

University of Virginia Center for Politics



Talking Turkey: Gun Rights and Responsibilities

General Facts:

The US Constitution: 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.

National Constitution Center:

<https://constitutioncenter.org/interactive-constitution/amendments/amendment-ii>

Many in the Founding generation believed that governments are prone to use soldiers to oppress the people. English history suggested that this risk could be controlled by permitting 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 other emergencies, the government could rely on a militia that consisted of ordinary civilians who supplied their own weapons and received some part-time, unpaid military training.

The onset of war does not always allow time to raise and train an army, and the Revolutionary War showed that militia forces could not be relied on for national defense. The Constitutional Convention therefore decided that the federal government should have almost unfettered

The Guardian:

<https://www.theguardian.com/us-news/2017/oct/05/second-amendment-right-to-bear-arms-meaning-history>

“Americans have been thinking about the second amendment as an individual right for generations,” said Adam Winkler, a law professor at UCLA and author of *Gunfight: The Battle over the Right to Bear Arms in America*. “You can find state supreme courts in the mid-1800s where judges say the second amendment protects an individual right.”

Supreme Court Cases about the Second Amendment:

Thought Co.: <https://www.thoughtco.com/second-amendment-supreme-court-cases-721399>

U.S. v. Cruikshank (1875) In a racist ruling that primarily functioned as a way to disarm black residents while protecting white Southern paramilitary groups, the Supreme Court held that the Second Amendment applied only to the federal government.

U.S. v. Miller (1939) "In the absence of any evidence tending to show that possession or use of a 'shotgun having a barrel of less than eighteen inches in length' at this time has some reasonable relationship to the preservation or efficiency of a well-regulated militia, we cannot say that the Second Amendment guarantees the right to keep and bear such an instrument. Certainly it is not

within judicial notice that this weapon is any part of the ordinary military equipment, or that its use could contribute to the common defense."

James McClark Reynolds

District of Columbia v. Heller (2008) The U.S. Supreme Court decided to strike down a law on Second Amendment grounds for the first time in U.S. history in a 5-4 ruling in 2008. Justice Scalia wrote for the narrow majority in *District of Columbia v. Heller*:

"We start therefore with a strong presumption that the Second Amendment right is exercised individually and belongs to all Americans."

Antonin Scalia

McDonald v. Chicago (2010) <https://www.oyez.org/cases/2009/08-1521>

Several suits were filed against Chicago and Oak Park in Illinois challenging their gun bans after the Supreme Court issued its opinion in *District of Columbia v. Heller*. In that case, the Supreme Court held that a District of Columbia handgun ban violated the Second Amendment. Does the Second Amendment apply to the states because it is incorporated by the Fourteenth Amendment's Privileges and Immunities or Due Process clauses and thereby made applicable to the states? The Supreme Court reversed the Seventh Circuit, holding that the Fourteenth Amendment makes the Second Amendment right to keep and bear arms for the purpose of self-defense applicable to the states. With Justice Samuel A. Alito writing for the majority, the Court reasoned that rights that are "fundamental to the Nation's scheme of ordered liberty" or that are "deeply rooted in this Nation's history and tradition" are appropriately applied to the states through the Fourteenth Amendment. The Court recognized in *Heller* that the right to self-defense was one such "fundamental" and "deeply rooted" right.

Links for Additional Info

- In Depth
 - <https://www.opensecrets.org/news/issues/guns>
 - <https://gun-control.procon.org/>
<https://www.nytimes.com/interactive/2015/10/07/us/gun-control-explained.html>
 - <https://www.theatlantic.com/politics/archive/2015/09/the-origins-of-public-carry-jurisprudence-in-the-slave-south/407809/>
 - https://www.washingtonpost.com/news/morning-mix/wp/2018/02/22/does-the-second-amendment-really-protect-assault-weapons-four-courts-have-said-no/?utm_term=.60eba7fcc026

- Party and Presidential Positions

President Donald Trump- Donald Trump expressed his support for the Second Amendment. He said that there would be fewer casualties of mass shootings if victims had guns. He opposed gun-free zones and was endorsed by the NRA.
https://ballotpedia.org/2016_presidential_candidates_on_laws_governing_guns_and_fire_arms

<https://www.usatoday.com/story/opinion/2018/02/21/gun-control-president-trump-almost-sounds-woke-editorials-debates/360715002/>

Whether President Trump's push for new rules to ban "bump stocks" represents a turning point in the battle against gun violence or is merely an irrelevant bone thrown to gun control advocates is far from clear.

Republican Party: <https://www.republicanviews.org/republican-views-on-gun-control/>

Republicans believe that American citizens have the right to own, carry, and use guns. This belief rests on an ideological firmament grounded in the interpretation of the Constitution along with the basic philosophy of the party. The Republican stance on gun control circumducts that which the party believes is in harmony with its core ideologies — that the first ten amendments of the Constitution describe the undeniable rights of every individual American. Among these undeniable rights is “the right to bear arms” as spelled out in the Second Amendment. Republicans generally believe that changes in sociological norms have no bearing on the rights and freedoms defined by the Constitution and the Bill of Rights.

Democratic Party Position:

http://www.ontheissues.org/celeb/Democratic_Party_Gun_Control.htm

We recognize that the individual right to bear arms is an important part of the American tradition, and we will preserve Americans' Second Amendment right to own and use firearms. We believe that the right to own firearms is subject to reasonable regulation. We understand the terrible consequences of gun violence; it serves as a reminder that life is fragile, and our time here is limited and precious. We believe in an honest, open national conversation about firearms. We can focus on effective enforcement of existing laws, especially strengthening our background check system, and we can work together to enact commonsense improvements--like reinstating the assault weapons ban and closing the gun show loophole--so that guns do not fall into the hands of those irresponsible, law-breaking few.

Green Party: http://www.ontheissues.org/celeb/Green_Party_Gun_Control.htm

Libertarian Party:

http://www.ontheissues.org/celeb/Libertarian_Party_Gun_Control.htm

Socialist Party: http://www.ontheissues.org/celeb/Socialist_Party_Gun_Control.htm

Kid Friendly sites:

- Government and the Constitution- <http://www.government-and-constitution.org/bill-of-rights/2nd-amendment.htm>
- Layers of Learning: <https://layers-of-learning.com/the-second-amendment-for-kids/>
- Constitution for Kids: www.usconstitution.net
- PBS.org: <http://www.pbs.org/video/need-know-debating-second-amendment/>

Conservative Sites:

- Heritage Foundation: <https://www.heritage.org/the-constitution/report/the-second-amendment-and-the-inalienable-right-self-defense>
- National Review: <https://www.nationalreview.com/2018/02/2nd-amendment-rights-support-not-cowardly/>
- Town Hall: <https://townhall.com/channels/second-amendment>

Liberal Sites:

- Mother Jones: <https://www.motherjones.com/topics/guns/>
- Huffington Post; <https://www.huffingtonpost.com/topic/gun-control>
- Move On: www.moveon.org

- **Citizen groups** active in the Gun Rights and Responsibilities debate:

Moms Demand Action: www.momsdemand.action

National Rifle Association: <https://home.nra.org/>

Sandy Hook Promise: <https://www.sandyhookpromise.org/>

Gun Owners of America: <https://gunowners.org/>

National Association for Gun Rights: <https://www.nationalgunrights.org/>

The Brady Campaign: <http://www.bradiycampaign.org/>

Everytown for Gun Safety: <https://everytown.org/senate-votes/>

- Find out how your legislators have voted for gun legislation: www.votesmart.org

- **Talking Points with your Child**

- The founding fathers were afraid of tyranny or the loss of democratic power. They allowed citizens to have guns to prevent invasion or internal coups. Also most citizens in 1787 lived in areas where weapons were needed to kill food, for safety, and to keep the peace.
- Conservatives tend to favor a strict interpretation of the 2nd Amendment. That means to follow the amendment exactly as it is written.
- Liberals tend to believe that the amendment was meant to be changed for modern times.
- People in more rural areas are more likely to support gun rights. They live in less densely populated environments. People in more urban areas are likely to support more gun responsibility.
- Most Americans favor some gun responsibility legislation such as limiting the purchase of semi-automatic weapons, or requiring background checks.
<https://poll.qu.edu/national/release-detail?ReleaseID=2521>
- Countries like the Netherlands and Australia have very strict restrictions on access to firearms. In Japan- in order to have a firearm in your home you must complete many requirements:
<https://www.japantimes.co.jp/news/2017/10/03/national/strict-gun-laws-mean-japan-sees-fewer-shooting-deaths/#.WpBfkOjwZPY>
- In comparison, the U.S. has far fewer restrictions,
<https://www.cfr.org/backgrounders/us-gun-policy-global-comparisons>
- Current gun violence statistics: <https://www.cnn.com/2017/10/03/americas/us-gun-statistics/index.html>