

SECOND AMENDMENT

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.

1934----- **National Firearms Act of 1934** → President Franklin D. Roosevelt presents a “New Deal for Crime,” in response to the gangster-style guns and violence brought about by Al Capone, John Dillinger, Baby Face Nelson, and Bonnie and Clyde. A part of his plan is the National Firearms Act of 1934, the first federal gun control law, which requires a \$200 tax on the manufacture or sale of machine guns and sawed-off shotguns, making their manufacture or purchase restrictive. Additionally, all sales were to be recorded in a national registry.



1938----- **National Firearms Act of 1938** → Roosevelt passes the National Firearms Act of 1938, requiring interstate drug dealers to be licensed and record their sales. This was also the first federal law to prohibit sales to individuals under indictment or convicted of violent crimes.



1939----- **United States v. Miller (1939)** → *United States v. Miller* upheld a federal ban on sawed-off shotguns: “the ‘obvious purpose’ of the Second Amendment was to ‘assure the continuation and render possible the effectiveness of [state militia].”



1959-1975 ----- Due to political and social unrest – Vietnam war, Red Scare and Joseph McCarthy, Civil Rights Movement and Watergate – Americans grow more skeptical of government and the concept of self-defense emerges as a priority, supported by owning a gun.



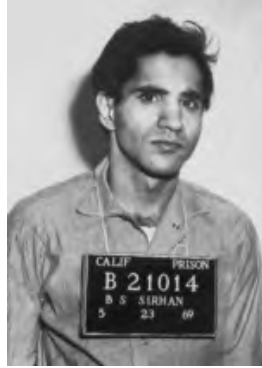
Nov. 22, 1963 ----- **John F. Kennedy Assassination** → President John F. Kennedy is assassinated in Dallas, Texas. Lee Harvey Oswald was arrested and charged with the murder but was assassinated himself by Jack Ruby before he could stand trial.



Apr. 4, 1968 ----- **Martin Luther King Assassination** → Rev. Martin Luther King, Jr. is assassinated in Memphis, Tenn. James Earl Ray was convicted the following year, entering a guilty plea to forgo a jury trial, thus avoiding the death penalty. He later recanted his confession and was unsuccessful in obtaining a new trial and died in prison.



Jun. 6, 1968 ----- **Robert F. Kennedy Assassination** → Senator Robert F. Kennedy



is assassinated in LA, California. Despite a recorded confession while in police custody, Sirhan Sirhan had a lengthy trial. The court judge did not accept his confession and denied his request to withdraw his not guilty plea so that he could plead guilty. Years later, Sirhan recanted his confession claiming not remembering making it. While originally given the death penalty, Sirhan's sentence was commuted to life in prison, owed to California Supreme Court's finding that capital

punishment was a violation of California Constitution's prohibition of cruel or unusual punishment.

1968 ----- **Gun Control Act of 1968** → President Lyndon B. Johnson passes the Omnibus Crime Control and Safe Streets Act of 1968 and the Gun Control Act of 1968, becoming the primary federal law regulating firearms. In addition to expanding the licensing requirements to more gun dealers and requiring more detailed record-keeping, the Gun Control Act prohibits all convicted felons, drug users and the mentally ill from buying guns and raises the age to purchase handguns from a federally licensed dealer to 21 years old.



1970 ----- **National Rifle Association** → National Rifle Association (NRA)



rises to prominence. Today a major political force, in 1990 the NRA established a foundation to ensure that the financial support for firearms-related activities would be available for future generations. The NRA continues to be the leader in firearms education. Courses in basic rifle, pistol, shotgun, muzzleloading firearms, personal protection and ammunition reloading are provided.

Additionally gun safety and education for children and youth is a main focus of NRA's programming.

May 4, 1970 ----- **Kent State Shooting** → Students were protesting the Cambodian Campaign which President Nixon had announced just days before. Due to unrest and demonstrations at Kent State the first few days of May, so far as requiring the police to disband students with tear gas, the Ohio Army National Guard was called to be at a large demonstration. When they arrived on May 2nd it was to the burning of the campus Reserve Officer Training Corps (ROTC) building. The May 4th protest was supposed to be cancelled, however, a crowd gathered and the Guard returned, and when tear gas did not clear the crowd, the guardsmen advanced with guns, and ultimately several of the guardsmen fired into the student crowd, killing 4 and earning the name “massacre.”



Mar. 30, 1981 ----- **Reagan Assassination Attempt** → John Hinckley, Jr. makes an attempt on the life of President Ronald Reagan and instead shoots James “Jim” Brady, President Reagan’s press secretary along with Secret Service agent Tim McCarthy and D.C. police officer Thomas Delehanty. Brady was shot in the head and was left partially paralyzed for life. This incident inspired the Brady Handgun Violence Prevention Act.



1986 ----- **Firearm Owners Protection Act** → With increased public concern about the growing governmental enforcement of gun laws, Congress passes the Firearm Owners Protection Act of 1986. The law set regulations for the enforcement agency for firearms: the Bureau of Alcohol, Tobacco and Firearms. The Bureau can only inspect gun dealers once a year, permitting follow-up inspections only if multiple violations were found. Additionally, the law forbids the government from creating a national registry of gun ownership. However, there was a restriction banning civilian ownership of machine guns manufactured after May 19, 1986; not affecting weapons made and registered before that date.



1993 ----- **Brady Handgun Violence Prevention Act** → The Brady Handgun



Violence Prevention Act of 1993 requires background checks of gun buyers in order to enforce and prevent sales to people banned under the 1968 legislation – convicted felons, drug users, mentally ill and those under the age of 21. Checks would be run through the National Instant Criminal Background Check System (NICS), maintained by the FBI. This check is required by licensed sellers and exempts sales by unlicensed private

sellers who are not engaged in gun dealing as a business, however, they may be required by their state laws to run a background checks. Pursuant to the 1986 Firearm Owners Protection Act, no record of these background checks for the purposes of purchasing a firearm may be kept, as it would essentially be a national registry of gun ownership. Brady pictured.

1994 ----- **The Violent Crime Control and Law Enforcement Act** → The Violent Crime Control and Law Enforcement Act of 1994 imposes a 10-year federal ban on the manufacture of new semi-automatic assault weapons, specifying 19 weapons including the AR-15, certain versions of the AK-47, the TEC-9, the MAC-10 and the Uzi.

These specific weapons were selected due to their preference by violent drug gangs. The act also bans large-capacity ammunition magazines, limiting them to 10 rounds. However, the law does not apply to weapons already in legal possession and new weapons may be adapted to avoid prohibitions (i.e. making a non-assault weapon have the features of assault weapons after purchase).



1997 ----- **Prince v. U.S. (1997)** → A divided Court struck down a key provision of the Brady Handgun Violence Prevention Act, a federal statute that required state officials to conduct background checks on prospective handgun purchasers on the grounds that it violated states' rights as independent sovereigns separate from the federal government. *The majority opinion made no mention of the Second Amendment.



1999 ----- **Columbine Shooting** → Eric Harris, 18 years old, and Dylan Klebold, 17 years old, opened fire throughout Columbine High School in Littleton, Colorado, before committing suicide, injuring and killing 39 people.



2000 ----- **U.S. v. Morrison (2000)** → *U.S. v. Morrison* invalidated part of the Violence Against Women Act on the grounds that Congress lacked the authority to enact such a statute under the Commerce Clause. A student at Virginia Tech University accused two fellow students and football players of raping her. The University set aside the punishment of the two young men and the female student withdrew from the university. The Violence Against Women Act of 1994 provided standing for a victim of gender-motivated violence in federal courts. However, the gender-motivated violence could not be said to substantially affect interstate commerce and therefore did not fall under Congress' power.



2003----- **Tiahrt Amendment** → Congress passes the Tiahrt Amendment to a federal spending bill, prohibiting law enforcement from releasing to the public data showing where criminals purchased their firearms. Pictured Kansas' Republican Representative and amendment author Todd Tiahrt.



2004----- The Federal government declines to renew the decade-old ban on the manufacture and possession of semiautomatic assault weapons established in the Violent Crime Control and Law Enforcement Act of 1994.



2005----- **Protection of Lawful Commerce in Arms Act** → The Protection of Lawful Commerce in Arms Act is signed by President George W. Bush, granting gun manufacturers immunity from civil lawsuits filed over crimes committed with firearms. Gun-control advocates were using the strategy of holding manufacturers responsible for the negative effects of their products and suing the makers of firearms, the strategy that was effective against tobacco companies.



Apr. 16, 2007----- **Virginia Tech Shooting** → Virginia Tech University student Seung-Hui Cho, 23 years old, opened fire on his campus, injuring and killing 56 people, before taking his own life.

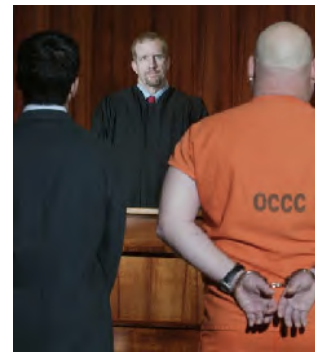


2008 ----- **District of Columbia v. Heller (2008)** → In *District of Columbia v. Heller*, the Supreme Court holds that



Americans have an individual right under the Second Amendment to possess firearms in federal grounds “for traditionally lawful purposes, such as self-defense within the home,” striking down a local law banning handguns in D.C. Heller pictured.

2008 ----- A New York federal judge concluded that a law requiring people released on bail to automatically surrender their firearms is invalid on the ground that it violated the Eighth Amendment’s protection against Cruel and Unusual Punishment.



Nov. 5, 2009 ----- **Fort Hood Shooting** → Army psychiatrist Nidal Malik Hasan, 39



years old, opened fire on Fort Hood Army base in Texas, injuring and killing 43 people. Hasan was a psychiatrist and Medical Corps officer, who, prior to the shooting, had expressed views described by colleagues as “anti-American.” At his court-martial in August 2013, Hasan admitted to the shootings and he was convicted of 13 counts of premeditated murder and 32 counts of attempted murder. The jury panel of thirteen officers unanimously

recommended Hasan be formally dismissed from the service and sentenced to death. Hasan is currently incarcerated awaiting execution while his case is reviewed by on appeal.

2010 ----- **McDonald v. Chicago (2010)** → *McDonald v. Chicago*

incorporated the 2nd Amendment right to bear arms to the states. The Chicago law prohibited the possession of unregistered firearms which was essentially a ban on all handguns as Chicago law also prohibits the registration of most handguns. Otis McDonald challenged the law arguing that the right to bear arms should apply to states as the Supreme Court had applied it to federal laws in *D.C. v. Heller* and he prevailed. Otis McDonald pictured.



2011 ----- **Undocumented Immigrants** → A Texas federal court found that



the right in the Second Amendment, when referring to “the people,” it means “members of the political community;” thereby excluding undocumented immigrants from the enjoyment of the Second Amendment right.

2011 ----- A federal court struck down a Chicago law that required one hour of firing-range training as a prerequisite to lawful gun ownership but also banned all firing ranges within the city.



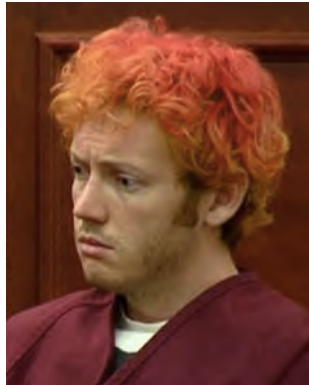
2011 ----- A different federal court upheld the District of Columbia’s ban on semiautomatic rifles and magazines with a capacity of more than ten rounds on the grounds that these weapons are not “well-suited to or preferred for the purpose of self-defense or sport.



Jan. 9, 2011 ----- **Tucson Shooting** → Jared Loughner, 22 years old, opened fire outside a Safeway during a constituent meeting with Democratic Congresswoman Gabrielle Giffords in Tucson, Arizona, injuring and killing 19 people. Rep. Giffords pictured. In August 2012, Loughner was judged competent to stand trial and at a subsequent hearing, he pleaded guilty to 19 counts. He was sentenced to life in prison without parole.



Jul. 20, 2012 ----- **Aurora, Colorado Shooting** → James Holmes, 24 years old, opened fire in a movie theater in Aurora, Colorado, injuring and killing 70 people. Holmes has been charged with 24 counts of first degree murder, 116 counts of attempted murder, possession of explosive devices and inciting violence. The court made a finding after evaluation that Holmes is of sound mind to stand trial. Holmes is hoping to plead guilty to avoid the death penalty but the prosecution has not accepted the offer. After a period at the Colorado Mental Institute he was transferred back to jail. His trial is scheduled for December 2014.



Dec. 14, 2012 ----- **Sandy Hook Shooting** → Adam Lanza, 20 years old, shot his mother, killing her, and then drove to Sandy Hook Elementary School, in Newtown, Connecticut, where he opened fire killing 20 children and six adults and ultimately killing himself. Lanza's actions reopened the debate concerning mental health issues, the impact of video games on violent behavior and gun control legislation.



THE CASES

***District of Columbia v. Heller* (2008)**

Scalia went into great depths as to the history and linguistics to interpret the key phrases of the Second Amendment: “well regulated Militia,” “right of the people,” and “keep and bear Arms.” “Right of the people” unambiguously refers to an *individual* right enjoyed by the whole political community.

“Arms” refers to any “instrument that constitute bearable arms, even those that were not in existence at the time of the founding.” Weapons covered by the Second Amendment are those “typically possessed by law-abiding citizens for lawful purposes,” primarily to secure “self-defense,” not “dangerous and unusual weapons.” The Second Amendment is “not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose.” While it is always permissible to ban weapons that are “dangerous or unusual,” once a weapon becomes popular enough to be deemed an “Arm,” it is shielded by the Second Amendment forever.

That the original main purpose of the Second Amendment was to protect state militias capable of resisting federal tyranny and that individuals with handguns would fail against a national government armed with “bombers and tanks” is of no consequence. Ultimately, the protected right cannot change the interpretation of the right.

Prohibitions on the possession of firearms, mentally ill, forbidding firearms in sensitive places, conditions and requirements for purchasing firearms and other restrictions still stand and are constitutionally valid, even in light of the Second Amendment.

***McDonald v. Chicago* (2010)**

Because *District of Columbia v. Heller*, found that the central component of the Second Amendment was the right to individual self-defense. As a basic right, self-defense has been “recognized by many legal systems from ancient times to the present day.” With this case, the Court incorporated the Second Amendment to the states. Alito also founded his decision on the grounds that gun rights can also prevent violence and protect the rights of minorities where elected public officials are not meeting their needs.

*If *Heller* had found that the right to bear arms came with the purpose of ensuring protection from tyrannical national government, *McDonald* may have come out differently.

What does the Second Amendment mean?

Originalism

“ruling in accordance with the Constitution’s original meaning.”



Collective Rights

The 2nd Amendment is concerned only with collective defense and security from federal tyranny, not with individual self-protection or hunting.

Collective rights theory dominated legal thought for most of the 20th century.



Individual Rights

3 models –

1. A personal right to keep and bear arms that we can exercise for any reason, subject only to regulation tailored to pressing social need.
2. Gun rights are linked to an armed citizenry resisting oppressive government
3. Individual right of self-defense against crime

Meta model - “Self-defense and opposition to tyranny, with hunting and recreation cast in supporting roles, merged into a single broadly defined gun right.”

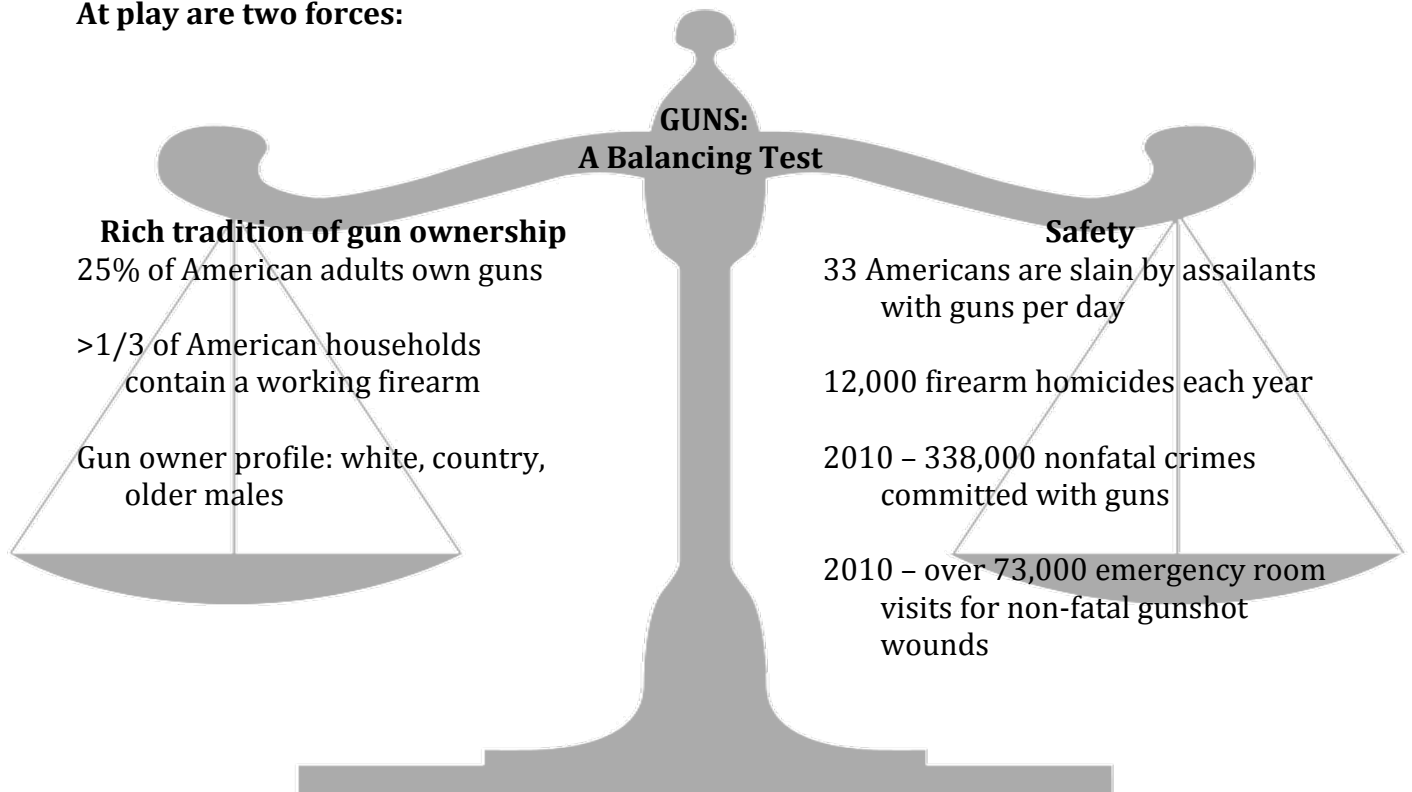


Consensus View

The court looks at a challenged law and determines whether a law burdens conduct within the scope of the Second Amendment, looking to both the 1790s and more recent traditions. The more serious the burden and the closer it falls to the core of the Second Amendment right, the more difficult the government entity will have justifying the restriction on the right.



Most gun laws are presumptively valid, meaning the burden is on the challenger to prove to the court why the law violates his or her Second Amendment rights. At play are two forces:



PROPOSED METHODS FOR GUN REFORM (Tribe 158)

- (1) universal, loophole-free background checks for all gun transfers, coupled with waiting periods that would limit who can buy guns
- (2) firearm labeling and registration rules that would make it easier to catch shooters
- (3) limits on the manufacture and sale of assault weapons, armor-piercing rounds, high-capacity magazines, and other forms of heavy firepower
- (4) prohibitions on or permit requirements for concealed or public carrying of guns
- (5) bans on guns in bars, churches, schools, and other sensitive places
- (6) requirements of safe storage in the home
- (7) closing loopholes that allow the unregulated sale of firearms at gun shows or over the Internet
- (8) creating and enforcing new criminal laws to punish illegal gun trafficking and straw purchasing

GUN RIGHTS AND OTHER AMENDMENTS

1ST AMENDMENT Freedom of Speech	→ In 2012, a Florida law punishing doctors who ask their patients if they own guns and warn of hidden dangers was found unconstitutional on First Amendment grounds.
1ST AMENDMENT Freedom of Religion	→ Several legislatures have passed laws that protect a right to carry guns into places of worship; however, it is unclear if these laws might also violate the rights of religious groups to congregate and pray without the fear of guns under the 1 st Amendment.
4TH AMENDMENT Search and Seizure	→ Currently, possession of a firearm is a valid basis for a search and seizure under the Fourth Amendment; however, gun owners have argued that since possession of a firearm is not shielded by the protection of the Second Amendment, it should not longer be a valid basis for a search and seizure and should be treated as any other legal conduct. The use of a firearm as a basis for a search and seizure has been primarily where the firearm was being carried in a sensitive place – such as courts or parks. Just as any other person, gun owners are protected against unauthorized surveillance.
5TH AMENDMENT Due Process Clause	→ Proper procedure must be followed before anyone is denied a firearm on the basis of mental illness or some other supposedly disqualifying characteristic.
8TH AMENDMENT Cruel and Unusual Punishment	→ In 2008, a New York federal judge concluded that a law requiring people released on bail to automatically surrender their firearms is invalid.
10TH AMENDMENT Federalism	→ Each State may make its own gun regulations and the national government cannot take over state gun regulators to achieve national goals.
14TH AMENDMENT Equal Protection Clause	→ Gun ownership cannot be denied to disfavored groups merely on the basis of being a disfavored group.
14TH AMENDMENT Citizenship Clause	→ In 2011, a Texas federal court held that the right to bear arms found in <i>Heller</i> , does not apply to undocumented migrants as they are outside of the “political community” to which “the people” in the Second Amendment refers.
15TH, 19TH, 23RD, 24TH & 26TH AMENDMENTS Voting	→ The right to vote allows us to select the lawmakers who pass gun regulations.

Name _____

Date ____/____/____ Period ____

CHAPTER 5 – GUN RIGHTS: ARMED AND DANGEROUS

Guided Reading

<p style="text-align: center;">Terms</p> <p><i>Terms I've seen before but I'm not sure of the definition/Terms I haven't seen before:</i></p>	<p style="text-align: center;">History & Notes</p> <p><i>Background about Chapter topic</i></p>
<p style="text-align: center;">Cases</p> <p><i>Concurring or Disagreeing thoughts on how the Court decided on Chapter cases</i></p>	<p style="text-align: center;">Follow Up</p> <p><i>Topics on which I'd like to know more and discuss further</i></p>