track serious gun convicts, not unlike sex offenders. Bloomberg fronted a sting operation to expose the gun show loophole. But the laws didn't start working until police effectively started enforcing them, said Zimring, a law professor at the University of California, Berkeley. Most of the murders in the city are committed with guns – that hasn't changed. But policing has. Under Police Commissioner Raymond Kelly, "hot spots policing" proliferated, in which officers flood high-crime areas tracked by a computer reporting system. The department formed a firearms suppression unit in 2006 that identifies traffickers and uses undercover officers to buy and arrest them. Crime has dropped almost across the board in the decade Bloomberg has been in office. There were 418 killings last year for a population of 8 million people, the lowest number since reliable records were kept starting in 1963. Chicago, for example, had 487 for 2 million people. In 1990, New York City had an all-time high of 2,245 killings. "Is a lot of that effective street gun policing? Yes," Zimring said. People caught violating the laws get punished, even famous people, like former New York Giants football star Plaxico Burress, who walked into a nightclub with a loaded gun tucked into his track pants in 2008 and accidentally shot himself in the thigh. The wide receiver had no criminal record but spent nearly two years in jail on a weapons charge. "That's a deterrent," said Pollack of the crime lab. "You want to create a deterrent for carrying a gun, you prosecute someone who didn't injure anyone else. A celebrity, no less." Most of the guns used in shootings in the city come from out of state, officials said. Overall, New York City has about 5,100 firearm-related arrests each year – the majority of the 7,600 or so statewide, according to statistics from the state Division of Criminal Justice Services.

Opponents, though, argue that NYC's reduction in violence was the result of other factors, and should not be credited to gun laws. Here is **evidence**:

(Colleen Long, AP journalist, "Bloomberg Says Gun Control Responsible For Lower New York Crime Rates, Experts Agree," Huffington Post, http://www.huffingtonpost.com/2013/01/23/bloomberg-gun-control-lower-new-york-crime-rates_n_2535522.html, originally published Jan 23 2013, updated March 25 2013)

But an NRA spokesman noted that crime has been dropping in many cities nationwide for decades, regardless of the gun laws. "I think if you look at the overall violent crime rate that the FBI rate disseminates annually, it's been decreasing steadily nationwide over the last few decades," said spokesman Andrew Arulanandam. "And simultaneously, this is the narrative, the last few decades more people have been purchasing firearms." And criminologists cautioned against giving the city and department too much credit – other factors, such as the economy and education, play a role in the rise and fall of crime. Plus, nonviolent incidents like auto theft that don't involve guns at all are also down.

While New York's gun laws are strict, an even more direct comparison to the resolution can be found in cities that once had true bans on their law books.



Washington, D.C. is one such city. The District had a handgun ban for a number of years, which some researchers believe did successfully reduce homicide and suicide rates. Here is a piece of aff **evidence** on D.C.:

(Philip J. Cook (Sanford Professor of Public Policy, Duke University, and Research Associate at the National Bureau of Economic Research) & Jens Ludwig (Associate Professor of Public Policy, Georgetown University, and Faculty Research Fellow at the National Bureau of Economic Research), "AIMING FOR EVIDENCE-BASED GUN POLICY," Journal of Policy Analysis and Management, Vol. 25, No. 3, pp. 691–735, http://home.uchicago.edu/~ludwig/papers/JPAM_aiming_for_evidence_gun_policy_2006.pdf, 2006)
An alternative approach for learning about the effects of gun availability on public health and safety is to examine the effects of policy changes that influence overall gun ownership rates. While these policy experiments have commanded a great deal of public attention, they are not very informative about the effects of widespread gun availability on violence, primarily because even outright bans on handguns have surprisingly modest effects on gun ownership rates. **One widely cited policy change is Washington, D.C.'s 1976 ban on handgun acquisitions.** By the late 1980s the notion that Washington's handgun ban had achieved anything useful seemed unlikely, given common references to the city as the "Homicide Capital of the World." Nevertheless **the available data do suggest that homicides and suicides declined by around 25 percent around the time of the District's handgun ban, led by reductions in homicides and suicides with guns** (Loftin et al., 1991)—before the violent tsunami caused by the introduction of crack cocaine.

However, as we already know, data can be messy. Not everyone believes that the numbers point to bans' success. Here is **evidence** making the argument that gun bans actually increase violent crime, and attribute that result to the value of self-defense, something we'll discuss more later:

(South Boston Today, "Crime Rate Drops in Chicago When Handgun Ban Lifted," staff editorial, <http://southbostontoday.com/crime-rate-drops-in-chicago-when-handgun-ban-lifted/#sthash.S4kqE5xt.dpuf>, April 24 2014)

Large **cities** around the country **plagued with** increasing **crime** rates **are** desperately **searching for ways to combat it.** Here in Boston, well intentioned political and law enforcement officials are trying everything possible to combat gun violence, gangs and other crimes. **Boston, like other major urban areas has instituted gun buy back programs,** often **with questionable success,** but has also reinforced their anti-gang efforts which have a better track record of effectiveness. **But no city in America is more dangerous as far as violent crime is concerned than the city of Chicago. The violent history of Chicago over the last 3 decades is well documented as were its strict prohibitions against the private ownership of firearms by law abiding citizens. In fact, the out of control crime rate; much of it gang related, earned that city the title of 'Murder Capital of the Nation'. The most anti-gun city in the country also was the most violent. Was it a coincidence?** The



National Rifle Association and other experts on this issue say no. In September 2013, the courts overturned Chicago's ban against 'concealed carry' by private citizens as unconstitutional and the Illinois State Police started issuing concealed carry permits. Since that happened, the violent crime rate in Chicago has been plummeting; some say proving what America's powerful gun lobby and prominent social scientists and criminologists have maintained all along. And that is that in the overwhelming number of cases, it's not law abiding gun owners who are committing the crimes in Chicago or any other location in America. This has proven, and many high ranking members of law enforcement agree, that making guns illegal in large crowded cities will only make crime worse. Think about it, if you allow private citizens to own and carry firearms, criminals will be forced to think twice before deciding to commit violent crimes against decent citizens. They will have to consider the possibility that their potential victims may be carrying a weapon for self-defense. And this is proving to be an effective deterrent in city after city that has been passing laws to allow concealed carry. Leading up to the court's decisions to allow concealed carry in Chicago, many of that city's political leaders along with major liberal newspapers predicted that the lifting of the gun ban would cause turmoil and would see society there degenerate into the old Wild West. Former Chicago Mayor Daly fought hard against overturning the ban and that city's current mayor also spoke out against it even before he took office. But as statistics and official data have shown, the opposite has happened. Several years ago, Washington DC's gun ban was overturned by the US Supreme Court with the same results: Gun crime plummeted in that city. The results speak for themselves.

Besides D.C., that last card also discusses Chicago, which is a particularly controversial case. Chicago formerly had a handgun ban, which has since been overturned, but the city still maintains regulations on gun ownership that—at least on paper—are stricter than the vast majority of the nation.

The reason why Chicago is so frequently brought up in gun control debates is that, as our last card referred to, its handgun ban coexisted with a period of dramatic violence within the city. The ban did not appear to make a dent in gun crime rates, nor did the violence abate. The factors at play in that situation are numerous and complicated, and both sides want to claim it as their own talking point.



When the negative brings up the failure of Chicago to reduce gun violence, the aff might answer that Chicago's continued struggle with violent crime is actually proof that nationwide handgun bans are necessary, because guns came into the city from surrounding areas with looser laws. Here is **evidence**:

(Zack Beauchamp, Editor of TP Ideas & M.Sc in International Relations from the London School of Economics, "No, Chicago Isn't Proof That Gun Regulation Doesn't Work," ThinkProgress, The Center for American Progress, <http://thinkprogress.org/justice/2013/02/15/1599631/no-chicago-isnt-proof-that-gun-regulation-doesnt-work/>, Feb 15 2013)

Friday afternoon, President Obama will speak on gun violence prevention in Chicago. Charles C.W. Cooke, writing for National Review, previews the conservative spin, arguing that because Chicago has a high murder rate and relatively strict gun laws, it "defies belief" that the President would defend gun regulations there. But Cooke and the other

conservatives who will invariably make this argument today are wrong. **Chicago's gun laws aren't the cause of** the recent uptick in

violence, nor does it prove that gun regulations are ineffectual. If anything, it underscores the need for tighter federal laws. Most significantly, it is important to understand that **Chicago is not an island.**

Although Chicago has historically had strict gun laws, laws in the surrounding parts of Illinois were much laxer — enabling middlemen to supply the criminals in Chicago with guns they purchased elsewhere. Forty three percent of the guns seized by law enforcement in Chicago were originally purchased in other parts of Illinois. And even if the state had stricter gun laws, Illinois is not an

island either. **The remaining fifty seven percent of Chicago guns all came from out of state,** most significantly from nearby Indiana and distant Mississippi — neither of which are known for their strict gun laws. It's also important to put Chicago's very recent increase in gun violence in perspective. Data from the University of Chicago Crime Lab's Harold Pollack shows that this uptick, while certainly worrying, isn't anything like a return to the historic peaks during America's crime wave. Pollack notes that "Chicago ranks 79th on Neighborhood Scout's list of the 100 most dangerous places to live in America...the idea that Chicago faces a unique or unprecedented rise in homicides is incorrect. Our problems are all too familiar and chronic throughout much of urban America." Chicago, following the

national trend, has experienced a significant downturn in homicides in the past decade and a half: **Chicago had an outright ban on handguns from 1982 until 2010,** when the Supreme Court declared it unconstitutional. **So there's no reason to believe that strict regulations on gun ownership were responsible for a spike in gun homicides in 2012, two years after** Chicago was forced to loosen its gun laws. Moreover, there's simply no credible evidence that wider gun ownership

or looser gun laws reduce crime. **So why did Chicago's homicide rate increase in 2012?** Pollack says "there's no simple answer." But he points **to three factors are particularly important: escalating gang conflict as a consequence of police crackdowns** and shifting gang territory, **outdated law enforcement practices, and — yes — access to guns.** According to Pollack, **access to guns** significantly increase the risk that a conflict between two gang members escalates to homicide, as weapons designed to kill people (shockingly) **make it easier to kill** people. **Chicago's streets are flooded with guns: it has roughly six times as many guns as New**

York City per capita, despite its restrictive laws. So if gang conflict escalates, and the gangs have easy access to guns, **the homicide rate should rise.** This explanation fits with the fact that 87 percent of Chicago homicides in 2012 were gun-related. New York, by contrast, did not experience a surge in homicides in 2012. The guns that fueled this fire came from a small number of individuals bringing guns into the city. A study of Chicago's gun market (which, incidentally, concluded that tight enforcement of Chicago's gun ban and restrictions significantly disrupted illegal gun markets) found that most of guns in high-crime neighborhoods entered through a small, tight network of suppliers and middlemen: "Gun suppliers report that 60-80% of their sales are negotiated through brokers (we assume the 80% figure) and by our own estimates gun suppliers account for around half of all gun sales in the GB community." Because most criminals weren't comfortable going out of their neighborhoods to buy guns, and Chicago had no gun stores in the city, they relied on this network to get them guns from outside of Chicago. As

explained above, the fact that suppliers could acquire guns so easily is a byproduct of the state's lax laws. **Illinois does not license or regulate gun dealers, require gun registration, limit the number of guns that can be sold at one time, or require background checks on private sales that aren't conducted at gun shows.** Chicago law doesn't



fill in all of these gaps. As a consequence, crooked firearm retailers have very little problem distributing their guns to dealers and police have fewer tools to deal with intermediaries who sell guns privately without background checks. **This is a national problem.** Illinois laws, loose as they are, are the eight-strictest in the nation. Broader data suggest that 50 percent of all crime guns come from one percent of dealers. **Since illegal guns can travel across state boundaries, federal legislation** targeting crooked dealers, traffickers, straw purchasers, and private sales without background checks **is the best way to address gun violence in cities like Chicago.** Which is exactly what the President is going to Chicago to stump for.

More aff **evidence** on Chicago, this time also citing lax enforcement and sentencing as the cause of the problem:

(Harold Maass, award-winning journalist & founding editor of The Week Magazine, "Chicago's rising murder rate: Has gun control failed?," The Week, <http://theweek.com/articles/468107/chicagos-rising-murder-rate-gun-control-failed>, Jan 31 2013)

Some **law-enforcement experts** in Chicago aren't impressed by that logic because, they **say, Chicago's gun laws aren't as tight as many people think since the penalties for violating them are pretty lax.** A common sentence **for gun possession**, if **the offender** has no other felonies, is a year in prison. In practice, the person **might get out after six months, which is not much of a deterrent to a seasoned criminal.** **"Chicago may have comprehensive gun laws,"** Garry F. **McCarthy, Chicago police superintendent, [says]** tells The New York Times, **"but they are not strict because the sanctions don't exist."** The bottom line, says Hannah Kappe-Klote at PolicyMic, is that **it's simply wrong to blame** Hadiya Pendleton's death on **"failed gun laws."** **Chicago's violence has a far more complex set of causes. Most of the guns that come into Chicago are from out of state** or from parts of Illinois **where gun control laws are not so strict.** More than 400 guns were traced to Mississippi, where many of those whose families immigrated to Chicago in the early 20th century may remain. **Rather than serving as an argument against gun control** (one that could certainly be countered by the murder rate in Louisiana), **Chicago serves as a call to a national, regulated gun control** policy.

One more piece of aff **evidence** on Chicago:

(Kate Sheperd, reporter, "What Gun Advocates Get Wrong About Chicago's Gun Laws," Chicagoist, http://chicagoist.com/2015/10/08/_gop_presidential_candidates_donald.php, Oct 8 2015)

Republican presidential **candidates** such as Donald Trump, Chris Christie and Carly Fiorina **have been claiming that Chicago's violence surge proves gun control does not work.** It's been an argument that various political conservatives and gun advocates have been making for years, but **the reality might not be as** clear-cut as gun control **critics make it out to be. Chicago's gun laws are not as tough as the candidates claim, and there are** some **major loopholes that make it** relatively **easy to get guns, including** our **proximity to Indiana, a state with** virtually **no gun restrictions,** according to Bloomberg. There are no gun stores in Chicago, so



where are the guns coming from? About 60 percent of guns recovered in connection with an arrest in Chicago from 2009 to 2013 were from out of state, 24 percent were from Indiana and 22 percent were from parts of Cook County outside the city where gun laws are looser, according to a study conducted by Philip Cook, a Duke public policy professor and economist who works with the University of Chicago Crime Lab. Most of the more than 7,000 guns Cook researched came from gang members who are skilled at obtaining guns because of the city's lethal gang wars. "I think that it's more likely that if Chicago did not have tough gun laws they would have higher rates of gun violence than they do have," he told Bloomberg. The Chicago Police Department tracked the origin of 50,000 guns between 2002 and 2012 and found that 24 percent came from Indiana or Mississippi, according to the New York Times. A Chicago man pled guilty Wednesday to helping buy 43 firearms from gun shows and people in Indiana to sell on the South Side and was sentenced to nearly three years in prison, the Tribune reported. Beleaguered police Superintendent Garry McCarthy, who is an outspoken gun control advocate, believes that part of the problem is that prison sentences for illegal gun possession aren't long enough. In New York, the mandatory minimum prison sentence for illegal gun possession is 3.5 years but in Cook County the minimum sentence is a year in prison and judges usually stick to the minimum term.

Beyond our national borders, a number of other countries have also adopted extremely restrictive gun laws. The results of those policies might also be informative to our debates on this topic.

Empirical Examples- Foreign Nations

One such nation is Australia. While Australia does not ban firearms entirely, they do have laws strict enough to have nearly the same effect as a complete ban.

The **evidence** below argues that Australia's laws have successfully decreased gun violence, and uses this as evidence that the US should adopt the same tight regulations:

(John Donohue, C Wendell and Edith M Carlsmith Professor of Law at Stanford University, "Ban guns, end shootings? How evidence stacks up around the world," CNN, <http://www.cnn.com/2015/08/27/opinions/us-guns-evidence/>, August 27 2015)

As an academic exercise, one might speculate whether law could play a constructive role in [reduce] reducing the number or deadliness of mass shootings. Most other advanced nations apparently think so, since they make it far harder for someone like the Charleston killer to get his hands on a Glock semiautomatic handgun or any other kind of firearm (universal background checks are common features of gun regulation in other developed countries). • Germany: To buy a gun, anyone under the age of 25 has to pass a psychiatric evaluation (presumably 21-year-old Dylann Roof would have failed). • Finland: Handgun license applicants are only allowed to purchase firearms if they can prove they are active members of regulated shooting clubs. Before they can get a gun, applicants must pass an aptitude test, submit to a police interview, and show they have a proper gun storage unit. • Italy: To secure a gun permit, one must establish a genuine reason to possess a firearm and pass a background check considering both criminal and mental health records (again, presumably Dylann Roof would have failed). • France: Firearms applicants must have no criminal record and pass a background check that considers the reason for the gun purchase and evaluates the criminal, mental, and health records of the applicant. (Dylann Roof would presumably have failed in this process). • United Kingdom and Japan: Handguns are illegal for private citizens. While mass shootings as well as gun homicides and suicides are not unknown in these countries, the overall rates are substantially higher in the United States than in these competitor nations. While NRA supporters frequently challenge me on these statistics saying that this is only because "American blacks are so violent," it is important to note that white



murder rates in the U.S. are well over twice as high as the murder rates in any of these other countries. Australia hasn't had a mass shooting since 1996 The story of Australia, which had 13 mass shootings in the 18-year period from 1979 to 1996 but none in the succeeding 19 years, is worth examining. The turning point was the 1996 Port Arthur massacre in Tasmania, in which a gunman killed 35 individuals using semiautomatic weapons. In the wake of the massacre, the conservative federal government succeeded in implementing tough new gun control laws throughout the country. [banned] A large array of weapons were banned -- including the Glock semiautomatic handgun used in the Charleston shootings. The government also imposed a mandatory gun buy back that substantially reduced gun possession in Australia. The effect was that both gun suicides and homicides (as well as total suicides and homicides) fell. In addition, the 1996 legislation made it a crime to use firearms in self-defense. When I mention this to disbelieving NRA supporters they insist that crime must now be rampant in Australia. In fact, the Australian murder rate has fallen to close to one per 100,000 while the U.S. rate, thankfully lower than in the early 1990s, is still roughly at 4.5 per 100,000-- over four times as high. Moreover, robberies in Australia occur at only about half the rate of the U.S. (58 in Australia versus 113.1 per 100,000 in the U.S. in 2012).

More aff **evidence** on Australia:

(Chris Weller and Drake Baer, journalists, "Australia's success in curbing gun violence could be a model for the world," Tech Insider, <http://www.techinsider.io/australia-gun-reform-provides-an-example-for-the-us-2015-8>, Aug 26 2015)

On Wednesday morning, two journalists in Virginia were shot and killed by a gunman while they were on air. The victims are just two of the more than 8,400 people in America who have died from firearms in 2015. According to the Washington Post, the US has averaged one mass shooting per day this year. The country has more homicides per capita than any industrialized nation on the planet. But it doesn't have to be this way. Some countries have been able to solve their gun problems — and Australia is a prime example. There is indeed hope for progress — as Australia's journey shows. In the 1980s and '90s, Australia was starting to have its own problem with gun deaths. It had 674 deaths in 1988 and 516 in 1996. The trend hit a breaking point in April 1996. In what became known as the Port Arthur Massacre, a 28-year-old with "significant intellectual disabilities" bought a semi-automatic rifle without a license, visited a popular tourist destination in Tasmania, and used that gun to kill 35 people and injure 23 more. Devastated and enraged at the ease with which murders were taking place, Australia's conservative-led government decided Port Arthur was the last straw. The country needed tighter laws when it came to owning guns. The solution was two-pronged — and swift. Within two weeks, Prime Minister John Howard had convened his assembly, then known as the Australasian Police Minister's Council, to discuss the terms of a nationwide ban on the import of automatic and semiautomatic weapons and pump-action shotguns. While owning guns was still legal, the ban came with a dizzying number of restrictions and even more numerous — and harsh — penalties. On May 10, 1996, the resolution passed. Implementation took place in stages over the next few years. People were granted a 12-month amnesty beginning in October of 1996, when they could sell their guns back to the Australian government. More than 700,000 firearms were collected and destroyed in that time, making it the single-largest destruction of civilian firearms of any country between 1996 and 2005. An estimated \$500 million was paid back to former gun owners. Immediately, the rate of gun deaths started falling. As Australian economist Andrew Leigh found in a 2010 review of the effects of the gun buyback legislation: • Firearm suicides have dropped from 2.2 per 100,000 people in 1995 to 0.8 per 100,000 in 2006. • Firearm homicides have dropped from 0.37 per 100,000 people in 1995 to 0.15 per 100,000 people in 2006. •



These are drops of 65% and 59%, respectively, and among a population of 20 million individuals, represent a decline in the number of deaths by firearm suicide of about 300 and in the number of deaths by firearm homicide of about 40 per year. • **At the same time, the non-firearm suicide rate has fallen by 27% and the non-firearm homicide rate by 59%. What can the US learn from Australia?** The big thing: **gun deaths can be greatly reduced, given the proper legislation.** A buyback in the US would be outrageously large — destroying 40 million guns is a massive undertaking. But progress is possible.

One more piece of aff **evidence** on Australia:

(Washington Post, "Here's the deal with the Australian gun control law that Obama is talking about," WonkBlog, <https://www.washingtonpost.com/news/wonk/wp/2015/06/23/what-happened-after-australia-banned-lots-of-guns-after-a-massacre/>, June 23 2015)

John Howard, who served as prime minister of Australia from 1996 to 2007, is no one's idea of a left-wing politician. He was one of George W. Bush's closest allies, backing the Iraq war, and took a hard line domestically against increased immigration and union organizing. But one of Howard's other lasting legacies is Australia's gun control regime. The law banned semi-automatic and automatic rifles and shotguns. It also instituted a mandatory buy-back program for newly banned weapons. In the summer of 2012, after a gunman killed people at a movie theater in Aurora, Colo., using several weapons including an assault rifle, Howard called on the U.S. to follow Australia's lead, writing in the Melbourne daily The Age: **Australia is a safer country as a result of what was done in 1996. It will be the**

continuing responsibility of current and future federal and state **governments to ensure** the effectiveness of those **anti-gun laws is never weakened**. The U.S. is a country for which I have much affection. There are many American traits which we Australians could well emulate to our great benefit. But when it comes to guns we have been right to take a radically different path. **So what have the Australian laws actually done for homicide and suicide rates?**

Howard cited **a study by** Andrew Leigh of **Australian National University** and Christine Neill of **Wilfrid Laurier University** finding **[found] that the firearm homicide rate fell by 59 percent, and the firearm suicide rate fell by 65 percent, in the decade after the law was introduced, without a parallel increase in non-firearm homicides and suicides. That provided strong** circumstantial **evidence for the law's effectiveness**. The paper also estimated that buying back 3,500 guns per 100,000 people resulted in a 35 to 50 percent decline in the homicide rate, but because of the low number of homicides in Australia normally, this finding wasn't statistically significant. What is significant is the decline the laws caused in the firearm suicide rate, which Leigh and Neill estimate at a 74 percent reduction for a buyback of that size. This is even higher than the overall decline in the suicide rate, because the gun buybacks' speed varied from state to state. In states with quick buybacks, the fall in the suicide rate far exceeded the fall in states with slower buybacks: Tasmania did a quicker buyback, and saw a large decline in suicides, while the Australian Capital Territory did a slower buyback, and a slower decline. **The study** fits with a pattern of research in the United States that **finds a strong correlation between gun possession and suicide rates**, as **University of Chicago public health Professor** Harold **Pollack** has **detailed** here.

On the neg side, there is also **evidence** of the opposite result. According to this set of data, the murder rate actually **rose**. It also makes the same argument about the UK, where handguns are also banned:

(Benjamin Aaron Shapiro, attorney and political analyst, "Hillary Calls for Gun Confiscation, Just Like Australia. It Didn't Work In Australia, Either," The Daily Wire, <http://www.dailywire.com/news/463/hillary-calls-total-gun-confiscation-just-ben-shapiro>, Oct 16 2015)

Hillary's endorsement of the Australian gun confiscation follows hard on President Obama's endorsement of Australian gun confiscation the day of the Umpqua Community College shooting in Oregon. But her description of **Australia's 1996 mass gun confiscation** is wildly inaccurate. Australia's buyback



program was not voluntary: it **was mandatory** under the National Agreement on Firearms. It did not just restrict “automatic weapons,” it restricted both automatic and semiautomatic rifles, and instituted a temporary gun buyback program only to encourage people to turn in guns that it would be illegal for them to own after the law went into place; in fact, the gun buyback program was required under Australian law, since seizure of property without just compensation is illegal. **To own a firearms license in Australia, you must now show a “genuine reason,” which cannot include self-defense.** Despite these heavy measures, just one-fifth to one-third of Australian guns ended up in the hands of the government. **So, did the gun seizures have any effect on suicide or homicide rate? Not at all. According to Samara McPhedran of University of Sydney, “The hypothesis that the removal of a large number of firearms owned by civilians [would lead to fewer gun-related deaths] is not borne out by the evidence.” In the United States, firearm ownership has steadily risen over the past two decades, but our murder rate declined far more precipitously than Australia’s. Australia always had low homicide rates; seizing guns had no marked impact. As for other favorite leftist examples, like the United Kingdom, statistics show that gun crime has skyrocketed in the country since 1997’s ban on handguns in the aftermath of a mass shooting; from 1999 to 2009, gun crime rose 89%.**

More neg **evidence** on Australia. This card doesn’t go so far as to claim Australia became *more* violent after tightening gun laws, but it does conclude that the regulations have had no effect either way:

(Daniel Williams, “Australia’s Gun Laws: Little Effect,” Time Magazine,

<http://content.time.com/time/world/article/0,8599,1736501,00.html>, May 1 2008)

On the afternoon of April 28, 1996, Martin Bryant snapped. A striking figure with his long blond hair and milky skin, he had just eaten lunch at a café within the historic site of Port Arthur, a former prison in Australia’s island state of Tasmania. Described later by his sentencing judge as a “pathetic social misfit,” the 28-year-old then reached into his sports bag and, in the manner that others might pull out a sweater, withdrew two military-style semi-automatic rifles, which he used over the next eight horrifying minutes to

kill 35 people — men, women and children — in what remains Australia’s worst mass murder. Sharing the shock of his people, the newly elected **Prime Minister**, John Howard — just two months into his eleven-and-a-half years in power — seized the chance to overhaul Australia’s gun laws, trampling all opposition to make them among the strictest in the developed world. “I hate guns,” he said at the time. “One of the things I don’t admire about America is their slavish love of guns ... We do not want the

American disease imported into Australia.” **Howard argued the tougher laws would make Australia safer. But** 12 years on, new **research suggests the government response** to Port Arthur was a waste of public money and **has made no difference to the country’s gun-related death rates.** Though he’d acquired them illegally, Bryant used guns at Port Arthur that were lawful in Tasmania at the time. Howard argued there was no reason civilians should be allowed to own assault weapons — and under the 1996 National Firearms Agreement (NFA) these were all but banned. At huge cost, the government bought from their owners some 650,000 of the newly prohibited guns, which police destroyed. It also implemented mandatory gun licenses and registration of all firearms, helping to restrict to 5% of the population the number of Australian adults who owned or used guns last

year, down from 7% in 1996. But these changes have done nothing to reduce gun-related deaths, **according to Samara McPhedran, a**

University of Sydney academic and coauthor of a soon-to-be-published paper that reviews a selection of previous studies **on the effects of the 1996 legislation.** The conclusions of these studies were “all over the place,” says McPhedran. But **by pulling back and looking purely at the statistics,** the answer “is there in black and white,” she says.

“The hypothesis that the removal of a large number of firearms owned by civilians [would lead to fewer gun-related deaths] is not borne out by the evidence.” Firearm homicides in Australia were **declining before 1996 and the decline has simply continued at the same rate since, McPhedran says.** (In 2002-3, Australia’s rate of 0.27 gun-related homicides per 100,000 people was one-fifteenth that of the U.S. rate.) Of course, it’s possible there might have been a spike in firearm homicides — and one or more Port Arthur-style events — if not for the gun law reforms. “It’s very easy to raise what-ifs,” McPhedran counters. “The what-ifs are

interesting as discussion points. But, ultimately, for policy making, we have to deal with what is.” **And suicide by firearm? Here again, rates were falling pre-1996. And while the decline gained speed after 1996, suicide by other**



methods began declining then, too. McPhedran and coauthor Jeanine Baker say suicide needs to be examined in a broader context that includes growing public awareness of mental health issues and increased use of antidepressants. Other researchers have focused on mass shootings: there were 11 in Australia in the decade before 1996, and there have been none since. This appears to be a strong argument for gun laws designed to help prevent massacres like Port Arthur. But McPhedran argues that because "mass shootings have been such a rare event historically ... it's incredibly difficult to perform a reliable statistical test on such rare events." Massacres, she argues, are a separate research question.

Of course, Australia and the UK aren't the only countries that have strict regulations on gun ownership. Here is a piece of **evidence** for the neg, which looks at data from a number of nations, and then makes the sweeping claim that all gun bans worldwide have been associated with increasing, not decreasing, death:

(Crime Prevention Research Center, MURDER AND HOMICIDE RATES BEFORE AND AFTER GUN BANS, <http://crimeresearch.org/2013/12/murder-and-homicide-rates-before-and-after-gun-bans/>, Dec 1 2013)
Every place that has been banned guns (either all guns or all handguns) has seen murder rates go up. You cannot point to one place where murder rates have fallen, whether it's Chicago or D.C. or even island nations such as England, Jamaica, or Ireland. For an example of homicide rates before and after a ban, take the case of the handgun ban in England and Wales in January 1997 (source here see Table 1.01 and the column marked "Offences currently recorded as homicide per million population"). After the ban, clearly homicide rates bounce around over time, but there is only one year (2010) where the homicide rate is lower than it was in 1996. The immediate effect was about a 50 percent increase in homicide rates. Firearm homicide rate had almost doubled between 1996 and 2002 (see here p. 11). The homicide and firearm homicide rates only began falling when there was a large increase in the number of police officers during 2003 and 2004. Despite the huge increase in the number of police, the murder rate still remained slightly higher than the immediate pre-ban rate.



That last card, as well as just about anything on gun control published by the Crime Prevention Research Center, uses research spearheaded by the economist John Lott. Because Lott has been such a vocal critic of firearms regulations over the past several decades, his work has received considerable scrutiny. Not everyone has been impressed. Here is **evidence** that the aff could use to answer this or any claim originating from Lott or the CPRC:

(Jonathan Stray, Prof of computational journalism at Columbia University, "Gun Violence in America: The 13 Key Questions (With 13 Concise Answers)," The Atlantic, <http://www.theatlantic.com/national/archive/2013/02/gun-violence-in-america-the-13-key-questions-with-13-concise-answers/272727/>, Feb 4 2013)

Economist John Lott did extensive work on this question in the late 1990s, culminating in his 1998 book *More Guns, Less Crime*. He studied the effect of right-to-carry laws by examining violent crime rates before and after they were implemented in various states, up until 1992, and concluded that such laws decreased homicides by an average of 8%. **Lott's data and methods have been extensively reviewed** since then. A massive 2004 report by a 16-member panel of the National Research Council found that there was not enough evidence to say either way whether right-to-carry laws affected violence. In 2010, different **researchers re-examined Lott's work**, the NRC report, **and additional data** up through 2006, **and re-affirmed that there is no evidence that right-to-carry laws reduce crime. Meanwhile, other studies have suggested that reduced access to guns would result in less crime. These studies compared homicide rates with gun availability in various states and cities. The most comprehensive estimate is that a 10% reduction in U.S. households with guns would result in a 3% reduction in homicides.** Internationally, the effect of reductions in gun ownership might be much larger. This might have to do with the large number of guns already available **in the U.S.: Any reduction in gun violence hinges on whether gun control laws would actually make it prohibitively difficult to get a gun.**

If the neg wants to take a less aggressive stance on the question of foreign laws, they might instead use this piece of **evidence**, which argues that gun bans worldwide have proven to have no effect whatsoever:

(Justin King, journalist, "THE FACTS THAT NEITHER SIDE WANTS TO ADMIT ABOUT GUN CONTROL," <http://thefifthcolumnnews.com/2015/06/the-facts-that-neither-side-wants-to-admit-about-gun-control/>, June 20 2015)

The National Rifle Association (NRA) would have you believe that guns stop murders. The gun control lobby would have you believe that gun control reduces murders. They are both wrong. **Gun bans have always had the same effect once implemented: none. They do not** create a (sustained) period of increased murders, nor do they **reduce the rate**



of homicides. The gun control crowd is currently stomping their feet and screaming “No, it reduces violence! I’ve seen the statistics.” What you probably saw were studies that point to reduced instances of “gun murders,” not murder. The pro-gun crowd is screaming that gun bans cause crime. At least this is grounded in reality. Typically, there is a spike in murders immediately after a ban, but it is short lived. Gun control is designed to stop people from killing each other, at least that’s what we are always told. Let’s take a look at the data: United Kingdom: The UK enacted its handgun ban in 1996. From 1990 until the ban was enacted, the homicide rate fluctuated between 10.9 and 13 homicides per million. After the ban was enacted, homicides trended up until they reached a peak of 18.0 in 2003. Since 2003, which incidentally was about the time the British government flooded the country with 20,000 more cops, the homicide rate has fallen to 11.1 in 2010. In other words, the 15-year experiment in a handgun ban has achieved absolutely nothing. Ireland: Ireland banned firearms in 1972. Ireland’s homicide rate was fairly static going all the way back to 1945. In that period, it fluctuated between 0.1 and 0.6 per 100,000 people. Immediately after the ban, the murder rate shot up to 1.6 per 100,000 people in 1975. It then dropped back down to 0.4. It has trended up, reaching 1.4 in 2007. Australia: Australia enacted its gun ban in 1996. Murders have basically run flat, seeing only a small spike after the ban and then returning almost immediately to preban numbers. It is currently trending down, but is within the fluctuations exhibited in other nations. Plain and simple. Gun control has no significant impact on murder rates. Removing firearms does not typically create massive lawlessness. It is a moot point. These figures aren’t a secret. Why would the governments of these nations want a disarmed populace? For the answer, it is best to look at a nation that has had long-time gun bans that is currently relaxing their laws. Russia recently relaxed its firearms laws. For the first time in recent memory, a Russian citizen can carry a firearm. The prohibited items speak volumes about what a government’s motive behind disarming the population is. Russia has allowed “smoothbore long barrelled guns, pistols, revolvers, and other firearms, as well as Tasers, and devices equipped with teargas.” That’s almost everything, what is still banned? Rifles. So the Russian government has made it clear that the real objective is to remove rifles from civilian hands. The reasoning is pretty clear: you need rifles to overthrow a government. [Correction on January 3, 2016: The law is more nuanced than it appeared in our source information. Please see footnote at bottom of page.]

On both sides, it is also important to remember that differences between nations might have important implications on the success or failure of government policies. For example, the United States is highly diverse and full of sprawling rural areas. Compare that to an ethnically-homogenous and densely-populated country such as Japan. Can you infer how the exact same law might have very different outcomes if enacted in both countries? Developing a general appreciation for this concept might be helpful when evaluating conclusions drawn from international data. Whether that helps the aff or the neg would depend on the round.

Now, let’s dive a little deeper into the question of gun crime, and consider some of the more specific instances that make up these large national data sets.



Mass Shootings

Of course, the issue driving today's focus on gun debates is the spate of high-profile mass shootings witnessed in the United States over the past several years. Could a handgun ban help to put a stop to these horrific tragedies?

Most arguments on this question will hinge on the broader debate over whether reducing guns reduces violence. However, some **evidence** that might bolster the aff side is the frequency with which killers use handguns to commit their crimes, as well as the fact that most of these guns were purchased legally (meaning enforcement of status quo regulations would not help):

(Jonathan Stray, Prof of computational journalism at Columbia University, "Gun Violence in America: The 13 Key Questions (With 13 Concise Answers)," The Atlantic, <http://www.theatlantic.com/national/archive/2013/02/gun-violence-in-america-the-13-key-questions-with-13-concise-answers/272727/>, Feb 4 2013)

The FBI defines a "mass murder" as four or more murders during the same incident. This is an arbitrary number, but a dividing line is useful when asking whether there are differences between mass shootings and other kinds of gun violence. **The most comprehensive public list of U.S. mass shootings** is the spreadsheet of 62 incidents from 1982-2012, compiled by Mother Jones. Their list **shows**: Mass shootings happen all over the country. **Killers used a semi-automatic handgun in 75% of incidents, which is about the same percentage as the 72% in overall gun violence.** Killers used an assault weapon in 40% of incidents. This is much higher than overall assault weapon use in crimes, estimated at less than 2%. **The guns were obtained legally in 79% of mass shootings.** Many of the shooters showed signs of mental illness, but in only two cases was there a prior diagnosis. **There were no cases where an armed civilian fired back.**

However, the following **evidence** counters that mass shootings are too infrequent to provide scientifically valid data on the relationship between gun laws and such events. It also argues that, even if bans did decrease mass shootings, they would not decrease overall murder:

(Benjamin Aaron Shapiro, attorney and political analyst, "Hillary Calls for Gun Confiscation, Just Like Australia. It Didn't Work In Australia, Either," The Daily Wire, <http://www.dailywire.com/news/463/hillary-calls-total-gun-confiscation-just-ben-shapiro>, Oct 16 2015)

Hillary and other **leftists suggest** that **gun bans reduce** the rate of **mass shootings**, and **there is some evidence to suggest this. But this neglects the fact that mass shootings are statistically rare,**



and thus represent a tiny subset of all murders; they do not constitute a wide enough evidentiary set to even determine trends reliably. Banning guns on these grounds, even leaving aside Second Amendment concerns, would be like banning baseball bats on the grounds that they are used in murders. It may be true, but it says nothing about the statistical prevalence of such murders, or whether the overall murder rate would decline in their absence.

So far, we've considered whether decreasing the number of guns in citizens' hands would decrease crime and violence. But what about the reverse? Could gun ownership actually deter criminals and help civilians defend themselves against threats?

Deterring Crimes & Self-Defense

There are two distinct but related issues to consider here. The first is, would access to a gun help innocent citizens defend themselves, their families, and their property against would-be criminals? The second is, might any potential criminals be deterred by the threat of encountering an armed victim? In other words, can handguns stop a crime in progress, prevent some future crimes from occurring in the first place, or neither, or both?

We'll start with the question of self-defense against crimes already underway.

Obviously, the neg would want to argue that handguns are good for self-defense. To build that argument, let's first introduce **evidence** that handguns are Americans' weapons of choice for self-defense purposes:

(Philip J. Cook (Sanford Professor of Public Policy, Duke University, and Research Associate at the National Bureau of Economic Research) & Jens Ludwig (Associate Professor of Public Policy, Georgetown University, and Faculty Research Fellow at the National Bureau of Economic Research), "AIMING FOR EVIDENCE-BASED GUN POLICY," Journal of Policy Analysis and Management, Vol. 25, No. 3, pp. 691–735, http://home.uchicago.edu/~ludwigj/papers/JPAM_aiming_for_evidence_gun_policy_2006.pdf, 2006)
Around one-third of America's privately held firearms are handguns, which are more likely than long guns to be kept for defense against crime (Cook & Ludwig, 1996). In the 1970s, one-third of new guns were handguns



(pistols or revolvers), a figure that grew to nearly half by the early 1990s and then fell back to around 40 percent (ATF, 2000a). Despite the long-term increase in the relative importance of handgun sales, a mere 20 percent of gun-owning individuals have only handguns; 44 percent have both handguns and long guns, reflecting the fact that most people who have acquired guns for self-protection are also hunters and target shooters. Less than half of gun owners say that their primary motivation for having a gun is self-protection against crime.

Next, the neg can draw from a study conducted on the use of guns in self-defense against home invaders. The authors of this study argue that their data shows that guns are used more frequently each year in self-defense than during the act of a crime, and that in a significant number of these instances, the crime victim strongly believed that they (or another member of their household) would have been killed by the intruder. They conclude that this makes gun bans intolerable, due to the importance of guns for protection. Here is **evidence** summarizing these claims from a segment of the research paper:

(Gary Kleck & Marc Gertz, Northwestern University School of Law, "Armed Resistance to Crime: The Prevalence and Nature of Self-Defense with a Gun," Journal of Law & Criminology, Vol 86, Issue 1, Article 8, <http://www.hoplofobia.info/wp-content/uploads/2013/10/Armed-Resistance-to-Crime.pdf>, Fall 1995)

By this time **there seems little legitimate scholarly reason to doubt that defensive gun use is very common in the U.S., and that it probably is substantially more common than criminal gun use.** **This should not come as a surprise, given that there are far more gun-owning crime victims than there are gun-owning criminals and that victimization is spread out over many different victims, while offending is more concentrated among a relatively small number of offenders.** **There is little legitimate reason to continue accepting the NCVS estimates of DGU frequency as even approximately valid.** The gross inconsistencies between the NCVS and all other sources of information make it reasonable to suppose that all but a handful of NCVS victims who had used a gun for protection in the reported incidents refrained from mentioning this gun use. **In light of evidence on the injury-preventing effectiveness of victim gun use,** in some cases where the absence of victim injury is credited to either nonresistance or some unarmed form of resistance, the absence of injury may have actually been due to resistance with a gun, which the victim failed to mention to the interviewer. **The policy implications of these results are straightforward.** These findings do not imply anything about whether moderate regulatory measures such as background checks or purchase permits would be desirable. Regulatory measures which do not disarm large shares of the general population would not significantly reduce beneficial defensive uses of firearms by noncriminals. On the other hand, **prohibitionist measures, whether aimed at all guns or just at handguns,** are aimed at disarming criminals and noncriminals alike. They **would** therefore discourage and presumably **decrease the frequency of DGU among noncriminal** crime **victims** because even minimally effective gun **bans** would disarm at least some noncriminals. The same would be true of laws which ban gun carrying. In sum, measures that effectively reduce gun availability among the noncriminal majority also **would reduce DGUs that** otherwise **would have saved lives, prevented injuries, thwarted rape attempts, driven off burglars, and helped victims retain their property.** **Since as many as 400,000 people a year use guns in situations where the defenders claim that they "almost certainly" saved a life by doing so, this result cannot be dismissed as trivial. If even one-tenth of these people are accurate in their stated**



perceptions, the number of lives saved by victim use of guns would still exceed the total number 180 [Vol. 86 ARMED RESISTANCE TO CRIME of lives taken with guns. It is not possible to know how many lives are actually saved this way, for the simple reason that no one can be certain how crime incidents would have turned out had the participants acted differently than they actually did. But surely this is too serious a matter to simply assume that practically everyone who says he believes he[THEY] saved a life by using a gun was wrong. This is also too serious a matter to base conclusions on silly statistics comparing the number of lives taken with guns with the number of criminals killed by victims. 100 Killing a criminal is not a benefit to the victim, but rather a nightmare to be suffered for years afterward. Saving a life through DGU would be a benefit, but this almost never involves killing the criminal; probably fewer than 3,000 criminals are lawfully killed by gun-wielding victims each year,¹ 1 representing only about 1/1000 of the number of DGUs, and less than 1% of the number of purportedly life-saving DGUs. Therefore, the number of justifiable homicides cannot serve as even a rough index of life-saving gun uses. Since this comparison does not involve any measured benefit, it can shed no light on the benefits and costs of keeping guns in the home for protection.¹⁰²

Further **evidence** from the same study argues that crime victims who use a gun in self-defense are less likely to be harmed and more likely to avoiding loss of property than those who resist with a different type of weapon, or who do not resist at all:

(Gary Kleck & Marc Gertz, Northwestern University School of Law, "Armed Resistance to Crime: The Prevalence and Nature of Self-Defense with a Gun," *Journal of Law & Criminology*, Vol 86, Issue 1, Article 8, <http://www.hoplofobia.info/wp-content/uploads/2013/10/Armed-Resistance-to-Crime.pdf>, Fall 1995)

Victim resistance can be passive or verbal, but much of it is active and forceful. Potentially, the most consequential form of forceful resistance is armed resistance, especially resistance with a gun. This form of resistance is worthy of special attention for many reasons, both policy-related and scientific. The policy-related reasons are obvious: if self-protection with a gun is commonplace, it means that any form of gun control that disarms large numbers of prospective victims, either altogether, or only in certain times and places where victimization might occur, will carry significant social costs in terms of lost opportunities for self-protection. On the other hand, the scientific reasons are likely to be familiar only to the relatively small community of scholars who study the consequences of victim self-protection: the defensive actions of crime victims have significant effects on the outcomes of crimes, and the effects of armed resistance differ from those of unarmed resistance. Previous research has consistently indicated that victims who resist with a gun or other weapon are less likely than other victims to lose their property in robberies³ and in burglaries. ⁴ Consistently, research also has indicated that victims who resist by using guns or other weapons are less likely to be injured compared to victims who do not resist or to those who resist without weapons. This is true whether the research relied on victim surveys or on police records, and whether the data analysis consisted of simple cross-tabulations or more complex multivariate analyses. These findings have been obtained with respect to robberies ⁵ and to assaults.⁶ Cook⁷ offers his unsupported personal opinion concerning robbery victims that resisting with a gun is only prudent if the robber does not have a gun. The primary data source on which Cook relies flatly contradicts this opinion. National Crime Victimization Survey (NCVS) data indicate that even in the very disadvantageous situation where the robber has a gun, victims who resist with guns are still substantially less likely to be injured than those who resist in other ways, and even slightly less likely to be hurt than those who do not resist at all.⁸ With regard to studies of rape, although samples typically include too few cases of self-defense with a gun for separate analysis, McDermott,⁹ Quinsey and Upfold,¹⁰ Lizotte," and Kleck and Sayles¹² all found that victims who resisted with some kind of weapon were less likely to have the rape attempt completed against them. Findings concerning the impact of armed resistance on whether rape victims suffer additional injuries beyond the rape itself are less clear, due to a lack of information on whether acts of resistance preceded or followed the rapist's attack. The only two rape studies with the necessary sequence



information found that forceful resistance by rape victims usually follows, rather than precedes, rapist attacks inflicting additional injury, undercutting the proposition that victim resistance increases the likelihood that the victim will be hurt. ¹³ This is consistent with findings on robbery and assault.'

Here is another piece of **evidence**, again from the same study, further advancing the argument that owning a gun significantly improves the outcome of the victim of the attempted crime:

(Gary Kleck & Marc Gertz, Northwestern University School of Law, "Armed Resistance to Crime: The Prevalence and Nature of Self-Defense with a Gun," *Journal of Law & Criminology*, Vol 86, Issue 1, Article 8, <http://www.hoplophobia.info/wp-content/uploads/2013/10/Armed-Resistance-to-Crime.pdf>, Fall 1995)

Guns were most commonly used for defense against burglary, assault, and robbery.⁸¹ Cases of "mutual combat," where it would be hard to tell who is the aggressor or where both parties are aggressors, would be a subset of the 30% of cases where assault was the crime involved. However, only 19% of all DGU cases involved only assault and no other crime where victim and offender could be more easily distinguished. Further, only 11% of all DGU cases involved only assault and a male defender—we had no information on gender of offenders—some subset of these could have been male-on-male fights. Thus, very few of these cases fit the classic mutual combat model of a fight between two males.

This is not to say that such crimes where a gun-using combatant might claim that his use was defensive are rare, but rather that few of them are in this sample. Instead, cases where it is hard to say who is victim and who is aggressor apparently constitute an additional set of questionable DGUs lying largely outside of the universe of more one-sided events that our survey methods could effectively reach. This survey did not attempt to compare the effectiveness of armed resistance with other forms of victim self-protection, since this sort of work has already been done and reviewed earlier in this paper. Panels D and E nevertheless confirm previous research on the effectiveness of self-defense with a gun—crime victims who use this form of self-protection rarely lose property and rarely provoke the offender into hurting them. In property crime incidents where burglary, robbery, or other thefts were attempted, victims lost property in just 11% of the cases. Gun defenders were injured in just 5.5% of all DGU incidents. Further, in 84% of the incidents where the defender was threatened or attacked, it was the offender who first threatened or used force. In none of the eleven sample cases where gun defenders were injured was the defender the first to use or to threaten force. The victim used a gun to threaten or attack the offender only after the offender had already attacked or threatened them and usually after the offender had inflicted the injury. There is no support in this sample for the hypothesis that armed resistance provokes criminals into attacking victims; this confirms the findings of prior

research. ⁸² While only 14% of all violent crime victims face offenders armed with guns,⁸³ 18% of the gun-using victims in our sample faced adversaries with guns. ⁸⁴ Although the gun defenders usually faced unarmed offenders or offenders with lesser weapons, they were more likely than other victims to face gun-armed criminals. This is

consistent with the perception that more desperate circumstances call forth more desperate defensive measures. The findings undercut the view that victims are prone to use guns in "easy" circumstances which are likely to produce favorable outcomes for the victim regardless of their gun use.⁸⁵ Instead, gun defenders appear to face more difficult circumstances than other crime victims, not easier ones. Nevertheless, one reason crime victims are willing to take the risks of forcefully resisting the offender is that most offenders faced by victims choosing such an action are unarmed, or armed only with less lethal weapons. Relatively few victims try to use a gun against adversaries who are themselves armed with guns. According to this survey, offenders were armed with some kind of weapon in 48% of DGU incidents but had guns in only 18% of them.⁸⁶ The distribution of guns by type in DGUs is similar to that of guns used by criminals. NCVS and police-based data indicate that about 80% of guns used in crime are handguns,⁸⁷ and the present study indicates that 80% of the guns used by victims are handguns. ⁸⁸ Incidents where victims use a gun defensively are almost never gunfights where



both parties shoot at one another. Only 24% of the incidents involved the defender firing their gun, and only 16% involved the defender shooting at their adversary.⁸⁹ In only 4.5% of the cases did the offender shoot at the defender.⁹⁰ Consequently, it is not surprising that only 3% of all the incidents involved both parties shooting at each other. Among our sample cases, the offenders were strangers to the de-fender in nearly three quarters of the incidents.⁹¹ We suspect that this again reflects the effects of sample censoring. Just as the NCVS appears to detect less than a tenth of domestic violence incidents,⁹² our survey is probably missing many cases of DGU against family members and other intimates. While victims face multiple offenders in only about 24% of all violent crimes,⁹³ **the victims in our sample who used guns faced multiple offenders in 53% of the incidents.** ⁹⁴ This mirrors the observation that criminals who use guns are also more likely than unarmed criminals to face multiple victims. ⁹⁵ **A gun allows** either criminals or **victims to handle a larger number of adversaries.** Many victims facing multiple offenders probably would not resist at all if they were without a gun or some other weapon. Another possible interpretation is that some victims will resort to a defensive measure as serious as wielding a gun only if they face the most desperate circumstances. Again, this finding contradicts a view that gun defenders face easier circumstances than other crime victims. Another way of assessing how serious these incidents appeared to the victims is to ask them how potentially fatal the encounter was. **We asked** Rs: **"If you had not used a gun for protection in this incident, how likely do you think it is that you or someone else would have been killed?"** Would you say almost certainly not, probably not, might have, probably would have, or almost certainly would have been killed?" Panel K indicates that **15.7% of the Rs stated that they or someone else "almost certainly would have" been killed,** with another 14.2% responding "probably would have" and 16.2% responding "might have." ⁹⁶ Thus, **nearly half claimed that they perceived some significant chance of someone being killed** in the incident **if they had not used a gun defensively.** It should be emphasized that these are just stated perceptions of participants, not objective assessments of actual probabilities. Some defenders might have been bolstering the justification for their actions by exaggerating the seriousness of the threat they faced. Our **cautions about sample censoring should also be kept in mind**-minor, less life-threatening events are likely to have been left out of this sample, either because Rs forgot them or because they did not think them important enough to qualify as relevant to our inquiries. **If we consider only the 15.7% who believed someone almost certainly would have been killed** had they not used a gun, and apply this figure to estimates in the first two columns of Table 2, **it yields national annual estimates of 340,000 to 400,000 DGUs** of any kind, and 240,000 to 300,000 uses of handguns, **where defenders** stated, if asked, that they **believed they almost certainly had saved a life** by using the gun. Just how many of these were truly life-saving gun uses is impossible to know. **As a point of comparison, the largest number of deaths involving guns, including homicides, suicides, and accidental deaths in any one year in U.S. history was 38,323 in 1991.**⁹⁷ Finally, we asked if Rs had reported these incidents to the police, or if the police otherwise found out about them; 64% of the gun-using victims claimed that the incidents had become known to the police. This figure should be interpreted with caution, since victims presumably want to present their use of guns as legitimate and a willingness to report the incident to the police would help support an impression of legitimacy. Rs who had in fact not reported the incident to the police might have wondered whether a "no" reply might not lead to discomforting follow-up questions like "why not?" (as indeed it does in the NCVS). Further, it is likely that some Rs reported these incidents but did not mention their use of a gun.



On the other hand, the affirmative can dispute this study, and argue that it massively overstates the prevalence of defensive uses of firearms. The following **evidence** argues that estimate is 10 times too high:

(Jonathan Stray, Prof of computational journalism at Columbia University, "Gun Violence in America: The 13 Key Questions (With 13 Concise Answers)," The Atlantic, <http://www.theatlantic.com/national/archive/2013/02/gun-violence-in-america-the-13-key-questions-with-13-concise-answers/272727/>, Feb 4 2013)

There are no comprehensive records kept of incidents where guns are used in self-defense, so the only way to know is to ask people. Data from the National Crime Victimization Survey suggest that a gun is used in self-defense about 60,000 to 120,000 times each year. Several other surveys confirm this estimate. **By comparison, each year about a million violent crimes involve guns. This means guns are used to commit a crime about 10 times as often as they are used for self-defense. A few surveys in the early 1990s suggested that there are millions gun self-defense incidents each year, but** there are very good reasons to believe that **these** estimates **were improperly calculated and** these numbers are way off, **more than 10 times too high. If the numbers really were this high, this would imply that** pretty much **every gunshot wound in America is the result of somebody protecting him or herself. Even among the more accurate surveys, according to a panel of** criminal **court judges who reviewed survey respondents' stories, about half the time the gun use was** "probably **illegal,**" even assuming the gun itself had been purchased legally.

Furthermore, the aff might say, even if some of the reported defensive actions were truthful, later studies have suggested that many of them would have nevertheless been illegal, and society should not condone or encourage them. Here is **evidence** on this:

(D Hemenway, D Azrael, M Miller, Department of Health Policy and Management at Harvard School of Public Health, "Gun use in the United States: results from two national surveys," Injury Prevention Journal, vol 6, issue 4, pp. 263-267, <http://injuryprevention.bmj.com/content/6/4/263.full>, 2000)

Objectives—**To determine** the relative incidence of **gun victimization versus self defense gun use by civilians in the United States**, and the circumstances and probable legality of the self defense uses. Methods—**National** random digit dial telephone **surveys** of the adult population **were conducted** in 1996 and 1999. The **[by]** **Harvard** surveys appear unique among private surveys in two respects: asking (1) open ended questions about defensive gun use incidents and (2) detailed questions about both gun victimization and self defense gun use. **Five** criminal court **judges were asked to assess** whether the self reported defensive gun uses were likely to have been legal. Results—Even after excluding many reported firearm victimizations, **far more** survey **respondents report having been threatened** or



intimidated with a gun than having used a gun to protect themselves. A majority of the reported self defense gun uses were rated as probably illegal by a majority of judges. This was so even under the assumption that the respondent had a permit to own and carry the gun, and that the respondent had described the event honestly. Conclusion—Guns are used to threaten and intimidate far more often than they are used in self defense. Most self reported self defense gun uses may well be illegal and against the interests of society.

However, the authors of the neg self-defense study did anticipate, and respond to, such criticisms. Close readers will note that both of the previous 2 aff cards cited the National Crime Victimization Survey as providing a more plausible estimate of true defensive gun usage numbers. This Survey, though, is precisely what the neg's study was originally written to criticize. The authors argue that other university research supports their estimate, and that the NCVS hugely undercounts defensive acts precisely *because* some of these incidents may have been questionably legal. The NCVS is conducted by the U.S. Department of Justice, the authors point out, and surveyors convey that fact to respondents. Most citizens don't possess a detailed understanding of the intricacies of gun laws or statutes governing the use of self-defense, and calculate that it would be better to say nothing than to risk subjecting themselves to some kind of unanticipated indictment. This is why non-governmental studies find larger numbers of defensive gun usage that government surveys do, say the authors. **Evidence** on this follows:

(Gary Kleck & Marc Gertz, Northwestern University School of Law, "Armed Resistance to Crime: The Prevalence and Nature of Self-Defense with a Gun," Journal of Law & Criminology, Vol 86, Issue 1, Article 8, <http://www.hoplophobia.info/wp-content/uploads/2013/10/Armed-Resistance-to-Crime.pdf>, Fall 1995)
However consistent the evidence may be concerning the effectiveness of armed victim resistance, there are some who minimize its significance by insisting that it is rare.¹⁵ This assertion is invariably based entirely on a single source of information, the National Crime Victimization Survey (NCVS). Data from the NCVS imply that each year there are only about 68,000 defensive uses of guns in connection with assaults and robberies,¹⁶ or about 80,000 to 82,000 if one adds in uses linked with household burglaries.¹⁷ These figures are less than one ninth of the estimates implied by the results of at least thirteen other surveys, summarized in Table 1, most of which have been previously reported.¹⁸ The NGVS estimates imply that about 0.09 of 1% of U.S. households experience a defensive gun use (DGU) in any one year, compared to the Mauser survey's estimate of 3.79% of households over a five year period, or about 0.76% in any one year, assuming an even distribution over the five year period, and no repeat uses.¹⁹ The strongest evidence that a measurement is inaccurate is that it is inconsistent with many other independent



measurements or observations of the same phenomenon; indeed, some would argue that this is ultimately the only way of knowing that a measurement is wrong. Therefore, one might suppose that the gross inconsistency of the NCVS-based estimates with all other known estimates, each derived from sources with no known flaws even remotely substantial enough to account for nine-to-one, or more, discrepancies, would be sufficient to persuade any serious scholar that the NCVS estimates are unreliable. Apparently it is not, since the Bureau of Justice Statistics continues to disseminate their DGU estimates as if they were valid,²⁰ and scholars continue to cite the NCVS estimates as being at least as reasonable as those from the gun surveys.²¹ Similarly, the editors of a report on violence conducted for the prestigious National Academy of Sciences have uncritically accepted the validity of the NCVS estimate as being at least equal to that of all of the alternative estimates.²² In effect, even the National Academy of Sciences gives no more weight to estimates from numerous independent sources than to an estimate derived from a single source which is, as explained below, singularly ill-suited to the task of estimating DGU frequency. This sort of bland and spurious even-handedness is misleading. For example, Reiss and Roth withheld from their readers that there were at least nine other estimates contradicting the NCVS-based estimate; instead they vaguely alluded only to "a number of surveys,"²³ as did Cook,²⁴ and they downplayed the estimates from the other surveys on the basis of flaws which they only speculated those surveys might have. Even as speculations, these scholars' conjectures were conspicuously one-sided, focusing solely on possible flaws whose correction would bring the estimate down, while ignoring obvious flaws, such as respondents (Rs) forgetting or intentionally concealing DGUs, whose correction would push the estimate up. Further, the speculations, even if true, would be wholly inadequate to account for more than a small share of the enormous nine-to-one or more discrepancy between the NCVS-based estimates and all other estimates. For example, the effects of telescoping can be completely cancelled out by the effects of memory loss and other recall failure, and even if they are not, they cannot account for more than a tiny share of a discrepancy of nine-to-one or more. Equally important, those who take the NCVS-based estimates seriously have consistently ignored the most pronounced limitations of the NCVS for estimating DGU frequency. [is that] The NCVS is a nonanonymous national survey conducted by a branch of the federal government, the U.S. Bureau of the Census. Interviewers identify themselves to Rs as federal government employees, even displaying, in face-to-face contacts, an identification card with a badge. Rs are told that the interviews are being conducted on behalf of the U.S. Department of Justice, the law enforcement branch of the federal government. As a preliminary to asking questions about crime victimization experiences, interviewers establish the address, telephone number, and full names of all occupants, age twelve and over, in each house-hold they contact.²⁵ In short, it is made very clear to Rs that they are, in effect, speaking to a law enforcement arm of the federal government, whose employees know exactly who the Rs and their family members are, where they live, and how they can be recontacted. Even under the best of circumstances, reporting the use of a gun for self-protection would be an extremely sensitive and legally controversial matter for either of two reasons. As with other forms of forceful resistance, the defensive act itself, regardless of the characteristics of any weapon used, might constitute an unlawful assault or at least the R might believe that others, including either legal authorities or the researchers, could regard it that way. Resistance with a gun also involves additional elements of sensitivity. Because guns are legally regulated, a victim's possession of the weapon, either in general or at the time of the DGU, might itself be unlawful, either in fact or in the mind of a crime victim who used one. More likely, lay persons with a limited knowledge of the extremely complicated law of either self-defense or firearms regulation are unlikely to know for sure whether their defensive actions or their gun possession was lawful. It is not hard for gun-using victims interviewed in the NCVS to withhold information about their use of a gun, especially since they are never directly asked whether they used a gun for self-protection. They are asked only general questions about whether they did anything to protect themselves.²⁶ In short, Rs are merely given the opportunity to volunteer the information that they have used a gun defensively. All it takes for an R to conceal a DGU is to simply refrain from mentioning it, i.e., to leave it out of what may be an otherwise accurate and complete account of the crime incident. Further, Rs in the NCVS are not even asked the general self-protection question unless they already independently indicated that they had been a victim of a crime. This means that any DGUs associated with crimes the Rs did not want to talk about would remain hidden. It has been estimated that the NCVS may catch less than one-twelfth of spousal assaults and one-thirty-third of rapes,²⁷ thereby missing nearly all DGUs associated with such crimes.



The study authors further defend their research methods, and discuss how they arrived at their conclusions, in this next piece of **evidence**:

(Gary Kleck & Marc Gertz, Northwestern University School of Law, "Armed Resistance to Crime: The Prevalence and Nature of Self-Defense with a Gun," *Journal of Law & Criminology*, Vol 86, Issue 1, Article 8, <http://www.hoplofobia.info/wp-content/uploads/2013/10/Armed-Resistance-to-Crime.pdf>, Fall 1995)

The present survey is the first survey ever devoted to the subject of armed self-defense. It **was carefully designed to correct all** -of the known correctable or avoidable **flaws of previous surveys** which critics have identified. **We use the most anonymous possible national survey format**, the anonymous random digit dialed telephone survey. We did not know the identities of those who were interviewed, and made this fact clear to the Rs. **We interviewed a large nationally representative sample** covering all adults, age eighteen and over, **in the lower fortyeight states** and living in households with telephones. 42 We asked DGU questions of all Rs in our sample, asking them separately about both their own DGU experiences and those of other members of their households. We used both a five year recall period and a one year recall period. **We inquired about uses of** both **handguns** and other types of guns, **and excluded occupational uses** of guns **and uses against animals**. Finally, **we asked a long series of detailed questions designed to establish exactly what Rs did with their guns**; for example, if they had confronted other humans, and how had each DGU connected to a specific crime or crimes. **We consulted with North America's most experienced experts on gun-related surveys**, David Bordua, James Wright, and Gary Mauser, along with survey expert Seymour Sudman, in order **to craft a state-of-the-art survey instrument designed specifically to establish the frequency and nature of DGUs**. 43 A professional telephone polling firm, Research Network of Tallahassee, Florida, carried out the sampling and interviewing. Only the firm's most experienced interviewers, who are listed in the acknowledgements, were used on the project. Interviews were monitored at random by survey supervisors. All interviews in which an alleged DGU was reported by the R were validated by supervisors with call-backs, along with a 20% random sample of all other interviews. Of all eligible residential telephone numbers called where a person rather than an answering machine answered, 61% resulted in a completed interview. Interviewing was carried out from February through April of 1993. The quality of sampling procedures was well above the level common in national surveys. Our sample was not only large and nationally representative, but it was also stratified by state. That is, fortyeight independent samples of residential telephone numbers were drawn, one from each of the lower forty-eight states, providing fortyeight independent, albeit often small, state samples. Given the nature of randomly generated samples of telephone numbers, there was no clustering of cases or multistage sampling as there is in the NCVS;44 consequently, there was no inflation of sampling error due to such procedures. To gain a larger raw number of sample DGU cases, we oversampled in the south and west regions, where previous surveys have indicated gun ownership is higher.45 We also oversampled within contacted households for males, who are more likely to own guns and to be victims of crimes in which victims might use guns defensively.46 Data were later weighted to adjust for oversampling. Each interview began with a few general "throat-clearing" questions about problems facing the R's community and crime. **The interviewers then asked** the following question: **"Within the past five years, have you yourself or another member of your household used a gun, even if it was not fired, for self-protection** or for the protection of property at home, work, or elsewhere? Please do not include military service, police work, or work as a security guard." Rs who answered "yes" were then asked: "Was this to protect against an animal or a person?" Rs who reported a DGU against a person were asked: "How many incidents involving defensive uses of guns against persons happened to members of your household in the past five years?" and "Did this incident [any of these incidents] happen in the past twelve months?" At this point, Rs were asked "Was it you who used a gun defensively, or did someone else in your household do this?" All Rs reporting a DGU were asked a long, detailed series of questions establishing exactly what happened in the DGU incident. Rs who reported having experienced more than one DGU in the previous five years were asked about their most recent experience. When the original R was the one who had used a gun defensively, as was usually the case, interviewers obtained his or her firsthand account of the event. When the original R indicated that some other member of the household was the one who had the -experience, interviewers made every effort to speak directly to the involved person, either speaking to that person immediately or obtaining times and dates to call back. Up to three call-backs were made to contact the DGU-involved person. We anticipated that it would sometimes prove impossible to make contact with these persons, so interviewers were instructed to always obtain a proxy account of the DGU from the original R, on the assumption that a proxy account would be better than none at all. It was rarely necessary to rely on these proxy accounts only six sample cases of DGUs were reported through proxies, out of a total of 222 sample cases. While all Rs reporting a DGU were given the full interview, only a one-third random sample of Rs not reporting a DGU were interviewed. The rest were simply thanked for their help. This procedure helped keep interviewing costs down. In the end, there were 222 completed interviews with Rs reporting DGUs, another 1,610 Rs not reporting a DGU but going through the full interview by answering questions other than those pertaining to details of the DGUs. There were a total of 1,832 cases with the full interview. An additional 3,145 Rs answered only enough questions to establish that no one in their household had experienced a DGU against a human in the previous five years (unweighted totals). These procedures effectively undersampled for non-DGU Rs or, equivalently, oversampled for DGU-involved Rs. Data were also weighted to account for this oversampling. Questions about the details of DGU incidents permitted us to establish whether a given DGU met all of the following qualifications for an incident to be treated as a genuine DGU: (1) the incident involved defensive action against a human rather than an animal, but not in connection with police, military, or security guard duties; (2) the incident involved actual contact with a person, rather than merely



investigating suspicious circumstances, etc.; (3) the defender could state a specific crime which he thought was being committed at the time of the incident; (4) the gun was actually used in some way-at a minimum it had to be used as part of a threat against a person, either by verbally referring to the gun (e.g., "get away-I've got a gun") or by pointing it at an adversary. We made no effort to assess either the lawfulness or morality of the Rs' defensive actions. An additional step was taken **to minimize the possibility of DGU frequency being overstated. The senior author went through interview sheets** on every one of the interviews in which a DGU was reported, **looking for any indication that the incident might not be genuine. A case would be coded as questionable if even just one of four problems appeared:** (1) it was not clear whether the R actually confronted any adversary he saw; (2) the R was a police officer, member of the military or a security guard, and thus might have been reporting, despite instructions, an incident which occurred as part of his occupational duties; (3) the interviewer did not properly record exactly what the R had done with the gun, so it was possible that he had not used it in any meaningful way; or (4) the R did not state or the interviewer did not record a specific crime that the R thought was being committed against him at the time of the incident. There were a total of twenty-six cases where at least one of these problematic indications was present. It should be emphasized that we do not know that these cases were not genuine DGUs; we only mean to indicate that we do not have as high a degree of confidence on the matter as with the rest of the cases designated as DGUs. Estimates using all of the DGU cases are labelled herein as "A" estimates, while the more conservative estimates based only on cases devoid of any problematic indications are labelled "B" estimates. 2. Results Table 2 displays a large number of estimates of how often guns are used defensively. These estimates are not inconsistent with each other; they each measure different things in different ways. Some estimates are based only on incidents which Rs reported as occurring in the twelve months preceding the interview, while others are based on incidents reported for the preceding five years. Both telescoping and recall failure should be lower with a one year recall period, so estimates derived from this period should be superior to those based on the longer recall period. Some estimates are based only on incidents which Rs reported as involving themselves, (person-based estimates), while others were based on all incidents which Rs reported as involving anyone in their household (household-based estimates). The person-based estimates should be better because of its first-hand character. Finally, some of the figures pertain only to DGUs involving use of handguns, while others pertain to DGUs involving any type of gun. The methods used to compute the Table 2 estimates are very simple and straight-forward. Prevalence ("% Used") figures were computed by dividing the weighted sample frequencies in the top two rows of numbers by the total weighted sample size of 4,977. The estimated number of persons or households who experienced a DGU, listed in the third and fourth rows, was then computed by multiplying these prevalence figures by the appropriate U.S. population base, age eighteen and over for person-based estimates, and the total number of households for household-based estimates. Finally, the estimated number of defensive uses was computed by multiplying the number of DGU-involved persons or households by the following estimates of the number of all-guns DGU incidents per DGU-involved person or household, using a past-five-years recall period: person-based, A- 1.478; person-based, B-1.472; household-based, A-1.531; household-based, B-1.535. We did not establish how many DGUs occurred in the past year, and for past-five-years DGUs, we did not separately establish how many of the DGUs involved handguns and how many involved other types of guns. Therefore, for all past-year estimates, and for past-five-years handgun estimates, it was necessary to conservatively assume that there was only one DGU per DGU-involved person or household. **The most technically sound estimates** presented in Table 2 are those based on the shorter one-year recall period that rely on Rs' firsthand accounts of their own experiences (person-based estimates). These estimates appear in the first two columns. They **indicate that each year in the U.S. there are about 2.2 to 2.5 million DGUs** of all types **by civilians** against humans, **with about 1.5 to 1.9 million of the incidents involving use of handguns. These estimates are larger than those derived from the best previous surveys, indicating that technical improvements in the measurement procedures have,** contrary to the expectations of Cook,⁴⁷ Reiss and Roth, ⁴⁸ and McDowall and Wiersema, ⁴⁹ **increased** rather than decreased **estimates of the frequency that DGUs occur. Defensive gun use is thus just another specific example of a commonplace pattern in criminological survey work,** which includes victimization surveys, selfreport surveys of delinquency, surveys of illicit drug use, etc.: **the better the measurement procedures, the higher the estimates** of controversial behaviors. 50 The present estimates are higher than earlier ones primarily due to three significant improvements in the present survey: (1) a shorter recall period; (2) reliance on person-based information rather than just household-based information; and (3) information on how many household DGUs had been experienced in the recall period by those Rs reporting any such experiences. Using a shorter recall period undoubtedly reduced the effects of memory loss by reducing the artificial shrinkage to which earlier estimates were subject. Although telescoping was also undoubtedly reduced, and this would, by itself, tend to reduce estimates, the impact of reducing telescoping was apparently smaller than the impact of reducing case loss due to forgetting. Evidence internal to this survey directly indicates that a one year recall period yields larger estimates than a five year recall period; compare figures in the right half of Table 2 with their counterparts in the left half. This phenomenon, where less behavior is reported for a longer recall period than would be expected based on results obtained when using a shorter period, also has been observed in surveys of self-reported use of illicit drugs. 51 Furthermore, basing estimates on Rs reports about DGUs in which they were personally involved also increases the estimates. One of the surprises of this survey was how few Rs were willing to report a DGU which involved some other member of their household. Eightyfive percent of the reports of DGUs we obtained involved the original R, the person with whom the interviewer first spoke. Given that most households contain more than one adult eligible to be interviewed, it was surprising that in a DGU-involved household the person who answered the phone would consistently turn out to be the individual who had been involved in the DGU. Our strong suspicion is that many Rs feel that it is not their place to tell total strangers that some other member of their household has used a gun for self-protection. Some of them are willing to tell strangers about an incident in which they were themselves involved, but apparently few are willing to "inform" on others in their household. Still others may not have been aware of DGUs involving other household members. Evidence internal to the present survey supports this speculation, since person-based estimates are 66 to 77% higher than household-based estimates; a figure that suggests that there was more complete reporting of DGUs involving the original respondent than those involving other household members. 52 For this reason, previous surveys including those which yielded only household-based estimates, four of the six gun surveys which yielded usable annual estimates, and all of those which were national in scope, probably substantially underestimated DGUs. We also had information on the number of times that DGU-involved households had experienced DGUs during the five year recall period. While it was necessary in computing previous estimates to conservatively assume that each DGU-involved person or household had experienced only one DGU, our evidence indicates that repeat experiences were not uncommon, with 29.5% of DGU-involved households reporting more than one DGU within the previous five years. The average number of DGUs in this time span was 1.5 per DGUinvolved household. This information alone could account for a roughly 50% increase in DGU incidence estimates based on the five year recall period. Finally, **our survey was superior to the**



NCVS in two additional ways: it was free of the taint of being conducted by, and on behalf of, employees of the federal government, and it was completely anonymous. It would be incorrect to say that the present estimates are inconsistent with those derived from the earlier gun surveys. Avoiding apples-and-oranges comparisons, compare figures from Table 2 with earlier results summarized in Table 1. The household prevalence figures from the national Hart and Mauser surveys, which used a DGU question most similar to the one used in the present survey, indicate that in 1990, 3.8% of households reported a DGU involving a gun of any kind in the previous five years⁵³ and in 1981, 4% reported a DGU involving a handgun in the previous five years.⁵⁴ The past-five-years, household-based "% Used" figures in Table 2 indicate 3.9% for all guns, and 3.0% for handguns. Where directly comparable, the present results are within sampling error of the results of the best two previous surveys. Indeed, the consistency is remarkable given the substantial differences among the surveys and the twelve year difference between the Hart survey and the current one. Further, the only prior survey with person-based estimates and a one year recall period, the 1976 Field poll in California, yielded a 1.4% prevalence figure for handguns,⁵⁵ compared to 1.0% in the present survey.⁵⁶ With a sample size of 4,977, random sampling error of the estimates is small. For example, the all-guns prevalence percent used A estimates, with a 95% confidence interval, are plus or minus 0.32% for past year, person; 0.35% for past year, household; 0.50% for past five years, person; and 0.54% for past five years, household. Given how small these are already, even increasing samples to the size of the enormous ones in the NCVS could produce only slight reductions in sampling error. Are these estimates plausible? **Could it really be true that Americans use guns for self-protection** as often as 2.1 to **2.5 million times a year?** The estimate may seem remarkable in comparison to expectations based on conventional wisdom, but **it is not** implausibly **large in comparison to various gun-related phenomena.** There are probably **over 220 million guns in private hands in the U.S.,**⁵⁷ implying that only about **1% of them** are **used for defensive purposes in any one year-not an impossibly high fraction.** In a December 1993 Gallup survey, 49% of U.S. households reported owning a gun, and 31% of adults reported personally owning one.⁵⁸ These figures indicate that there are about 47.6 million households with a gun, with perhaps 93 million, or 49% of the adult U.S. population living in households with guns, and about 59.1 million adults personally owning a gun. Again, it hardly seems implausible that 3% (2.5 million/93 million) of the people with immediate access to a gun could have used one defensively in a given year. Huge numbers of Americans not only have access to guns, but the overwhelming majority of gun owners, if one can believe their statements, are willing to use a gun defensively. In a December 1989 national survey, 78% of American gun owners stated that they would not only be willing to use a gun defensively in some way, but would be willing to shoot a burglar.⁵⁹ The percentage willing to use a gun defensively in some way, though not necessarily by shooting someone, would presumably be even higher than this. Nevertheless, having access to a gun and being willing to use it against criminals is not the same" as actually doing so. The latter requires experiencing a crime under circumstances in which the victim can get to, or already possesses, a gun. We do not know how many such opportunities for crime victims to use guns defensively occur each year. It would be useful to know how large a fraction of crimes with direct offender-victim contact result in a DGU. Unfortunately, a large share of the incidents covered by our survey are probably outside the scope of incidents that realistically are likely to be reported to either the NCVS or police. If the DGU incidents reported in the present survey are not entirely a subset within the pool of cases covered by the NCVS, one cannot meaningfully use NCVS data to estimate the share of crime incidents which result in a DGU. Nevertheless, **in a ten state sample of incarcerated felons interviewed** in 1982, **34% reported having been "scared off,"** shot at, wounded or captured **by an armed victim.**⁶⁰ **From the criminals' standpoint, this experience was not rare.** How could such a serious thing happen so often without becoming common knowledge? **This phenomenon,** regardless of how widespread it really is, **is largely an invisible one as far as governmental statistics are concerned.** Neither the defender/victim nor the criminal ordinarily **has much incentive to report** this sort of event to the police, **and** either or **both** often **have** strong **reasons not to** do so. Consequently, many of these incidents never come to the attention of the police, while others may be reported but without victims mentioning their use of a gun. **And even when a DGU is reported, it will not necessarily be recorded by the police, who** ordinarily **do not keep statistics on** matters other than **DGUs** resulting in a death, **since police record-keeping is** largely **confined to information helpful in apprehending** perpetrators **and** making a legal case for **convicting** them. Because such statistics are not kept, we cannot even be certain that a large number of DGUs are not reported to the police. **The health system cannot shed much light** on this phenomenon **either, since** very **few of these incidents involve injuries.**⁶¹ **In the rare case where someone is hurt, it is usually the criminal, who is unlikely to seek medical attention** for any but the most life-threatening gunshot wounds, **as this would** ordinarily **result in a police interrogation.** **Physicians** in many states **are required by law to report** treatment of **gunshot wounds to the police,** making it necessary for medically treated **criminals to explain to police how they received their wounds.** Finally, **it is now clear that virtually none of the victims who use guns defensively tell interviewers about it in the NCVS.** Our estimates imply that only about **3%** of DGUs among NCVS Rs **are reported** to interviewers.⁶² Based on other comparisons of alternative survey estimates of violent events with NCVS



estimates, this high level of underreporting is eminently plausible. Loftin and Mackenzie reported that rapes might be thirty-three times as frequent as NCVS estimates indicate, while spousal violence could easily be twelve times as high.⁶³ There is no inherent value to knowing the exact number of DGUs any more than there is any value to knowing the exact number of crimes which are committed each year. The estimates in Table 2 are at best only rough approximations, which are probably too low. **It is sufficient to conclude from these numbers that DGU is very common**, far more common than has been recognized to date by criminologists or policy makers, and certainly far more common than one would think based on any official sources of information.

This particular study is further criticized, directly and at length, in an article the affirmative might find valuable. However, it is available in a document that does not allow copy & paste, and I am far too lazy to retype it all word-for-word! If you are interested, you can find the paper for free [here](#). I highly encourage you to read it and cut cards as needed.

Another point the affirmative might make in response to self-defense claims is that handguns are not effective for self-defense, and that their presence actually increases the chances that a crime will end violently. Here is **evidence**:

(John Donohue, C Wendell and Edith M Carlsmith Professor of Law at Stanford University, "Ban guns, end shootings? How evidence stacks up around the world," CNN, <http://www.cnn.com/2015/08/27/opinions/us-guns-evidence/>, August 27 2015)

For starters, **only the tiniest fraction of victims of violent crime are able to use a gun in their defense**. Over the period **from 2007-2011**, when roughly **six million nonfatal violent crimes occurred each year, data** from the National Crime Victimization Survey **show that the victim did not defend with a gun in 99.2% of these incidents** -- this **in a country with 300 million guns** in civilian hands. In fact, **a study of 198 cases** of unwanted entry into occupied single-family dwellings in Atlanta (not limited to night when the residents were sleeping) **found that the invader was twice as likely to obtain the victim's gun than to have the victim use a firearm in self-defense**. The author of the study, Arthur Kellerman, concluded in words that Justice Thomas and Scalia might well heed: **On average, the gun that represents the greatest threat is the one that is kept loaded and readily available in a bedside drawer. A loaded, unsecured gun in the home is like an insurance policy that fails to deliver at least 95% of the time you need it, but has the constant potential** -- particularly in the case of handguns that are more easily manipulated by children and more attractive for use in crime -- **to harm** someone in the home or (via theft) the public at large. For years, the NRA mantra has been that **allowing citizens to carry** concealed **handguns** would reduce crime as they fought off or scared off the criminals. Some early studies even purported to show that so-called right to carry laws (RTC) did just that, but a 2004 report from the National Research Council refuted that claim (saying it was not supported by "the scientific evidence"), while remaining uncertain about what the true impact of RTC laws was. Ten years of additional data have allowed new research to get a better fix on this question, which **is** important since the NRA is pushing for a Supreme Court decision that would allow RTC as a matter of constitutional law. The new research on this issue from my research team at Stanford University has given the most compelling evidence to date that RTC laws are **associated with significant increases in**



violent crime -- particularly for aggravated assault. Looking at Uniform Crime Reports data from 1979-2012, we find that, **on average, the 33 states that adopted RTC [right to carry] laws** over this period **experienced violent crime rates** that are **4%-19% higher** after 10 years than if they had not adopted these laws.

Further **evidence** on this point posits that a gun in a home is statistically more likely to harm someone who lives there than an intruder. It also introduces us to the question of deterrence, claiming that, not only do guns not deter crime, they may actually encourage it, due to handguns being valuable and easy to steal:

(Philip J. Cook (Sanford Professor of Public Policy, Duke University, and Research Associate at the National Bureau of Economic Research) & Jens Ludwig (Associate Professor of Public Policy, Georgetown University, and Faculty Research Fellow at the National Bureau of Economic Research), "AIMING FOR EVIDENCE-BASED GUN POLICY," Journal of Policy Analysis and Management, Vol. 25, No. 3, pp. 691-735, http://home.uchicago.edu/~ludwigj/papers/JPAM_aiming_for_evidence_gun_policy_2006.pdf, 2006)

Perhaps **the question** of primary interest to individual citizens **is whether guns make** the owners **and** members of their **household more or less safe. Several studies have demonstrated that a gun in the home is far more likely to end up being used to kill a member of the household** (including suicide) **than to kill or injure an intruder** (Hemenway, 2004, Ch. 5). But that comparison is not exactly on point: The number of intruders who are shot understates the total number of instances in which an intruder is repelled or scared off. **If guns in the home are dangerous to its occupants on balance, then we would predict that people who are victimized in their homes would be more likely to have a gun than non-victims, other things equal. This prediction has been tested by use of case-control studies** that compare gun ownership rates of homicide victims with those of neighbors who share similar sociodemographic characteristics (Kellermann et al., 1993). **The victims are indeed more likely to own a gun.** But it's not clear that these studies have really controlled for other relevant factors. The decision to keep a gun is confounded in some way with other hard-to-measure individual characteristics associated with the risk of homicide victimization (such as whether the ultimate victim was being threatened by someone). Another problem is that the indicators of gun ownership used in these studies (reports by neighbors or others) may be confounded by the homicide or suicide. A more subtle concern with case-control studies is that they ignore the possibility that individual gun ownership affects other people in the community. These external effects could be salutary, if widespread gun ownership deters criminals; or negative, if widespread ownership facilitates diversion to criminal use through theft and secondary sales. Hence it is important to assess the effects of overall rates of gun ownership within a community. One way to learn about the effects of community gun prevalence on crime is to compare crime rates across jurisdictions that have different rates of gun ownership. Because there are no administrative data on gun ownership rates, small-area estimates must utilize a proxy. The best generally available proxy for gun prevalence is the fraction of suicides that involve a firearm (FSS), which is highly correlated with survey-based measures of gun ownership rates in cross-section data (at both the state and county level), and also tracks movements over time at the regional and state levels (Azrael, Cook, & Miller, 2004; Kleck, 2004; Cook & Ludwig, 2006). The suitability of the FSS proxy depends in part on the specific application. For example, FSS is problematic in studying how guns affect suicide because the two measures will have a built-in negative correlation (Wellford, Pepper, & Petrie, 2005; see also Duggan, 2003). But overall, FSS appears to be a good proxy for gun ownership, perhaps better than direct survey-based estimates. In fact, the correlations between FSS and survey-based gun-prevalence measures are so high that they are compatible with a belief that FSS is exact (Cook & Ludwig, 2006). Several studies report a strong positive correlation between the FSS proxy and homicide rates across counties (Cook & Ludwig, 2002; Miller, Azrael, & Hemenway, 2002).¹⁸ However, the fundamental problem with cross-sectional studies is that gun-rich jurisdictions, such as Mississippi, are systematically different in various ways from jurisdictions with relatively few guns, such as Massachusetts. The usual approach for addressing this "apples and oranges" problem has been to statistically control for the handful of local-area characteristics that are readily available in standard data sources, such as population density, poverty, and the age and racial composition of the population. But these variables never explain very much of the cross-sectional variation in crime rates (Glaeser, Sacerdote, & Scheinkman, 1996), suggesting that the list of control variables is inadequate to the task. Also unclear is whether widespread gun ownership is cause or effect of an area's crime problem, since high crime rates may induce residents to buy guns for self-protection. These same concerns are arguably even more severe with cross-sectional comparisons across countries. Some of the problems with cross-section studies can be overcome by using panel data—repeated cross-sections of city, county, or state data measured at multiple points in time—to compare changes in gun ownership with changes in crime. Compared with Massachusetts, the state of Mississippi may have much higher homicide rates year after year for reasons that cannot be fully explained by standard sociodemographic or other variables. But by comparing changes across areas we implicitly control for any unmeasured differences across areas that are relatively fixed over time, such as a "Southern culture of violence" (see Butterfield, 1996; Loftin, McDowall, Wiersema, & Cottey, 1991). The reverse causation problem, in which crime may be both cause and effect of gun ownership, can be at least partially addressed within this "fixed effects"



framework by relating changes in gun ownership this year with changes in crime rates next year. The best available panel-data evidence suggests that more guns lead to more homicides. Mark Duggan's paper in the Journal of Political Economy (2001) identifies the relationship between guns and crime using over-time variation in panels of states and also counties. Duggan finds that a 10 percent increase in gun prevalence in one year increases a county or state's homicide rate the next year by around 2 percent (that is, the elasticity of homicide with respect to his gun proxy is around 0.2), but gun prevalence has little effect on other types of crime. In a related study, we (Cook & Ludwig, 2006) use the same sort of across-county over-time variation in gun prevalence exploited by Duggan, but employ a more valid measure for household gun ownership (FSS) and extend the basic panel-data analysis in a variety of ways. It turns out that our estimates are quite similar to those from Duggan: The elasticity of homicide with respect to their gun proxy is on the order of 0.3 after correcting for measurement error with the proxy. All of this association is driven by a relationship between FSS and homicides committed with firearms, and there is little association of gun prevalence with other types of crimes. The primary concern with these estimates is that neither Duggan (2001) nor Cook and Ludwig (2006) have a good "natural experiment" that generates variation in gun prevalence that is plausibly unrelated to other factors relevant for determining homicide outcomes. Put differently, why do some areas experience increases in household gun ownership while other areas experience declines in gun prevalence, and are these trends driven by omitted variables that also affect homicide? While there is no definitive answer to this question, we note that at least part of the variation across counties over time in household gun ownership rates seems to be due to a general convergence in gun prevalence across regions of the country.¹⁹ Estimates that use just the variation in gun prevalence attributable to this general interregional convergence again imply an elasticity of around 0.2. We should note that recent empirical estimates are not unanimous on this point: John Lott (2000) estimates the elasticity of homicide with respect to gun ownership rates to be equal to -3.3, of the opposite sign and about an order of magnitude larger than the estimates reported by Duggan (2001) or Cook and Ludwig (2006). We put more weight on the latter two studies because of problems with Lott's data and methods. One problem with Lott's analysis is that by pooling state-level data for 1988 and 1996 and controlling for region rather than state fixed effects, his estimates will be identified primarily by interstate variation in gun ownership rates (Azrael, Cook, & Miller, 2004; Kleck, 2004). A more fundamental problem is that there are serious problems with the voter exit poll data that Lott uses to estimate state-level gun ownership. Voters are by no means a representative sample, and the voting "sample" changes from election to election. That may explain why Lott's data indicate that from 1988 to 1996 gun ownership rates increased for the U.S. as a whole from 27.4 to 37.0 percent (p. 36). Yet the best source of national data on gun ownership trends, the General Social Survey, indicates that individual gun ownership trends were essentially flat during this period (Kleck, 1997, pp. 98-99). In the gun policy debate, a related claim about the benefit of widespread gun ownership is that it serves to deter burglars, and especially "hot" burglaries of occupied homes (Kleck, 1997; Kopel, 2001). This claim is based on little evidence of any kind. The only systematic analysis of this point of which we are aware (Cook & Ludwig, 2003b) demonstrates by use of the geocoded National Crime Victimization Survey data that the individual likelihood of residential burglary or hot burglary is not reduced by living in a county with high gun prevalence. One reason may be that a high gun prevalence increases the profitability of burglary, because stolen guns are readily fenced and easier to carry than televisions and many other types of loot. These results taken together accord with the belief that guns do not contribute much to the overall volume of crime, and they do make violent crime more lethal (Zimring & Hawkins, 1997). Note that our conclusion here is at odds with the one advanced by Michael Moore in his widely cited documentary *Bowling for Columbine*.²⁰ Moore argues that Canada is like the U.S. in having lots of guns, yet it has a far lower homicide rate, suggesting that guns per se are not the problem. As it turns out, however, gun ownership in Canada is only about half as common as in the United States, and handgun ownership still rarer (Block, 1998). More important, other aspects of Canadian society lead that country to have a lower rate of violent crime than the United States. It is the combination of widespread gun ownership with a high rate of violence in the United States that produces such deadly results. Canada has less of both dimensions.

On the other hand, the negative could cite **evidence** that many convicted criminals self-report that they have been "scared off" by a potential victim who had a gun (or who they believed might):

(Philip J. Cook (Sanford Professor of Public Policy, Duke University, and Research Associate at the National Bureau of Economic Research) & Jens Ludwig (Associate Professor of Public Policy, Georgetown University, and Faculty Research Fellow at the National Bureau of Economic Research), "AIMING FOR EVIDENCE-BASED GUN POLICY," Journal of Policy Analysis and Management, Vol. 25, No. 3, pp. 691-735, http://home.uchicago.edu/~ludwig/papers/JPAM_aiming_for_evidence_gun_policy_2006.pdf, 2006)
Whatever the actual number of defensive gun uses, the mere threat of encountering an armed victim may exert a deterrent effect on the behavior of criminals. A growing body of research within criminology



and economics supports the notion that some criminals are sensitive to the threat of punishment (Cook, 1980; Nagin, 1998; Levitt, 2001). It is therefore not surprising that the threat of armed victim response may also figure in criminal decision: Around 40 percent of prisoners in one survey indicated that they had decided against committing a crime at least once because they feared that the potential victim was carrying a gun (Wright & Rossi, 1994). Whether that type of consideration actually affects crime rates is another matter, to which we return below.

Here is a bit more **evidence** on the same argument; this is some of the raw data being referenced:

(James D. Wright and Peter D. Rossi, "Armed and Considered Dangerous: A Survey of Felons and Their Firearms (Expanded Edition)," Aldine De Gruyter publishing (print), PP 155, originally published in 1986, Expanded edition published in 1994)

2. Have you ever been scared off, shot at, wounded, or captured by an armed victim? No: 66%, **Yes: 34%**, (N) = (1673) 3. Was there ever a time in your life when you decided not to do a crime because you knew or believed that the victim was carrying a gun? No, never: 61%, **Yes, just once: 10%, Yes, a few times: 22%, Yes, many times: 8%**, (N) = (1627) 4. (H)ave any of the criminals you have known personally ever been scared off, shot at, wounded, or captured by an armed victim? No, none: 31%, **Yes, but only one: 10%, Yes, a few: 48%, Yes, many: 11%**, (N) = (1627)

Rounding out our discussion of guns' impact on crime, the aff might argue that, even if guns do deter some crimes, they also make crimes that do happen much more dangerous. Here is a piece of **evidence** that references an (old, but still useful) study demonstrating that otherwise-similar crimes are significantly more likely to become lethal when a gun is involved. This, according to the study, is because of the simple fact that it's easy to kill with a gun than with a knife:

(Philip J. Cook (Sanford Professor of Public Policy, Duke University, and Research Associate at the National Bureau of Economic Research) & Jens Ludwig (Associate Professor of Public Policy, Georgetown University, and Faculty Research Fellow at the National Bureau of Economic Research), "AIMING FOR EVIDENCE-BASED GUN POLICY," Journal of Policy Analysis and Management, Vol. 25, No. 3, pp. 691–735,

http://home.uchicago.edu/~ludwigj/papers/JPAM_aiming_for_evidence_gun_policy_2006.pdf, 2006)

Since both guns and homicides are unusually common in the U.S. compared to other developed nations, it is natural to wonder whether the two phenomena are linked. In the 1950s and 1960s, criminologists generally ignored the issue of weapon choice as a determinant of homicide, preferring to focus on more "fundamental" issues. One exception was Marvin Wolfgang (Wolfgang, 1958), although he argued that the gun itself had little effect on the outcome of a violent encounter—a judgment that he later retracted (Wolfgang, 1995). In two seminal articles, Franklin Zimring



(1968, 1972) provided systematic evidence that the weapon type matters independent of motivation. Zimring drew on crime data from Chicago to show that case-fatality rates in gun attacks are a multiple of those in knife attacks, despite the fact that the circumstances are generally quite similar. Many criminal assailants were inebriated at the time of the crime, and thus unlikely to be acting in a calculating fashion, and few attackers administered more than one or two wounds to the victim, even in fatal cases. In serious attacks, he concluded, the difference between whether the victim lived or died was typically a matter of chance rather than a difference in intent, and the chances were higher with a gun than a knife. Zimring (1972) found further confirmation in comparing the case-fatality rates among shootings involving guns of different caliber. He demonstrated that victims were more likely to die in larger-caliber shootings, again suggesting that the intrinsic lethality of the weapon affected the outcome (Cook, 1991). Similar results hold for robbery: Using a gun instead of a knife to threaten someone appears to greatly increase the likelihood that the victim will be killed, despite the fact that gun use reduces the likelihood of victim resistance or injury (Cook, 1976, 1980, 1987). The results on instrumentality are in line with our working hypothesis of rational violence. Compared with other common weapons, guns provide a means of inflicting a fatal wound quickly, from a distance, with little personal risk, determination, involvement, or strength required. Gun use in an assault increases the likelihood of death by making it easier to kill.¹⁴ The notion that guns make crime more lethal seems to be fairly well accepted now on all sides of the gun control debate (see, for example, Kleck, 1997, p. 227), and even among the general public. As Ozzy Osbourne argued in a New York Times interview, “I keep hearing this thing that guns don’t kill people, but people kill people. If that’s the case, then why do we give people guns when they go to war? Why not just send the people?”¹⁵ The direct evidence on whether guns exert an instrumentality effect on suicide is less strong than for criminal assaults. In suicide, unlike assault, there are other highly lethal means available to anyone who takes the time to plan, including hanging and jumping from a high building or bridge. Of course not all suicide attempts are the result of sustained intent: Youths, especially, may be subject to fits of despair resulting from transitory events.¹⁶

Here is a second piece of **evidence** comparing the lethality of guns to other weapons:

(Jonathan Stray, Prof of computational journalism at Columbia University, “Gun Violence in America: The 13 Key Questions (With 13 Concise Answers),” The Atlantic, <http://www.theatlantic.com/national/archive/2013/02/gun-violence-in-america-the-13-key-questions-with-13-concise-answers/272727/>, Feb 4 2013)

Won't criminals kill with other weapons if they don't have guns? The crux of this question is whether most homicides are planned, or whether killers more often confront their victims with no clear intention. In the second case, adding a gun could result in a fatal shooting that would otherwise have been avoided. The evidence that weapon does matter goes back decades. In 1968, Franklin Zimring examined cases of knife assaults versus gun assaults in Chicago. The gun attacks were five times more deadly. Moreover, the two sets of attacks were similar in all other dimensions: age, sex, race, whether the victim knew the assailant beforehand, and so forth. A few years later, he repeated his analysis, this time comparing small and large caliber guns. As expected, the victim was much more likely to die from larger caliber guns. Although it is surely true that a determined killer cannot be stopped by the absence of a gun, this type of evidence indicates that many homicides are unplanned. The outcome depends, at least partially, on the weapon at hand. In that restricted sense, guns do kill people.



Up to this point, we have so far focused our discussion on the question of whether or not handgun bans might successfully reduce violence. Now, we will turn away from the emphasis on quantitative data and towards qualitative concerns, such as those regarding the United States Constitution, the rights entitled to individuals, and equal protection under the law.

Constitution & Individual Rights

So far, most of this guide has covered arguments that tend to align with a utilitarian framework. However, anyone who's ever heard one knows that gun debates have another element that many people see as just as important: questions of principle. Most obviously, the Second Amendment of the United States Constitution.

Of course, the negative might want to pursue the argument that a handgun ban would be a violation of the Second Amendment. Here is **evidence** on this:

(Dr. Nelson Lund, Professor at George Mason University School of Law, "The Second Amendment and the Inalienable Right to Self-Defense," The Heritage Foundation, Report #16-CGL on Political Thought, adapted from the second edition of The Heritage Guide to the Constitution, <http://www.heritage.org/research/reports/2014/04/the-second-amendment-and-the-inalienable-right-to-self-defense>, April 17 2014)

Until recently, the judiciary treated the Second Amendment almost as a dead letter. Many courts concluded that citizens have no constitutionally protected right to arms at all, and the federal courts never invalidated a single gun control law. In the late 20th century, however, the judicial consensus was challenged by a large body of new scholarship.

Through analysis of the text and history of the Second Amendment, commentators sought to establish that the Constitution does protect an individual right to have weapons for self-defense, including defense against criminal violence that the government cannot or will not prevent. In District of Columbia v. Heller (2008), the Supreme Court finally did strike down a gun control regulation, in this case a federal law that forbade nearly all civilians from possessing a handgun in the District of Columbia. A narrow 5–4 majority adopted the main conclusions and many of the arguments advanced by the revisionist commentators, ruling that the original meaning of the Second Amendment protects a private right of individuals to keep and bear arms for the purpose of self-defense. The dissenters interpreted the original meaning differently. In an opinion that all four of them joined, Justice John Paul Stevens concluded that the Second Amendment's nominally individual right actually protects only "the right of the people of each of the several States to maintain a well-regulated militia." In a separate opinion, also joined by all four dissenters, Justice Stephen Breyer argued that even if the Second Amendment did protect an individual right to have arms for self-defense, it should be interpreted to allow the government to ban handguns in high-crime



urban areas. **Two years later**, in *McDonald v. City of Chicago*, **the Court struck down a similar law at the state level**, again by a 5–4 vote. The four-Justice McDonald plurality relied largely on substantive due process precedents that had applied other provisions of the Bill of Rights to the states. Justice Clarence Thomas concurred in the judgment but rejected the Court’s long-standing doctrine of substantive due process, which he concluded is inconsistent with the original meaning of the Constitution. Instead, he set forth a detailed analysis of the original meaning of the Fourteenth Amendment’s Privileges or Immunities Clause and concluded that it protects the same individual right that is protected from federal infringement by the Second Amendment. Notwithstanding the lengthy opinions in *Heller* and *McDonald*, **their holdings** are narrowly confined to **invalidat[e]ing bans on the possession of handguns by civilians** in their own homes. Neither case provides clear guidance on the constitutionality of less restrictive forms of gun control, although *Heller* does set forth a non-exclusive list of “presumptively lawful” regulations that include bans on the possession of firearms by felons and the mentally ill, bans on carrying firearms in “sensitive places such as schools and government buildings,” laws restricting the commercial sale of arms, bans on the concealed carry of firearms, and bans on weapons “not typically possessed by law-abiding citizens for lawful purposes.” In the short period of time since *Heller* was decided, the lower courts have struggled to divine how it applies to regulations that the Court did not address, such as bans on carrying weapons in public and bans on the possession of firearms by violent misdemeanants. At the moment, the dominant approach in the federal courts of appeals can be summarized roughly as follows: Some regulations, primarily those that are “long-standing,” are presumed not to infringe the right protected by the Second Amendment. Thus, for example, the D.C. Circuit upheld a regulation requiring gun owners to register each of their weapons with the government. *Heller v. District of Columbia* (“*Heller II*”) (2011). Regulations that substantially restrict the core right of self-defense are scrutinized under a demanding test that generally permits only regulations that are narrowly tailored to accomplish a compelling government purpose. Applying a test of this kind, the Seventh Circuit found that a city had failed to provide an adequate justification for its ban on firing ranges. *Ezell v. City of Chicago* (2011). Regulations that do not severely restrict the core right are subject to a more deferential form of scrutiny, which generally requires that the regulation be substantially related to an important government objective. The Third Circuit, for example, held that a ban on possessing a handgun with an obliterated serial number was valid under this standard. *United States v. Marzzarella* (2010). The application of this framework has varied somewhat among the courts, and *Heller* left room for other approaches to develop. One important outstanding issue is the scope of the right to carry firearms in public. *Heller* laid great stress on the text of the Second Amendment, which protects the right to keep and bear arms, while also giving provisional approval to bans on the concealed carry of firearms. **A ban** (or severe restrictions) on both concealed and open carry **would** seem to **conflict with the constitutional** text. **It would also seem hard to reconcile with** the Court’s emphasis on the importance of **the right to self-defense against violent criminals**, who are at least as likely to be encountered outside the home as within it. *Heller*, however, did not unambiguously recognize any right to carry weapons in public. Some lower courts have concluded that no such right exists, while others have disagreed. The Supreme Court may eventually have to address the issue.

To make such arguments competitively useful, the neg will also need to advance some reasons why constitutional correctness is important. This might be done via your value/criterion structure, or by the introduction of some impact evidence. Although the importance of adhering to the Constitution might seem obvious to most Americans, debaters should not take anything for granted. You must “do the work” to establish the value of such allegiance.



One possible affirmative response to Constitutional concerns would be that the Constitution forbids the government from disarming the populace entirely, but it does not forbid the restriction of certain types of weapons. Here is **evidence** supporting that point:

(Dr. Nelson Lund, Professor at George Mason University School of Law, "The Second Amendment and the Inalienable Right to Self-Defense," The Heritage Foundation, Report #16-CGL on Political Thought, adapted from the second edition of The Heritage Guide to the Constitution, <http://www.heritage.org/research/reports/2014/04/the-second-amendment-and-the-inalienable-right-to-self-defense>, April 17 2014)

Contemporary debates about the meaning of the Second Amendment—is it a collective right or an individual right?—would have been incomprehensible to the Founders. Everyone at the time agreed that the federal government had no power to infringe on the right of the people to keep and bear arms. Contemporary debates for the most part also **fail to address** the essential question of **why the right to bear arms was enshrined in the Constitution in the first place**. The right to self-defense and to the means of defending oneself is a basic natural right that grows out of the right to life. **The Second Amendment** therefore does not grant the people a new right; it **merely recognizes the** inalienable natural **right to self-defense**. **Lawmakers may outlaw certain types of weapons, but they may not disarm the citizenry**. This essay is adapted from the second edition of The Heritage Guide to the Constitution, to be published in the fall of 2014 by Regnery.

A neg would want to respond to this sort of argument by demonstrating that a *handgun ban specifically* would be a violation of Second Amendment protections. Here is **evidence** making this claim directly, while also providing a suggested legal test to determine whether or not banning any specific type of weapon would be constitutionally permissible:

(Don B. Kates, Jr., Yale Law School, "HANDGUN PROHIBITION AND THE ORIGINAL MEANING OF THE SECOND AMENDMENT," Michigan Law Review, vol 82, pp 204-273, <http://www.guncite.com/journals/kmich.html>, 1983)

Recognizing that the amendment guarantees an individual right applicable against both federal and state governments **by no means forecloses all gun control options**. **Gun control advocates must, however, come to grips with the limitations imposed by the amendment**--just as advocates of increasing police powers to deal with crime must come to grips with the limitations imposed by the fourth, fifth and sixth amendments. As with those amendments, determining what limitations the second imposes will require detailed examination of its colonial and common law antecedents.[233] **The phrase "the right of the people to keep and bear arms,"** so opaque to us, **was** apparently **self-defining to the Founders**, who used it baldly and (p.258)without any attempt to define it. Presumably **they felt that clarification was unnecessary because they were** **constitutionalizing a pre-existing right to arms** whose parameters they knew under their colonial law and practice as it had developed out of the early English common law.[234] The remainder of this Article is devoted to sketching out some of the amendment's implications in relation to a few of the more commonly encountered "gun control" proposals. The intention is not to resolve definitively the constitutionality of any of these, much less of the entire gamut of possible



control options, but only to outline some relevant lines of inquiry. A. Limitations on the Right of the General Citizenry To "Keep" Weapons The preceding sections of this Article demonstrate that, in general, **the second amendment guarantees individuals a right to "keep" weapons in the home** for self defense.[235] Several limitations on this (p.259)right have already been suggested, however. First and foremost are those implicit in *United States v. Miller*, suggesting that the amendment protects only such arms as are (1) "of the kind in common use" among law-abiding people and (2) provably "part of the ordinary military equipment" today.[236] The analysis presented throughout this Article indicates that the "ordinary military equipment" criterion is infected by Miller's conceptually flawed concentration on the amendment's militia purpose, to the exclusion of its other objectives. **Decisions** recognizing that concerns **for** individual self-protection and for law enforcement also underlie right to arms guarantees involve at once greater historical fidelity and more rigorous limitation upon **the kinds of arms protected**. These decisions **suggest** that only such arms as have utility for all three purposes and are lineally descended from the kinds of arms the Founders knew fall within the amendment's guarantee.[237] Reformulating Miller's dual test in this way produces **a triple test that anyone claiming the amendment's protection must satisfy as to the particular weapon he owns. That weapon must provably be (1) "of the kind in common use" among law-abiding people today; (2) useful and appropriate not just for military purposes, but also for law enforcement and individual self-defense, and (3) lineally descended from the kinds of weaponry known to the Founders. This triple test resolves the ad absurdum and ad horribilus results** (to which Miller's sketchy and flawed militia-centric discussion greatly contributed) **sometimes viewed as flowing from** an individual right interpretation of **the amendment**.[238] **Handguns**, for example, (p.260)**clearly fall within the amendment's protection**. That handguns are per se "in common use" among law-abiding people and combine utility for civilian, police and military activities is not only provable but judicially noticeable.[239] On the other hand, such a factual demonstration would be difficult as to at least some of the weapons commonly denominated "Saturday Night Specials." [240] Legislation selectively prohibiting them might, therefore, be consistent with the amendment. Gangster **weapons like brass knuckles, blackjacks, sandbags, switchblade knives and sawed-off shotguns** unquestionably **can be prohibited since they fail to meet both the "common use" and tripartite appropriateness branches of the test**. The possession of (p.261)billy clubs is clearly protected, but mace or similar chemical spray weapons would not be unless they can be shown to be lineally descended from some form of weapon known to the Founders. **Likewise, the amendment does not protect the possession of** fully automatic weapons, grenades, **rocket launchers, flame throwers, artillery pieces, tanks, nuclear devices, and so on**. Although such sophisticated devices of modern warfare do have military utility, **they are not** also **useful for** law enforcement or for **self-protection, nor are they commonly possessed by law-abiding individuals**. **Moreover, many of them may not be lineally descended from the kinds of weapons known to the Founders. In addition to the tripartite test, two further limiting principles** would tend to exclude the sophisticated military technology of mass destruction--or, indeed, anything beyond ordinary small arms--from the amendment's protection. First, **since the text refers to arms that the individual can "keep and bear," weapons too heavy or bulky for the ordinary person to carry are** apparently **not contemplated**. Second, according to Blackstone and Hawkins, the common-law right did not extend to "dangerous or unusual weapons" whose mere possession or exhibition "are apt to terrify the people." [241] Naturally, it would terrify the citizenry for unauthorized individuals to possess weapons that could not realistically be used even in self-defense without endangering innocent people in adjacent areas or buildings.

As another option for refuting Second Amendment concerns, the aff might also contend that the concept of a right to keep and bear arms for private citizens is a relatively modern invention, and that this interpretation of the constitution is an aberration of history. According to this view, the original



purpose of the Second Amendment was to ensure the creation and regulation of a national militia, but that purpose has been twisted to suit the desires of gun enthusiasts. **Evidence** on this is below:

(Jeffrey Toobin, lawyer & legal analyst for CNN & the New Yorker "So You Think You Know the Second Amendment?," The New Yorker, <http://www.newyorker.com/news/daily-comment/so-you-think-you-know-the-second-amendment>, Dec 17 2012)

Does the Second Amendment prevent Congress from passing **gun-control** laws? The question, which is suddenly pressing, in light of the reaction to the school massacre in Newtown, **is rooted in politics as much as law. For more than a hundred years, the answer was clear,** even if the words of the amendment itself were not. **The text of the amendment is divided into two clauses and is, as a whole, ungrammatical: "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 courts had found that the first part, the "militia clause," trumped the second part, the "bear arms" clause. In other words, according to the Supreme Court, and the lower courts as well, the amendment conferred on state militias a right to bear arms—but did not give individuals a right to own or carry a weapon.** Enter the modern National Rifle Association. **Before the nineteen-seventies, the N.R.A. had been devoted mostly to non-political issues, like gun safety. But a coup d'état at the group's annual convention in 1977 brought** a group of committed political conservatives **to power**—as part of the leading edge of the new, more rightward-leaning Republican Party. (Jill Lepore recounted this history in a recent piece for The New Yorker.) The **new group [WHO] pushed for a novel interpretation of the Second Amendment, one that gave individuals, not just militias, the right to bear arms.** It was an uphill struggle. **At first, their views were widely scorned. Chief Justice Warren E. Burger, who was no liberal, mocked the individual-rights theory of the amendment as "a fraud."** But the N.R.A. **kept pushing**—and there's a lesson here. Conservatives often embrace "originalism," the idea that the meaning of the Constitution was fixed when it was ratified, in 1787. They mock the so-called liberal idea of a "living" constitution, whose meaning changes with the values of the country at large. But there is no better example of the living Constitution than the conservative re-casting of the Second Amendment in the last few decades of the twentieth century. (Reva Siegel, of Yale Law School, elaborates on this point in a brilliant article.) **The re-interpretation of the Second Amendment was an elaborate and brilliantly executed political operation,** inside and outside of government. Ronald **Reagan's election** in 1980 **brought a gun-rights enthusiast to the White House. At the same time, Orrin Hatch,** the Utah Republican, **became chairman of an important subcommittee of the Senate Judiciary Committee, and he commissioned a report that claimed to find "clear—and long lost—proof that the second amendment to our Constitution was intended as an individual right** of the American citizen to keep and carry arms in a peaceful manner, for protection of himself, his family, and his freedoms." **The N.R.A. began commissioning academic studies aimed at proving the same conclusion. An outré constitutional theory, rejected even by the establishment of the Republican Party, evolved, through brute political force,** into the conservative conventional wisdom. And so, **eventually, this theory became the law of the land. In** District of Columbia v. Heller, decided in **2008, the Supreme Court embraced the individual-rights view of the Second Amendment. It was a triumph** above all **for Justice Antonin Scalia, the author of the opinion, but it required him to craft a thoroughly political compromise. In the eighteenth century, militias were** proto-military operations, and their members had to obtain the best military hardware of the day. **But**



Scalia could not create, in the twenty-first century, an individual right to contemporary military weapons—like tanks and Stinger missiles. In light of this, Scalia conjured a rule that said D.C. could not ban handguns because “handguns are the most popular weapon chosen by Americans for self-defense in the home, and a complete prohibition of their use is invalid.”

Here is a second piece of **evidence** suggesting that the individual rights model of the Second Amendment is an invention of the gun lobby. It makes a point of indicting supportive legal scholarship, which it accuses of being commissioned as a component of a deliberate political operation:

(Hannah Levintova, reporter & assoc. editor, “The Second Amendment Doesn't Say What You Think It Does,” Mother Jones, <http://www.motherjones.com/politics/2014/06/second-amendment-guns-michael-waldman>, June 19 2014)

As America grapples with a relentless tide of gun violence, **pro-gun activists have come to rely on the Second Amendment as their** trustworthy shield when faced with mass-shooting-induced criticism. In their interpretation, the amendment guarantees an individual right to bear arms—a reading that was upheld by the Supreme Court in its 2008 ruling in District of Columbia v. Heller. Yet most judges and scholars who debated the clause's awkwardly worded and oddly punctuated 27 words in the decades before Heller almost always arrived at the opposite conclusion, finding that the amendment protects gun ownership for purposes of military duty and collective security. It was drafted, after all, in the first years of post-colonial America, an era of scrappy citizen militias where the idea of a standing army—like that of the just-expelled British—evoked deep mistrust. In his new book, *The Second Amendment: A Biography*, Michael **Waldman, president of the Brennan Center for Justice at New York University, digs into this discrepancy. What does the Second Amendment mean** today, and what has it meant over time? **He traces the history** of the contentious clause **and the legal reasoning** behind it, **from the Constitutional Convention to modern courtrooms.** This historical approach is noteworthy. **The Heller decision, written by Justice Antonin Scalia, is rooted in originalism, the concept that the Constitution should be interpreted based on the original intent of the founders.** While **Waldman** emphasizes that we must understand what the framers thought, he **argues that giving them the last word is impossible**—and impractical. **“We're not going to be able to go back in a time machine and tap James Madison on the shoulder and ask him what to do,”** he says. **“How the country has evolved is important. What the country needs now is important. That's certainly the case with something as important and complicated as guns in America.”** Mother Jones: What inspired you to write this book? Michael Waldman: I started the book **after Newtown.** There was such anguish about gun violence and **we were debating, once again, what to do** about it. **But this was the first time we were having that conversation in the context of a Supreme Court ruling that the Second Amendment protects individual rights of gun owners. And now every time people debated guns, every time people talked about Newtown, they talked**



about the Second Amendment. I wanted to see what the real story was: What the amendment had meant over the years, and what we could learn from that. MJ: What preconceived notions about the Second Amendment did the history that you uncovered confirm or debunk? MW: There are surprises in this book for people who support gun control, and people who are for gun rights. When the Supreme Court ruled **in Heller**, Justice **Scalia said he was following** his doctrine of **originalism**. **But when you actually go back and look at the debate that went into drafting of the amendment**, you can squint and look really hard, but **there's simply no evidence of it being about individual gun ownership** for self-protection or for hunting. **Emphatically, the focus was on the militias.** To the framers, that phrase "a well-regulated militia" was really critical. In the debates, in James Madison's notes of the Constitutional Convention, on the floor of the House of Representatives as they wrote the Second Amendment, all the focus was about the militias. Now **at the same time**, those militias are not the National Guard. **Every adult man**, and eventually every adult white man, **was required to be in the militias and was required to own a gun**, and **to bring it from home**. **So it was an individual right to fulfill the duty to serve in the militias.** MJ: You point out that the NRA has the Second Amendment inscribed in their lobby, but with the militia clause removed. MW: Yes. That was first reported in an article in Mother Jones in the '90s. But I didn't want to rely on just that, so one of my colleagues went out to the NRA headquarters to look at the lobby. And she had her picture taken in front of the sign so we could confirm that it was actually still there! MJ: Based on the history you've uncovered, do you think the founders understood there to be an unwritten individual right to arms that they didn't include in the Constitution? MW: Yes. And that might be noteworthy for some. There were plenty of guns. There was the right to defend yourself, which was part of English common law handed down from England. But there were also gun restrictions at the same time. There were many. There were limits, for example, on where you could store gunpowder. You couldn't have a loaded gun in your house in Boston. There were lots of limits on who could own guns for all different kinds of reasons. There was an expectation that you should be able to own a gun. But they didn't think they were writing that expectation into the Constitution with the Second Amendment. MJ: So then why focus on the Second Amendment and not the English Bill of Rights or other things the framers drew on that more clearly address individual gun ownership? MW: We are not governed today, in 2014, by British common law. Law evolved, the country evolved. It was a very rural place. There were no cities. There were no police forces. It was a completely different way of living. So gun rights activists turned this into a constitutional crusade. Those who want more guns and fewer restrictions realized they could gain some higher ground if they claimed the Constitution. MJ: You write that **throughout most of the 20th century, the courts stayed out of the gun laws debate**. What changed that led them back in? MW: **What changed was the NRA. In 1991, former Chief Justice Warren Burger said that** the idea that the Second Amendment recognizes **an individual right to gun ownership was "a fraud"** on the public. **That was the consensus**, that was the conventional wisdom.* The NRA has been around for a long time. It used to be an organization that focused on hunters and on training. **In 1977, at the NRA's annual meeting, activists pushed out the leadership and installed new leaders who were very intense**, very dogmatic, **and very focused on the Second Amendment** as their cause. It was called the "Revolt at Cincinnati." **From there, the NRA and its allies waged a 30-year legal campaign to change the way the courts and the country saw the Second Amendment. And they started with scholarship. They supported a lot of scholars and law professors. They elected politicians. They changed the positions of agencies of government. They got the Justice Department to reverse its position on what the amendment meant. And then and only then did they go to court. So by the time the Supreme Court ruled, it sort of felt like a ripe apple from the tree. They also moved public opinion. Now it's a pretty widely held view that it's an individual right.** It's funny, I was just on a panel with Alan Gura, who argued the Heller case. And, you know, I gave him credit for being part of a really significant effort that changed the way we see the Constitution. What's funny is that he and other gun rights people deny it! They say, "No, this is what everyone thought all along, for 200-plus years." MJ: What was the impact of the NRA's sponsorship of Second Amendment legal scholarship? MW: They certainly supported a lot of it. The way it works **in constitutional law** is that **legal scholarship plays a pretty big role**. **So** there became a rather deafening roar of the pro-individual gun ownership model: **They were publishing and reinforcing each other**. Some of it was very useful, and I cite it in the book. And some of it, when you look at some of the claims, they are easily punctured. It reminded me of the people who write movie posters, in terms of pulling quotes out of context. Like this Thomas Jefferson quote—"One loves to possess arms." It is in serious law review articles. It's presented as proof of what the founders really meant. But what happened was Thomas Jefferson wrote a letter to George Washington, saying, "Remember I sent you a bunch of those letters from when I was Secretary of State? Could you send them back to me? I think I'm going to get attacked for this position I made. I want to be able to defend myself: 'One loves to possess arms,' even though one hopes not to use them." It's a metaphor! But it's in these law review articles. It's funny! When you go to the NRA website, it's still there. You can buy a T-shirt that has the quote! MJ: How is it that such **questionable scholarship went so far—all the way to the Supreme Court?** MW: You'll have to ask the Supreme Court. The thing about the Heller decision that was especially concerning to me was that



Justice Scalia said this was the "vindication" of his approach of originalism. But when it actually came time to doing the history, he skipped over the actual writing and purpose of the Second Amendment. Out of 64 pages [in the decision], only 2 deal with the militias. Which is what the founders thought they were talking about. One of the things that I hope people take away from this is that the original meaning is always important, but it is not the only way to interpret the Constitution.

The **evidence** below supports the neg's individual rights interpretation, drawing on the text of the Amendment, and suggests that reading it otherwise makes the rest of the Bill of Rights incoherent:

(Don B. Kates, Jr., Yale Law School, "HANDGUN PROHIBITION AND THE ORIGINAL MEANING OF THE SECOND AMENDMENT," *Michigan Law Review*, vol 82, pp 204-273, <http://www.guncite.com/journals/kmich.html>, 1983)

In general, **the text of the second amendment**, and of the Bill of Rights as a whole, **provides** a series of **insuperable obstacles to an exclusively state's right interpretation**. **State's right analyses** have tended not to come to grips with these obstacles; if they **focus** on the amendment's wording at all, it is only **on the word "militia," assuming that** the Framers **meant** "militia" to refer to "a particular military force," i.e., **the states' home reserve, now federalized as the National Guard**.^[39] **In fact**, though not unknown in the 18th Century,^[40] **that usage was wholly secondary** to the one Webster classifies as now least used. "The whole body of able-bodied male citizens declared by law as being subject to call to military service."^[41] As the paragraphs below demonstrate, **the Framers'** understanding of the **meaning of "militia" and the other phrases of the second amendment** **seriously embarrasses the state's right argument**. 1. The Militia Throughout their existence, **the American colonies had endured the constant threat of sudden attack** by Indians or any of Britain's Dutch, French and Spanish colonial rivals.^[42] Even if they had wanted a standing army, the colonists were unable either to afford the cost or to free up the necessary manpower. Instead, they adopted the ancient practice that was still in vogue in England, the militia system. **The "militia" was the entire adult male citizenry, who were not simply allowed to keep their own arms, but affirmatively required to do so. In the pre-colonial English tradition there had been no police and no standing army in peacetime**.^[43] **From time immemorial every free Englishman had been** both permitted and **required to keep** such **arms** as a person of his class could afford both for law enforcement and **for military service**.^[44] With arms readily available (p.215) in their homes, Englishmen were theoretically prepared at all times to chase down felons in response to the hue and cry, or to assemble together **as an impromptu army** in case of foreign invasion of their shire.^[45] When the American colonies were founded the militia system was in full flower in England. It was adopted *perforce* in the colonies, which were thousands of miles by sail from any succor the Mother Country might provide. With slight variations, the different colonies imposed a duty to keep arms and to muster occasionally for drill upon virtually every able-bodied white man between the age of majority and a designated cut-off age. **Moreover, the duty to keep arms applied to every household, not just to those containing persons subject to militia service**.^[46] Thus, **the** over-aged and seamen, who were **exempt from militia service, were required to keep arms for law enforcement and for the defense of their homes** from criminals or foreign enemies.^[47] In at least one colony a 1770 law actually required (p.216) men to carry a rifle or pistol every time they attended church; church officials were empowered to search each parishioner no less than fourteen times per year to assure compliance.^[48] In 1792 Congress, meeting immediately after the enactment of the second amendment, defined the militia to include the entire able-bodied military-age male citizenry of the United States and required each of them to own his own firearm.^[49] **What does this suggest about the word "militia" as used in the amendment?** **The American Civil Liberties Union's argument against an individual right interpretation states that the amendment uses "militia" in the sense of a formal military force separate from the people**.^[50] **But this is plainly wrong. The Founders**



stated what they meant by "militia" on various occasions. Invariably they defined it in some phrase like "the whole body of the people,"^[51] **while their references to the organized-military-unit** usage of militia, **which they called a "select militia," were strongly pejorative.**^[52](p.217) In short, one purpose of **the Founders** having been to **guarantee the arms of the militia**, they accomplished that purpose **by guaranteeing the arms of the individuals who made up the militia**. In this respect **it would never have occurred to the Founders to differentiate** between the arms of the two groups in the context of the amendment's language.^[53] **The personally owned arms of the individual were the arms of the militia.**^[54] Thus, the amendment's wording, so opaque to us, made perfect sense to the Framers: believing that a militia (composed of the entire people possessed of their individually owned arms) was necessary for the protection of a free state, they (p.218)guaranteed the people's right to possess those arms.^[55] At the very least, the Framers' understanding of "militia" casts doubt on an interpretation that would guarantee only the state's right to arm organized military units.^[56] 2. A "Right of the People" **The second amendment's** literal **language creates another**, even more embarrassing **problem for the exclusively state's right interpretation.** To accept **such** an interpretation **requires the** anomalous **assumption that the Framers** ill-advisedly **used the phrase "right of the people"** to describe what was being guaranteed **when what they actually meant was "right of the states."**^[57] In turn, **that assumption leads to a host of further anomalies. The phrase "the people" appears in four other provisions of the Bill of Rights, always denoting rights pertaining to individuals.** Thus, to justify an exclusively state's right view, the following set of propositions must be accepted: (1) when the first Congress drafted **the Bill of Rights** it **used "right of the people" in the first amendment** to denote a right of individuals (assembly); (2) then, some sixteen words later, it used the same phrase in the second amendment to denote a right belonging exclusively to the states; (3) but then, forty-six words later, **the fourth amendment's** "right of the people" had reverted to its normal individual right meaning; (4) "right of the people" was again used in the natural sense in **the ninth amendment; and** (5) finally, in **the tenth amendment** the first Congress specifically distinguished "the states" from "the people," although it had failed to do so in the second amendment. Any one of these textual incongruities demanded by an exclusively state's right position dooms it. **Cumulatively they present a** truly **grotesque reading of the Bill of Rights.**(p.219)

The negative might also argue that the political philosophy popular at the time of the Constitution's framing, as well as the stated ideas of the Founding Fathers themselves, supported the notion that owning arms was not only a natural right, but the hallmark of a free citizen, and a key factor guaranteeing the survival of the Republic. The **evidence** below makes these claims, and also provides an answer to aff arguments that "public safety outweighs individual liberty":

(Don B. Kates, Jr., Yale Law School, "HANDGUN PROHIBITION AND THE ORIGINAL MEANING OF THE SECOND AMENDMENT," Michigan Law Review, vol 82, pp 204-273, <http://www.guncite.com/journals/kmich.html>, 1983)

The unanimity with which Federalists and Anti-Federalists supported (p.226)**an individual right to arms is a reflection of their shared philosophical and historical heritage.**^[90] Examination of contemporary materials reveals that **the Founders ardently endorsed firearms possession as a personal**



right^[91] and that the concept of an exclusively state's right was wholly unknown to them. The most that such an examination does to dispel the amendment's individual right phraseology is to suggest that the amendment had multiple purposes: the people were guaranteed "arms for their own personal defense, for the defense of their states and their nation, and for the purpose of keeping their rulers sensitive to the right of the people."^[92] In short, **detailed exploration of the Founding Fathers' attitudes as expressed in their utterances powerfully supports an individual right interpretation**, though one **which** recognizes that the right **was viewed as beneficial to society as a whole**.^[93] Though such attitudes are apparent in the Founders' utterances, such contemporary materials have been so completely ignored in (p.227) much of the modern legal literature on the amendment that they require extended consideration here.^[94] Perhaps the difficulty experienced by many modern scholars in dealing with the Framers' positive attitudes toward gun ownership can be explained in terms of Bruce-Briggs' "culture conflict" theory of the gun control controversy: But underlying the gun control struggle is a fundamental division in our nation. The intensity of passion on this issue suggests to me that we are experiencing a sort of low-grade war going on between two alternative views of what America is and ought to be. On the one side are those who take bourgeois Europe as a model of a civilized society: a society just, equitable, and democratic; but well ordered, with the lines of responsibility and authority clearly drawn, and with decisions made rationally and correctly by intelligent men for the entire nation. To such people, hunting is atavistic, personal violence is shameful, and uncontrolled gun ownership is a blot upon civilization. On the other side is a group of people who do not tend to be especially articulate or literate, and whose world view is rarely expressed in print. Their model is that of the independent frontiersman who takes care of himself and his family with no interference from the state. They are "conservative" in the sense that they cling to America's unique pre-modern tradition—a non-feudal society with a sort of medieval liberty at large for everyman. To these people, "sociological" is an epithet. Life is tough and competitive. Manhood means responsibility and caring for your own.^[95] If we assume that most modern scholars fall into the first of the modern value categories described, it becomes understandable why they might find the views of the Founders so foreign, indeed repugnant, as to eschew exploring them—instead reflexively projecting their own values onto the amendment. For the second of the value categories described accords perfectly with the views of the Founders, except that, as intellectuals themselves, its aura of anti-intellectualism would have struck no responsive chord in them.(p.228) 1. Personal Attitudes of the Founders **"One loves to possess arms,"** Thomas **Jefferson**, the doyen of American intellectuals, **wrote to** George **Washington** on June 19, 1796.^[96] We may presume that **Washington agreed, for his collection contained fifty guns, and his own writings are full of laudatory references to various firearms** he owned or examined.^[97] John **Adams also agreed. In a book on American constitutional principles he suggested that "arms in the hands of citizens" might appropriately be used in "private self-defense"** or "under partial order of towns."^[98] **Likewise, writing after the ratification of the Constitution**, but before the election of the First Congress, James **Monroe included "the right to keep and bear arms" in a list of basic "human rights" that he would propose be added to the Constitution**.^[99] While Monroe and Adams both supported ratification of the Constitution, its most influential advocate was James **Madison. In The Federalist No. 46** he confidently **contrasted the federal government it would create to the European despotisms he** contemptuously **described as "afraid to trust the people with arms."** He assured his fellow countrymen that **they need never fear their government because of "the advantage of being armed"**, which the Americans possess over the people of almost every other nation^[100] **Madison**, who had, during the Revolution, exulted at his own and his militia comrades' ability to hit a target the size of a man's head at one hundred paces, many years **later restated the sentiments** of The Federalist No. 46 **thusly: A** government resting on a minority is an **aristocracy**, not a Republic, and **could not be safe** with a numerical and physical force against it, **without** a standing army, an enslaved press, and **a disarmed populace**.^[101] On the other side of the ratification debate, Anti-Federalist **Patrick Henry** left no doubt as to his feelings regarding the right to possess arms. During the Virginia ratification convention he **objected** equally **to the Constitution's** inclusion of clauses specifically authorizing (p.229) a standing army and giving the federal government control of the militia, and to its **omission of a clause forbidding disarmament of the individual citizen**: "The great object is that every man be armed.... Everyone who is able may have a gun."^[102] The Virginia delegates, **remembering that the Revolutionary War had been sparked by the British attempt to confiscate the patriots' privately owned arms** at Lexington and Concord, apparently agreed. Henry was appointed co-chairman of a committee to draft a Bill of Rights to be added to the Constitution.^[103] The other co-chairman was George Mason, whose warning against a federal constitution that failed to guarantee a right to arms has already been quoted.^[104] Thomas Jefferson played little part in this debate from the remote vantage of his position as ambassador to France, but his views on arms possession as a right may be deduced from the model state constitution he wrote for Virginia in 1776. That document included the explicit guarantee that "[n]o free man shall be debarred the use of arms in his own lands."^[105] All the evidence suggests that Jefferson was strongly in favor of gun ownership. A talented inventor and amateur gunsmith himself, Jefferson maintained a substantial armory of pistols and long guns at Monticello and introduced the concept of interchangeable parts into American firearms manufacture.^[106] In a letter to a nephew (then fifteen) Jefferson offered the following



advice: A strong body makes the mind strong. As to the species of exercises, I advise the gun. While this gives a moderate exercise to the Body, it gives boldness, enterprise and independence to the mind. Games played with the ball, and others of that nature, are too violent for the body and stamp no character on the mind. Let your gun therefore be the constant companion of your walks.[107] **One intellectual historian has summarized the utterances of the Founding Fathers as expressing "an almost religious quality about the relationship between men and arms."**[108] **When viewed in the light of this attitude and their English militia tradition, as buttressed (p.230) by the republican philosophical school with which the Founders were familiar, the language of the second amendment becomes perfectly intelligible: believing self-defense an inalienable natural right,**[109] **and deriving from it the right to resist tyranny,**[110] **they guaranteed the right (derived from the foregoing) of individuals to possess arms.**[111] Further, this also protected the possession of privately owned arms of the militia (which they understood to include most of the adult male population),[112] an institution they regarded as "necessary to the security of a free state." [113] 2. The Philosophical Environment of the Founding Fathers Fully as great an obstacle to modern understanding as Bruce-Briggs' (p.231) culture conflict is the inattention of modern political philosophy to "the dynamic relationship" that the Founders' philosophy saw "between arms, the individual, and society." [114] Our world is the product of its history: our view of that world is the product of the lessons drawn from that history by the thinkers our society embraces. A conscious effort of will and imagination is necessary to assume the mind-set of **eighteenth-century** men whose **education began with the classics**, particularly the works of Plato, Aristotle and Cicero, and ended with the works of Sidney, Rousseau and Montesquieu. **Thus were the Framers steeped in an understanding of liberty grounded in the role of arms in society. Thus,** the very character of the people--**the cornerstone and strength of a republican society--was related to the individual's ability** and desire **to arm [THEMSELF]** himself against threats to his person, his property and his state.[115] This viewpoint devolved upon **eighteenth-century liberals** through historical exegesis which was then **viewed** as the key to philosophical truth. To them classical **Greece and Rome** represented **[AS] the highest point that civilization had yet achieved--followed by a long dark age of brutal authoritarianism from which humanity in their time was still recovering.** The history of the Greek city-states and "the Roman Republic provided at once an ideal and a condign warning of the frailty of republican institutions." [116] **Both that ideal and that warning were inextricably connected in the Founders' minds with the individual possession of arms.** English and **classical law recognized in arms possession the hallmark of citizenship and personal freedom.** Thus the Greeks and Romans distinguished the mere helot or metic who was deemed to have no right to arms from the free citizen whose privilege and obligation it was to keep arms in his home so as always to be ready to defend his own rights and to rush to defend the walls when the tocsin warned of approaching enemies.[117] The philosophical tradition embraced by **the Founders regarded the survival of** popular government and **republican institutions as wholly dependent upon the existence of a citizenry that** was "virtuous" in upholding that ancient privilege and obligation. (p.232) In this philosophy, the ideal of republican virtue was the armed freeholder, upstanding, scrupulously honest, self-reliant and independent--defender of his family, home and property, and joined with his fellow citizens in the militia for the defense of their polity.[118] The congruence between this ideal of republican virtue and the second of the modern value attitudes described by Bruce-Briggs is evident. The same thought that **held arms** ownership vital to republican citizenship also warned the Framers that **to be disarmed by government was tantamount to being enslaved by it; the possession of arms was the vital prerequisite to the right to resist tyranny.**[119] **The Founders learned from Aristotle that a basic characteristic of tyrants was "mistrust of the people; hence they deprive them of arms."**[120] **Aristotle showed that confiscation of** the Athenians' personal **arms had been instrumental to the tyrannies of the Peisistratus and the Thirty.**[121] **Machiavelli taught the Founders that Augustus and Tiberius had similarly destroyed the Roman republic.**[122] **Only so long as Greek and Roman citizens retained their personal arms did they retain their personal liberties and their republican form of government.** That lesson was brought home to the Founders by the entire corpus of political philosophy and historical exegesis they knew: "**Among Renaissance theorists** as dissimilar as Nicholas Machiavelli and Sir Thomas More, Thomas Hobbes and James Harrington, **there was a consensus that only** men



[CITIZENS] willing and able to defend themselves could possibly preserve their liberties."^[123] The theme of personal (p.233) arms possession as both the hallmark and the ultimate guarantee of personal liberty appears equally in the writings of Cicero, Sidney, Locke, Trenchard, Rousseau,^[124] Sir Walter Raleigh,^[125] Blackstone^[126] and Nedham.^[127] That lesson must have been even more firmly cemented in the Founders' minds by the fact that authoritarian philosophers made the same observation in reverse, recommending arms prohibitions as the surest security for absolutism.^[128] Moreover, although the Founders' antipathy to gun bans arose out of political philosophy, it should not be supposed that eighteenth-century liberals were unaware of the crime control rationale for such legislation and had no answer to it. In the French despotism they abhorred, the single most important duty of the police, "protecting" the public security, was effected through enforcing arms prohibitions.^[129] Although actually aimed at continuing the subordination of the peasantry, the ostensible reason for the French arms prohibition was to reduce homicide and other violent crime, and so was it rationalized by the French monarchs and their apologists.^[130] The Founders gave such arguments short shrift, believing that if a population were actually unfit to possess arms, it was only because of the degradation induced by subjection to the oppression and exploitation of aristocratic and monarchical authoritarianism.^[131] For a (p.234) free and virtuous people, eighteenth-century liberalism's response, as formulated by Montesquieu and Beccaria, to the crime control argument was simply an expansive rhetorical rendition of today's slogan "when guns are outlawed, only outlaws will have guns." [QUOTE] False is the idea of utility that sacrifices a thousand real advantages for one imaginary or trifling inconvenience; that would take fire from men because it burns, and water because one may drown in it; that has no remedy for evils, except destruction. The laws that forbid the carrying of arms are laws of such a nature. They disarm those only who are neither inclined nor determined to commit crimes. Can it be supposed that those who have the courage to violate the most sacred laws of humanity, the most important of the code, will respect the less important and arbitrary ones, which can be violated with ease and impunity, and which, if strictly obeyed, would put an end to personal liberty--so dear to men, so dear to the enlightened legislator--and subject innocent persons to all the vexations that the guilty alone ought to suffer? Such laws make things worse for the assaulted and better for the assailants; they serve rather to encourage than to prevent homicides, for an unarmed man may be attacked with greater confidence than an armed man. They ought to be designated as laws not preventive but fearful of crimes, produced by the tumultuous impression of a few isolated facts, and not by thoughtful consideration of the inconveniences and advantages of a universal decree.^[132](p.235) [UNQUOTE] The influence of the republican philosophical tradition of the armed people upon the Founding Fathers is obvious from their own statements.^[133] Likewise, the writings of lesser known figures and newspaper editorials of the period abound with favorable references to the citizenry's widespread possession of personal arms as characteristic of the "diffusion of power" necessary to preserve liberty. These writings also express fears that the new federal government might disarm the populace, leading to a "monopoly of power [which] is the most dangerous of all monopolies."^[134] In short, the accepted philosophy of the times treated the right to arms as among the most vital of personal rights.



This next piece of **evidence** further advances the claim that private gun ownership was universally endorsed by the framers of the Constitution, and was insisted on by more ratifying states than other treasured liberties enshrined in the Bill of Rights:

(Don B. Kates, Jr., Yale Law School, "HANDGUN PROHIBITION AND THE ORIGINAL MEANING OF THE SECOND AMENDMENT," *Michigan Law Review*, vol 82, pp 204-273, <http://www.guncite.com/journals/kmich.html>, 1983)

The Founding Fathers were necessarily influenced by the fact that the entire corpus of republican philosophy known to them took English and classical history as a lesson that popular possession of arms was vital to the preservation of liberty and a republican form of government. [64] The

proponents and the opponents of ratification of the Constitution equally buttressed their conflicting arguments on the universal belief in an armed citizenry. [65] **The proponents denied that the newly strengthened federal**

government could ever be strong enough to destroy the liberties of an armed populace:

"While the people have property, arms in their hands and only a spark of noble spirit, the most corrupt

congress must be mad to form any project of tyranny." [66] As Noah Webster put it in a pamphlet urging ratification: "Before a standing army can rule, the people must be disarmed; as they are in almost every kingdom in Europe." [67] But this line of argument opened the Federalists up to a telling riposte: Since the Constitution contained no guarantee of the citizenry's right to arms, the new federal government could outlaw and confiscate them, thereby destroying the supposed barrier to federal despotism. George Mason recalled to the Virginia delegates the colonies' experience with Britain, in which the monarch's goal had been "to disarm the people; that ...

was the best and most effectual way to enslave them." [68] Together Mason and **Richard Henry Lee** are generally given preponderant credit for the compromise under which the Constitution was ratified subject to the understanding that it would immediately be augmented by a Bill of Rights. Lee's influential writing on the ratification question **extolled the importance of the individual right to arms, opining that "to preserve liberty,**

it is (p.222) essential that the whole body of the people always possess arms and be taught alike, especially when young, how to use them." [69] In line with these sentiments, New Hampshire, the first state to ratify the Constitution, officially recommended that it include a bill of rights providing "Congress shall never disarm any citizen, unless such as are or have been in actual rebellion." [70] New York and Rhode Island also recommended constitutionalizing the right to arms. [71] Although a majority of the Pennsylvania convention ratified the Constitution unconditionally, rejecting suggestions that a bill of rights be recommended or required, a substantial portion of the Pennsylvania delegates broke away on this issue. As a rump they formulated and published a series of proposals, including freedom of speech, press, due process of law and the right to keep and bear arms, which proved particularly influential in spurring the adoption of similar recommendations in the subsequent state conventions. The individual right nature of the Pennsylvania right to arms proposal is unmistakable: That the people have a right to bear arms for the defense of themselves and their own State or the United States, or for the purpose of killing game; and no law shall be passed for disarming the people or any of them unless for crimes committed, or real danger of public injury from individuals [72] Similarly, Samuel Adams proposed to the Massachusetts ratification convention an amendment guaranteeing the right to bear

arms. [73] **The strength and universality of contemporary sentiment on the issue** of the individual's right to arms **may be gauged with reference to the number of amendatory proposals which included it.**

Amending the constitution to assure the right to arms was endorsed by five state ratifying conventions. By comparison, only four states suggested that the rights to assemble, to due process, and against cruel and unusual punishment be guaranteed; **only three states suggested that freedom of speech be guaranteed or that the accused be entitled** to know the crime for which he would be tried, to confront his accuser, to present and cross-

examine witnesses, **to be represented by counsel**, and to not be forced to incriminate himself; only two states proposed that double jeopardy be barred. [74] Such unanimity helps (p.223) demonstrate that both Federalists and Anti-Federalists accepted an individual right to arms; the only debate was over how best to guarantee it.

Negs might further argue that the Framers of the Constitution always *did* intend to explicitly preserve the individual right to bear arms, but that they saw this as a completely obvious and uncontroversial



natural right. Hence, they never saw a need to elaborate much. The **evidence** below makes that point, and also refutes states' rights; it says the Amendment's reference militias was simply to appease Constitutional Convention participants who feared the creation of a federal standing army:

(Dr. Nelson Lund, Professor at George Mason University School of Law, "The Second Amendment and the Inalienable Right to Self-Defense," The Heritage Foundation, Report #16-CGL on Political Thought, adapted from the second edition of The Heritage Guide to the Constitution, <http://www.heritage.org/research/reports/2014/04/the-second-amendment-and-the-inalienable-right-to-self-defense>, April 17 2014)

Modern debates about the meaning of the **Second Amendment have focused on whether it protects a private right of individuals to keep and bear arms** or a right that can be exercised only through militia organizations like the National Guard. This question, however, was apparently never even raised until long after the Bill of Rights was adopted. **Early discussions took the basic meaning of the amendment for granted** and focused instead on whether it added anything significant to the original Constitution. **The debate later shifted because** of changes in the Constitution and in constitutional law and because **legislatures began to regulate firearms in ways undreamed of in our early history. The Founding generation mistrusted standing armies.** Many **Americans believed, on the basis of** English history and **their colonial experience, that governments** of large nations are prone to **use soldiers to oppress the people. One way to reduce that danger would be to permit** the government to raise armies (consisting of **full-time paid troops**) **only when needed to fight foreign adversaries. For other** purposes, such as responding to sudden invasions or similar **emergencies, the government might be restricted to using a militia that consisted of ordinary civilians who supplied their own weapons** and received a bit of part-time, unpaid military training. **Using a militia** as an alternative to standing armies had deep roots in English history and possessed considerable appeal, but **it also presented some serious problems.** Alexander Hamilton, for example, thought the militia system could never provide a satisfactory substitute for a national army. Even those who treasured the militia recognized that it was fragile, and the cause of this fragility was just what made Hamilton disparage it: Citizens were always going to resist undergoing unpaid military training, and governments were always going to want more professional—and therefore more efficient and tractable—forces. **This led to a dilemma at the Constitutional Convention.** Experience during **the Revolutionary War had demonstrated** convincingly **that militia forces could not be relied on for national defense,** and the onset of war is not always followed by a pause during which an army can be raised and trained. **The convention therefore decided to** give the federal government almost unfettered authority to **establish** armies, including peacetime **standing armies. But that decision created a threat to liberty,** especially in light of the fact that the proposed Constitution also forbade the states from keeping troops without the consent of Congress. **One solution might have been** to require Congress to establish and maintain a well-disciplined militia. Such a militia would have had to comprise a large percentage of the population in order to prevent it from becoming a federal army under another name, like our modern National Guard. This might have deprived the federal government of the excuse that it needed peacetime standing armies and might have established a meaningful counterweight to any rogue army that the federal government might create. That possibility was never taken seriously, and for good reason. How could a constitution define a well-regulated or well-disciplined militia with the requisite precision and detail and with the necessary regard for unforeseeable changes in the nation's circumstances? It would almost certainly have been impossible. Another approach might have been **to forbid Congress from interfering with the states' control of their militias. This** might have been possible, but it **would have been self-defeating. Fragmented control of the militias would** inevitably **have resulted in an absence of uniformity** in training, equipment, and command, **and no** really **effective** national



fighting force could have been created. Thus, the convention faced a choice between entrenching a multiplicity of militias controlled by the individual states, which would likely have been too weak and divided to protect the nation, or authorizing a unified militia under federal control, which almost by definition could not have been expected to prevent federal tyranny. The conundrum could not be solved, and the convention did not purport to solve it. Instead, the Constitution presumes that a militia will exist, but it gives Congress almost unfettered authority to regulate that militia, just as it gives the federal government almost unfettered authority to maintain an army. This massive shift of power from the states to the federal government generated one of the chief objections to the proposed Constitution. Anti-Federalists argued that federal control of the militia would take away from the states their principal means of defense against federal oppression and usurpation and that European history demonstrated how serious the danger was. James Madison, for one, responded that such fears of federal oppression were overblown, in part because the new federal government was to be structured differently from European governments. But he also pointed out another decisive difference between Europe's situation and ours: The American people were armed and would therefore be almost impossible to subdue through military force, even if one assumed that the federal government would try to use an army to do so. In Federalist No. 46, he wrote: Besides the advantage of being armed, which the Americans possess over the people of almost every other nation, the existence of subordinate governments, to which the people are attached and by which the militia officers are appointed, forms a barrier against the enterprises of ambition, more insurmountable than any which a simple government of any form can admit of. Notwithstanding the military establishments in the several kingdoms of Europe, which are carried as far as the public resources will bear, the governments are afraid to trust the people with arms. And it is not certain that with this aid alone they would not be able to shake off their yokes. Implicit in the debate between the Federalists and Anti-Federalists were two shared assumptions: first, that the proposed new constitution gave the federal government almost total legal authority over the army and the militia and, second, that the federal government should not have any authority at all to disarm the citizenry. The disagreement between Federalists and Anti-Federalists was only over the narrower question of whether an armed populace could adequately assure the preservation of liberty. The Second Amendment conceded nothing to the Anti-Federalists' desire to sharply curtail the military power that the Constitution gave the federal government, but that very fact prevented the Second Amendment from generating any opposition. Attempting to satisfy the Anti-Federalists would have been hugely controversial and would have required substantial changes in the original Constitution. Nobody suggested that the Second Amendment could have any such effect, but neither did anyone suggest that the federal government needed or rightfully possessed the power to disarm American citizens. As a political gesture to the Anti-Federalists—a gesture highlighted by the Second Amendment's prefatory reference to the value of a well-regulated militia—express recognition of the people's right to arms was something of a sop. The provision was easily accepted, however, because everyone agreed that the federal government should not have the power to infringe the right of the people to keep and bear arms any more than it should have the power to abridge the freedom of speech or prohibit the free exercise of religion. A great deal has changed since the Second Amendment was adopted. The traditional militia fell fairly quickly into desuetude, and the state-based militia organizations were eventually incorporated into the federal military structure. For its part, the federal military establishment has become enormously more powerful than 18th-century armies, and Americans have largely lost their fear that the federal government will use that power to oppress them politically. Furthermore, 18th-century civilians routinely kept at home the very same weapons they would need if called to serve in the militia, while modern soldiers are equipped with weapons that differ significantly from those that are commonly thought to be appropriate for civilian uses. These changes have raised new questions about the value of an armed citizenry, and many people today reject the assumptions that almost everyone accepted when the Second Amendment was adopted. The law has also changed. At the time of the Framing, gun control laws were virtually nonexistent, and there



was no reason for anyone to discuss what kinds of regulations would be permitted by the Second Amendment. The animating concern behind the amendment was fear that the new federal government might try to disarm the citizenry in order to prevent armed resistance to political usurpations. That has never occurred, but a great many new legal restrictions on the right to arms have since been adopted. Nearly all of these laws are aimed at preventing the misuse of firearms by irresponsible civilians, but many of them also interfere with the ability of law-abiding citizens to defend themselves against violent criminals.

Finally, a neg debater who feared she was falling behind on the framers' intent question could always use the next piece of **evidence**, which argues that gun ownership is a natural right, and that whether or not it is specifically enumerated in the Bill of Rights is irrelevant:

(Scott Galupo, political writer, "A Natural—But Not a Second Amendment-Guaranteed—Right to Own a Gun?," The American Conservative, <http://www.theamericanconservative.com/2013/01/17/a-natural-but-not-a-second-amendment-guaranteed-right-to-own-a-gun/>, Jan 17 2013)

"History, philology, and logic furnish no solid basis for thinking the Second Amendment has anything to do with the private ownership of guns," Wills wrote in *A Necessary Evil*. But hold on, he continues: this hardly means federal or state governments are therefore justified in confiscating all privately owned guns. The Constitution is not the summa of individual rights. The Ninth Amendment helpfully reminds us of this fact. One may reasonably argue, as Cooke does, that we have a natural right to own a gun, to defend our selves and our property, by lethal force if necessary. Indeed, this right may have seemed so self-evidently obvious that Madison did not deem it necessary to explicitly guarantee (enumerate) its protection in the Constitution. Wills: Why, then, did Madison propose the Second Amendment? For the same reason that he proposed the Third, against quartering troops on the civilian population. That was a remnant of old royal attempts to create a standing army by requisition of civilian facilities. It had no real meaning in a government that is authorized to build barracks, forts, and camps. But it was part of the anti-royal rhetoric of freedom that had shown up, like the militia language, in state requests for amendments to the Constitution. If Wills is right, it means that conservatives may debate the gun issue on the basis of reason, custom, and commonsense—but without dispositive recourse to the verbiage of the Second Amendment.

This brings us to what some claim is the most important justification for maintaining an armed citizenry: deterring the development of a tyrannical federal government.



Tyranny

As discussed in a few of the cards above, some gun rights proponents emphasize the idea that firearms possession is an important civic right due to the threat of tyranny. According to this idea, citizens are entitled to own guns because it ensures they have the capacity to rebel should the government become intolerably oppressive. Here is **evidence**:

(Don B. Kates, Jr., Yale Law School, "HANDGUN PROHIBITION AND THE ORIGINAL MEANING OF THE SECOND AMENDMENT," Michigan Law Review, vol 82, pp 204-273, <http://www.guncite.com/journals/kmich.html>, 1983)

The second amendment's language and historical and philosophical background demonstrate that it was designed to guarantee individuals (p.268)the possession of certain kinds of arms for three purposes: (1) crime prevention, or what we would today describe as individual self-defense; (2) national defense; and (3) preservation of individual liberty and popular institutions against domestic despotism. It is often suggested that each of these purposes is obsolete and, therefore, that the amendment itself is obsolete. The national defense is fully provided for by our Armed Forces, supplemented by the National Guard, and a citizenry possessing only small arms could neither deter nor overthrow a domestic military despotism possessing tanks, aircraft and the other paraphernalia of modern war.[272] Likewise the possession of arms for self defense "is becoming anachronistic. As the policing of society becomes more efficient, the need for arms for personal self-defense becomes more irrelevant...."[273] Yet evidence can be offered to dispute each of these claims of obsolescence. As to the necessity of personal self-defense it is regrettably the case that enormous increases in police budgets and personnel have not prevented, for instance, the per capita incidence of reported robbery, rape and aggravated assault from increasing by 300%, 400% and 300% respectively since 1960.[274] Increasingly police are concluding, and even publicly proclaiming, that they cannot protect the law-abiding citizen, and that it is not only rational for him to choose to protect himself with firearms,[275] but a socially beneficial deterrent to violent crime.[276] This is, of course, a highly controversial (p.269)matter,[277] though the more recent scholarship has tended to vindicate the police point of view.[278] For present purposes it is unnecessary to resolve this controversy. The mere fact of its existence (p.270)demonstrates that the asserted irrelevancy of self-defense today has not been so clearly proved as to justify the abandonment of an expressly guaranteed constitutional right. **The argument that an armed citizenry cannot hope to overthrow a modern military machine flies directly in the face of the history of partisan guerilla and civil wars in the twentieth century. To make this argument (which is invariably supported, if at all, by reference only to the American military experience in non-revolutionary struggles like the two World Wars[279]), one must indulge in the assumption that a handgun-armed citizenry will eschew guerrilla tactics in favor of throwing themselves headlong under the tracks of advancing tanks. Far from proving invincible, in the vast majority of cases in this century in which they have confronted popular insurgencies, modern armies have been unable to suppress the insurgents.** This is why the British no longer rule in Israel and Ireland, the French in Indo-China, Algeria and Madagascar, the Portugese in Angola, the whites in Rhodesia, or General Somoza, General Battista, or the Shah in Nicaragua, Cuba and Iran respectively--not to mention the examples of the United States in Vietnam and the Soviet Union in Afghanistan.[280] It is, of course, quite irrelevant for present purposes whether each of the struggles just mentioned is or was justified or whether the people benefitted therefrom. However one may appraise those victories, the fact remains that they were achieved against regimes equipped with all the military technology which, it is asserted, inevitably dooms popular revolt. **Perhaps more important, in a free country like our own, the issue is not really overthrowing a tyranny but deterring its institution in the first place.** To persuade his officers and men to support a coup, **a potential military despot must** convince them that his **rule** will succeed (p.271)where our current civilian leadership and policies are failing. **In a country whose widely divergent citizenry possesses upwards of 160 million firearms,** however, **the most likely outcome** of usurpation (no matter how initially successful) **is** not benevolent dictatorship, but **prolonged, internecine civil war.** **A general may have pipe dreams of a sudden and peaceful take-over** and a nation moving confidently forward, united under his direction. **But the realistic general will remember the actual fruits of**



civil war--shattered cities like Hue, Beirut, and Belfast, devastated countrysides like the Mekong Delta, Cyprus, and southern Lebanon.[281] Even if the general's ambition does not recoil from the prospect of victory at such cost, will his officers and men accept it? Additionally, he and they must evaluate the effect of civil war in leaving the country vulnerable to the very foreign enemies their coup is designed to unite it against: Because it leads any prospective dictator to think through such questions, the individual, anonymous ownership of firearms is still a deterrent today to the despotism it was originally intended to obviate. Implicit in the Bill of Rights, as in the entire structure of our Constitution, are the twin hallmarks of traditional liberal thought: trust in the people, and distrust in government, particularly the military and the police. We are apt to forget these constant principles in light of our government's generally quite good record of exerting power without abusing it. But the deterrent effect of an armed citizenry is one little-recognized factor that may have contributed to this. In the words of the late Senator Hubert Humphrey, "[t]he right of citizens to bear arms is just one more guarantee against arbitrary government, one more safeguard against the tyranny which now appears remote in America, but which historically has proved to be always possible." [282]

The above card also suggests that the utility of an armed citizenry is not so much in overthrowing a tyrannical government as it is in providing a disincentive for a government to become tyrannical in the first place. It also provides an answer to aff objections that citizens armed with handguns would be unable to pose a serious threat to the government.

This next piece of neg **evidence** echoes some of those ideas, explaining that the "defense against tyranny" idea more as a principle than a serious threat. It argues that the point is not whether citizens could take down the federal government with handguns, but rather that the federal government derives its power only through the consent of the people. Gun ownership, therefore, is something that cannot be rightfully abridged by the government:

(Trevor Burrus, research fellow at the Cato Institute's Center for Constitutional Studies, "The Gun Debate Is a Culture Debate," Cato, <http://www.cato.org/publications/commentary/gun-debate-culture-debate>, March 19 2013)

In a recent appearance on PBS's "NewsHour," Vice President Joe Biden admitted an assault weapons ban would do little to stop crime, but argued the weapons should still be banned if they don't have "real utility either in terms of any sporting or self protection needs[.]" Here, Biden forgets a founding American principle: we permit the government to have guns, not the other way around. Citizens don't need to justify owning a "assault weapon," the government needs to justify taking it. Biden should be applauded for his honesty, but this begs the question: If honest gun-control advocates know that laws they support are



ineffective, why fight for them? Because the gun debate is fundamentally a cultural debate. When it comes to guns, the much ballyhooed red state/blue state cultural divide is real. One cultural tradition believes government is a necessary evil, best kept small, contained, and subordinate to the people. The other tradition views government as a force for good that can often do better with fewer restraints. One tradition **views private gun ownership as important for resisting tyranny**; the other views guns as, at best, a necessary evil, and at worst, something we should discard to become a fully civilized society. **Gun-control advocates scoff at the suggestion that personal arms can stand up to tanks and drones. But the anti-tyranny argument is not so much based on efficacy as it is on power: who has it and why.** In America, **the government derives its power from the people**. But the cultural divide goes deeper than the role of government.

The aff can respond by arguing that it is foolish to weigh the value of handgun-armed overthrow of a hypothetical future tyrant over the real gun violence occurring today. They might also suggest that drones, nuclear weapons, and the ubiquity of government presence in American cities would all make such an insurrection futile anyway. (Of course, these arguments are answered within neg cards previously provided.)

Another aff answer to the threat of tyranny would be to indict the idea that private gun ownership should be seen as a check on government overreach. The **evidence** below condemns this notion as dangerous and unfounded. It points out that there actually were a few citizen rebellions during the period of the Founding Fathers, and that they roundly condemned such acts. It also suggests that this type of thinking justifies terrorism and undermines democracy:

(Carl T. Bogus, professor of law at Roger William University School of Law & visiting professor at Earl Mack School of Law at Drexel University, Roger Williams University School of Law, "There's no right of revolution in a democracy," <http://law.rwu.edu/story/cnn-bogus-second-amendment>, Jan 27 2010)

Did the Founders give us a right to bear arms so we could resist government tyranny? Is that why James Madison drafted the Second Amendment, the First Congress proposed it, and the states ratified it in 1791? And regardless of what Madison and his contemporaries had in mind, what are the ramifications of this idea -- often called the "insurrectionist model" **because** it means **Americans may** possess arms to potentially **go to war with their own government** -- for the Republic today? **There** is a powerful **image in our collective consciousness: the Minutemen**, armed with their own muskets, **rushing** to Concord Green and the North Bridge in Lexington **to prevent British troops from seizing a militia arsenal** at Concord. **We assume the Founders enshrined** this tradition -- **a right of armed citizens to resist governmental oppression -- in our Constitution with the Second Amendment. That assumption is wrong. First, it overlooks a critical distinction. The Minutemen were not going to war with their own government.** They were going to war with British forces. **Yes**, of course, **the American colonies were part of the British Empire. But Americans** increasingly **had come to see British forces as a foreign army of occupation. At the**



center of their thinking was the fact that the American colonies were unrepresented in Parliament. Whig ideology of the day -- widely accepted on both sides of the Atlantic -- was that no democratic government could become tyrannical over the people it represented. Americans believed that it was because they were unrepresented that Parliament had few qualms about imposing oppressive taxation on them. Their cry was, "No taxation without representation." Second, the assumption overlooks history. How did the Founders react when Americans took up arms -- not against the Redcoats -- but against their own government? That happened twice. In Shays' Rebellion in 1786, small farmers and shop owners in western Massachusetts, armed with muskets and angry that the courts were foreclosing on their property to satisfy their debts, forcibly closed the courts and threatened to march on Boston. In the Whiskey Rebellion of 1794, farmers in Pennsylvania and Kentucky took up muskets and threatened government officials who were charged with collecting taxes on whiskey. Madison called Shays' Rebellion treason. The governor of Massachusetts raised an army to crush the rebellion -- an action endorsed by George Washington, Samuel Adams, John Jay, Benjamin Franklin and John Marshall. Eight years later, during the Whiskey Rebellion, George Washington said that permitting citizens to take up arms against the government would bring an "end to our Constitution and laws," and he personally led troops to extinguish the rebellion. The Founders understood that if our Republic is to survive, the people had to understand that the government was now their government. The militia the Founders envisioned was not an adversary of government but an instrument of government, organized by Congress and subject to governmental authority. It was not a tool for insurrection but, as the Constitution itself states, a tool to "suppress Insurrections and repel Invasions." What does the insurrectionist idea mean for us today? Ideas have consequences. But the insurrectionist idea extends beyond debates about guns and the Second Amendment. It reinforces the image of the government and the people being at odds. In a democracy, however, the government is the people's government. Of course, we did not all vote for whomever now sits in the White House and Congress. We are a large and vital democracy -- not a village of Stepford wives -- and there is much about which we disagree. The majority, moreover, can be wrong. Sometimes we are boiling mad, and with good reason. And yet, if we are to preserve the Republic, we cannot see our own government as an enemy. That does not mean we should be a placid people. We must be eternally vigilant about government errors and abuse. But we must recognize that differences of opinion are the normal order of things. In a constitutional democracy, we correct errors through constitutional means. It will not do to say that we must be armed and ready to go to war with our government in the event that it becomes tyrannical. There are always those who believe that government tyranny is not a future contingency but a present reality. That may not have been the case with Jared Loughner, but it was the case with John Wilkes Booth and Timothy McVeigh. We should tremble for the nation when we hear talk about resorting to "Second Amendment remedies" -- not because insurrectionist rhetoric is invoked by those who oppose such gun control measures as banning the kind of high-capacity ammunition holders that were used in Tucson -- but because it undermines faith in constitutional democracy. In America, we change our government -- our government -- by changing minds.



Here is a second piece of **aff evidence** rejecting the concept of gun ownership as a protection against citizens' subjective ideas regarding when the government has become "tyrannical":

(Garrett Epps, prof of constitutional law at the University of Baltimore law school, "Constitutional Myth #6: The Second Amendment Allows Citizens to Threaten Government," The Atlantic, <http://www.theatlantic.com/national/archive/2011/06/constitutional-myth-6-the-second-amendment-allows-citizens-to-threaten-government/241298/>, June 30 2011)

In 2008, the Supreme Court recognized--for the first time in American history--the "right to bear arms" as a personal, individual right, permitting law-abiding citizens to possess handguns in their home for their personal protection. Two years later, it held that both state and federal governments must observe this newly discovered right. Curiously enough, the far-right responded to these radical victories as if the sky had fallen. During hearings on the nomination of Elena Kagan to the Supreme Court, Alabama Sen. Jeff Sessions direly warned that the two gun cases--*Heller v. District of Columbia* and *McDonald v. City of Chicago*--were 5-4 decisions. "Our Second Amendment rights are hanging by a thread," he said. The idea that the rights of ordinary gun owners are in danger is a fallacy. **A second, and more pernicious, fallacy is embodied by this quotation from Thomas Jefferson, America's third president: [quote] When governments fear the people, there is liberty. When the people fear the government, there is tyranny. The strongest reason for the people to retain the right to keep and bear arms is, as a last resort, to protect themselves against tyranny in government. [unquote] Wait a minute, Epps! Who could argue with Jefferson? Well, not me, to be sure. But there's a problem with this quote, as there is with so much of the rhetoric about the Second Amendment. It's false. As far as scholars can tell, Jefferson never said it. Monticello.org, the official website of the Thomas Jefferson Foundation, says, "We have not found any evidence that Thomas Jefferson said or wrote, 'When governments fear the people, there is liberty. When the people fear the government, there is tyranny,' or any of its listed variations. The quotation (which has also been misattributed to Samuel Adams, Thomas Paine, and The Federalist), actually was apparently said in 1914 by the eminent person-no-one's-ever-heard-of John Basil Barnhill, during a debate in St. Louis. As bogus as the quote is the idea that the purpose of the Second Amendment was to create a citizenry able to intimidate the government, and that America would be a better place if government officials were to live in constant fear of gun violence. If good government actually came from a violent, armed population, then Afghanistan and Somalia would be the two best-governed places on earth. As we saw from the 2010 shootings in Tucson, Arizona, the consequences for democracy of guns in private hands, without reasonable regulation, can be dire--a society where a member of Congress cannot meet constituents without suffering traumatic brain injury, and where a federal judge cannot stop by a meeting on his way back from Mass without being shot dead. But that image of a Mad Max republic lives on in the fringes of the national imagination. It is what authors Joshua Horwitz and Casey Anderson call "the insurrectionist idea," the notion that the Constitution enshrines an individual right to nullify laws an armed citizen objects to. Its most prominent recent expression came from Senate candidate Sharon Angle, who predicted that if she was unable to defeat Democratic Sen. Harry Reid at the ballot box (which she couldn't), citizens would turn to "Second Amendment remedies"--in essence,**

assassination. Rand Paul also likes to hint that the remedy for rejection of his libertarian policies may be hot lead. Deathandtaxesmag.com quotes him as saying, "Some citizens are holding out hope that the upcoming elections will better things. We'll wait and see. Lots of us believe that maybe that's an unreliable considering that the Fabian progressive socialists have been chipping at our foundations for well over 100 years. Regardless, the founders made sure we had Plan B: the Second Amendment." The history and meaning of the Second Amendment are a murky subject. A fair reading of the entire text of the Constitution suggests that the most prominent concern of the its framers was protecting states' control of their militias. Under Article I § 8 of the Constitution, the states transferred to Congress the power "to provide for calling forth the militia to execute the laws of the union, suppress insurrections and repel invasions" and "to provide for organizing, arming, and disciplining, the militia." This was one of the most radical features of the original Constitution; under the Articles of Confederation, states had complete control of their militias. Opponents of ratification suggested that the new federal government might proceed to disarm and dissolve the state militias and create instead a national standing army. The Second Amendment most clearly addresses



that concern; and that has led a number of historians to suggest that the Amendment really has no relation to any personal right of individuals to "keep and bear arms." History is rarely that clear, however, and the notion of personal gun possession as a right is also deeply rooted in American history. UCLA Law Professor Adam Winkler, author of the forthcoming *Gunfight: The Battle over the Right to Bear Arms in America*, notes that since before the Amendment was proposed, many citizens have discussed the right to bear arms as a guarantee against tyranny as well as a feature of a federal system. Indeed, Winkler's reading of the history finds more support for this anti-tyranny idea than for the Supreme Court's current doctrine that the Second Amendment supports a right of personal self-defense. But **the protection against tyranny was a long-term structural guarantee, not a privilege of individual nullification**, he says. "I don't think there's any support for the idea that government officials should be afraid of being shot." **It would be odd indeed if the Framers of the Constitution and the Bill of Rights had written an amendment designed to give individuals the right to liquidate the government they were setting up. In fact, having been through a revolution, they had few illusions about the virtues of violence. When they gathered in Philadelphia in 1787, the original Framers were very aware that armed bands of farmers in Massachusetts had revolted against the state government only a few months earlier. Washington, in particular, found the news of Daniel Shays's rebellion in that state so disturbing that it contributed to his decision to come out of retirement and help frame a new national charter to prevent such outbreaks. At Philadelphia, Gouverneur Morrison of Pennsylvania warned the delegates that failure would precipitate new outbreaks of rebellion. "The scenes of horror attending civil commotion can not be described, and the conclusion of them will be worse than the term of their continuance," he said. "The stronger party will then make traitors of the weaker; and the gallows & halter will finish the work of the sword." After becoming President, Washington himself led a national army into Western Pennsylvania to suppress a rebellion against the new federal tax on whiskey. (This is the only time in American history a President has served as Commander-in-Chief in the field.) In a subsequent message to Congress, he showed precious little sympathy for "Second Amendment remedies": [T]o yield to the treasonable fury of so small a portion of the United States, would be to violate the fundamental principle of our constitution, which enjoins that the will of the majority shall prevail. . . . [S]ucceeding intelligence has tended to manifest the necessity of what has been done; it being now confessed by those who were not inclined to exaggerate the ill-conduct of the insurgents, that their malevolence was not pointed merely to a particular law; but that a spirit, inimical to all order, has actuated many of the offenders. In 2011, there is abroad in the land "a spirit, inimical to all order," particularly if that order concerns federally guaranteed environmental protection, economic regulation, or civil rights. Voices from the far-right are trying to plant a parasitic meme in our Bill of Rights: that America is not a self-government republic, but a dark Hobbesian plane where each "sovereign citizen" chooses what laws to obey, and any census taker or federal law-enforcement agent had better beware. The long-term result of such a "right to bear arms" would be an ungovernable state of nature, where life, both civic and individual, would be solitary, poor, nasty, brutish and short.**

Moving along, besides the generalized threat of oppression via an overreaching federal government, there is also a debate to be had over whether a handgun ban would unfairly discriminate against certain individuals.



Discrimination

Some gun advocates have argued that gun restrictions in general, but handgun restrictions in particular, disproportionately violate the rights of certain oppressed social groups.

For instance, some critics have suggested that handgun bans are racially discriminatory, because handguns tend to be the least expensive type of firearm. Therefore, they argue, only very costly guns would remain legal, and these may be financially accessible to disproportionately low-income minority populations. Here is a piece of **evidence** that discusses the history of this notion:

(Institute for Legislative Action, "The Racist History of Handgun Bans in America," Excerpted from the NRA-ILA "War Against Handgun Fact Sheet", <https://www.nraila.org/articles/20030115/the-racist-history-of-handgun-bans-in-a>, Jan 15 2003)

In the United States, **the first efforts to prevent the ownership of** firearms, in particular, **handguns, were aimed at Blacks**. The French Black Code (1751) required Louisiana colonists to stop and, "if necessary," beat "any black carrying any potential weapon. . . ." After Nat Turner's rebellion in 1831, the Virginia legislature made it illegal for free blacks "to keep or carry any firelock of any kind, any military weapon, or any powder or lead." In 1834, Tennessee revised Article XI, Section 26 of its Constitution to read "That the free white men of this State have a right to keep and bear arms for their common defense," inserting the words "free white men" to replace "freemen," whose rights were protected when the Constitution was ratified in 1796. (Clayton E. Cramer, "The Racist Roots of Gun Control," Kansas Journal of Law & Public Policy, Winter 1995.) Mass production techniques lowered the cost of many products, including firearms. **After the Civil War, gun prices fell within the budgets of** average citizens, including **former slaves who, having been freed, were entitled to exercise the right to arms, long considered one of the features distinguishing citizenship from servitude**. The Supreme Court had ruled in Dred Scott v. Sanford (19 How. 393, 1857), "It (citizenship) would give to persons of the negro race, who were recognized as citizens in any one State of the Union, the right to enter every other State whenever they pleased. . . and it would give them the full liberty of speech in public and in private upon all subjects upon which its own citizens might speak; to hold public meetings upon political affairs, and to keep and carry arms wherever they went." **To prevent Blacks from arming themselves, southern states enacted the Black Codes**, which "fixed the black population in serfdom, **denying all political rights**, excluding them from virtually any chance at economic or social advancement -- and, of course, forbidding them to own arms." (Don B. Kates, Jr., "Toward a History of Handgun Prohibition in the United States," Restricting Handguns: The Liberal Skeptics Speak Out, Don B. Kates, Jr., Ed., North River Press, Inc, 1979.) **After** ratification of the 14th Amendment (1868) and enactment of **the Civil Rights Act (1875)**, **several states responded by passing laws which on their face were race-neutral, but which in effect were not**. Attorney Robert Dowd observed, "It does not matter that a law on its face applies to all. A law will be deemed unconstitutional if the 'the reality is that the law's impact falls on the minority.'" ("Bearing Arms in State Bills of Rights, Judicial Interpretation, and Public Housing," St. Thomas Law Review, Vol. 5, Fall 1992.) Among **these laws**, the forerunners of so-called "Saturday Night Special" legislation, was Tennessee's "Army and Navy" law (1879), which **prohibited the sale of any** "belt or pocket **pistols, or revolvers**, or any other kind of pistols, **except** army or navy pistol" models, among **the most expensive, and largest, handguns of the day**. (Such as the Colt Model 1960 Army, Model 1851 Navy, and Model 1861 Navy percussion cap revolvers, or Model 1873 Single-Action Army revolver.) **The law thus prohibited** small two-shot derringers and low-caliber rimfire revolvers, **the handguns that most Blacks could afford. In 1911, New York passed the Sullivan Law, which to this day requires a person to obtain a license, issued at the discretion of police officials, to possess a handgun. The law was aimed at preventing handgun ownership by**



Italians and Irish immigrants of the period, then considered untrustworthy by New York legislators and police chiefs with different bloodlines. The National Firearms Act (1934), as originally proposed, would have required registration of handguns. In 1968, Congress passed the Gun Control Act, ostensibly in reaction to the assassinations of President John F. Kennedy, Senator Robert F. Kennedy and the Rev. Dr. Martin Luther King. But even supporters of "gun control" have recognized another purpose to the law. Robert Sherrill wrote, "**The Gun Control Act of 1968 was passed not to control guns but to control blacks....** Inasmuch as the legislation finally passed in 1968 had nothing to do with the guns used in the assassinations of King and Robert Kennedy, it seems reasonable to assume that the law was directed at that other threat of the 1960s, more omnipresent than the political assassin -- namely, the black rioter.... With the horrendous rioting of 1967 and 1968, Congress again was panicked toward passing some law that would shut off weapons access to blacks." (The Saturday Night Special, 1973.) B. Bruce-Briggs similarly noted, "**It is difficult to escape the conclusion that the 'Saturday night special' is emphasized because it is cheap and is being sold to a particular class of people.** The name is sufficient evidence -- the reference is to 'n-----town Saturday Night.'" ("The Great American Gun War," The Public Interest, Fall 1976.) More recently, anti-handgun efforts have included laws or legislative proposals for registration, licensing, limits on the frequency of purchases, limits on the capacity of ammunition magazines, bans on both small handguns ("Saturday Night Specials") and large handguns ("assault pistols"), and requirements that handguns (except those of the police) either be externally locked (rendering them useless for protection) or manufactured with non-existent internal devices to prevent the handgun from being used by anyone other than its rightful owner. Conspicuously, the race-oriented history of "gun control" laws has escaped the attention of many in the civil rights community. Legal scholars Robert J. Cottrol and Raymond T. Diamond have written, "**The history of blacks, firearms regulations, and the right to bear arms should cause us** to ask new questions regarding the Second Amendment. . . . Perhaps a re-examination of this history can lead us to a modern realization of what the framers of the Second Amendment understood: that it is unwise to place the means of protection totally in the hands of the state, and that self-defense is also a civil right." ("The Second Amendment: Toward an Afro-Americanist Reconsideration," Gun Control and the Constitution: Sources and Explorations on the Second Amendment, ed., Rutgers, The State University of New Jersey, School of Law, 1994.)

Additionally, the neg might cite research showing that the people most likely to use a handgun in self-defense are people belonging to the groups that are most statistically vulnerable to crime, such as women, the elderly, and racial/ethnic minorities. The following **evidence** makes that claim:

(Gary Kleck & Marc Gertz, Northwestern University School of Law, "Armed Resistance to Crime: The Prevalence and Nature of Self-Defense with a Gun," *Journal of Law & Criminology*, Vol 86, Issue 1, Article 8, <http://www.hoplofobia.info/wp-content/uploads/2013/10/Armed-Resistance-to-Crime.pdf>, Fall 1995)

Perhaps the most surprising finding of the survey was the large share of reported DGUs that involved women. Because of their lower victimization rates and lower gun ownership rates, one would expect women to account for far less than half of DGUs. Nevertheless, **46% of our sample DGUs involved women.** This finding could be due to males reporting a lower fraction of actual DGUs than women. If a larger share of men's allegedly DGUs were partly aggressive actions, a larger share would be at the "illegitimate" end of the scale and thus less likely to be reported to interviewers. Further, women may be more likely than men to report their DGUs because they are less afraid of prosecution. Consequently, although there is no reason to doubt that women use guns defensively as often as this survey indicates, it is probable that males account for a larger number and share of DGUs than these data indicate. **A disproportionate share of defenders are African-American or Hispanic compared to the general population** and especially compared to gun owners. Additionally, **defenders are disproportionately likely to reside in big cities** compared to other people, and particularly when compared to gun owners, who reside disproportionately in rural areas and small towns. Finally, **defenders are disproportionately**



likely to be single. These patterns are all presumably due to the higher rates of crime

victimization among minorities, big city dwellers, and single persons.⁹⁸ On the other hand, defenders are not likely to be poor. The effect of higher victimization among poor people may be cancelled out by the lower gun ownership levels among the poor.⁹⁹ One might suspect that, despite instructions not to report such events, some of the Rs reporting a DGU might have been describing an event which occurred as part of their occupational activities as a police officer, a member of the military, or a security guard. This could not have been true for more than a handful of our DGU cases, since only 2.4% (five sample cases) involved a person who had this type of occupation. Even these few cases may have occurred off-duty and thus would not necessarily be occupational DGUs. Gun defenders were in fact somewhat less likely to have a gun-related occupation than other gun owners.

In particular, argues the next piece of **evidence**, police and government officials have repeatedly demonstrated throughout American history that they cannot be relied upon to protect the lives or interests of black citizens. Therefore, the need to own a means of self-protection is particularly acute for African-Americans:

(Robert J. Cottrol (Associate Professor at Rutgers (Camden) School of Law, PhD from Yale, JD from Georgetown) & Raymond T. Diamond (Associate Professor at Tulane University School of Law, JD from Yale), "The Second Amendment: Toward an Afro-Americanist Reconsideration," Georgetown Law Journal, <http://www.constitution.org/2ll/2ndscho/12cd-r.pdf>, 1991)

There are interesting parallels between the history of African-Americans and discussion of the Second Amendment. For most of this century, the historiography of the black experience was

at the periphery of the historical profession's consciousness, an area of scholarly endeavor populated by those who were either ignored or regarded with suspicion by the mainstream of the academy.²⁷⁹ Not until after World War II did the insights that could be learned from the history of American race relations begin to have a major influence on the works of constitutional policy makers in courts, legislatures, and administrative bodies. Moreover, it should be stressed that, for a good portion of the

twentieth century, the courts found ways to ignore the constitutional demands imposed by the reconstruction amendments.²⁸⁰ While **discussion of the**

Second Amendment has been relegated to the margin of academic and judicial constitutional discourse, **the realization that there is a racial dimension** to the question, **and that the right may have had greater**

and different **significance for blacks and others less able to rely on the government's protection,**

has been even further on the periphery. The history of blacks and the right to bear arms, and the failure of most constitutional scholars and policymakers to seriously examine that history, is in part another instance of the difficulty of integrating the study of the black experience into larger questions of legal and social

policy.²⁸¹ **Throughout American history, black and white Americans have had radically different experiences with respect to violence and state protection. Perhaps another reason the Second**

Amendment has not been taken very seriously by the courts and the academy **is that for many of those who** shape or **critique constitutional policy, the state's power and inclination to protect them is a**

given. But for all too many black Americans, that protection historically has not been

available. Nor, for many, is it readily available today. If in the past the state refused to protect black people from the horrors of white lynch mobs, today the state seems powerless in the

face of the tragic black-on-black **violence that plagues** the mean streets of **our** inner **cities**, (pg.360) **and** at times

seems blind to instances of **unnecessary police brutality visited upon minority populations**.²⁸²

Admittedly, the racial atmosphere in this nation today is better than at any time prior to the passage of the Voting Rights Act of 1965.²⁸³ It must also be stressed, however, that many fear a decline in the quality of that atmosphere. One cause for concern is the Supreme Court's assault in its 1989 Term on gains of the civil rights movement that had stood for decades.²⁸⁴ Another is the prominence of former Ku Klux Klan leader David Duke, a member of the Louisiana state legislature and a defeated, but nonetheless major, candidate for the Senate in 1990.²⁸⁵ In the last several years, two blacks who had entered the "wrong" neighborhood in New York City have been "lynched."²⁸⁶ Is this a sign of

more to come? The answer is not clear, but the question is. **Twice in this nation's history**—once following the Revolution, and again



after the Civil War—America has held out to blacks the promise of a nation (pg.361) that would live up to its ideology of equality and of freedom. Twice the nation has reneged on that promise. The ending of separate but equal under Brown v. Board in 1954,287—the civil rights movement of the 1960s, culminating in the Civil Rights Act of 1964,288 the Voting Rights Act of 1965,289 and the judicial triumphs of the 1960s and early 70s—all these have held out to blacks in this century that same promise. Yet, given this history, it is not unreasonable to fear that law, politics, and societal mores will swing the pendulum of social progress in a different direction, to the potential detriment of blacks and their rights, property, and safety. The history of blacks, firearms regulations, and the right to bear arms should cause us to ask new questions regarding the Second Amendment. These questions will pose problems both for advocates of stricter gun controls and for those who argue against them. Much of the contemporary crime that concerns Americans is in poor black neighborhoods290 and a case can be made that greater firearms restrictions might alleviate this tragedy. But another, perhaps stronger case can be made that a society with a dismal record of protecting a people has a dubious claim on the right to disarm them. Perhaps a re-examination of this history can lead us to a modern realization of what the framers of the Second Amendment understood: that it is unwise to place the means of protection totally in the hands of the state, and that self-defense is also a civil right.

The **evidence** below builds on that line of thought, arguing that the right to own and carry a handgun is society's great equalizer, and the only thing that prevents the stronger from oppressing the weaker. It goes so far as to posit that "levelling the playing field" in this way is what allows reason and discourse to prevail over the threat of physical force:

(Marko Kloos, "Why the Gun is Civilization," Dillon Blue Press, <http://jpfo.org/articles-assd02/marko.htm>, March 23 2007)

Human beings only have two ways to deal with one another: reason and force. If you want me to do something for you, you have a choice of either convincing me via argument, or force me to do your bidding under threat of force. Every human interaction falls into one of those two categories, without exception. Reason or force, that's it. In a truly moral and civilized society, people exclusively interact through persuasion. Force has no place as a valid method of social interaction, and the only thing that removes force from the menu is the personal firearm, as paradoxical as it may sound to some. When I carry a gun, you cannot deal with me by force. You have to use reason and try to persuade me, because I have a way to negate your threat or employment of force. The gun is the only personal weapon that puts a 100-pound woman on equal footing with a 220-pound mugger, a 75-year old retiree on equal footing with a 19-year old gangbanger, and a single gay guy on equal footing with a carload of drunk guys with baseball bats. The gun removes the disparity in physical strength, size, or numbers between a potential attacker and a defender. There are plenty of people who consider the gun as the source of bad force equations. These are the people who think that we'd be more civilized if all guns were removed from society, because a firearm makes it easier for a mugger to do his job. That, of course, is only true if the mugger's potential victims are mostly disarmed either by choice or by legislative fiat—it has no validity when most of a mugger's potential marks are armed. People who argue for the



banning of arms ask for automatic rule by the young, the strong, and the many, and that's the exact opposite of a civilized society. A mugger, even an armed one, can only make a successful living in a society where the state has granted him a force monopoly. Then there's the argument that the gun makes confrontations lethal that otherwise would only result in injury. This argument is fallacious in several ways. Without guns involved, confrontations are won by the physically superior party inflicting overwhelming injury on the loser. People who think that fists, bats, sticks, or stones don't constitute lethal force watch too much TV, where people take beatings and come out of it with a bloody lip at worst. The fact that the gun makes lethal force easier works solely in favor of the weaker defender, not the stronger attacker. **If both are armed, the field is level. The gun is the only weapon that's as lethal in the hands of an octogenarian as it is in the hands of a weightlifter.** It simply wouldn't work as well as a force equalizer if it wasn't both lethal and easily employable. When I carry a gun, I don't do so because I am looking for a fight, but because I'm looking to be left alone. **The gun at my side means that I cannot be forced, only persuaded.** I don't carry it because I'm afraid, but because **it enables me to be unafraid.** It doesn't limit the actions of those who would interact with me through reason, only the actions of those who would do so by force. **It removes force from the equation ... and that's why carrying a gun is a civilized act.**

The aff, however, could respond that minority citizens are disproportionately likely to be victims of gun-related violence, and would therefore benefit from reduced gun ownership. Here is **evidence**:

(Philip J. Cook (Sanford Professor of Public Policy, Duke University, and Research Associate at the National Bureau of Economic Research) & Jens Ludwig (Associate Professor of Public Policy, Georgetown University, and Faculty Research Fellow at the National Bureau of Economic Research), "AIMING FOR EVIDENCE-BASED GUN POLICY," Journal of Policy Analysis and Management, Vol. 25, No. 3, pp. 691–735, http://home.uchicago.edu/~ludwig/papers/JPAM_aiming_for_evidence_gun_policy_2006.pdf, 2006)
Even though everyone shares in the costs of gun violence, the shooters and victims themselves are not a representative slice of the population. **The gun-homicide victimization rate** in 2003 **for Hispanic men** ages 18 to 29 **was six times the rate for non-Hispanic white men** of the same age; **the gun homicide rate for black men** 18 to 29 was 100 per 100,000, **23 times the rate for white males** in that age group.¹¹ There appears to be considerable overlap between the populations of potential offenders and victims: The large majority of both groups have prior criminal records.¹²

The aff might also argue that guns contribute to cyclical poverty within communities, due to the economic costs of coping with violence. The next two pieces of **evidence** support this point:

(Jonathan Stray, Prof of computational journalism at Columbia University, "Gun Violence in America: The 13 Key Questions (With 13 Concise Answers)," The Atlantic, <http://www.theatlantic.com/national/archive/2013/02/gun-violence-in-america-the-13-key-questions-with-13-concise-answers/272727/>, Feb 4 2013)
Gun violence also **affects more than its victims.** In areas where it is prevalent, **just the threat of violence makes neighborhoods poorer. It's** very **difficult to quantify** the total harm caused by gun violence, **but by asking many people how much they would pay to avoid this threat -- a technique called**



contingent valuation -- researchers have estimated a cost to American society of \$100 billion dollars.

Here is a second piece of **evidence** on the economic losses that come with gun violence:

(Philip J. Cook (Sanford Professor of Public Policy, Duke University, and Research Associate at the National Bureau of Economic Research) & Jens Ludwig (Associate Professor of Public Policy, Georgetown University, and Faculty Research Fellow at the National Bureau of Economic Research), "AIMING FOR EVIDENCE-BASED GUN POLICY," Journal of Policy Analysis and Management, Vol. 25, No. 3, pp. 691–735, http://home.uchicago.edu/~ludwigj/papers/JPAM_aiming_for_evidence_gun_policy_2006.pdf, 2006)

The costs of gun violence to society are more evenly distributed across the population than victimization statistics would suggest. The threat of being shot **causes private citizens and public institutions to undertake a variety of costly measures** to reduce this risk, and all of us must live with the anxiety caused by the lingering chance that we or a loved one could be shot. As one local district attorney notes, **"Gun violence is what makes people afraid to go to the corner store at night"** (Kalil, 2002). While quantifying the magnitude of these social costs is difficult, **contingent valuation (CV) survey estimates suggest the costs of gun violence may be on the order of \$100 billion per year** (Cook & Ludwig, 2000). Most (\$80 billion) of these costs come from crime-related gun violence. Dividing by the annual number of crime-related gunshot wounds, including homicides, implies a social cost per crime-related gun injury of around \$1 million (Ludwig & Cook, 2001).¹³

Tied up within many of these arguments about discrimination is the question of whether or not handguns are necessary or useful for self-defense. Debaters making points from this section should keep in mind that losing the debate about the value of handguns for self-defense would also have implications for their ability to win parts of their case concerning equal access.

Another question we must still address is the issue of basic solvency. So far, every argument we've covered begs the question; how confident can we be that a handgun ban would, in fact, result in a substantial decrease in handguns owned by civilians in the United States?

Solvency

The neg might refer to data from the Chicago and D.C. gun bans indicating that prohibitions don't necessarily stop people from owning guns. Here is a piece of **evidence** on this point:



(Philip J. Cook (Sanford Professor of Public Policy, Duke University, and Research Associate at the National Bureau of Economic Research) & Jens Ludwig (Associate Professor of Public Policy, Georgetown University, and Faculty Research Fellow at the National Bureau of Economic Research), "AIMING FOR EVIDENCE-BASED GUN POLICY," *Journal of Policy Analysis and Management*, Vol. 25, No. 3, pp. 691–735, http://home.uchicago.edu/~ludwigj/papers/JPAM_aiming_for_evidence_gun_policy_2006.pdf, 2006)

Further complicating the interpretation of this evidence is that **D.C. did not** seem to **experience a decline in overall household gun ownership rates** (as proxied by the fraction of suicides committed with guns, or FSS), either **relative to the city's pre-1976 levels** or compared to the trend over this period in Baltimore (Figure 1). **Similarly** in 1982 **Chicago** essentially **banned** private ownership of **guns**, with a grandfather exception enabling those already in **possession** of handguns to register them with the city. Figure 2 shows that FSS **declined somewhat** in Cook County (which is dominated by Chicago) **briefly after the 1982 ban was enacted, but then reverted back to pre-ban levels** (see also Cook & Ludwig, 2003c).

Of course, a nationwide law may be harder to skirt than one that only applies to a particular city. On the other hand, the U.S. has been rather unsuccessful at keeping illegal narcotics out of the country, despite strict laws and about \$40 billion per year in enforcement. During the time of alcohol prohibition, the law was flouted even more blatantly.

The neg might also challenge the feasibility of enforcing a handgun ban by drawing attention to the massive number of guns currently possessed in the United States, as well as the trend towards spikes in gun purchasing whenever citizens begin to suspect new gun control is on the horizon. Here is **evidence**:

(Scott Horsley, "Guns In America, By The Numbers," NPR, <http://www.npr.org/2016/01/05/462017461/guns-in-america-by-the-numbers>, Jan 5 2016)

President Obama announced executive **actions** Tuesday, intended **to curtail gun violence**. But if history is any guide, the president's effort **may have the** unintended **effect of boosting gun sales — 2015 was a banner year.**

"After San Bernardino, **our business went up** probably **50 percent**," John **Lamplugh, who has run gun shows** in Maryland and Pennsylvania **for more than three decades, said**, referring to the recent shooting in California. "It's either two things: **They're scared and need to protect [themselves]. Or they're afraid that [the government is] going to take it from them. There's the** two **things that drive our business.**" **According to the Congressional Research Service, there are** roughly **twice as many guns per capita in the United States as there were in 1968: more than 300 million** guns in all. **Gun sales have increased in recent years.** According to the Bureau of Alcohol, Tobacco, Firearms and Explosives, **U.S. gun-makers**



produced nearly **11 million guns in 2013**, the year after the Sandy Hook elementary school massacre. That's **twice as many as** they made **in 2010**. **"There's a gun for every man, woman, and child**, more or less," **says** Deborah **Azrael of the Harvard Injury Control Research Center**.

How might the government go about rounding up and confiscating the hundreds of millions of handguns already in citizens' hands, not to mention the tens of millions more that are bound to be hoarded as soon as gun supporters hear news of a forthcoming ban? The feasibility alone of such an action provides possible neg ground, not to mention the cost.

On the other hand, if the U.S. took the Australian route and "grandfathered in" guns already owned legally, then we potentially arrive right back at the issue of failing to meaningfully reduce total guns at all.

Relatedly, this next piece of **evidence** argues that gun bans are futile, because the components necessary to build a gun by oneself are unregulated, easily available, and inexpensive:

(Justin King, journalist, "THE FACTS THAT NEITHER SIDE WANTS TO ADMIT ABOUT GUN CONTROL," <http://thefifthcolumnnews.com/2015/06/the-facts-that-neither-side-wants-to-admit-about-gun-control/>, June 20 2015)

The Real Reason Gun Control Will Never Work: Home Depot. Most people in the gun control lobby know nothing about firearms or their construction. **Everything you need to manufacture firearms is available at Home Depot. The materials** needed to manufacture a 12 gauge shotgun **cost about \$20**. If someone wanted to build a fully automatic Mac-10 style submachine gun, it would probably cost about \$60. **Every electrician, plumber, and handyman** in the country **has the materials** necessary to manufacture firearms **in their shop. The items are completely unregulated. They aren't like the chemicals** necessary **to manufacture methamphetamines. How is the battle against that black market working out? Poverty has a greater correlation to violent crime than** access to **firearms**. Education and poverty are directly linked. In short, **we don't have a gun problem in the United States, we have a cultural problem. We have a society that panders to the basest desires and instincts. One of those is violence.** We live in a society where women are given dirty looks for breastfeeding in a restaurant, while over their heads on the wall-mounted television plays a movie that graphically depicts someone being tortured to death. **We are desensitized to violence, and we have** a generation of **people that do not have** the **coping skills** necessary to deal with reality. **Firearms are the Pandora's Box of the United States. The box is open, it can't be closed through legislation. If you want to change society, you have to actually change the whole of society. You can't blame**



an inanimate object that's availability has absolutely no correlation to murder and expect to end violence.

In answer to these sorts of arguments, the aff might point to their evidence showing success in other nations. Further, they might argue that even a small reduction is desirable, even if complete elimination is implausible, and/or that implementation issues are outside the scope of the debate. (Of course, an aff would need to advance some theory arguments as to why it is legitimate for them to waive implementation issues away entirely.)

The aff can also argue that the real cause of any feasibility problems is laws, passed under the influence of the gun lobby, that prevent meaningful government research on gun control policies. Presumably, the aff might point out, these kinds of studies would be able to take place in a hypothetical world of an accepted handgun ban. Here is some **evidence**:

(Jonathan Stray, Prof of computational journalism at Columbia University, "Gun Violence in America: The 13 Key Questions (With 13 Concise Answers)," The Atlantic, <http://www.theatlantic.com/national/archive/2013/02/gun-violence-in-america-the-13-key-questions-with-13-concise-answers/272727/>, Feb 4 2013)

What don't we know yet? A lot! We lack some of the most **basic information we need to have a sensible gun policy debate**, partially **because researchers have been prevented by law from collecting it**. The 2004 National Research Council report discussed above identified **several key types of missing data: systematic reporting of individual gun incidents and injuries, gun ownership at the local level, and detailed information on the operation of firearms markets. We don't even have reliable data on the number of homicides in each county**. For such sensitive data sets, it would be important to preserve privacy both legally and technically. There have been recent advances in this area, such as anonymous registries. But **the Centers for Disease Control**, the main U.S. agency that tracks and studies American injuries and death, **has been effectively prevented from studying gun violence, due to a law passed by Congress in 1996. Similarly**, anonymized hospital reporting systems are the main ways we know about many other types of injuries, but **the Affordable Care Act prevents doctors from gathering information about** their patients' **gun use. A 2011 law restricts gun violence research at the National Institutes of Health**. The legal language prevents these agencies from using any money "to advocate or promote gun control." This may not technically rule out basic research, but **scientists say** it has made **the issue [is] so sensitive that key funding agencies will not support their work. They point to grant data as evidence of an effective ban**. The White House has recently proposed lifting these research restrictions (see above)



The above card might also be useful to responding to and undermining a plenty of other negative arguments. It has a variety of potential applications.

One last solvency-related issue to consider is whether banning just handguns, while allowing the continued possession of other types of guns (such as rifles and shotguns) would have any effect. This argument cuts both ways, though. While criminals could theoretically just buy a different type of gun, so to could homeowners interested in self-protection. The gun owners who would be most negatively impacted by a handgun ban would be those who need to carry a lightweight weapon on them as they walk around in public...which, again, could be criminals, or could be law-abiding citizens wishing to defend themselves. Which side of the debate would benefit from this argument would entirely depend on the specifics of the round.

Counterplans

Before we bring this discussion to a close, we'll discuss one more strategic option for the negative: counterplans. Of course, these are more acceptable for LD in some circuits than others. Regardless, if judges in your area are receptive to them, there are endless proposals the neg could suggest in lieu of a total ban. We won't go over them with any degree of specificity here (this is long enough as it is!), but I will provide you with some generic solvency **evidence**:

(Jonathan Stray, Prof of computational journalism at Columbia University, "Gun Violence in America: The 13 Key Questions (With 13 Concise Answers)," The Atlantic, <http://www.theatlantic.com/national/archive/2013/02/gun-violence-in-america-the-13-key-questions-with-13-concise-answers/272727/>, Feb 4 2013)

The firearms debate usually revolves around "gun control" -- that is, laws that would make guns harder to buy, carry, or own. But this is not the only way of reducing gun violence. It is possible to address gun use instead of availability. For example, Project Exile moved all gun possession offenses in Richmond, Virginia, to federal courts instead of state courts, where minimum sentences are longer. Policies like these, which concern gun use, are sometimes said to operate on gun "demand," as opposed to gun control laws, which affect "supply."



Similarly, while the idea of new laws gets most of the attention, some **projects have focused on enforcing existing laws more effectively, or changing policing strategies** the way Boston's Operation Ceasefire did in the 1990s. **In fact, launching community-based programs has proven to be one of the most effective strategies for reducing gun violence.** (See: What has worked, below.) **There have also been programs based on other principles, such as public safety education** and gun buy-back campaigns. The White House proposals (see below) address both gun access and gun use, and include both new laws and enhanced enforcement of existing laws.

Next, here is a piece of comparative **evidence**, stating that laws aimed at controlling gun ownership alone cannot succeed in reducing violence as well as other options can:

(Matthew D. Makarios & Travis C. Pratt, prof at Univ of Cincinnati, Ohio & Arizona State University, Phoenix, "The Effectiveness of Policies and Programs That Attempt to Reduce Firearm Violence: A Meta-Analysis," Accessed via Journalist's Resource (A project of the Harvard Kennedy School's Shorenstein Center and the Carnegie-Knight Initiative, we're an open-access site that curates scholarly studies), originally published in Crime and Delinquency, Vol. 58, No. 2, pp 222-244, <http://journalistsresource.org/studies/government/criminal-justice/effectiveness-policies-programs-reduce-firearm-violence-meta-analysis#sthash.1f5fKKjz.dpuf>, March 2012)

As suggested, the research area focusing on **firearms and** the reduction of **violence is complex; psychological, social and cultural factors all play a role, and policy solutions have not proven easy**, in general. Research findings in this area are also typically mixed and context-specific. However, **a 2012** study from Arizona State University and the University of Cincinnati published in Crime and Delinquency, "The Effectiveness of Policies and Programs That Attempt to Reduce Firearm Violence: A **Meta-Analysis**," reviewed the effectiveness of dozens of policies designed to reduce gun violence in the United States. The researchers **examined 29 rigorous studies** between 1983 and 2005 that assessed the effectiveness of four major areas of gun violence interventions: information, training, and storage campaigns; gun buy-back programs; gun laws; and law enforcement campaigns. **Key study findings include:** "The studies included in this analysis, on average, indicated a weak to moderate impact of these policies and programs on gun violence." While all interventions reduced gun crime, gun buy-back programs and **stricter gun laws were found to be only marginally effective. Law enforcement efforts, however, were found to significantly reduce gun-related crimes.** Of these legal interventions, probation strategies — **increased contact with police, probation officers and social workers — proved most effective at curtailing gun violence**; policing strategies and community programs were moderately effective, **while "prosecutorial strategies" — harsher sentences and restricted bail opportunities — showed the least promise.** Mandatory firearms waiting periods and background checks were shown to have no statistical effects on gun crimes, while bans on specific weapons were moderately effective. "The effect of safe-storage laws show they have been ineffective at reducing gun crime. The [studies] examined ... found that, if anything, safe storage laws work to increase crime." **The researchers conclude that "law enforcement programs are clearly more effective than gun laws."** They note that the "most effective programs combined both punitive and supportive strategies to effectively reduce gun violence.... The assessment of [gun violence prevention programs] provides clear guidance concerning which approaches are most likely to result in enhanced public safety — an outcome that should be attractive to policy makers regardless of their ideological persuasion." It is worth noting that research findings in this area are of more than just theoretical interest. Two of the country's leading jurists, Supreme Court Justice Stephen Breyer and U.S. Court of Appeals Judge Richard Posner, have recently reviewed the academic literature and incorporated it into their opinions (Breyer here, and Posner here) on gun restriction-related cases, as the New York Times notes. Both jurists found that the **empirical research is not conclusive enough to support** certain kinds of gun restrictions, specifically **a ban on carrying guns** in public.



Lastly, I'll leave you with two pieces of **evidence** arguing that the solution to violence is more mental health resources, and the focus on guns is misguided:

(Carolyn Reinach Wolf (executive partner attorney, J.D. from Hofstra University School of Law, M.S. in Health Services Administration from the Harvard School of Public Health, M.B.A. in Management from the Hofstra University School of Business) & Jamie A. Rosen (attorney focusing on mental health law, J.D. from the Maurice A. Deane School of Law at Hofstra University), "MISSING THE MARK: GUN CONTROL IS NOT THE CURE FOR WHAT AILS THE U.S. MENTAL HEALTH SYSTEM," Journal of Law & Criminology, Vo. 104, No. 4, Northwestern Univ. School of Law, scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=7540&context=jclc, Fall 2015)

Recent mass shootings such as those at a grocery store in Tucson, Arizona,¹ an elementary school in Newtown, Connecticut² and the Navy Yard in Washington, D.C.,³ **have motivated** state **governments** across the country **to draft policies that would** more **strictly limit** the **gun rights** of those with mental illness.⁴ These policies contribute to the belief that all individuals with mental illness are dangerous. These **tragedies repeatedly renew the debate over gun regulations as the appropriate response** to gun violence,⁵ **instead of raising awareness that these incidents may have been prevented if the perpetrator had received timely treatment.**⁶ **Policymakers have not focused on treatment, modified existing restrictive mental health laws, or increased funding for mental health services. Instead, they have concentrated on gun control** and taking guns out of the hands of people who suffer from mental illness or behavioral health issues, as well as requiring mental health professionals to report dangerous people to the authorities.⁷ The problem with tying mental illness to the gun control debate is that people assume those with mental illnesses are more prone to violence than those without these issues.⁸ The truth is that individuals falling into the category of "mentally ill" only account for a small fraction of all violent conduct.⁹ Simply having a mental illness is not a strong predictor of future violence.¹⁰ Individuals who have exhibited dangerous behaviors in the past, have a criminal record, or have a history of drug abuse, for example, are much more likely to commit future violent crimes.¹¹ In fact, the risk of violence, if any, by a person suffering from a serious mental illness may increase when the proper treatment, support, and medication are not available.¹² **Many shootings**, whether on a college campus or in a workplace setting, **could be prevented not solely through stricter gun control** laws,¹³ **but rather through** a higher level of **mental health** awareness in these respective communities and increased funding for community and **support services.** **Unfortunately**, funding for mental health care has diminished significantly; **over the past few years, states have cut** approximately **\$4.35 billion from their mental health** care **budgets.**¹⁴ While it is important to control access to firearms by those who are prone to violence (not just those with mental illness), it is more important that we fix the flawed mental health system, starting with increasing the funding for, and availability of, mental health services. This Article will examine the ways in which recent gun control laws in the United States do or do not address relevant mental health issues. Part I presents an overview of mental illness and the importance of ongoing treatment throughout an individual's lifetime. Part II discusses different current gun control laws across the United States and evaluates their impact on the mental health community. Part III explains the concerns of medical and mental health professionals, including the impact on doctor-patient relationships and confidentiality issues, among others. Part IV explores possible improvements to gun control laws and to the broken mental health system, such as the use of Behavioral Intervention Teams in educational and workplace environments. Finally, the Conclusion reinforces the argument that **providing better mental health care resources** for those with mental illness **will do more in the long run to reduce violence than more stringent gun control laws.**



Second piece of mental health care **evidence**:

(Carolyn Reinach Wolf (executive partner attorney, J.D. from Hofstra University School of Law, M.S. in Health Services Administration from the Harvard School of Public Health, M.B.A. in Management from the Hofstra University School of Business) & Jamie A. Rosen (attorney focusing on mental health law, J.D. from the Maurice A. Deane School of Law at Hofstra University), "MISSING THE MARK: GUN CONTROL IS NOT THE CURE FOR WHAT AILS THE U.S. MENTAL HEALTH SYSTEM," Journal of Law & Criminology, Vo. 104, No. 4, Northwestern Univ. School of Law, scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=7540&context=jclc, Fall 2015)

When reflecting on the recent tragic events in the United States involving **gun violence**, it seems that the **gaps in the nation's mental health system, rather than loose gun laws, are to blame**. Gun legislation is not effective at keeping guns out of the hands of a dangerous individual before an act of violence occurs,¹²⁷ and the mental health system has failed to identify those individuals who are a danger to themselves or others. **Many Americans simply are not getting the mental health care that they need**,¹²⁸ a sad truth that is only **exacerbated by budget cuts and closings of mental health facilities. A better solution is to** (1) amend current state mental health laws to **increase funding and provide** more readily **accessible** and comprehensive **mental health services**; (2) **offer community programs and preventive training** to allow **for early interventions**; and (3) **fix the flaws in the** federal and state **background check systems**.

That concludes our introduction to the January/February 2016 LD topic on handguns. Keep in mind that this has been a subject of heated debate for many years—the amount of available research far surpasses the breadth of this paper. As always, it is critical that you continue your research process on your own.

Don't forget that you can also always submit completed cases to rachel.stevens@ncpa.org for a confidential, personalized critique.

Questions about this guide, the resolution, or debate in general? Don't hesitate to email!

Good luck!