

SELF-DEFENSE IN AMERICA

What Sir William Blackstone...and Others Said About Self-Defense

Compiled and noted by Al Barrs albarrs@wfeca.net January 9, 2013; Revised January 26, 2013



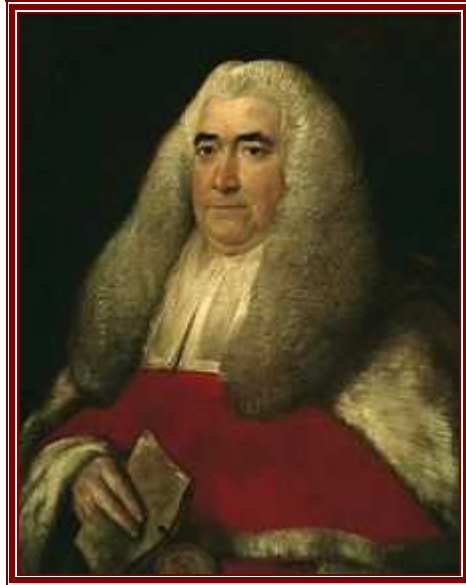
The burning issue of our day...Freedom, Independence and Individualism...--Al Barrs



"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." --Amendment II Bill of Rights

Amendment II, and all Amendments of the American Bill of Rights, the first ten amendments to the U.S. Constitution are "individual" God-given natural rights. The ten amendments of the Bill of Rights' are not rights of a central government!—*Al Barrs*

JOHN LOCKE in his "*Two Treatises of Government*" of 1689 said, "And hence it is, that he who attempts to get another man into his absolute power, does thereby put himself into a state of war with him; it being to be understood as a declaration of a design upon his life."



Sir William Blackstone

CONTENTS:

Sir William Blackstone Biography

Blackstone's View of Natural Law and Its Influence on the Formation of our American Declaration of Independence, the Constitution and Bill Of Rights of the United States

The Right To Keep And Bear Arms

The Founders' Documents (and more) on the Right to Keep and Bear Arms

Sir William Blackstone in America

Sources of Ideas That Shaped the American Plan of Government

Gun Opponents Should Learn What The Founder's Meant When They Wrote The Second Amendment

Obama and Leahy vs. Sir William Blackstone

Gun Control Fact-Sheet

Gun Control Fiasco



The People's Right to Keep and Bear Arms

The People's Right to Keep and Bear Arms

The 2nd Amendment of the Bill of Rights: "A well regulated militia, being necessary to the security of a free State, *the Right of the people to Keep and Bear Arms shall not be infringed.*"

Second Amendment, Your right to Keep and Bear Arms

You will be told (by **liberal-progressive-socialists'**—Al Barrs) that the 2nd Amendment of the Bill of Rights is only about militias, but it is not and that is an intentional lie by those who would deceive, enslave and control you, your family, property and your nation.

Note by Al Barrs: As you read these documents pay particular attention to the fact that the Bill of Rights are ten individual rights, God-given Natural Rights of individuals, which apply specifically and directly to individual citizens of the U.S.A. These are individual rights...not collective rights or central government rights. The U.S.A. central and state governments have no rights, God-given or otherwise in our nation's founding documents! Government was "delegated" certain limited "powers" and "prohibitions" in the U.S. Constitution by "we the people" and our citizen Founding Fathers. In fact government has no, "zero", rights at all! The Bill of Rights has nothing to do with the delegated powers and prohibitions of the Central or Federal Government of the United States of America enumerated in the Constitution of the United States of America except as written in the 9th and 10th Amendments.—Al Barrs

The 2nd Amendment, along with the other ten amendments of the Bill of Rights, was written, passed by the Constitutional Convention and ratified by the states' citizens to protect the God-given right of the people to defend themselves (self-defense) and have an armed populous to defend the nation from foreign and internal, or domestic threats to our liberty, independence and freedom anytime the U.S. Central Government tries to take away our freedom, independence, individualism or degrade our "RIGHTS" by oppression or tyranny.

The 2nd Amendment uses the word **People** i.e. you and I...citizens, the same as it does in every case that it is used in the Bill of Rights and U.S. Constitution, it means the common citizens...it does not mean the Central Government of the U.S.A. Our Founders were clear that they meant **State** i. e. Government and when they meant **People** and when they meant central or as we call it today Federal Government. There is a clear and concise differentiation between the people and the governments, state and federal or central government, of the United States of America.

Our Founders did not give the right to the central government at any level to regulate your right to self-defense or to keep and bear arms uninfringed by governments, our Founders, in fact, wrote that it "**Shall not be infringed**" in the 2nd Amendment of the Bill of Rights.

However we have already seen the Central Government of the U.S.A. infringe on the people's right to "keep and bear arms" since the 1920s.

Gun Control Timeline

A Brief History of Firearms Regulation in America

<http://usgovinfo.about.com/blguntime.htm>

Guide Extra:

When did this whole gun control debate start?

It could have started shortly after November 22, 1963 when evidence in the assassination of President John F. Kennedy increased public awareness to the relative lack of control over the sale and possession of firearms in America. Indeed, until 1968, handguns, rifles, shotguns and ammunition were commonly sold over-the-counter and through mail-order catalogs, such as Sears and Roebuck, and magazines to just about any adult anywhere in the nation.

However, America's history of regulating private ownership of firearms goes back much farther.

In fact, private ownership of firearms regulations go all the way back to...

[Gun Control Online Debate \(http://forums.about.com/ab-usgovinfo2/messages?msg=2.1\)](http://forums.about.com/ab-usgovinfo2/messages?msg=2.1) Read or join in a free online forum dedicated to the gun control.

1791

The Bill of Rights, including the *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.*" gains final ratification.

1837

Georgia passes a law banning handguns. The law is ruled unconstitutional and thrown out.

1865

In a reaction to emancipation, several southern states adopt "black codes" which, among other things, forbid black persons from possessing firearms.

1871

The [National Rifle Association \(NRA\)](#) is organized around its primary goal of improving American civilians' marksmanship in preparation for war.

1927

Congress passes a law banning the mailing of concealable weapons.

1934

The National Firearms Act of 1934 regulating only fully automatic firearms like sub-machine guns is approved by the U.S. Congress.

1938

The Federal Firearms Act of 1938 places the first limitations on selling ordinary firearms. Persons selling guns are required to obtain a Federal Firearms License, at an annual cost of \$1, which has steadily been raised to drive firearm dealers out of business, such as when President (William Jefferson Clinton had the ATF increase the license fee from \$30 to \$300) and to maintain records of the name and address of persons to whom firearms are sold (and to, for a period of time until the task became overwhelming to the Federal burocracy, keep records of all ammunition sold). Gun sales to persons convicted of violent felonies were prohibited.

1968

The [Gun Control Act of 1968](#) - "...was enacted for the purpose of keeping firearms out of the hands of those not legally entitled to possess them because of age, criminal background, or incompetence." -- *Bureau of Alcohol, Tobacco, and Firearms* The Act regulates imported guns, expands the gun-dealer licensing and record keeping requirements, and places specific limitations on the sale of handguns. The list of persons banned from buying guns is expanded to include persons convicted of any non-business related felony, persons found to be mentally incompetent, and users of illegal drugs. (Little, if any, of this law has been followed by the Federal burocracy.)

1972

The [Bureau of Alcohol Tobacco and Firearms](#) is created listing as part of its mission the control of illegal use and sale of firearms and the enforcement of Federal firearms laws. ATF issues firearms licenses and conducts firearms licensee qualification and compliance inspections.

1977

The District of Columbia enacts an anti-handgun law which also requires registration of all rifles and shotguns within the District of Columbia.

1986

The [Armed Career Criminal Act](#) (Public Law 99-570) increases penalties for possession of firearms by persons not qualified to own them under the Gun Control Act of 1986.

The [Firearms Owners Protection Act](#) (Public Law 99-308) relaxes some restrictions on gun and

ammunition sales and establishes mandatory penalties for use of firearms during the commission of a crime.

The [Law Enforcement Officers Protection Act](#) (Public Law 99-408) bans possession of "cop killer" bullets capable of penetrating bulletproof clothing.

1989

California bans the possession of semiautomatic assault weapons following the massacre of five children on a Stockton, CA school playground.

1990

The [Crime Control Act of 1990](#) (Public Law 101-647) bans manufacturing and importing semiautomatic assault weapons in the U.S. "Gun-free school zones" are established carrying specific penalties for violations.

1994

The [Brady Handgun Violence Prevention Act](#) (Public Law 103-159) imposes a five-day waiting period on the purchase of a handgun and requires that local law enforcement agencies conduct background checks on purchasers of handguns. ([ATF's Brady Law web site.](#))

The [Violent Crime Control and Law Enforcement Act of 1994](#) (Public Law 103-322) bans all sale, manufacture, importation, or possession of a number of specific types of assault weapons.

1997

The Supreme Court, in the case of [Printz v. United States](#), declares the background check requirement of the Brady Handgun Violence Prevention Act unconstitutional.

The Florida Supreme Court upholds a jury's \$11.5 million verdict against Kmart for selling a gun to and intoxicated man who used the gun to shoot his estranged girlfriend.

Major American gun manufacturers voluntarily agree to include child safety trigger devices on all new handguns.

1998 - June

A Justice Department report indicates the blocking of some 69,000 handgun sales during 1977 while Brady Bill pre-sale background checks were required.

1998 - July

An amendment (**to the law, but not to the Constitution**) requiring a trigger lock mechanism to be included with every handgun sold in the U.S. is defeated in the U.S. Senate.

But, the Senate approves an amendment **(to the law, but not to the Constitution)** requiring gun dealers' to have trigger locks available for sale and creating federal grants for gun safety and education programs.

1998 - October

New Orleans, LA becomes the first US city to file suit against gun makers, firearms trade associations and gun dealers. The city's suit seeks recovery of costs attributed to gun-related violence.

1998 - November 12

Chicago, IL files a \$433 million suit against local gun dealers and makers alleging that oversupplying local markets provided guns to criminals.

1998 - November 17

A negligence suite against gun maker Beretta brought by the family of a 14-year old boy killed by another boy with a Beretta handgun is dismissed by a California jury.

1998 - November 30

Permanent provisions of the Brady Act go into effect. Gun dealers are now required to initiate a pre-sale criminal background check of all gun buyers through the newly created [National Instant Criminal Background Check \(NICS\)](#) computer system. **(Needless to day, criminal minded individuals do not purchase their firearms legally or from ATF licensed gun dealers. —Al Barrs)**

1998 - December 1

The NRA files suit in Federal Court attempting to block the FBI's collection of information on firearm buyers.

1998 - December 5

President William Jefferson Clinton announces that the instant background check system had prevented 400 illegal gun purchases. The claim is called "misleading" by the NRA.

1999 - January

Civil suits against gun makers seeking to recover costs of gun-related violence are filed in Bridgeport, Connecticut and Miami-Dade County, Florida.

1999 - May 20

By a 51-50 vote, with the tie-breaker vote cast by Democrat Vice President Gore, the Senate passes a bill requiring trigger locks on all newly manufactured handguns and extending waiting period and background check requirements to sales of firearms at gun shows.

1999 - August 24

The Los Angeles County, CA Board of Supervisors votes 3 - 2 to ban the Great Western Gun Show, billed as the "world's largest gun show" from the Pomona, CA fairgrounds where the show had been held for the last 30 years. ([Typical Gun Show Rules& Regulations](#))

You will readily realize, as you read the above laws and regulations that the Federal Government focus is on the "symptoms" rather than the "problems". Federal and State firearm Laws and restrictions are placed on firearms with little recognition or restrictions on the real problem...criminal minded people. These laws make no discernable differentiation between a criminal and an honest citizen.—Al Barrs

It is no coincidence that the right to keep and bear arms comes right after the right to free speech and a free press in the 1st Amendment. When we, the people, lose these rights and the other rights in the Bill of Rights our powers and restrictions in the U.S. Constitution will shortly follow, and we will no longer be a free and independent people but slaves to a tyrannical and oppressive Central Government Despotism form of government.

Without the right to keep and bear arms to defend ourselves, our rights and our nation, *we have no rights...we will have become collective slaves to the state!*

Are we a free people today?

Our citizen rights have been so "infringed" by government, because some keep demanding more of government, that it is debatable if we are even free today. Read the Bill of Rights, U.S. Constitution and Declaration of Independence for yourself and see how frequently your rights are violated and ignored by our central and state governments, from the Federal Government on down to the local level. It is vital to the future freedom of this nation and our posterity that we know our rights as protected by the U.S. Constitution and Bill of Rights and fight and vote to defend all of our individual God-given rights.

The answer to violence and crime is not to ban guns or other weapons.

That political socialist ploy is nothing more than a shoe in the door to ultimately enslave the nation's people and control their every movement, our economy and nation. First they understand they must remove civilians' means of protecting ourselves, their families, their property and our American republican form of government. Remember what President Obama and his Cabinet members said during his first term in the presidency; "Never waste a good crisis", said Secretary of State Hillary Rodham Clinton, Obama Administration; "Never allow a crisis to go to waste. They are opportunities to do big things", said Rahm Emanuel, Chief of Staff, Obama Administration; "There is great opportunity in the midst of the great crisis befalling America", said President Barack Obama—Al Barrs

We have literally thousands of gun laws which are largely unenforced, if at all. Why? Because the gun control factions within the U.S. are not interested in enforcement of unconstitutional gun laws and regulations...their objective is gun confiscation to remove the last barrier to armed control of the United States of America and its citizens. It is illegal to murder another person so do we need more laws specifying it is illegal to murder someone with a weapon as well? Dead is dead, be it by handgun, long gun, knife, baseball bat, poison, etc.

I oppose hate crimes laws for the same reason... What is hate? Who has the lofty position to define what hate is? The way we are going the use of the first Amendment speech will be a "hate crime" there by making our first Amendment right null and void as these despots are attempting to do with the 2nd, 9th, and 10th Amendments of the Bill of Rights. No one but God...

In many locations in our nation you can not even have a firearm of any kind in your home to defend yourself, your family and property much less carry a firearm in your car, truck, etc or carry your firearm concealed or openly as I could in Arizona to defend against carjackers and other assailants.

And, My own Father, Al Barrs, Sr., possibly saved his own life back in the 1950s because he had his handgun in his business car when he decided to pick up a stranger on a lonely road in central Florida. After getting in the front seat of Dad's car the stranger pulled a large switch-blade knife on Dad and demanded that he take him to some unknown location which I can't recall. My Dad simply and nonchalantly dropped his hand down beside his seat and came back up with his nickel plated, bone handled, 7-1/2" barreled .44 Special S&W revolver, which looked much larger because of its bright nickel color and bright bone handle and that large .44 caliber, almost 1/2" hole in the barrel looked might menacing to the assailant...he promptly threw his knife into the back seat as directed by Dad. Dad drove into the next town with his .44 Special trained on the stranger and to the sheriff's office where he blew his horn and turned the assailant over to law enforcement officers after signing charges against the assailant. Lesson learned by the assailant? Never take a knife to a gun fight!—Al Barrs, Jr.

Is it any wonder that crime, murder and massacres are rampant in these "NO FIREARM ZONES" of our nation? Such areas are easy pickings for the criminals who don't obey the laws anyway, and they know it, because they know their victims have been disarmed by their own government for them. Our own politicians, presidents, judges and burocracy are co-conspirators to these shooting in "No Firearm Zones" they created.

In nearly every state it is illegal to shoot a burglar even in your own home unless you are threatened with equal harm or death and can not get away from the assailant or assailants. But,

no account is made by the law as to how one thinks and reacts when he or she is suddenly put under duress of impending harm or danger of death. Humans, like most animals, have a hereditary instinct to survive and will do so if given the chance and the means...

My state of Florida is a rare exception. Other states too, like Texas, have provided laws that given honest citizen and property owners the RIGHT to defend themselves, their families and property with deadly force. —Al Barrs

Self Defense of the Home in Florida:

Chapter 776 of the Florida statutes specifies what you can or can't do in lawful self-defense. The Chapter is entitled "Justifiable Use of Force". Self-defense is generally a complete defense to crimes such as improper exhibition of a firearm or improper exhibition of a weapon; aggravated assault; aggravated battery; murder, homicide; manslaughter; and many other misdemeanors and felonies where you are defending yourself, your family, home, etc. Self defense may either be thru the use of "deadly force", or the use of "non-deadly force". The difference is often critical in what you can or can't do.

There are three sections of Chapter 776 which are really key to home defense. As a general rule, a person may use deadly force to defend their home from an assailant who is committing or trying to commit a "forcible felony". A forcible felony generally includes the more serious crimes (burglary, aggravated assault, aggravated battery, sexual attacks, robbery, murder, homicide, etc.), or an attempt to commit them. The defenses are mostly contained in Florida Statutes 776.012; 776.013; and 776.032.

Here's how it works.

Florida Statute 776.013 states that a person defending their home or occupied vehicle from an "unlawful" forceful entry or attempted forceful entry by another may use deadly force to stop the invasion or attempted invasion of the property.

In such instances they need not retreat before using deadly force, they need not warn the intruder of their intent to shoot, and there is an absolute presumption that the person attempting the entry was doing so with the intent to commit a violent act (i.e. "forcible felony"), and that the defender is presumed to be acting in reasonable fear of death or great bodily harm to himself or herself. In other words - no arrest or prosecution is technically "legal" if someone without a right of entry or ownership is trying to break in, and you shoot them.

In theory - the police and prosecution cannot try to show your fear was unreasonable, or that the intent of the assailant was not to do you or a family member severe injury.

Of course, there are some limitations to this statute.

The statute states that in order to take advantage of its protections you can't be engaged in unlawful activity when the incident occurs, the defender must be aware that someone has broken into the house or occupied vehicle, or is attempting to do so, and the person entering the home or occupied vehicle does not have a right or invitation to do so. Anyone legally in the home or occupied vehicle may protect it.

However, don't go shooting at police officers in the performance of their duties. Using force or deadly force against a police officer who enters or is trying to enter a home or vehicle is not protected by the statute, and is highly illegal. (This provision is a flaw in the law and opens another can of worms. It will force criminals to don police uniforms when they attempt to hijack or break into residents which will cause the attacked individual to hesitate using lawful force against an assailant which may be decisive as to who lives and who dies. That is what constitutional warrants are for!)

You may also use a lesser degree of force, "non-deadly force", which is force that will not usually cause death or great bodily injury, to stop almost any crime so long as a firearm or other deadly weapon is not used by you. If you do use a firearm or other deadly weapon - the law gets complicated, and you may not be acting legally unless you are trying to stop a forcible felony. (This is another flaw in the law! And how will it be determined the assailant intended to commit a "forcible felony"...is breaking and entering a "forcible felony" in the first place?)

Under any circumstance, the use of force must be reasonable, and the degree of force used should not be excessive. Using excessive force can be a crime, and even a felony. Again, this area can get really complicated, and I highly recommend you read my book if you want a more in-depth explanation. (Again this is absurd! How is one to use just enough force to stop an assailant? Overwhelming force is the only sure way to survive an attack! An assault that begins with a simple break in of your home, business or vehicle can rapidly escalate to a murder or execution by criminal elements. Your resistance must be quick and overwhelming from the individual being assaulted...not causal.)

"Florida Firearms - Law, Use & Ownership"

(http://www.floridafirearmslaw.com/mm5/merchant.mvc?Screen=CTGY&Store_Code=FFL&Category_Code=Florida-Firearms-Law-Use-And-Ownership-Info)

The important thing you need to know about self-defense is that it is a lawful defense to a great number of criminal charges. If you believe you were arrested in error because you used lawful self defense, it is critical that you retain a criminal attorney who can understand and appreciate your situation. Obviously, these types of cases are extremely intense and many of them carry mandatory minimum prison sentences. Thus, their outcome is often life changing. But, at least you will be alive because you chose to defend yourself, family, home and business.

Someone breaking into to your home in many states of the United States of America is not threat enough? It is mind boggling! You may or may not be prosecuted for shooting a burglar depending on the views of the prosecutor in your area in the absence of laws to protect your right to self-defense. Then, thanks to lawyers, you might be sued by the burglar or his family for injuring him, pain and suffering, depriving him of his livelihood. You think I'm joking? They have done it and won several cases!

The answer to crime is to punish criminals severely for crimes! Rehabilitation rarely succeeds.

I strongly support capital punishment. I strongly do not support 50% of a criminal's time off for "good behavior". Good behavior in prison does not mean good behavior after being release to prey on the public a second time.

I do not believe we should intern any criminal for life at tax payer expense. If they are so bad we must lock them away for life to protect society from them, then they should be put to death. If they take a life or use a gun in the commission of a violent crime they should be put to death. The idiots who want to ban guns will say their efforts to rehabilitation reduced crime. They aren't "rehabilitatable", which fosters a whole industry of ambulance chasers.

Utter lies, crime is going down because more and more states are keeping criminals behind bars with truth in sentencing and three strikes laws. The more criminals behind bars, the less crimes they commit, how much more simple could it be? The more murderers of children and adults in their graves ensured they will never again murder defenseless human beings. The majority of crimes are committed by repeat criminals, something like 60% of all crimes. Crime is also going down because more states are allowing (imaging that, allowing citizens to exercise your **God-given RIGHT** to defend themselves.), citizens in good standing to pay a tax (i.e. license) so they can carry a concealed weapon to defend themselves. It has been proven conclusively that the more lax the gun laws a locality has and the more citizens carrying weapons to defend themselves, the less violent crime there is. The inverse is true also, the stricter the gun laws

the more violent crime and murders occur. Where are most crimes and murders occurring? In cities that have outlawed firearm ownership, such as Washington, DC, Chicago, New York City, etc. This is because criminals are cowards and attack the easiest prey they can find. These criminals flock to cities with such laws and No Firearm Zones! They most definitely don't want to go after someone who can defend themselves and possibly hurt or kill them. No one ever hears of a criminal attacking a gun shop or firearms store.

Accidents? Hardly! If the truth was told or allowed to be printed accidents with guns have been going down for decades. The reason is firearm education, yet the gun banning idiots claim gun education promotes gun violence. We teach children to be safe with matches, hot stoves, cars, etc. so why do we not teach children how to be safe with guns? Again, because that is not the objective of these anti-gun ownership idiots! Correction, some of us do teach our children firearm safety and marksmanship.

The NRA (National Rifle Association) *Eddie Eagle Education Program* teaches very simple rules to children. *State Hunter Education Programs* also teach firearm safety and marksmanship before a hunting license can be issued in most states. If they see or find a gun they are taught not to touch it and to find an adult, preferably a policeman, and tell them about it. It is frequently opposed by liberal fools because it has to do with guns and is taught by the NRA. If we are to ban guns to "*Save The Children*" (a favorite refrain of reactionary, emotional, fools), should not we also ban cars, swimming pools, bicycles, dogs, bathtubs, baseball bats, etc., which each kill and maim far more children than guns do every year? Oops, I almost forgot there are some liberal fools out there trying to do just that too.

My interest in guns? I like to target shoot and I carry a pistol for self-defense most of the time. I started carrying after a shoot out between two cars in the parking lot of the apartment complex I used to live in, which was in a reasonably nice neighborhood. A couple months later I was shot at in south Phoenix, likely by some gang members. They were following me on the highway I-10 and I pulled off on to surface streets around Thomas and 27th Ave to verify this, then I tried to loose them on side streets. I am a very good driver and when I was so far ahead of them I started to loose them, they turned sideways at a 'T' in the street and fired one shot which went through the rear window of the camper shell of the red lowered Toyota Pickup I had as my company vehicle at the time. This came from my boss's son after his divorce and was popular with the gangs back then, it attracted way too much attention all the time. From there the bullet went though a box, a plastic tool box and passed between where the camper rests on the bed frame and the bottom of the camper, hitting the rear of the cab behind my right shoulder, stopping after leaving a big dent in the metal. The car was a white late 80's Mustang with dark tinted windows so I never saw them and they were always behind me so no license plate number were seen. The police think it was a 9 mm handgun. Which was one of the reasons I bought a 40 Caliber Glock 23, also the police are carrying the same caliber which was a shortened version of the 10 mm the FBI was carrying in the 80's.

Several years ago, about 1 AM (I'm a night person) I left my apartment complex to mail some bills that needed to be off right away so they would go out at the 6 AM pickup at the post office half a mile away. When I came back about ten minutes later the parking lot was filled with police, Fire Department and neighbors. In the short time I was gone, one of the neighbors had caught someone breaking into his truck and they murdered him by shooting him in the head when he confronted them unarmed. Be **Unarmed = Victim!** I won't be a victim, don't be one yourself!

If we citizens allow the liberal-progressive-socialists to keep passing stupid gun laws, some day you will be a criminal just because you own a shotgun, rifle or a handgun to protect yourself, family, property and home, hunt with or target shoot, or simply collect. There are already liberal controlled cities (in America, the land of the supposedly free and the home of the supposedly brave...REALLY?) where if you have an unregistered gun you are a criminal just for possessing it.

How does that stack up with your constitutional right to "keep and bear arms" "uninfringed"?—Al Barrs

Have no doubt many anti-gun idiots want only the police to have guns and have publicly said so, even then they don't really trust the police with them either. There is no question they want to take away your rights to arm and defend yourself, your family, your property and home. They don't trust you! You **must not trust them either!** Just say **NO!** to more gun laws! Write your congressman and senators to tell them you are opposed to any bill that infringes on your right to "keep and bear arms". Tell them you are opposed to any Federal crime bill, crime is a local issue, best dealt with at a local level. --*My Blog: <http://dsscheibe.blogspot.com/>*
--<http://scottsworld.info/rkba.htm>

Sir William Blackstone Biography

Sir William Blackstone had something to say about the God-given right to self-defense.

Sir William Blackstone KC SL was an English jurist, judge and Tory politician of the eighteenth century. He is most noted for writing the "*Commentaries on the Laws of England*". Born July 10, 1723 in the City of London; died February 14, 1780, Wallingford; spouse Sarah Clitherow; and educated at, Pembroke College, Oxford and the Charterhouse School, University of Oxford.

Commentaries on the Laws of England

In 1765 Sir Blackstone announced his resignation from the Vinerian Chair, effective after his 1766 lectures. These were divided into two 14-lecture series, on "private wrongs" and "public wrongs" delivered between 12 February and 24 April 1766. At that point Sir Blackstone had published nothing new since "*A Treatise on the Law of Descents in Fee Simple*" in 1759. The decision to resign was most likely due to the increasing demands of his legal practice and the

reduced profit from the lectures, which, after peaking at £340 in 1762, dropped to £239 a year later and to £203 for the final round of lectures in 1765-6. In response, Sir Blackstone decided to write and publish a new book - [*Commentaries on the Laws of England*](#) See full text at (<http://www.lonang.com/exlibris/blackstone/>).

The first of four volumes was published in February 1766, bringing the author £1,600 - the full work would eventually bring in over £14,000. Owen Ruffhead described Volume I as "masterly", noting that "Mr. Blackstone is perhaps the first who has treated the body of the law in a liberal, elegant and constitutional manner. A vein of good sense and moderation runs through every page". Every copy was sold within six months, and the second and third volumes, published in October 1766 and June 1768, received a similar reception. The fourth and final volume appeared in 1770, dealing with Criminal Law. With the financial success of the *Commentaries*, Sir Blackstone moved in 1768 from his London property in Carey Fields to No. 55 Lincoln's Inn Fields. Neighbors included the Sardinian ambassador, Sir Walter Rawlinson, Lord Northington, John Morton and the Third Earl of Abingdon, making it an appropriate house for a "great and able Lawyer".

Sir Blackstone's treatise was republished in 1770, 1773, 1774, 1775, 1778 as well as in a posthumous edition in 1783. Reprints of the first edition, intended for practical use rather than antiquary interest, were published until the 1870s in England and Wales, and a working version by Henry John Stephen, first published in 1841, was reprinted until after the Second World War. The first American edition was produced in 1772; prior to this, over 1,000 copies had already been sold in the British Thirteen Colonies of America. They became a major guiding reference for our Founders' writing of our American founding documents: Declaration of Independence, Constitution of the United States of America and the Bill of Rights.

--http://en.wikipedia.org/wiki/William_Blackstone

Blackstone's View of Natural Law and Its Influence on the Formation of our American Declaration of Independence, the Constitution and Bill Of Rights of the United States

--By Kent Schmidt

One of the greatest ironies and truths of American history is the influence of Sir William Blackstone on the American War for Independence. Blackstone, though most famous for his

Commentaries on the Laws of England, also enjoyed a distinguished career as a prominent member of the English Parliament, faithfully supporting the Crown and stingingly criticizing the American Colonies for their insurrection and disloyalty to their mother country.¹

Contemporaneous with his tenure in Parliament (1761-1770), Sir Blackstone put the finishing touches on the Commentaries, which ironically served to defeat the cause of British sovereignty for which he so loyally fought. Little did Sir Blackstone realize that his project to systemize the English common law² would fuel the American flames of desire for independence from the English Crown.

It is interesting to speculate how Sir Blackstone would have refined his writings had he known that they would be devoured so heartily by the American Colonists³ and utilized to encourage their rebellion against the Crown to which his loyalties belonged. The Commentaries were so well received by the American Colonists that Edmund Burke noted in 1775 that nearly as many of Sir Blackstone's Commentaries had been sold in America as in England.⁴

At least one thousand copies of the English edition had been sold in the United States by 1771, prompting Colonial printer Robert Bell of Philadelphia to propose a domestic edition. Fifteen hundred of these sets were ordered by lawyers, judges, public officers and interested laymen throughout the Thirteen American Colonies.

While much has been written regarding the influence of Blackstone on the formation and development of various aspects of early American law from legal education to the common law, this thesis probes specifically into the contribution which Blackstone made in the areas of natural law which became the foundation of America's two primary founding documents: The Declaration of Independence and the Constitution of the United States of America and the American Bill of Right of individual citizens.

I. The Influence of Blackstone on the U.S. Declaration of Independence

A. The Source of Law

While Sir Blackstone was certainly not the first to set forth a concept termed "natural law," his philosophy was distinguishable from others by his identification of the source of natural law.

Cicero and Grotius, for instance, believed that the law of nature, which is binding upon all humans just as surely as gravity affects all of nature, is nothing more than the voice of reason.⁵ In sharp contrast to this humanistic view of natural law, Sir Blackstone believed that the law of nature is not only binding on all men, but that it is dictated by God Himself.⁶

These precepts [in the Bible] when revealed, are found upon comparison to be really a part of the original law of nature. . . . But we are not from thence to conclude that the knowledge of

these truths was attainable by reason, in its present corrupted state since we find that, until they were revealed, they were hid from the wisdom of the ages.⁷

Thomas Jefferson reflected Sir Blackstone's view when he used the phrase "law of nature and of nature's God" in the American Declaration of Independence. This phrase indicates that Jefferson understood the difference between Sir Blackstone's theory and that of Grotius and Cicero. The "law of nature" refers to the will of God observable in creation while the "law of nature's God" refers to the divine law which is revealed through Biblical Scriptures.

While Jefferson affirmed Sir Blackstone's view of natural law, he abhorred the influence of Sir Blackstone in the adoption of the English common law in the American Colonies. Because of Jefferson's significant role in the founding of the United States of America, it is necessary to discern precisely where Jefferson agreed with Sir Blackstone as well as where he disagreed.

B. The Origin and Nature of Rights

The philosophy of the Declaration of Independence states that man is endowed by his Creator with the independence to which he is entitled by the law of nature. It also states that certain rights are unalienable because they are founded in the human nature, having their source in the Creator of the human race, and that governments are originated to secure these rights among men.

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by the Creator with certain unalienable Rights that among these are Life, Liberty, and the pursuit of Happiness."⁸

The concept of Creator-endowed, God-given, rights, which accords with Sir Blackstone,⁹ is best understood by contrasting it with the beliefs of the Greeks and Romans who believe in state-created rights. As one scholar has noted; The Greeks could not conceive of "rights" which were God-given or natural rights. The Greeks believed that "rights" were a product of society and state collectives.

This Greek and Roman belief is the same belief we have seen for generations in American liberal-progressive-socialist factions who are hell bent on overthrowing our republican form of government and our individualism. —Al Barrs

Only free men had rights, because free men were able to participate in the government of polis, the "city." Slaves, women and children did not share those rights because they had no political voice. What rights men had were created and given by the state and could be ended or taken away by the state. Rights were politically given and were subject to the political process, rather than God-given, permanent and unchangeable.¹⁰

C. The Morality of Insurrection

It is important to note that the American Colonists were a very conscientious people. As the Declaration of Independence was disseminated to the common patriots of New England, it solidified their commitment to the principles of independence and resolved whatever doubts they had regarding the morality of a war for independence. More specifically, as American writers, including Thomas Paine,¹¹ began to speak of the duty of self-preservation-the idea of a law that was higher and superior to the law of England-the spirit of the revolution began to spread.

This law of nature, being co-eval with mankind and dictated by God himself, is of course superior to any other body or law. It is binding over all the globe, in all countries, and at all times: No human laws are of any validity, if contrary to God's Law of Nature; and such of them as are valid derive all their force, and all their authority, mediately or immediately, from this original.¹² (Emphasis added.)

History demonstrates that the American Colonists, unlike their counterparts in France, were not anarchists desiring to shed every shackle of legitimate government, but were rather conscientious and methodical in coming to the decision that they must separate from the oppression and tyranny of Great Britain. In essence, the American Colonists believed that, in spite of what Sir Blackstone stated in the British Parliament,¹³ what he wrote in reference to the effect which laws contrary to the law of nature have on their subjects justified their cause.

D. Life, Liberty and the Pursuit of Happiness

It is axiomatic that the right to life is foundational to all other rights.

On this subject, Sir Blackstone stated: The right of personal security consists in a person's legal and uninterrupted enjoyment of his life, his limbs, his body, his health and his reputation. Life is an immediate gift from God, a right inherent by nature in every individual...¹⁴ Thomas Jefferson's use of the term "pursuit of happiness" has been distorted to justify a philosophy which borders on anarchy. The American Founding Fathers' understanding of the concept of happiness was much closer to that of Sir Blackstone, who stated that the Creator has so intimately connected, so inseparably interwoven the laws of eternal justice with the happiness of each individual that the latter cannot be attained but by observing the former; and if the former be punctually obeyed, it cannot but induce the latter.

In consequence of which mutual connection of justice and human felicity, he has not perplexed the law of nature with a multitude of abstract rules, regulations and precepts, referring merely to the fitness or unfitness of things . . . but has graciously reduced the rule of obedience to this one paternal precept, "that man should pursue his own true and substantial happiness."¹⁵ It

is not at all surprising that Thomas Jefferson used the phrase "life, liberty, and the pursuit of happiness" to describe unalienable rights of all Americans.

II. The Influence of Blackstone on the U.S. Constitution

A. No Taxation Without Representation

In a sense, the American Declaration of Independence was a document listing grievances against a government and monarchical king that the Signers believed had failed to operate in accordance with the laws of nature or the laws of Great Britain. Chief among the grievances listed in the Declaration of Independence was the fact that King George III violated the "laws of nature and of nature's God" by "imposing taxes on the American colonists without their consent" or without any representation in Parliament from the Thirteen Colonies in America.

The American Colonies were taxed but denied representation in the British Parliament. In contrast, the Constitution of the United States documents how the Founding Fathers believed that an ideal government, in submission to the law of nature, should operate. Accordingly, the U.S. Constitution sought to remedy the taxation problem by requiring in Article I, Section 7, that bills for revenue originate in the U.S. House of Representatives, the body of government closest, at that time in American history, to the American people.¹⁶

Note by Al Barrs: The delegates to the U.S. House of Representatives were originally elected by the people of each state and the delegates to the U.S. Senate were originally elected by the State Governments' congress. The U.S. Senate delegate limit was set at 2 per state, but the delegation limit to the U.S. House of Representative was set at 1 delegate for each 30,000 residents by the U.S. Constitution in 1790.

B. The Unalienable Right to Property

An understanding of Sir Blackstone's beliefs on property rights is impossible apart from an understanding of his beliefs on happiness, for he believed that the latter depended on the former. Sir Blackstone stated that a right to property "tends to man's real happiness, and therefore justly concluding that...it is a part of the law of nature."¹⁷ Likewise, according to Sir Blackstone, the converse is true-denial of property rights is "destructive of man's real happiness, and therefore the law of nature forbids it."¹⁸

Richard A. Huenefeld has noted the following concerning Sir Blackstone's influence on the Founding Fathers' view of property rights: The influential Sir Blackstone said that the right of private property "consists in the free use, enjoyment and disposal of all [personal] acquisitions." While he spoke of the "sacred and inviolable rights of private property," he equivocated concerning the origin and nature of property rights.

He indicated that the "origin of private property is probably found in nature," but that much of this natural liberty was sacrificed in order to enjoy society's protection of it. Apparently he was uncertain whether to adopt a law of nature position or a social compact theory.

Sir Blackstone turned to the revealed law of God for "the only true and solid foundation of man's dominion over external things." He referred to Genesis chapter one wherein the Creator gave man "dominion over all the earth." From this, Sir Blackstone considered this common ownership sufficient for only a short time as the growth of population led to conflicts over the subject of dominion.

He adopted a social compact theory, asserting that "necessity beget property," meaning that civil laws recognizing the institution of property were needed for beneficial resolution of conflicts. He modified his social compact theory by holding that "bodily labor, bestowed upon any subject which before lay in common to all men, is universally allowed to give the fairest and most reasonable title to an exclusive property therein."¹⁹

When the Framers engrafted the right to property into the U.S. Constitution-with all of its complexities and exceptions-the theories of Sir Blackstone were, without a doubt, of paramount influence.

C. The Unalienable Right of Self-Defense

Sir Blackstone's view of the right to "keep and bear arms" is stated in the following quote: "The fifth and last auxiliary right of the subject (people are "subjects" in the United Kingdom but "citizens" in the United States of America), that I shall at present mention, is that of having arms for their defense . . . which is also declared by the same statute 1 W. & M. st. 2, C. 2, and it is indeed, a public allowance under due restrictions, of the *natural right* of resistance and self-preservation."²⁰

The Second Amendment of the United States Constitution provides that a "well regulated militia, being necessary to the security of a free State, the right of the people to keep and bear arms, shall not be infringed."²¹ (**Keep in mind that the Bill of Rights are rights of individual citizens not of a state or nation.**—*Al Barrs*) The question of the source of this principle is difficult because of the extensive history of debate in England and virtually every other society which has attempted to maintain a balance between anarchy and oppressive tyrannical governments.

However, it is safe to say that the American belief in the right to "keep and bear arms" has its roots in "civil jurists of the period who had specifically dealt with the question of *self-defense as a natural right*."²²

It has been noted that their doctrine stemmed essentially from the traditional view of suicide as a sin and perhaps as the ultimate sin. To them a failure to defend one's self against an unlawful aggression amounted to suicide by inaction. If a person's life is a gift of the Creator and he cannot destroy it by action, he cannot destroy it by inaction or negligence!

Note by Al Barrs: In other words man can not be passive and allow others to murder him. If he does he has committed the ultimate sin.

If life is not the private property of the person living, then it is not his to destroy or allow to be destroyed: You may voluntarily acquiesce to robbery; you may not voluntarily acquiesce to murder of yourself, your family or others.²³

III. Conclusion

It is not coincidental that the ideas in the Declaration of Independence and the Constitution of the United States of America were espoused less than a decade after Sir Blackstone's *Commentaries* first appeared in print in England.

The correlation between the philosophy of America's founding documents and the *Commentaries* is worthy of careful exploration.

Endnotes

1. One scholar has gone so far as to say that "Sir Blackstone was very extreme in his anti-American bias, and he appeared among the most vociferous advocates of a harsh and uncompromising attitude. . . . It was this narrow and uncompromising outlook which led to the break with the American colonies." Chroust, *Blackstone Revisited*, 17 U. Kan. City L. Rev. 24, 28-29 (1948).
2. Sir Blackstone's purpose in writing the *Commentaries* was much narrower in scope than the influence which they actually had, particularly on America's jurist prudence. See i.g. Doolittle, *Sir William Blackstone and His Commentaries on the Laws of England (1765-9): A Biographical Approach*, 3 Oxford J. Legal Stud. 99, 108 (1983), citing Holdsworth, *History of English Law* xii, 745-6. "[T]he 'Proposals' advertising his first course of lectures in 1753 spoke of his attempt 'to lay down a general and comprehensive plan of the laws of England, to deduce their history, to enforce and illustrate their leading rules and fundamental principles, and to compare them with the laws of nature and of other nations, without entering into practical niceties, or the minute distinctions of particular cases.'"

3. Dennis R. Nolan wrote in his *Sir William Blackstone and the New American Republic: A Study of Intellectual Impact*, 51 N. Y. Univ. L. Rev. 731, 737 (1976), citing F. Hicks, *Men and Books Famous in the Law* 126 (1921) and P. Hamlin, *Legal Education in Colonial New York* 64-65 (1939).
4. Address by Edmund Burke, *Speech on Moving His Resolutions for Conciliation with the Colonies*, Mar. 22, 1775, in 2 *The Works of the Right Honorable Edmund Burke* 101, 125 (6th ed. 1880).
5. Tom N. McInnis, *Natural Law in the American Revolutionary Struggle*; 16 *Legal Studies Forum* 41, 44 (1992)
6. 1 William Blackstone, *Commentaries* 41.
7. *Id.*
8. The Declaration of Independence; paragraph 2 (U.S. 1776)
9. Blackstone, *supra* note 6 at 129.
10. Gary T. Amos, *Defending the Declaration*; 112 (1989)
11. McInnis, *supra* note 5 at 41.
12. Blackstone, *supra* note 6.
13. See note 1 and corresponding text.
14. Blackstone, *supra* note 6 at 129.
15. Blackstone, *supra* note 6 at 40-41.
16. U.S. Const. art. I, § 7, "All Bills for raising Revenue shall originate in the U.S. House of Representatives; but the U.S. Senate may propose or concur with Amendments on other Bills."
17. Blackstone, *supra* note 6.
18. *Id.*
19. Richard A. Huenefeld, *The Unalienable Right of Property: Its Foundation, Erosion and Restoration*,⁸ *J. Christian Jurisprudence* 147, 167-168 (1990), citing 1 William Blackstone, *Commentaries* at 138, 140, 2 William Blackstone, *Commentaries* at 3, 8.

20. Blackstone, supra note 6 at 144.

21. U.S. Constitution. amend. II.

22. David T. Hardy, The Unalienable Right to Self-Defense and the Second Amendment⁸, J. Christian Jurisprudence, 87, 97 (1990)

23. Id.

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THE RIGHT TO KEEP AND BEAR ARMS

By Kim Weissman: *Congress Action Newsletter

*CONGRESS ACTION Newsletter can be found with most web searchers and is available at:
http://www.velasquez.com/congress_action/

For many years, our Federal government has been gradually eroding many of our most fundamental constitutional powers and rights. It is currently engaged in a concerted effort to totally eliminate the individual right to keep and bear arms that is protected by the Second Amendment of we individual's Bill of Rights (The first ten amendments of the U.S. Constitution.)

The activities of the Obama Administration are so hostile to individual Freedom and to our constitutional liberties, and those activities are so willingly accepted without question by the majority of the people of the United States, that there is serious doubt about the continued viability of our nation as a free constitutional representative republic form of government guaranteed in the U.S. Constitution. The attack on conservatives fight to keep and bear arms without infringement is just one aspect of the assault on our individual independence and freedom, but that particular attack involves a campaign of left-liberal-progressive-socialist lies, deceit, disinformation and propaganda so extraordinary in its scope and so pernicious in its intended effect, as to merit special attention. If public policy is to be pursued by reasoned debate pursuant to constitutional principles, rather than by mass hysteria, an understanding of, and respect for, the fundamental facts of the issue must be held by all concerned.

There is a wealth of documentary evidence -- debates in the Constitutional Convention of 1787, debates in the State Ratification Conventions, letters and documents written by many members of the founding generation of Americans, contemporary newspaper commentary, the text of many of the original constitutions of the States as well as the provisions of most of the constitutions presently in force in the States today, and in the treatises of political philosophy widely read and relied upon by the Founders in creating our American central government -- that the Founders intended that the individual citizens of the new United States would retain their right to keep and bear arms, and retain their right of personal self-defense and our republican form of government's defense. That evidence has been added over the intervening years by decisions from numerous courts, including the United States Supreme Court, and by commentary from many learned jurists and scholars.

Beyond that clear documentary evidence of the intent of the Founders, there stands the historical context in which the U.S. Constitution and the Bill of Rights were drafted, debated, and ratified by the states of the Union. The American Revolutionary War or American War for Independence began in earnest when a rag-tag group of patriotic freedom loving colonial Minute Men met British troops on the town green of Lexington, Massachusetts, on the morning of April 19, 1775. The British were marching to Concord, Massachusetts, for the purpose of arresting the "rabble-rousing" John Hancock and Samuel Adams, and of seizing the muskets (firearms), gunpowder, and shot that had been accumulated by the colonists in Concord. Hancock and Adams were warned and readily eluded capture, but the stores of arms could not be moved so readily.

In the years leading up to that April morning in 1775, the American colonists had often confronted the British authorities, and had protested many of the actions of the British government. To protest taxation without representation in the British Parliament, taxes and Crown fees; the colonists pelted British troops with snowballs in Boston Common; to protest taxation without representation they dressed up as American Indians and threw tea into Boston harbor; to protest the Stamp Act that infringed on their freedom of speech and they boycotted British paper goods. But it was only when the British moved to confiscate their means of self-defense and community defense that the colonists actually organized an armed militia force of farmers and merchants in opposition and actually opened fire on the British troops. It was in defense of their right of self-defense that the American patriotic colonists fired that *"shot heard 'round the world"*. ...a shot for freedom, independence and individualism!

Twelve years later, it was against that backdrop that the Founders gathered in Philadelphia to organize a new but limited central government. At that convention was proposed a Constitution for the new central government which was to contain the powers delegated to the new central government along with certain prohibitions against the new central government.

The purpose of that Constitution was to unambiguously define the structure, the powers, the restrictions and the authority of the new central government of the United States of America.

That any government has an inherent tendency to usurp (take or steal) power and to oppress its citizens was a truism that the Founders considered beyond dispute, and a danger that they took numerous steps to guard against in drafting their new Constitution. Their fundamental premise was that any powers not specifically granted to that central government by the people in their Constitution -- the enumerated powers, and powers necessary and proper for carrying into execution those enumerated powers -- would be beyond (not allowed) the legitimate authority of that central government. Simply put in modern terms, the States and the People of the new United States said to their newly formed central government, "If the U.S. Constitution doesn't say that you can, then you cannot!!!" In other cases the U.S. Constitution said what that newly formed central government was restricted from doing. And the only way of changing that decree was by amending the U.S. Constitution...for which there was and is a process outlined in the U.S. Constitution.

Nowhere in that U.S. Constitution was the central government given any authority whatsoever to disarm law abiding citizens, and thus even without the protection of the Second Amendment in the Bill of Rights, the authority to disarm law abiding citizens did not then, and does not now, exist! That absence of enumerated or delegated power or authority alone should settle the issue of "gun control" with finality. But then consider the historical context of the Revolutionary War, the "citizen soldier", the "citizen militia", States jealous of their sovereignty, the inherently oppressive and tyrannical tendency of government, and a People acutely conscious of the long and costly war fought to secure their Liberty. And the "shot heard 'round the world" fired in defense of their right of self-defense.

What would the reaction have been to anyone suggesting that the new central government be given the authority to disarm the citizenry? That idea conflicts diametrically from our Forefathers' intention and expectation.

Certainly if such a proposal were made, it would have occasioned, at the very least, extremely heated debate. Such a proposal and the ensuing debate would have been recorded by someone, somewhere. It wasn't! It would have been the topic of debate in at least some of the State ratification conventions. It wasn't! Nobody today claims that such a proposal was ever made -- it wasn't -- let alone that such a proposal was debated -- it wasn't -- or that the central government was ever actually granted such an authority -- it wasn't. Clearly, nowhere in the Constitution of the United States or America nor the Bill of Rights or Declaration of Independence is such authority found, or even hinted at for the central or federal government.

But people today do not claim that such authority was specifically and intentionally granted!

Clearly, no such authority was ever granted to the U.S. Government in our U.S. Constitution!!!

People today make an even more astonishing claim than that: Such authority simply exists, even without ever having been proposed, debated, granted or ratified!

IT DOES NOT EXIST AT ALL!!!

State delegates to the Constitutional Convention debated long weeks over the precise terminology (words) to be used in their new Constitution of the United States of America. Those delegates very carefully considered the implications of any powers granted to, or withheld from, a central government, and they argued for days over the implications, meaning, and effect of specific words and phrases they used. Yet many people today contend that the central or today the Federal Government of the United States of America has the authority to disarm the citizenry, and that such a momentous power exists even without any authority having been specifically granted by the U.S. Constitution, even without such authority ever having been proposed or debated in the Constitutional Convention, or in any of the State ratification conventions; that the power to do so simply exists even without such a suggestion ever having been made by anyone, anywhere, at any time during the founding and ratification period. Such an idea is precisely opposite to the very nature of the limited government of clearly enumerated and restricted delegated powers created by the Founders.

But the Founders went even further than the limited and enumerated powers contained in the body of the U.S. Constitution itself. At the insistence of many of the States, the Founders added a Bill of Rights of individual citizens in contrast to the limited powers delegated to the new central government. A Bill of Rights specifically laid out the rights of individual citizens of the United States of America. The Bill of Rights has no authority delegated to the Central Government of the United States. Many of the States refused to ratify the proposed U.S. Constitution without the addition of a Bill of Rights, and many States submitted proposals of fundamental rights that they insisted must be protected by the Bill of Rights. The purpose of that Bill of Rights was to specify certain fundamental individual rights that were considered to be so important to Liberty, Freedom and Happiness as to merit special protection, beyond the protection afforded by the U.S. Constitution itself for all of the retained rights of the People.

Essentially only some of or a limited number of the powers of the people were loaned or delegated to the new central government and all other powers, or rights, were retained by the people or their states...

The States and the People wanted to make it absolutely clear that those fundamental and God-given rights were constitutionally unquestionably beyond the reach of the U.S. Central Government. The language of the resulting Bill of Rights is absolute and unambiguous: "Congress shall make no law."; "...shall not be infringed"; "The right of the People to be secure...shall not be violated"; "...nor shall private property be taken."; "...the accused shall enjoy the right."; and the final two imperatives: "The enumeration in the Constitution, of certain rights, shall not be

construed to deny or disparage others retained by the People."; and "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the People."

The framers of the U.S. Constitution did not say "should not", or "may not", or "might not"!

They used the clear, mandatory, commanding language "SHALL NOT!".

The Bill of Rights was designed to protect the individual rights of the citizens against government intrusion and infringement into their personal affairs. The Bill of Rights was not designed to protect the rights of government -- such a contention is absurd. The central government's powers are clearly laid out in the U.S. Constitution. Yet that is precisely the absurdity upon which rests the argument of those seeking to disarm law abiding citizens. The Second Amendment, many people today claim, protects only the right of the Federal or Central and State governments to keep and bear arms, and only within the context of police forces and State National Guards. Protection against whom?

Does the First Amendment protect the right of the central government to Freedom of speech and of the press too?

...The right of the government to Freedom of religion too?

...The right of the government to peaceably assemble? ...To petition itself for redress of grievances too?

Does the Fourth Amendment protect the right of the central government to be secure in their persons (what is the government's "person", anyway?), houses, and papers, against unreasonable searches and seizures? By whom? The citizens?

Does the Fifth Amendment protect the central government against double jeopardy? The right of the government against self-incrimination? The right of the government not to be deprived of its life or liberty (what is the government's "life" and "liberty" anyway?) without due process? The right of the government to just compensation for property taken for public use?

Does the Sixth Amendment protect the right of the central government to a speedy trial? The right of the government to confront the witnesses against him ("him" is the word used, not "it" and not "government")? The right of the government to counsel?

Does the Eighth Amendment protect the government from cruel and unusual punishment?

And when the Tenth Amendment protects the rights of the States, it specifically uses the word "States"... Twice! It clearly distinguishes "States" from "People" as two separate entities. It is thus obvious that when the Founders meant "States", they were fully capable of saying so. In the Second Amendment they did not say "States", they specifically said "the right of the People to keep and bear arms shall not be infringed". The People! Get it...THE PEOPLE not GOVERNMENT!!!

The idea that the Bill of Rights protects governments and not people is demonstrably absurd and irrational, as is clear from the above observations.

Yet despite all that, are we supposed to believe that the Second Amendment, alone among the Bill of Rights, protects only the government, and not the People? Are we supposed to believe, although the Second Amendment uses the word "People", that among all the other Bill of Rights provisions that also use the word "People", the Second Amendment alone really doesn't mean "People", it means "States", or central or federal government, only? Yes, that is precisely what we are asked by Far left- liberal-progressive-socialists and are expected to believe.

The officials of our central government know that they do not possess the legitimate authority to disarm law abiding citizens! They depend on the ignorance of the people and the work of the liberal-progressive-socialist teachers in our school systems and higher education institutions to indoctrinate or brainwash our children who are today adults into believing such rubbish and lies.

So with the aid of a duplicitous national "mainstream progressive media", this Obama Administration seeks to incite mob hysteria to achieve its Marxist ideological agenda of eliminating our individual right to keep and bear arms. Our central government can enact any laws it chooses, no matter how illegitimate or unconstitutional it may be, and it unquestionably possesses the raw power to disarm the citizens of this country pursuant to those laws, if it so chooses...if and when they take over our law enforcement and military as they have our educational system, news media and a government bureaucracy. However a law passed by the central government does not nullify the constitutional powers or Bill of Rights of the People. Understand that a constitutional amendment is required and the people must ratify any such amendment before it becomes the law of the land. What is there to stop the oppression and tyrannical actions of the U.S. Federal Government officials who have repeatedly shown their utter contempt for the U.S. Constitution and Bill of Rights? But the exercise of such power would be the lawless act of a lawless, oppressive and tyrannical government, of which the American Declaration of Independence addressed, without even the slightest pretense to constitutional legitimacy. It would be a tyranny of force, a dictatorial usurpation of power aided and abetted by mass public hysteria. It would be a coup d'etat of our republican form of state governments guaranteed by the U.S. Constitution. Such an act of lawlessness would be the final nail in the coffin of our U.S. Constitution, and the final abandonment by our own people created central government of the Rule of Law. And it will toll the final death-knell of Freedom and

Liberty in the United States of America. It would achieve the objective of supplanting our republican form of government with a despotism form of government of the hard left-liberal-progressive-socialist factions in America...

As a nation, we are already dangerously far along the road towards accepting the unbridled rule of force by our own central or federal government. We are increasingly governed by policies established, not by laws duly enacted by elected legislators, but by judicial edicts arising from lawsuits, and by mandates from unelected and unaccountable regulatory bureaucrats. We the People stand complacently by while our own Federal Judicial Courts subvert both the U.S. Constitution and Bill of Rights by purposefully making law from the bench, Judicial Activism, and purposefully making laws to later use a precedence to nullify the U.S. Constitution and particularly the U.S. Bill of Rights.

We watch our central government move from one lawful industry to another, ignoring the legislative process and imposing its will by regulation and the threat of lawsuits, leaving its victims only the choice between surrender and bankruptcy. First it was tobacco, now oil based fuels and firearms, next perhaps alcohol...again..., sport utility vehicles and maybe all automobiles, pharmaceuticals, fast foods - the list is literally endless.

But remember it is not about these prohibitions themselves it is about control...control of the central government, the economy and the people. And that list grows longer as those liberal-progressive-socialist central government bureaucrats learn that they can get away with imposing their will and ideological agenda through force, intimidation, and the threat of lawsuits.

And as they do so, our democratic institutions, and the will of the People of the country, become increasingly superfluous, except to the extent that the people are needed as props to supply the necessary mob hysteria. We watch our central of federal government demonizing people, groups, entire industries, for the purpose of whipping up a mob frenzy to validate its own attacks on the nation, economy and its people. And we the People remain silent for the first time in our American history! What will be the next target of vindictive Federal potentates?

We don't know, we only pray that it will be someone else and not us, and that they will leave us alone for a little while longer. That is no way for a free People to live. That is how slaves under totalitarian dictatorships live. From where does a President of the U.S.A., or any government bureaucrat, get the authority to decide that a legal product, wanted and used by millions of Americans, should no longer exist? One firearms manufacturer (Colt) has already been driven out of the business of selling its products to private citizens entirely; another (Smith & Wesson) has been bludgeoned into an agreement that will probably lead to the same result.

From where does any government bureaucrat get the authority to destroy lawful companies simply because that bureaucrat doesn't like the ideology of the product being sold?

In a free society, governed by a Constitution and the Rule of Law, government bureaucrats do not have that authority. But we have allowed them to seize the power to do exactly that.

One may rightly ask, have we already become a slave state?—Al Barrs

Whether we govern ourselves by the Rule of Law, the U.S. Constitution, and reasoned debate; or allow ourselves to succumb to mass hysteria and the tyrannical rule of unbridled government force, is still up to us. Although dangerously weakened, the U.S. Constitution and the Bill of Rights have not yet been repealed. We still have the right to vote tyrannical government officials out of office, and although our votes are increasingly diluted by electoral fraud, vote stealing and by the votes of non-citizens, felons and illegal aliens, that right has not yet been taken from us.

We still have, for now at least, the right to speak out against those who trample our individual rights; we still have, for now, the right to contribute money and support to those legislators and would-be legislators who understand and respect the constitutional restraints on their authority. But as government power and government lawlessness grows, and as our Liberties shrink in consequence, our power to control our central government is rapidly disappearing.

By our silence, we are selling ourselves and our children into sure bondage.

From where do the gun banners presume to get the legitimate authority to ban the individual right to keep and bear arms?

It is clear that the Second Amendment's reference to "militia" will not suffice, since the Founders clearly described the nature of the 18th century militia; the State constitutions, following the intent of the Second Amendment, clearly demonstrate that understanding; and the Bill of Rights was designed not to limit the rights protected by the U.S. Constitution, but to further enhance and protect those rights.

It is clear that the "general Welfare" clauses will not suffice, since both James Madison and Thomas Jefferson clearly explained that the "general welfare" concept must operate within the boundaries of the limited enumerated powers granted to the central government, or else the U.S. Constitution itself means nothing; and disarming citizens was clearly not one of the enumerated powers delegated to the U.S. Central Government! It is clear that the idea of an "evolving, growing" Constitution will not suffice, since the whole point of a written Constitution is to serve as an immutable structure of rules that remains in force until that structure is changed by the formal amendment process provided for by the people who conceived and wrote the U.S. Constitution itself. A Constitution that can be "redefined" by the very institutions it is intended to restrain is no Constitution at all!!!

The U.S. Constitution is like the Bible unchanged and unchangeable. Like the Bible it is perfect and addresses all eventualities in the beginning, today and in the future. Our Founders left no leaf unturned when writing our U.S. Constitution and Bill of Rights...it is exact and perfect! The 9th and 10th Amendments address all unknown eventualities what occur following the ratification of the U.S. Constitution and Bill of Rights. —Al Barrs

On what constitutional foundation do the opponents of the right to keep and bear arms support their beliefs and their agenda? There are none! But the radical liberal-progressive-socialist revisionist totalitarians in our government and among our population care nothing for the U.S. Constitution, which they would like to finally repeal in its entirety; or about the Rule of Law, which they will bend, twist, or ignore as it suits their purpose. **They have already destroyed individual jurisprudence and replaced it with socialist jurisprudence...thanks to successive U.S. Supreme Courts since 1803! --Al Barrs** ...They care only about control and power. Our Founders, in their wisdom, gave us the tools to preserve our Freedom against such unbridled government power, and to do so within the structure of our U.S. Constitution and Declaration of Independence.

That remedy is a last resort solution, but one we freedom and independent Americans must keep viable and ready to initiate to save our republic when needed.
—Al Barrs

A new link will be established at the home page of this newsletter to combat lies and hysteria with facts. The information will be expanded from time to time, and will contain evidence from a host of sources of exactly what the Founders of our Republic intended when they wrote that "A well regulated Militia, being necessary to the security of a free State, the right of the People to keep and bear Arms, shall not be infringed."

The information is here. What we choose to do with it depends on how much we still value our Freedom and Liberty.

For more information on the right to keep and bear arms see the following links:

http://www.velasquez.com/congress_action/RKBA_Founders.html

A Century of Lawmaking: Debates on the Constitution:

<http://lcweb2.loc.gov/ammem/amlaw/lawhome.html>

Notes on the Debates in the Federal Convention:

<http://www.yale.edu/lawweb/avalon/debates/debcont.htm>

James Madison Center: <http://www.jmu.edu/madison/center/index.htm>

The Federalist Papers: <http://www.mcs.net/~knautzr/fed/fedpaper.html>

Links to individual State Home Pages and State constitutions:

<http://www.globalcomputing.com/states.html>

Federal and Supreme Court Cases:

<http://www.findlaw.com/>

<http://supct.law.cornell.edu/supct/index.html>

<http://www.washlaw.edu/>

<http://www.ilrg.com/caselaw/>

--Kim Weissman

--E-mail: BEVDAV@worldnet.att.net

--<http://www.bigeye.com/ca043000.htm>

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## The Founders' Documents (and more) on the Right to Keep and Bear Arms

CONGRESS ACTION: April 30, 2000

By Kim Weissman: \*Congress Action Newsletter

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\*CONGRESS ACTION Newsletter can be found with most web searchers, and is available at:

--[http://www.velasquez.com/congress\\_action/](http://www.velasquez.com/congress_action/)

### Political Philosophers on The Right To Bear Arms and Self-Defense

#### CATO'S LETTERS:

*CATO'S LETTERS* were a series of articles written by Englishmen JOHN TRENCHARD and THOMAS GORDON, which were originally published weekly in *The London Journal* between 1720 and 1723. They expounded extreme libertarianism, and were very influential on American pre-revolutionary thought; they were widely quoted and often reprinted in England and in the American colonies; and were viewed by the founding generation of America as among the most authoritative statements on the nature of political liberty, and on the threats such liberty faced.

"The exercise of despotic power is the unrelenting war of an armed tyrant upon his unarmed subjects." -- *Cato's Letters* # 25 (April 15, 1721)

"The two great laws of human society, from whence all the rest derive their course and obligation, are those of equity and self preservation. By the first all men are bound alike not to hurt one another, by the second all men have a right alike to defend themselves." -- *Cato's Letters* # 42 (August 26, 1721)

"It is a maxim of the law that whatever we do in the way and for the ends of self-defense, we lawfully do. It is wickedness not to destroy a destroyer, and all the ill consequences of self-defense are chargeable upon him who occasioned them." -- *Cato's Letters # 42 (August 26, 1721)*

"Those governments which are founded upon oppression, always find it necessary to engage interests enough in their tyranny to overcome all opposition from those who are tyrannized over, by giving separate and unequal privileges to the instruments and accomplices of their oppression, by letting them share the advantages of it, by putting arms in their hands, and by taking away all the means of self defense from those who have more right to use them."-- *Cato's Letters # 97 (October 6, 1722)*

**JUSTINIAN ("Digest of Roman Law", 529 AD):**

"That which someone does for the safety of his body, let it be regarded as having been done legally."

**SIR EDWARD COKE ("Institutes of the Laws of England", 1628):**

"And yet in some cases a man may not only use force and arms, but assemble company also. As any may assemble his friends and neighbors, to keep his house against those that come to rob, or kill him, or to offer him violence in it, and is by construction excepted out of this Act; and Sheriff, etc., ought not to deal with him upon this Act; for a man's house is his Castle, and a person's own house is his ultimate refuge; for where shall a man be safe, if it be not in his house. And in this sense it truly said, and the laws permit the taking up of arms against armed persons." (...be they foreign or domestic, or governments.—*Al Barrs*)

**THOMAS HOBBS ("Leviathan", 1651):**

"A Law of Nature is a precept, or general rule, found out by reason, by which a man is forbidden to do that which destructive of his life, or take away the means of preserving the same; and to omit that by which he thinks it may be best preserved. ... Consequently it is a precept, or general rule of reason, that every man ought to endeavor peace, as far as he has hope of obtaining it; and when he cannot obtain it, that he may seek, and use, all helps and advantages of war."

"...a man cannot lay down the right of resisting them that assault him by force, to take away his life...". (...be they foreign or domestic, or governments.—*Al Barrs*)

"A covenant not to defend myself from force, by force, is always void. For no man can transfer, or lay down his right, to save himself from death, wounds, and imprisonment."

"The right men have by Nature to protect themselves, when none else can protect them, can by no Covenant [the agreement between individuals to form a government, and the laws enacted thereby] be relinquished."

**JOHN LOCKE** ("*Two Treatises of Government*", 1689):

"Must men alone be debarred the common privilege of opposing force with force, which nature allows so freely to all other creatures for their preservation from injury? I answer: Self-defense is a part of the Law of Nature, nor can it be denied the community, even against the king himself..."

**JOHN LOCKE** ("*Two Treatises of Government*", 1689):

"And hence it is, that he who attempts to get another man into his absolute power, does thereby put himself into a state of war with him; it being to be understood as a declaration of a design upon his life. This makes it lawful for a man to kill a thief, who has not in the least hurt him, nor declared any design upon his life, any further than by the use of force, so to get him in his power, as to take away his money, or what he pleases from him: Because using force, where he has no right, to get me into his power, let his pretense be what it will, I have no reason to suppose that he, who would take away my liberty, would not when he had me in his power, take away everything else. And therefore it is lawful for me to treat him as one who has put himself into a state of war with me, i. e. kill him if I can; for to that hazard does he justly expose himself, whoever introduces a state of war, and is aggressor in it."

**ALGERNON SIDNEY** ("*Discourses Concerning Civil Government*", 1698):

"Swords were given to men, that none might be Slaves, but such as know not how to use them."

**BARON de MONTESQUIEU** ("*The Spirit of the Laws*", 1748):

"Who does not see that self-defense is a duty superior to every precept?"

**CESARE BECCARIA** ("*On Crimes and Punishment*", Chapter XL: "*False Ideas of Utility*"; 1764):

"It is a false idea of utility to sacrifice a thousand real advantages for the sake of one disadvantage which is either imaginary or of little consequence; this would take fire away from men because it burns and water because it drowns people; this is to have no remedy for evils except destruction. Laws forbidding people to bear arms are of this nature; they only disarm those who are neither inclined nor determined to commit crimes. On the other hand, how can someone who has the courage to violate the most sacred laws of humanity and the most important ones in the statute books be expected to respect the most trifling and purely arbitrary regulations that can be broken with ease and impunity and that, were they enforced, would put an end to personal liberty -- so dear to each man, so dear to the enlightened legislator -- and subject the innocent to all the vexations that the guilty deserve? Such laws place the assaulted at a disadvantage and the assailant at an advantage, and they multiply rather than decrease the number of murders, since an unarmed person may be attacked with greater confidence than someone who is armed. These laws should not be deemed preventive, but rather inspired by a fear of crime. They originate with the tumultuous impact of a few isolated facts, not with a rational consideration of the drawbacks and advantages of a universal decree."

**SIR WILLIAM BLACKSTONE** (*"Commentaries on the Laws of England"*, 1765):

"Self-defense is justly called the *primary* Law of Nature, so it is not; neither can it be in fact, taken away by the laws of a society."

**SIR WILLIAM BLACKSTONE** (*"Commentaries on the Laws of England"*, 1765):

"In these several articles consist the rights, or, as they are frequently termed, the liberties of Englishmen. . . . So long as these remain inviolate, the subject is perfectly free; for every species of compulsive tyranny and oppression must act in opposition to one or other of these rights, having no other object upon which it can possibly be employed. . . . And, lastly, to vindicate these rights, when actually violated or attacked, the subjects of England are entitled, in the first place, to the regular administration and free course of justice in the courts of law; next, to the right of petitioning the king and parliament for redress of grievances; and, lastly, to the right of having and using arms for self-preservation and self-defense."

**SIR WILLIAM BLACKSTONE** (*"Commentaries on the Laws of England"*, 1765):

"In the three preceding articles we have taken a short view of the principal absolute rights [personal security, personal liberty, private property] which appertain to every Englishman. But in vain would these rights be declared, ascertained, and protected by the dead letter of the laws, if the constitution had provided no other method to secure their actual enjoyment. It has therefore established certain other auxiliary subordinate rights of the subject, which serve principally as outworks or barriers to protect and maintain inviolate the three great and primary rights, of personal security, personal liberty, and private property:

1. The constitution, powers, and privileges of parliament . . . .
2. The limitation of the king's prerogative . . . .
3. ... [A]pplying to the courts of justice for redress of injuries.
4. .... [T]he right of petitioning the king, or either house of parliament, for the redress of grievances.
5. The fifth and last auxiliary right of the subject, that I shall at present mention, is that of having arms for their defense, suitable to their condition and degree, and such as are allowed by law. Which is also declared by the same statute . . . and is indeed a public allowance, under due restrictions, of the natural right of resistance and self-preservation, when the sanctions of society and laws are found insufficient to restrain the violence of oppression.

To vindicate the three primary rights, when actually violated or attacked, the subjects of England are entitled, in the first place, to the regular administration and free course of justice in the courts of law; next, to the right of petitioning the king and parliament for redress of grievances; and, lastly, to the right of having and using arms for self-preservation and defense."



**ST. GEORGE TUCKER** (Annotation to Blackstone's "*Commentaries on the Laws of England*"; 1803):

"The right of self-defense is the first Law of Nature: In most governments it has been the study of rulers to confine this right within the narrowest limits possible. Wherever standing armies are kept up, and the right of the people to keep and bear arms, is under any color or pretext whatsoever, prohibited, liberty, if not already annihilated, is on the brink of destruction."

**DANIEL WEBSTER:**

"God grants liberty only to those who love it, and are always ready to guard and defend it."

**PRESIDENT THEODORE ROOSEVELT:** (Sixth State of the Union Address, December 3, 1906)

"Our Regular Army is so small that in any great war we should have to trust mainly to volunteers; and in such event these volunteers should already know how to shoot; for if a soldier has the fighting edge, and ability to take care of himself in the open, his efficiency on the line of battle is almost directly proportionate to excellence in marksmanship. We should establish shooting galleries in all the large public and military schools, should maintain national target ranges in different parts of the country, and should in every way encourage the formation of rifle clubs throughout all parts of the land. The little Republic of Switzerland offers us an excellent example in all matters connected with building up an efficient citizen soldiery."

**MOHANDAS K. GANDHI:**

"Among the many misdeeds of the British rule in India, history will look upon the Act depriving a whole nation of arms as the blackest. If we want the Arms Act to be repealed, if we want to learn the use of arms, here is a golden opportunity. If the middle classes render voluntary help to Government in the hour of its trial, distrust will disappear, and the ban on possessing arms will be withdrawn." --*Autobiography: The Story of My Experiments with Truth (1948)*

**MARTIN LUTHER KING, JR.:**

"Finally, I contended that the debate over the question of self-defense was unnecessary since few people suggested that Negroes should not defend themselves as individuals when attacked. The question was not whether one should use his gun when his home was attacked, but whether it was tactically wise to use a gun while participating in an organized demonstration." --*Where Do We Go From Here: Chaos or Community? (Chapter II, Black Power)*

"As we have seen, the first public expression of disenchantment with nonviolence arose around the question of "self-defense." In a sense this is a false issue, for the right to defend one's home and one's person when attacked has been guaranteed through the ages by Common Law." --*Where Do We Go From Here: Chaos or Community? (Chapter II, Black Power)*

**SENATOR HUBERT HUMPHREY:**

"Certainly one of the chief guarantees of freedom under any government, no matter how popular and respected, is the right of citizens to keep and bear arms. This is not to say that firearms should not be very carefully used, and that definite safety rules of precaution should not be taught and enforced. But the right of citizens to bear arms is just one more guarantee against arbitrary government, and one more safeguard against a tyranny which now appears remote in America, but which historically has proved to be always possible." -- *Know Your Lawmakers; Guns Magazine, February, 1960*

**SENATOR ORRIN HATCH:** Chairman, Senate Judiciary Committee Subcommittee on the Constitution, 97th Congress, 2d Session:

"What the Subcommittee on the Constitution uncovered was 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 Right to Keep and Bear Arms; U.S. Senate report (February, 1982)*

"If gun laws in fact worked, the sponsors of this type of legislation should have no difficulty drawing upon long lists of examples of crime rates reduced by such legislation. That they cannot do so after a century and a half of trying - that they must sweep under the rug the southern attempts at gun control in the 1870-1910 period, the northeastern attempts in the 1920-1939 period, the attempts at both Federal and State levels in 1965-1976 - establishes the repeated, complete and inevitable failure of gun laws to control serious crime." --*The Right to Keep and Bear Arms; U.S. Senate report (February, 1982)*

"I have spent a great deal of time exploring the meaning of the 2nd Amendment, its historic derivation, as well as its modern importance. Let me tell you that I easily concluded that the 2nd Amendment includes an individual as well as a collective right to bear arms. Beyond the plain language of the Constitution, I see the guarantee of the individual right to bear arms as necessary to give any meaningful guarantee to the purpose and spirit of the 2nd Amendment - the protection against oppression." --*Senator Russell Feingold (D-WI); Senate Judiciary Committee Hearing; September 23, 1998*

**UNITED STATES ATTORNEY GENERAL JOHN ASHCROFT:**

"...let me state unequivocally my view that the text and the original intent of the Second Amendment clearly protect the right of individuals to keep and bear firearms. ... In light of this vast body of evidence, I believe it is clear that the Constitution protects the private ownership of firearms for lawful purposes. As I was reminded during my confirmation hearing, some hold a different view and would, in effect, read the Second Amendment out of the Constitution. I must respectfully disagree with this view, for when I was sworn as Attorney General of the United States, I took an oath to uphold and defend the Constitution. That responsibility applies to all parts of the Constitution, including the Second Amendment." -- *Letter to National Rifle Association, Institute for Legislative Action (May 17, 2001)*

## STATES' ATTORNEYS GENERAL:

"As the chief law enforcement officers of our respective states, we wish to make one final point that is outside the scope of constitutional analysis. Simply put, your position on the Second Amendment is a sound public policy decision. There is an increasing amount of data available to support the claim that private gun ownership deters crime. That evidence comes both from the United States (particularly as highlighted in the empirical research of **John Lott**) and from abroad. To the extent that a society's laws make it more difficult for law-abiding private citizens to buy and keep firearms, that society is more subject to the destructive behavior of those who do not follow any law. This fact is increasingly clear for those who will look at the evidence. It is, in a way, a twenty-first century vindication of the wisdom of our eighteenth century Founders in securing our right to bear arms." -- letter from 18 States' Attorneys General in support of U.S. Attorney General John Ashcroft's determination that the Second Amendment protects the right of individuals to keep and bear firearms.



- NOTE -

Massachusetts' attorney Kim Weissman closed his Website, *Congress Action Newsletter*, and has graciously selected TYSK as the repository for his very popular Second Amendment Information. Mr. Weissman and TYSK both hope that you will find what is contained here informative and enlightening and useful in refuting the claims, falsehoods and distortions offered by those that want to restrict or eliminate the one pillar of the Bill of Rights which protects all others.

TYSK 2nd Amendment Department

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## Sir William Blackstone in America

*Lectures by An English Lawyer Become The Blueprint for a New Nation's Laws and Leaders*

--By Greg Bailey

In October 25, 1758 as young William Blackstone approached the podium in the Oxford lecture hall he knew he was a failure. The thirty year old lawyer, nearsighted, already portly, chronically ill, now ready to read his notes in his grating voice, had spent the last seven years before the legal Bar in London with, a sympathetic biographer wrote, "little notice or practice."

Now addressing the students assembled before him to hear the first of his lectures on English law, Blackstone began with an apology. Speaking in the third person Blackstone worried aloud that if his plan was "crude or injudicious, or the execution of it lame or superficial" he would set back the study of law. "And this he must more especially dread, when he feels by experience how unequal his abilities are to complete, in the manner he could wish, so extensive and arduous a task; since he freely confesses, that his former more private attempts have fallen very short of his own ideas of perfection."

Little could Blackstone know that the lectures he began so tentatively that day would be published as *Commentaries on the Laws of England*, a work that would dominate the common law legal system for more than a century. Nor could Blackstone foresee that his words would shape the *American Declaration of Independence*, the *Constitution of the United States*, the *American Bill of Rights* and primal laws of a land he considered no more than conquered territory of the British crown.

He could not foresee another failure in life studying his *Commentaries* in the frontier village of New Salem, Illinois, teaching law to himself. And little could Blackstone imagine that two hundred years later gangsters would call their lawyers by his name.

Blackstone spoke and wrote in the times of Oliver Goldsmith and Samuel Johnson, Edward Gibbon and Adam Smith, David Hume and Benjamin Franklin. Cultural institutions such as the British Museum, that today seem ancient, were in their infancy. The law then, as now, was rooted in everyday life but removed by lawyers and courts from most people's lives.

Blackstone's task, and his ultimate accomplishment, was to open the law to many for whom it had been closed.

Despite his initial misgivings, the lectures were an immediate success, breathing life into a dry and poorly taught subject. Blackstone's lectures were published as the *Commentaries* in England between 1765 and 1769. An American edition, Robert Bell, a published in Philadelphia between 1771-72 sold out its first printing of 1,400 and a second edition soon appeared. The *Commentaries* were translated into French, German and Russian.

During Blackstone's lifetime the work earned an estimated 14,000 pounds, an enormous amount of money at the time. His work would also earn him belated success as a lawyer, politician, judge and scholar. Blackstone, however, more than paid for his success; he and his book became the targets of some of the most vitriolic attacks ever mounted upon a man or his ideas...**much like individuals today are attacked for telling the real truth of American history and its former and present leaders.**—*Al Barrs*

In trying to comprehend the whole of British law and present it logically Blackstone divided the law into four volumes and themes. Book I covered the "**Rights of Persons**", a sweeping examination of British government, the clergy, the royal family, marriage, children, corporations and the "absolute rights of individuals." Book II, on the "**Rights of Things**", should more properly have been called the Rights that people have in Things. It begins with the observation that "There is nothing which so generally strikes the imagination and engages the affections of mankind, as the right of property." In hundreds of pages of arcane analysis he then disproves the point. Book III covers "**Private Wrongs**", today known as torts. Book IV covers "**Public Wrongs**", crimes and punishment, including offenses against God and religion.

Blackstone had no illusions that he had covered every important aspect of the law adequately; his lectures and the books were designed as an introduction to the whole of the law.

Human laws, Blackstone believed, were like scientific laws. They were creations of God waiting to be discovered just as Isaac Newton had discovered the laws of gravity a century before. "Thus we say, the laws of motion, of gravitation, of optics, or mechanics, as well as the laws of nature and of nations." Law flowed from the superior to the inferior, be it God, monarch or nation, and the inferior was compelled to obey. He acknowledged humans as "the noblest of all sublunary beings, a creature endowed with both reason and freewill" but decreed that there were "certain immutable laws of human nature, whereby freewill is in some degree regulated and restrained" and that God gave "the faculty of reason to discover the purport of those laws."

In Blackstone's more worldly scheme a King could do no wrong. "The king," he wrote, "is not only incapable of doing wrong, but even of thinking wrong: In him there is no folly or weakness." A law could, however, be illogical and therefore irrational and open to criticism. "Thus the statute of king Edward IV, which forbade the fine gentlemen of those times (under the degree of a lord) to wear pikes upon their shoes or boots of more than two inches in length, was a law that savored of oppression; because, however ridiculous the fashion then in use might appear, the restraining it by pecuniary penalties could serve no purpose of common utility."

Blackstone was not a pure monarchist. In his perfect world, which he believed the United Kingdom of his day closely resembled, Parliament played a central role as the source of legislation, and within Parliament the House of Commons and the House of Lords balanced each other. Blackstone did not invent the concept of separation of powers but he made the idea concrete and accessible for others to use.

Blackstone, who according to James Boswell in his *Life of Johnson* "had a bottle of port before him" during the composition of the *Commentaries* finding his mind "invigorated and supported in the fatigue of his great work," often lead his readers through a maze of conflicting absolutes.

In Book I Blackstone wrote: "To bereave a man of life, or by violence to confiscate his estate, without accusation or trial, would be so gross and notorious an act of despotism, as must once convey the alarm of tyranny throughout the whole kingdom. But confinement of the person, by secretly hurrying him to goal, where his sufferings are unknown or forgotten, is a less public, a less striking, and therefore a more dangerous engine of arbitrary government." But in the same paragraph he contends that such actions may be necessary and proper.

Blackstone may be said to have loved humanity and disliked people. He saw nothing wrong with restricting the vote to property owners because he thought those without property would have too little interest in public affairs and would be easily misled or bribed.

Blackstone abhorred the very idea of slavery in England ("indeed it is repugnant to reason, and to the principles of natural law,") declaring that anyone brought in slavery to England was immediately freed, but was indifferent to its practice in America. He flatly declared that "Christianity is part of the laws of England" but stated that the law of England "gives liberty, rightly understood, that is, protection to a Jew, Turk, or a heathen, as well as to those who profess the true religion of Christ."

Blackstone may have proved his best and worst critic when he wrote: "It is well if the mass of mankind will obey the laws when made, without scrutinizing too nicely into the reasons of making them."

William Blackstone, however, had no shortage of critics, then or now. Lord Ellenborough said of Blackstone "it might be said of him, at the time he was composing the book, that it was not so much his learning that made the book, as it was the book that made him learned."

A contemporary British writer known only by the pseudonym "Junius" wrote "For the defense of truth, of law and reason the Doctor's book may be safely consulted: But whoever wishes to cheat a neighbour of his estate, or to rob a country of its rights, need make no scruple of consulting the doctor himself."

Philosopher Jeremy Bentham attended Blackstone's lectures as a student. Blackstone, he wrote, was a "formal, precise and affected lecturer - just what you would expect from the character of his writings: Cold, reserved and wary." Blackstone's comments on the King, Bentham said "stuck in my stomach." Bentham went on to be Blackstone's harshest enemy, denouncing his work as "ignorance on stilts."

Another prominent critic was Joseph Priestley, best known to history for his electrical and chemical discoveries. Some passages in the *Commentaries* on religious dissenters prompted Priestley to write a pamphlet attacking Blackstone, starting a series of published replies, counter charges and letters. Blackstone seemed confused why the scientist should attack him



"I must first of all correct a mistake, which Dr. Priestly seems to have fallen into, by fancying that the offensive passages in my book were personally leveled at him."

William Blackstone was born on July 10, 1723, four months after his father died. After his mother died when he was 12, his uncle provided for him, securing through some influence admission to a good school. Blackstone entered Oxford at age 15, studying the classics as well as mathematics and logic. He developed a talent as a minor poet. At 18 he entered the Middle Temple Inn of Court, one of the training grounds for English lawyers in London.

Upon leaving Oxford for his law training he wrote a long poem called "The Lawyer's Farewell to His Muse" which reads in part: Then welcome business, welcome strife Welcome the cares and thorns of life, The visage wan, the pore-blind sight, The toil by day, the lamp by night, The tedious forms, the solemn prate, The pert dispute, the dull debate, The drowsy bench, the babbling hall, For thee fair Justice, welcome all.

Blackstone completed his legal studies and was called, or admitted, to the legal Bar in 1746. James Clitherow, his biographer and brother-in-law, blamed his failure in the law on "not having any powerful friends or connections to recommend him." The truth lies closer to his indifferent abilities in court. "My temper, constitution, inclinations and a thing called principle, have long quarreled with active life," he wrote in July 1753, "and have assured me that I am not made to rise in it." During his time in London Blackstone was drawn back to Oxford, actively participating in the university's activities. He applied for a position but lost it for political reasons, having backed the wrong candidate for Parliament, a mistake he would not repeat again. When he began the lectures on English law the "intervening cloud" of his life disappeared and his "great genius...broke forth, with so much splendor" according to his admiring brother-in-law.

In 1761 Blackstone married Sarah Clitherow, with whom he had nine children. In that same year he was appointed a King's Counselor and elected to the House of Commons. Blackstone was a loyal if undistinguished Tory, voting, for example, against the repeal of the Stamp Act directed against the American colonies. Some of his colleagues called him a "toady" for his willingness to curry favor with the establishment that once rejected him. In one debate the opposition turned the words of the *Commentaries* against Blackstone's argument. In the next edition Blackstone rewrote the passage.

In 1770 Blackstone was knighted and accepted an appointment as a Justice of the Court of Common Pleas. Sir Blackstone was often in poor health, and was irritable and impatient on the bench. As a judge his record was no more distinguished than his time at the Bar. He died of dropsy on Feb 14, 1780 at the age of 57, four years after the American Revolution he unintentionally inspired.

In his 1941 book *The Mysterious Science of the Law* Daniel Boorstin wrote that no other book except the Bible played a greater role in the history of American institutions. The Founders of the United States of America found their philosophy in John Locke and their passion in Thomas Paine, but they found the blueprint for a new independent and free nation in Sir William Blackstone. To be sure, they did not construct the government as Sir Blackstone would have designed it; they added and subtracted from it as they went along but the foundation was built upon Sir Blackstone's *Commentaries*.

The philosophy of the *Declaration of Independence* asserting the "self-evident" "unalienable Rights" of people granted by "the Laws of Nature and of Nature's God" could have come, and probably did, from Sir Blackstone's description of the rights of Englishmen under the British Constitution. The indictment against the Crown, the bulk of the American Declaration of Independence, recites many of the absolute rights of individuals covered by Sir Blackstone including the prohibition of taxation without representation and consent of the People.

Thomas Jefferson, the chief drafter of the American Declaration of Independence, was certainly familiar with Sir Blackstone. Jefferson had a love-hate relationship with Sir Blackstone's *Commentaries*. In 1812 he wrote that it was the "most elegant and best digested of our law catalogue," but in the same letter complained that it had been "perverted" and responsible for "the degeneracy of legal science."

Thomas Jefferson said that Sir Blackstone and David Hume's *History of England* "have done more towards the suppression of the liberties of man, than all the millions of men in arms of Bonaparte," because both books glorified the systems Jefferson had devoted his life to fighting. Yet on two occasions Jefferson listed the *Commentaries* as required reading for law students.

Jefferson's animosity toward Sir Blackstone grew in part out of his disdain for the superficial treatment of the law. Jefferson learned law by reading *Coke upon Littleton*, a tedious book that led Jefferson to write to a friend, "I do wish the Devil had old Cooke, (sic) for I am sure I never was so tired of an old dull scoundrel in my life."

Coke was a heroic figure who as a judge defied the king in a face to face confrontation and supported Parliament over royalty, improved with age in Jefferson's eyes. Coke was "uncouth but cunning learning" but more comprehensive than Sir Blackstone. "A student finds there" Jefferson wrote of Sir Blackstone. "a smattering of everything, and his indolence easily persuades him that if he understands that book, he is master of the whole body of law. The distinction between these, and those who have drawn their stores from the rich and deep mines of *Coke on Littleton*, (sic) seems well understood even by the unlettered common people, who apply the appellation of Blackstone lawyer to these ephemeral insects of the law."

Jefferson's core disagreement with Sir Blackstone, however, was Jefferson's opposition to adopting English Common Law in America. He was not alone in this view. Many advocated adopting a civil code along ancient Roman and contemporary European lines, and saw it as a final break away from England.

In the early 1800s New Jersey, Pennsylvania and Kentucky passed 'non-citation' statutes barring the adoption of English Common Law.

However, both Common Law and Sir Blackstone were too pervasive to be suppressed, and the centuries of precedents embodied in Sir Blackstone's *Commentaries* still influence American law today. (...Although abhorred by socialist law school professors and deans, and student of social justice law schools. Roscoe Pound, Dean of Harvard Law School was a key player in the subversive effort to transform U.S. individual jurisprudence into social jurisprudence. – Al Barrs)

A typical example is the Illinois statute adopting Common Law "prior to the fourth year of James the First," or 1607, with certain exceptions from the reigns of Elizabeth I and Henry VIII. Common Law precedents can at times create problems in modern law that states have to correct it by statute. The leading example is the widespread abolition by statute of the Rule in Shelley's Case, an obscenely obscure point of law on the transfer of property originating in the 1300's. "It is revolting," wrote Oliver Wendell Holmes in 1897 of ancient precedents in general "to have no better reason for a rule of law than that so it was laid down in the time of Henry IV." Revolting or not this feature remains a central part of the law and Sir Blackstone is still the guide.

Jefferson gave up the practice of law to the Blackstone lawyers and despaired of the profession in words as true today as they were in 1810. Writing to a friend who asked his advice on his son's career, Jefferson said "Law is quite overdone. It is fallen to the ground, and a man must have great powers to raise himself in it to either honor or profit. The mob of the profession gets as little money and less respect, than they would by digging the earth."

Another Sir Blackstone critic was James Wilson a signer of both the Declaration of Independence and the U.S. Constitution and later a U.S. Supreme Court Justice. Wilson published several tracts and lectures on Sir Blackstone praising him for his "uncommon merit" as a writer but damning him for his philosophy.

Wilson's opinion on Sir Blackstone found a practical expression in the case *Chisholm v. Georgia*, decided in the U.S. Supreme Court in 1793. A British citizen employed two South Carolinians to recover property confiscated by the state of Georgia. The case was brought to the U.S. Supreme Court. Georgia refused to answer, denying the jurisdiction of the Court to hear the

case. The Court ruled that the creation of the United States created a greater sovereignty in the "more perfect Union" and that states had surrendered a part of their sovereignty as the price of adopting the U.S. Constitution.

In his opinion Wilson attacked Sir Blackstone as the author of the view that the state is sovereign and immune from law suits. "The sovereign," Wilson wrote, "when traced to the source, must be found in the man." The nub of Wilson's opposition to Sir Blackstone was expressed "Man, fearfully and wonderfully made, is the workmanship of his all perfect CREATOR: A State, useful and valuable as the contrivance is, is the inferior contrivance of man; and from his native dignity derives all its acquired importance."

The Georgia legislature immediately reacted by passing a law prohibiting the execution of the decision. Legislators from other states, also facing claims from British creditors, protested.

The reaction to the decision led to the passage and eventual ratification of the Eleventh Amendment, a curious part of the U.S. Constitution now little noticed or understood. The Amendment's restriction against the Federal courts to hear "any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State" is a codification of Sir Blackstone's teachings and indeed may be considered his fingerprint on the Constitution of the United States of America.

Sir Blackstone played a more obscure but important part in the most important case of the U.S. Supreme Court. Unlike Wilson, Chief Justice John Marshall, whose father had subscribed to the first American edition of Sir Blackstone's *Commentaries*, found much to like in Blackstone, especially when it supported his opinions.

Sir Blackstone's definition of a *writ of mandamus*, an order directing the state to perform an act, was a linchpin in *Marbury v. Madison*, the 1803 case first establishing **Judicial Review** by the U.S. Supreme Court. William Marbury, a last minute appointee of the outgoing Adams Administration, sued Secretary of State James Madison seeking a writ to compel the government to carry out the appointment. Marshall, himself appointed Chief Justice in the last three weeks of Adams' term, blasted Jefferson for denying the commission and ruled that Marbury had an unquestioned right to the appointment. Marshall then performed an act of judicial judo, ruling that Congress had no right to grant the U.S. Supreme Court the power to issue a writ of mandamus, as defined by Sir Blackstone. Marshall ruled the act unconstitutional because it granted The Court too much power, at the same time securing the far greater power of judicial review. Marbury lost his battle, but Jefferson lost the war against Marshall. **(It must be noted here that the "Judicial Review Doctrine" created out of nothing for no reason other than to be used as future precedence by The Court violated the original "Separation of Powers Doctrine" of our Founding Fathers and has chiefly been used to nullify individual rights of the 9<sup>th</sup> and 10<sup>th</sup> Amendments. The "Separation of Powers**

**Doctrine" was included in the U.S. Constitution to protect each of the three branches of government from encroachment from any of the other two branches. The Activist Judges of 1803 gave to themselves without Congressional approval the power to encroach upon the other two branches of government with their created out of air their Judicial Review Doctring. This unconstitutional doctrine gave the U.S. Supreme Court absolute rule over the Central Government of the United States of America.—Al Barrs)**

Writing in 1807 on the evidence in the treason trial of former vice-president Aaron Burr, Marshall cited the works of Sir Blackstone and others as "not to lightly be rejected." "These books," he wrote, "are in the hands of every student. Legal opinions are formed upon them, and those opinions are afterwards carried to the bar, the bench, and the legislature."

Sir Blackstone played an influential part in the drafting and ratification of the U.S. Constitution. In his 1985 book *Novus Ordo Seclorum* Forrest McDonald called Sir Blackstone's contributions "pervasive." Blackstone's *Commentaries* were cited if not by name than by inference many times during the Constitutional Convention. The most direct and lasting force of his ideas concerned *ex post facto* laws, rules of laws designed to retrospectively regulate conduct. During the debates James Madison questioned whether the provision banning *ex post facto* laws in the draft of the new Constitution would apply to civil cases. The next day delegate John Dickinson announced that he had consulted his Sir Blackstone library and found that the illegitimacy of *ex post facto* laws applied only in criminal cases. The matter was dropped, and Sir Blackstone's edict remains in force today.

In the constitutional ratification debate Sir Blackstone was used by both sides.

Alexander Hamilton, following his early devotion to Sir Blackstone in the cause of the Revolution, cited the *Commentaries* in Federalists No. 69 and 84 to bolster the case for the U.S. Constitution.

Patrick Henry, as passionately opposed to the U.S. Constitution as he had been to the king George III, argued against adoption in the Virginia Convention because the U.S. Constitution failed to provide for jury trials in civil cases as advocated by Sir Blackstone.

American lawyers in the early American republic relied on Sir Blackstone as the primary and often only source of Common Law. American commentaries on the *Commentaries* appeared, such as 1814's *Law Miscellanies* by Hugh Brackenridge, called the 'Pennsylvania Blackstone'. The Americanized versions never supplanted the original. One *Commentaries* trained lawyer, James Kent, later a Chancellor in New York, between 1826 and 1830, wrote his *Commentaries on American Law* critical of Sir Blackstone and substituting much Roman law and civil code in place of the traditional Common Law.

Edward Story, who also learned law through reading Sir Blackstone, became the youngest U.S. Supreme Court Justice and author of many influential law books. Sir Blackstone was the unseen teacher for uncounted numbers of early American lawyers.

A typical Lincoln legend has it that a lawyer migrating west stopped in New Salem, Illinois, and sold a barrel full of law books, including Sir Blackstone, to the rough-hewn storekeeper and surveyor in order to make room in the covered wagon. From this fateful accident, Lincoln is said to have thrown himself into studying law.

The truth, however, is, as Lincoln later wrote, he first thought of becoming a blacksmith, rejecting the idea of studying law because of his poor education and slim prospect of success. In 1834 Lincoln, running for state representative meet fellow candidate and lawyer John Staurt, who encouraged him to take up the profession. Lincoln borrowed Staurt's books, read the first forty pages of Sir Blackstone on the walk home and "went at it in good earnest." When Lincoln was running for President in 1860 he replied to an inquiry on "the best mode of obtaining a thorough knowledge of the law." "The mode is very simple," Lincoln wrote, "though laborious and tedious. It is only to get the books, and read, and study them carefully. Begin with Sir Blackstone's *Commentaries*, and after reading it carefully through, say twice, take up Chitty's *Pleading*, Greenleaf's *Evidence*, & Story's *Equity &c in succession*. Work, work, work, is the main thing."

Despite another set of myths, Lincoln was not a well read man. William Herndon, his law partner and flawed biographer, wrote that Lincoln was not interested in reading his copies of Charles Darwin or other writers. Lincoln's main intellectual influences were Sir Blackstone, Euclid and Shakespeare. With the distance of time it is impossible to know exactly how anyone influenced him but in two unpublished fragments on government and slavery written by Lincoln in 1854 there is a trace of Sir Blackstone's approach. "If 'A' can prove, however conclusively, that he may, of right, enslave 'B' -- why may not 'B' snatch the same argument, and prove equally, that he may enslave 'A'?--" By a number of such exercises Lincoln plotted out his personal views on slavery and government.

**Actually 'B' had the same right as 'A' to enslave whom ever he chose or had the power to enslave. There is a misconception, intentional made I might add, that only 'white' Americans could own slaves which Lincoln knew well was untrue. Many Native Americans were enslaved and there were quite a few African blacks who enslaved fellow African blacks and Native Americans in America, and there were even more "indentured slaves" who were 'white' Europeans. The first recorded African in the Thirteen Colonies was a slave owner himself. —Al Barrs**



After Lincoln's time Sir Blackstone's influence began to fade as socialism thinking began to emerge as a transformational idea of liberal-progressive professors, lawyers, judges and progressive leaders.

American lawyers found his long passages on the royalty irrelevant and his work gave way to more modern writers, many early liberal-progressive-socialist law professors and law school deans such as Roscoe Pound, Dean of Harvard Law School.

At the end of the nineteenth century legal education became more structured and the case study method, still in use today, replaced the text study of early America and England. Today a law student may be barely familiar with the name Sir William Blackstone, reading only a few fragments in case books placed there for historical perspective.

Sir William Blackstone was by any standard often a failure and the *Commentaries* were flawed. And yet this failed, flawed man contributed, sometimes in spite of himself, greatly to the writing of the United States Constitution and Bill of Rights, laws and early leaders of the United States. For that, if nothing else, Sir Blackstone was highly successful after all.

--<http://www.earlyamerica.com/review/spring97/blackstone.html>



American Minuteman Patriot

## Sources of Ideas That Shaped the American Plan of Government

<http://www.dsusd.k12.ca.us/users/scottsh/Sources%20of%20Ideas%20That%20Shaped%20the%20American%20Plan%20of%20Government.htm>

**NOTE: Do not misinterpret the word 'social' or 'society' with the word 'socialist' or 'socialism'—Al Barrs**

**Definitions:**

**Social:** An informal social gathering, especially one organized by the members of a particular group: "a church social".

**Society:** The aggregate of people living together in a more or less ordered community.

**Socialist or socialistic:** advocating or following the socialist principles; a "socialistic government".

**Socialism:** A political and economic theory of that advocates that the means of production, distribution, and exchange should be owned or regulated by a collective... (In Marxist theory) A transitional social state between the overthrow of capitalism and the realization of collective communism.

Human beings have been living together in groups for thousands of years. For as long as people have lived in groups, they have felt the need for some type of organization that provides safety and order.

Without order, a society would be in chaos, the few constantly trying to assert their will over the many.

A central government is a way to create order in a society. For example, in a school, the teachers and the principal are, in effect, the government. And students are the governed, or in many cases, the subjects. You may not always agree with school policies and rules, but imagine what school would be like if there were no rules! **However that said, rules must be mutually made and agreed upon not only by the school leaders but with the participation of the parents of the children. Teachers and principles do not have cart Blanc authority to treat children entrusted to their safety, care and teachings in any way they choose! School officials are responsible to the parents of the community!**—*Al Barrs*

**After they declared independence from Britain in 1776, Americans decided to form a central government to do specific and limited tasks germane to all thirteen colonies.**

Where did the ideas that Americans put into practice come from?

There were three main sources of the ideas that shaped the American plan of government: (1) Ancient Greece and Rome, (2) English history and (3) European philosophers.

## **Ancient Greeks and Romans Contributed Ideas on Government**

The first societies to experiment with ideas on government that would later influence Americans were Ancient Greece and Rome. The Ancient Greeks and Romans developed the ideas of democracy and representative government more than 2,000 years ago.

**A Democracy in Ancient Greece:** The cities of Ancient Greece were organized into city-states, or small independent nations. Athens was one such city-state. For many years, Athens was ruled by a small group of wealthy and powerful men known as the 'Great Council'. Members of the Council passed laws that favored wealthy people like themselves. Between 750 BC and 550 BC, however, this system of rule began to change.

Poorer Athenians, such as farmers and small merchants, protested the great power of the Council. They believed that the laws made by the Council harmed the interests of the middle-class and poor. Many Greeks wanted to participate directly in making laws affecting their lives. Greeks used the word "*demos kratia*", to explain what they wanted. The equivalent word in English is "democracy", which means "government by the people".

Gradually, Athenian leaders agreed that more Greeks should be allowed to participate in the Great Council's decision-making process. They developed a political system now known as a Direct Democracy. In a Direct Democracy, people not only vote for leaders, but actually serve in the government. In order to decide who should be allowed to serve in the Great Council, Greek leaders developed the idea of **citizenship** as opposed to **subjects**. Those Athenians who were finally citizens had the right to participate directly in government. But how was citizenship determined? Greek leaders decided that only men who owned large plots of land were citizens. Women, slaves and people with little or no property were not given the rights and responsibilities of Athenian citizenship. While the Ancient Greeks restricted democratic rights to a small portion of the population, the idea of democracy was born.

**A Republic in Ancient Rome:** Ancient Rome was the first nation to create a republic form of government. A republic is a form of government in which people elect representatives to represent them. Between 750 BC and 350 BC, the Romans established a **republic**. At first, only patricians - members of the Roman upper-class were allowed to vote or serve as representatives. Over several centuries, however, the right to vote was extended to 'plebians' - the members of the lower class. As more Romans gained the right to vote, they used their new power to bring about other changes in the political system. About 450 BC Roman citizens demanded that laws governing their lives be written down. They wanted to know what the laws were and that laws could not be changed any time their leaders wanted to. Many Romans believed that codified, or written, laws would prevent Roman leaders from abusing their self-delegated powers.

Ancient Greek and Roman ideas and practices concerning government eventually spread to Europe and to the United States of America.

### **English History Influenced American Thinking on Government**

The first European nation to experiment with democracy was Britain. For many centuries, Britain was ruled by an absolute monarch. The king and queen were very powerful rulers. They had the power to do almost anything they wanted. Between 1100 AD and 1200 AD, however, the English political system began to change.

**English Common Law:** In the 1100s AD, King Henry II attempted to expand the power of the monarchy. One way he did this was by strengthening the royal court system. The king established courts throughout the country. The king's judges assembled juries to hear cases involving crimes and disputes. The king's judges made the laws that these juries used to resolve disputes and to decide whether a person was guilty of a crime. Royal judges made laws based on the customs of the people. The royal courts' decisions were gradually written down and became the basis for English Common Law. Under Common Law, the courts applied the same legal ideas to all English subjects.

**The Magna Carta:** The expansion of royal power in England did not go unopposed. The king's barons, or lords, resented the development of King Henry's court system because it took away some of their traditional powers. Traditionally, barons had their own courts where they decided what the laws were. The power struggle between the king and his barons was made worse by King Henry's son, John, who placed new taxes on the barons soon after becoming king. Finally, in 1215 AD, the barons joined together and forced King John to sign a charter that spelled out their rights. This document became known as the *Magna Carta*, or "Great Charter".

To John's barons, the *Magna Carta* was simply a written guarantee of their traditional rights and privileges. It stated that the king could not place taxes on the barons without the consent of a group of influential barons known as the *Great Council*. The *Magna Carta* also stated that no free person could be imprisoned without a jury trial. In the 1200s AD, however, most English people were not free. Rather, they were serfs or peasant farmers (subjects) who lived on land (manors) controlled by the king and his lords. Thus, most English people were not protected by the *Magna Carta*.

Despite protecting only a small portion of the British population, the *Magna Carta* was a major political achievement. It showed that a monarch's power could be legally limited by the nation's citizenry.

**Parliament:** The creation of the *Great Council* and the signing of the *Magna Carta* were the first steps in the development of representative government in Britain. The barons who sat on the *Great Council* represented the interests of other barons in discussions with the king. By the

late 1200s AD, the Council had achieved a great deal of influence. The Council demanded that the king seek its approval before making decisions. Eventually, the nobles who served on the Great Council became known as 'Parliament'. The term parliament comes from the French word "parler", which means "to talk." The Great Council would discuss political ideas and policies and present its views to the king.

By the 1600s AD, Parliament had become more of an equal partner in the English government, sharing power with the monarchy. A government where a monarch does not have absolute power is a **limited monarchy**. Even though the king and Parliament shared power, they did not always cooperate with each other. James I (1603-1625 AD) and Charles I (1625-1649 AD), for example, claimed that they ruled by divine, or God-given, right. As a result, king and Parliament were often engaged in bitter power struggles.

**The Bill of Rights:** In the mid-1600s AD, the power struggle between the monarchy and Parliament led to the *British Civil War*. Although Oliver Cromwell and the Puritans abolished the monarchy for 10 years, it was re-established in 1660 AD after Cromwell's death. In the process Parliament gained more power. By the 1680s AD, Parliament had so much power that it was able to pick the new queen and king to succeed King James II. Parliament offered the throne to Mary, James's oldest daughter, and her husband William. In exchange for the throne, Parliament demanded that the new queen and king sign the *British Bill of Rights*.

The *Bill of Rights* gave the British Parliament more power than the king and queen. It stated that the monarchy could not make or suspend laws without the consent or approval of Parliament. The king and queen also needed the consent of Parliament to raise taxes and maintain an army. Finally, the Bill of Rights stated that the monarchy must not interfere in Parliamentary elections. Voters had a right to elect their representatives and the king and queen must respect voters' choices.

These three events - the signing of the Magna Carta, the creation of Parliament, and the signing of the British Bill of Rights - gradually lessened the power of the British monarchy. As Parliament gained more power, the idea of the "divine right of kings" died out. The British were growing more and more interested in the idea of representative government.

We first discussed ways in which the king of England and Parliament abused the rights of American colonists. While many American colonists resented these abuses, they also learned positive lessons about the value of democratic government from the British. The history of political developments in England played an important role as Americans thought about the kind of government they wanted. So did the writings of several European philosophers.

## European Philosophers Also Influenced American Thinking on Government

During the 'Enlightenment' in the 1600s AD and 1700s AD, many political philosophers met and discussed their ideas on government together. The Enlightenment was a period in European history when many educated people stressed the importance of learning and reasoning. Education was considered the key to understanding and solving society's problems. Many Enlightenment thinkers lived in Paris, France. These thinkers were known as *philosophes*, the French word for one who searches for wisdom and knowledge. Among the most influential philosophers were John Locke, Jean Jacques Rousseau and Baron de Montesquieu.

**Locke Develops the "Contract Theory" of Government.** John Locke, an English political philosopher, helped to further develop democratic ideas. In 1690 AD, Locke published the *First and Second Treatises on Government*. These two books explained Locke's contract theory of government.

According to Locke, the Magna Carta and British Bill of Rights protected the inalienable or natural rights of all British citizens. Locke wrote that all people had the inalienable "right to life, liberty and property" Locke believed that people created government and chose to be governed in order to live in an orderly society.

In other words, government arose from an agreement, or contract, between the ruler and the ruled.

Thus, a ruler only had power as long as he or she had the consent of the governed...the people!

And, as a result, a ruler could not justly deny peoples' basic rights to life, liberty and property. Many Americans had read Locke's book, and they agreed with what it said about government.

Those who had actually read Locke's book knew his ideas from newspapers, political pamphlets, church sermons, debates and discussions.

Most people in the American colonies believed that everyone had a right to life, liberty and property. These rights were called **Natural Rights**. Sometimes these are now called basic rights or fundamental rights. The idea of natural rights means that all persons have these rights just because they are human beings. Everyone is born with these rights and they should not be taken away without a person's agreement. Many of the Founders of our United States' republican form of government believed people receive these rights from God...God-given rights. Others believed that people have Natural Rights because it is natural for people to have them.

## Protecting Natural Rights

Although people agreed on certain natural rights, they worried about how those rights could be protected.

Locke and others thought about what life would be like in a situation where there was no government and no laws. They called this situation a State of Nature. They were afraid that in a State of Nature their rights would be taken away.

1. The stronger and smarter people might try to take away other people's lives, liberty, and/or property.
2. Weaker people might band together and take away the rights of the stronger and smarter people.
3. People would be unprotected and insecure.

## The Social Compact

John Locke and other philosophers developed a solution to the problems that exist in a place without government. In a state of nature... people might feel free to do anything they want to do. However, their rights would not be protected and they would feel insecure. Locke argued that people should agree with one another to give up some of their freedom in exchange for protection and security. They should consent to follow some laws in exchange for the protection that these laws would give them. This agreement is called a '*social compact*' or '*social contract*'.

A *social compact* is an agreement people make among themselves to create a government to rule them and protect their Natural Rights. In this agreement the people consent to obey the laws created by that citizen-created government.

**Rousseau Expands the Contract Theory:** In his book, *The Social Contract*, Jean Jacques Rousseau wrote about an ideal society. In this society, people would form a community and make a contract with each other, not with a ruler. People would give up some of their freedom in favor of the needs of the majority. The community would vote on all decisions, and everyone would accept the community decision. When Rousseau wrote *The Social Contract*, there was not a society in the world with such a system. His vision, however, was shared by American colonists and others.

**In the Thirteen Colonies of American, prior to the American War for Independence, the 13 colonies did join in a *social compact* of support for each other. Essentially the United States of America is a '*social compact*' or '*social contract*' union of individual sovereign states with a guaranteed republican form of government. That**



**'social compact' or 'social contract' is the U.S. Constitution of limited powers delegated to the central government with prohibitions included, in other words what the U.S. Central Government is allowed to do and not do is enumerated in the U.S. Constitution. —Al Barrs**

**Montesquieu Suggests Limited Government:** In his book on government, *The Spirit of Laws*, Baron de Montesquieu developed practical suggestions for creating democratic governments. He stated that *the best way to ensure that the government protects the Natural Rights of citizens is to limit its powers. And the best way to limit government's powers is to divide government's basic powers among a number of authorities. On this basis our Founders included the Separation of Powers Doctrine in our U.S. Constitution.* —Al Barrs

By dividing powers between different branches or parts of the government, no one authority would have too much power. Montesquieu referred to this as a system of 'checks and balances'. **Again the Chief Justice Marshal's U.S. Supreme Court of 1803 unconstitutionally supplanted the "Separation of Powers Doctrine" of our Founders with their own court created Judicial Review Doctrine that bypassed the U.S. Congress... an unconstitutional legislating from the bench Activist Judicial maneuver to give the Supreme Court power over the other two branches of the U.S. Government. And, it has never been challenged or changed to this day.** —Al Barrs

These philosophies' ideas might sound familiar. The last topic contained excerpts from the Declaration of Independence. In that document, recall that Thomas Jefferson wrote that "all men are created equal; that they are endowed with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness." Jefferson had read Locke's Treatises very closely.

The Founding Fathers, colonial citizens all, who created the United States Constitution found great political wisdom in the past. The system of government in place in the United States combines Ancient Greek and Roman practices with ideas developed more than 1,000 years later in Europe. Most Americans living at the time the U.S. Constitution was written were familiar with Greek democracy, the Roman republic, the British parliamentary system, and the writings of Sir William Blackstone, Locke, Rousseau, Montesquieu and others. The Framers of the U.S. Constitution were deeply influenced by the many ideas on government developed during the previous 2,000 years.

### **Blackstone, Sir William (1723-1780)**

Sir William Blackstone was a British jurist and legal scholar, whose work *Commentaries on the Laws of England* was used for more than a century as the foundation of all legal education in Great Britain and the United States.

Blackstone was born in London on July 10, 1723. He received his education at the University of Oxford. From 1765 to 1769 Blackstone published the four volumes of his *Commentaries*, which were immediately successful in both England and the American colonies. The *Commentaries* provided an introduction to English law in a clear style that was easily understandable to the public. Although the authority of his sources, the accuracy of his statements, and the relevancy of his point of view have been subjected to severe criticism, the *Commentaries* are still significant as a comprehensive history of English law.

### **Thomas Hobbes (1588 - 1679):**

Hobbes lived in England. His views were influenced by the fact that he lived during the English Civil War, a time of violence and famine. Hobbes' view of human nature was that man was born evil and needed a strong hand to guide him. Thus, Hobbes believed in an absolute monarch. Hobbes said that in the state of nature there is no formal law, no order, no culture, and no hope. In other words, man lived in a state of total chaos where no man has any individual rights and all men are at war. Life is a constant battle for power, ending in death. Man needed some type of fear of authority in order to be able to be persuaded to follow the law. Hobbes discussed his beliefs on man and government in the book *Leviathan*. Hobbes believed that man gave up ALL his rights to the government, and that in return, the government provided security.

**Machiavelli:** In what is today Italy, in 1513 AD, Machiavelli wrote a book about political power, named *The Prince*. Machiavelli believed that most people were evil and corrupt. A centralized government with a strong leader would be the best type of government. The leader, according to Machiavelli, should do anything necessary to achieve what was best for his country. "The ends justify the means." *The Prince* became a must-read for many politicians in years to come, as it was viewed as a common sense, pragmatic approach to politics.

**Plato:** When Socrates was tried, convicted, and sentenced to death by a jury in Ancient Athens in 399 BC, his student, Plato, became bitter. Plato resented the democratic system that had put his mentor, Aristotle, to death. Plato believed that the best type of leader was a King. In his book, *The Republic*, he wrote that man was born evil. He wrote that society is naturally divided into three groups of people; society was naturally hierarchical. The three groups were warriors, workers, including merchants and farmers, and intellectuals. The King should come from the group of intellectuals and should be a philosopher-king *who rules benevolently and wisely*.

### **Terms**

Democracy - government by the people

Direct democracy - a system of government in which people participate directly in decision making through voting on issues

Citizenship - the status of a citizen, or member of a country, with all its duties, rights, and privileges

Republic - a system of government in which people elect representatives to govern them; also known as representative government

Absolute Monarch - an all powerful king and queen

Common Law - a system of law based on accepted customs, traditions, and past decisions

Limited Monarchy - a government in which the rule of the king and queen is held in check by a constitution or by another part of the government

--<http://www.earlyamerica.com/review/spring97/blackstone.html>

## Gun Opponents Should Learn What The Founder's Meant When They Wrote The Second Amendment

**..But maybe they have a reason for acting ignorant about our 2<sup>nd</sup> Amendment rights!—Al Barrs**

Every individual with a sense of humanity detests seeing families destroyed, innocent children sacrificed, and promising lives snuffed out, as witnessed at the Sandy Hook School, Connecticut in late 2012 AD.

The argument that reducing the number of guns will produce a safer society beguiles the public, promotes politicians, and fails to hold the perpetrator accountable for their actions.

Disarming innocent people *does not make innocent people safer*...it makes the less safe. Yet, the mob is even willing to *punishing innocent people* for the acts of the wicked.

**That people are safer in a society with less guns has been proven wrong for the past hundred plus years as it has been tried time and time again but failed each time and which fostered dictatorship takeovers of nations with unarmed populaces. There is there a deeper unmentioned subversive objective of those who use every tragedy to further their ideological objective of totalitarian rule over the United States, its people and our economy? Their action, during times of tragedy, begs the question of whether or not they welcome the deaths of Americans as a tactical advantage to promote their liberal-progressive-socialist ideological strategy. —Al Barrs**

While gun rights supporters assert that the right of the people to keep and bear arms, as found in the Second Amendment of our U.S. Constitution, is an individual right like the freedom of speech or religion, and has been supported by the U.S. Supreme Court, gun opponents assert that the right pertains only to collective bodies such as the militia, the military, police or National Guard. **What these "gun opponents" either ignore or are ignorant about is that the Bill of Rights are rights, some say God-given rights, of individuals not governments, not states, not society, not groups of individuals...but INDIVIDUAL RIGHTS!**

The problem with such thinking by anti-firearm advocates is that liberal-progressive-socialist view is the U.S. Bill of Rights is exclusively a body of individual rights, not social or government rights. The U.S. Bill of Rights consists of only the first ten amendments to the U.S. Constitution. Hence, the "militia" in the 2<sup>nd</sup> Amendment is a militia of individuals volunteers, not a National Guard or U.S. Army or Navy...—Al Barrs

The **Washington Post**, a liberal-progressive-socialist supporting newspaper, asserts, as a gun opponent, that "[T]he sale, manufacture and possession of handguns ought to be banned...[W]e do not believe the 2nd Amendment guarantees an individual right to keep them" they wrongly claim.<sup>1</sup> **Their claim has no basis in constitutional law. The law is firm. If they wish to pass a nullifying amendment to have the constitution say differently let them try to use the constitutional amendment process to ratify an alternate amendment. The fact is, they won't attempt an amendment because they know that they can not pass such an obviously critical restriction on American independence, freedom and self-defense.**—Al Barrs

Believing that our U.S. Constitution offers no protection for individual gun ownership, gun opponents therefore encourage efforts to restrict or ban citizens access to firearms and ammunition particularly handguns and semi-automatic long guns. Even United States Senator Diane Feinstein, (progressive D-CA) in her forthcoming legislation is planning to attempt to outlaw 120 makes of firearms.<sup>2</sup> **These actions on the part of gun opponents and Senator Feinstein are clearly violating their constitutional powers and are "infringing" on we citizen's individual "right to keep and bear arms"!**—Al Barrs

These opponents to our 2<sup>nd</sup> Amendment frequently utilize highly-publicized, tragic instances of violence (such as the Sandy Hook School shooting, the theater shooting in Colorado, etc.) to fortify their argument that guns should be left only in the hands of "professionals." **But who determines who the "professionals" are? Are they Homeland Security, FEMA, Unions...who? Certainly all the citizens of the U.S.A will not be allowed to choose who the professionals are.**—Al Barrs

The American Civil Liberties Union (ACLU), a supporter of liberal Democrat Senator Feinstein, has stated "[T]he individual's right to bear arms applies only to the preservation or efficiency of a 'well-regulated militia.'" Except for lawful police and military purposes, the possession of weapons by individuals is not constitutionally protected."<sup>3</sup>

**Not to use words more appropriate but salty, this liberal statement could not be any more wrong and is an indication of the levels these lowlife will stoop to make their BS case. They know better but ignore the intent and history of the U.S. Bill of Rights. They know well that the 'well-regulated militia' of the 2<sup>nd</sup> Amendment is a citizen organized, trained**

**and lead volunteer militia and no government or other body has any right to participate since the entire 2<sup>nd</sup> Amendment is an individual right not a government right! The ACLU is adept at spewing propaganda, misdirected information and anti-constitutional lies. —Al Barrs**

Cabinet Secretary of Education Arne Duncan, prefers to abandon our U.S. Constitution, stating in a speech given at a Washington DC elementary school that “We have common values that go far beyond the Constitutional right to bear arms.”<sup>4</sup>

**And I ask, what values are those Mr. Secretary Duncan?**

**That’s an interesting but unfounded and unprovable statement by an individual who knows better, but who does not care that she lies to school children who have never been taught the truth of American history and our leaders since our K-12 school systems all across the U.S.A. are controlled by liberal-progressive-socialist school boards, administrators and teachers. Duncan’s statement fit right in with what American’s liberal teachers are indoctrinating or brainwashing our children with today and since the 1950s AD. —Al Barrs**

Our American Founding Fathers understood that there exists inalienable rights that individuals possess and that our American government was formed with the sole purpose of defending and protecting those individual inalienable rights. Among civil societies this concept of safeguarding individual inalienable rights as the purpose of government is solely unique to our United States of America.

The Second Amendment is one of those inalienable rights the Founding Fathers demanded of the central government they created, embodied in our U.S. Constitution; and our political and government office holders all take an oath to protect and defend.

Opponents will twist the Founders original intent to argue that they never intended to allow citizens to be armed with semi-automatic rifles. The fact is that a common error in constitutional interpretation is the failure to examine a document according to its original meaning, intent and purpose.

**The people, individuals all, were not given the right to “keep and bear arms” to either hunt or for target shoot by our Founding Fathers...they were given the right to both “keep”, own, and “bear”, carry, firearms, for which no restrictions were made, to contain government within the limited enumerated powers of the U.S. Constitution. This assigned task of maintaining a free and independent nation was given to the citizens of the United States and it gave them the right to use whatever force and weapons they chose and required to defend our nation and states’ sovereignty. Anti-Second Amendment advocates claim semi-automatic**



firearms did not exist when our U.S. Constitution and Bill of Rights were ratified. They choose to ignore the fact that there were muskets, rifles, cannons of all sizes available and no restriction was put into any of our founding documents to restrict citizen's arms to squirrel rifles or fowling shotguns. Our Founders intended for the People to be adequately armed and trained to challenge an oppressive and tyrannical central government and win back our God-given right to have a limited and restricted central government. We the People, as individual were designated by our citizen Founding Fathers as caretaker of our citizen created limited central government, Nation and it was we who were given the right to replace a central government that becomes over oppressive and tyrannical in the Declaration of Independence, U.S. Constitution and Bill of Rights. It is the people charge by our Founders to protect the sovereignty of the United States of America, not a citizen created servant central government! —Al Barrs

James Wilson, one of only six Founders who signed both the Declaration of Independence and the U.S. Constitution, was nominated by President George Washington as an original Justice on the Supreme Court, exhorted: "*The first and governing maxim in the interpretation of a statute is to discover the meaning (or intention) of those (our Founders) who made it.*"<sup>5</sup>

Justice Joseph Story (appointed to the U.S. Supreme Court by President James Madison) also emphasized this principle, declaring: "*The first and fundamental rule in the interpretation of all [documents] is to construe them according to the sense of the terms and the intention of the parties.*"<sup>6</sup>

At the time it was framed, the Second Amendment was a certification to protect what was frequently called "*the first Law of Nature*"—the right of self-protection (self-defense)—an inalienable right; a right guaranteed to every individual citizen of the United States of America.

To understanding the import of the Second Amendment's intention to secure an individual's inalienable right "to keep and bear arms", it is important to establish the source of inalienable rights constitutionally. Constitution signer John Dickenson, like many of the others in his day, defined an inalienable right as a right "*which God gave to you and which no inferior power has a right to take away.*"<sup>7</sup> ...**Meaning the citizen created limited and restricted central government of the new United States of America.** —Al Barrs

Our Founders believed that it was the duty of government (An inferior power to the people!) to protect inalienable rights from encroachment or usurpation, and uphold the U.S. Constitution and Bill of Rights as ratified by the People of the sovereign states of the new union of states.

This was made clear by Justice Wilson, while a serving Justice on the U.S. Supreme Court, to his law students that the specific protections found in our United States founding documents

did not create new rights but rather secured old rights - that our documents were merely "...to acquire a new security for the possession or the recovery of those rights... which we were previously entitled by the immediate gift or by the unerring law of our all-wise and all-beneficent Creator."<sup>8</sup>

Justice Wilson asserted that *"...every government which has not this in view as its principal object is not a government of the legitimate kind."*<sup>9</sup>

Our Founders of the United States of America understood the source of inalienable rights was and is never given by nor do they emanate from any government body. When Government grants rights, government can remove those rights. Our Founders understood that self-defense is an inalienable personal right, and the Second Amendment simply assures each citizen that they have the tools necessary to defend their life, family and/or property from aggression, whether from an individual, foreigners or a domestic government!

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## Obama and Leahy vs. Sir William Blackstone





## Obama and Leahy vs. Sir William Blackstone

--By David Limbaugh May 25, 2012

Has President Obama's disrespectful attitude toward the United States Supreme Court caused a trickledown effect among the Democratic leadership in Congress, or was Senate Judiciary Committee Chairman Patrick Leahy's recent invective against Chief Justice John Roberts self-generated?

You will recall that in April, President Obama launched a salvo against the court about a pending case -- concerning ObamaCare (a Democrat health care law) -- seeking to either intimidate the U.S. Supreme Court justices into upholding the law or lay a foundation for political criticism should they strike it down.

At a news conference, Obama said, "Ultimately, I am confident that the Supreme Court will not take what would be an unprecedented, extraordinary step of overturning a law that was passed by a strong majority of a democratically elected Congress."

Never mind that ObamaCare did not represent the democratic will of the American people. **It was written and passed behind closed doors where Republican conservatives were not allowed to enter and Obama had it passed without anyone reading it in its entirety.** —Al Barrs

Neither was it conceived and passed in a democratic manner! What was unprecedented and extraordinary -- besides a piece of legislation's taking over more than one-seventh of the American economy and unconstitutionally mandating people to buy a product -- was for a sitting President to attempt to bully the U.S. Supreme Court to affect the outcome of a pending case.

Obama had already chastised The Court for ruling against his political will in the *Citizens United* case, but at least that was after the decision had been rendered. His brazen community-organizing comments concerning a not-yet-decided case was something else again and highly unethical if not unconstitutional.

Then, this week, on the Senate floor, Leahy issued what many called "a warning shot" to The Court. "Acting out based on their personal views on this matter," said Leahy, "would be the height of conservative judicial activism" and would reflect poorly on Roberts' legacy.

**Never mind the numerous times liberal-progressive-socialist U.S. Supreme Court and inferior Federal court justices have decided bases upon their own distorted ideology as "activist judges" making law from the bench...a wholly unconstitutional act.** —Al Barrs

The Democrat ruling class has become so arrogant about its ability to make Orwellian comments without fear of contradiction from the mainstream media that it doesn't even do a credible job of faking common-sense arguments anymore. **The socialists of the United States have come completely out of the closet to spew their Marxist ideology...**—*Al Barrs*

Notice, for example, how professed law professor Barack Hussein Obama attacks The Court, an institution that is honor-bound not to bend to the popular will that it must bend to the popular will...**and sadly did in Chief Justice Robert's case.** —*Al Barrs*

Though Obama and Leahy doubtlessly understand this -- notwithstanding their best imitation of ignorance on the matter -- Judicial Activism is not striking a law that was passed with overwhelming popular support, which ObamaCare, incidentally, most certainly was not! It is judges rewriting the U.S. Constitution and nullifying the Bill of Rights to achieve an ideological political outcome, as opposed to deciding cases according to the U.S. Constitution dictates, which is in itself unconstitutional and therefore unlawful.

If the court overturns this hideously unconstitutional (and enormously unpopular) law, it will not, Senator Leahy, be "acting out based on" its "personal views" or be the "height of conservative Judicial Activism" but will be a proper judicial corrective of an egregious legislative and Executive Branch **abuse of power.**

Just because it has been settled law, but unconstitutional, since 1803 in *Marbury v. Madison* that "it is emphatically the province and duty of the Judicial Branch to say what the law is" doesn't mean that the U.S. Congress and the President are exempted from their duty to enact laws that pass constitutional muster as they took oaths to do.

But you wouldn't know that by observing this crop of Democrat lawmakers, who revealed their contempt for the U.S. Constitution a few years ago on video, as they -- Nancy Pelosi and countless others -- mocked the idea that they are under any duty to ensure their enactments conform to constitutional precepts and intentions.

These rule of law-defying politicians would do well to heed the words of Sir William Blackstone, the venerable English jurist whose treatise "*Commentaries on the Laws of England*" long stood as the leading work on English law and was instrumental in the development of American Common Law and our entire legal system.

Sir Blackstone, who wrote in the 18th century, was no stranger to legislative arrogance and strongly affirmed the duty of legislators to take their role seriously. He wrote that those "who are ambitious of representing their country in parliament ... who are ambitious of receiving so high a trust, would also do well to remember its nature and importance." Their duty, he said, is not to "vote with or vote against a popular or unpopular Administration; but upon considerations

far more interesting and important. They are the guardians of the English Constitution; the makers, repealers and interpreters of the English laws; delegated to watch, to check, and to avert every dangerous innovation."

And consider this, Sir Blackstone statement in light of the 2,700-page behemoth that is ObamaCare: *"What kind of interpretation can (the legislator) be enabled to give, who is a stranger to the text upon which he comments."*

**And, how can they make a meaningful constitutional interpretation of a law without having read it?—Al Barrs**

Quoting "Tully," Sir Blackstone continued, "It is necessary for a senator to be thoroughly acquainted with the Constitution; and this (he declares) is a knowledge of the most extensive nature; a matter of science, of diligence, of reflection; without which no senator can possibly be fit for his office."

Indeed! The same goes for a President too!

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## **Gun Control Fact-Sheet**

### **Gun Owners of America**

By the GOA Administrator

September 19, 2008

--By Gun Owners Foundation 8001 Forbes Place, Suite 102 Springfield, VA 22151 March 2004: <http://gunowners.org/fs0404.htm>

### **1. Highlights**

\*Guns are used 2.5 million times a year in self-defense. Law-abiding citizens use guns to defend themselves against criminals as many as 2.5 million times every year—or about 6,850 times a day.<sup>(1)</sup> This means that each year, firearms are used more than 80 times more often to protect the lives of honest citizens than to take lives.<sup>(2)</sup>

\*Even anti-gun William Jefferson Clinton, former President of the U.S.A., researchers concede that guns are used 1.5 million times annually for self-defense. According to the Clinton Justice Department, there were as many as 1.5 million cases of self-defense with a firearm every year. *The National Institute of Justice* published this figure in 1997 as part of "Guns in America"—a study which was authored by noted anti-gun criminologists Philip Cook and Jens Ludwig.<sup>(3)</sup>

\*Concealed carry laws have reduced murder and crime rates in the states that have enacted them. According to a comprehensive study which reviewed crime statistics in every county in the United States from 1977 to 1992, states which passed concealed carry laws reduced their rate of murder by 8.5%, rape by 5%, aggravated assault by 7% and robbery by 3%.(4)

\*Anti-gun journal pronounces the failure of the Brady law. One of the nation's leading anti-gun medical publications, the *Journal of the American Medical Association*, found that the Brady registration law has failed to reduce murder rates. In August 2000, JAMA reported that states implementing waiting periods and background checks did "not [experience] reductions in homicide rates or overall suicide rates."(5)

\*Twice as many children are killed playing football in school than are murdered by guns. That's right! Despite what media coverage might seem to indicate, there are more deaths related to high school football than guns. In a recent three year period, twice as many football players died from hits to the head, heat stroke, etc.(45), as compared with students who were murdered by firearms(22) during that same time period.(6)

\*More guns, less crime! In the decade of the 1990s, the number of guns in the U.S.A. increased by roughly 40 million—even while the murder rate decreased by almost 40% percent.<sup>7</sup> Accidental gun deaths in the home decreased by almost 40 percent as well.(8)

\*CDC admits there is no evidence that gun control reduces crime. The Centers for Disease Control (CDC) has long been criticized for propagating questionable studies which gun control organizations have used in defense of their cause. But after analyzing 51 studies in 2003, the CDC concluded that the "evidence was insufficient (which meant there was no evidence) to determine the effectiveness of any of these [firearms] laws."(9)

\*Gun shows are NOT a primary source of illegal guns for criminals. According to two government studies, the *National Institute of Justice* reported in 1997 that "less than two percent [of criminals] reported obtaining [firearms] from a gun show."(10) And the *Bureau of Justice Statistics* revealed in 2001 that less than one percent of firearm offenders acquired their weapons at gun shows.(11)

\*Several polls show that Americans are very pro-gun. Several scientific polls indicate that the right to keep and bear arms is still revered—and gun control disdained—by a majority of Americans today.

To mention just a few recent polls:

\*In 2002, a liberal *ABC News* poll found that almost three-fourths of the American public believe that the Second Amendment of the U.S. Constitution protects the rights of "individuals" to own guns.<sup>(12)</sup>

\*Zogby pollsters found that by a more than 3 to 1 margin, Americans support punishing "criminals who use a gun in the commission of a crime" over legislation to "ban handguns."<sup>(13)</sup>

\*A Research 2000 poll found that 85% of Americans would find it appropriate for a principal or teacher to use "a gun at school to defend the lives of students" to stop a school massacre.<sup>(14)</sup>

\*A skewed study claiming "guns are three times more likely to kill you than help you" is a total fraud! Even using the low figures from the Clinton Justice Department, firearms are used almost 50 times more often to save life than to take life.<sup>(15)</sup> More importantly, however, the figure claiming one is three times more likely to be killed by one's own gun is a total lie:

\*Researcher Don Kates reveals that all available data now indicates that the "home gun homicide victims [in the flawed study] were killed using guns not kept in the victim's home."<sup>(16)</sup>

\*In other words, the victims were NOT murdered with their own guns! They were killed "by intruders who brought their own guns to the victim's household."<sup>(17)</sup> Duh!

\*Gun-free England not such a utopia after all. According to the liberal *BBC News*, handgun crime in the United Kingdom rose by 40% in the two years after it passed its draconian gun ban in 1997.<sup>(18)</sup> And according to a United Nations study, British citizens are more likely to become a victim of crime than are people in the United States. The 2000 report shows that the crime rate in England is higher than the crime rates of 16 other industrialized nations, including the United States.<sup>(19)</sup>

## **2. Self-defense**

### **A. Guns save more lives than they take; prevent more injuries than they inflict**

\*Guns are used 2.5 million times a year in self-defense. Law-abiding citizens use guns to defend themselves against criminals as many as 2.5 million times every year—or about 6,850 times a day.<sup>(20)</sup> This means that each year, firearms are used more than 80 times more often to protect the lives of honest citizens than to take lives.<sup>(21)</sup>

\*Of the 2.5 million times citizens use their guns to defend themselves every year, the overwhelming majority merely brandish (show or expose) their firearm or fire a warning shot to

scare off their attackers. Less than 8% of the time, a citizen will kill or wound his/her attacker.<sup>(22)</sup>

\*As many as 200,000 women use a gun every year to defend themselves against sexual abuse.<sup>(23)</sup>

\*Even anti-gun Bill Clinton researchers concede that guns are used 1.5 million times annually for self-defense. According to the Clinton Justice Department, there are as many as 1.5 million cases of self-defense with a firearm every year. *The National Institute of Justice* published this figure in 1997 as part of "Guns in America"—a study which was authored by noted anti-gun criminologists Philip Cook and Jens Ludwig.<sup>(24)</sup>

\*Armed citizens kill more crooks than do the police. Citizens shoot and kill at least twice as many criminals as police do every year (1,527 to 606)<sup>(25)</sup>. And readers of liberal *Newsweek* magazine learned that "only 2 percent of civilian shootings involved an innocent person mistakenly identified as a criminal. The 'error rate' for the police, however, was 11 percent, more than five times as high."<sup>(26)</sup>

\*Handguns are the weapon of choice for self-defense. Citizens use handguns to protect themselves over 1.9 million times a year.<sup>(27)</sup> Many of these self-defense handguns could be labeled as "Saturday Night Specials."

## **B. Concealed carry laws help reduce crime**

\*Nationwide: One-half million self-defense uses. Every year, as many as one-half million citizens defend themselves with a firearm away from home.<sup>(28)</sup>

\* Concealed carry laws are dropping crime rates across the country. A comprehensive national study determined in 1996 that violent crime fell after states made it legal to carry concealed firearms. The results of the study showed:

\* States which passed concealed carry laws reduced their rate of murder by 8.5%, rape by 5%, aggravated assault by 7% and robbery by 3%:<sup>(29)</sup> and

\* If those states not having concealed carry laws had adopted such laws in 1992, then approximately 1,570 murders, 4,177 rapes, 60,000 aggravated assaults and over 11,000 robberies would have been avoided yearly.<sup>(30)</sup>

\* Vermont: one of the safest five states in the country. In Vermont, citizens can carry a firearm without getting permission . . . without paying a fee . . . or without going through any kind of government-imposed waiting period. And yet for ten years in a row, Vermont has

remained one of the top-five, safest states in the union—having three times received the "Safest State Award."(31)

\* Florida: Concealed carry helps slash the murder rate in the state. In the fifteen years following the passage of Florida's concealed carry law in 1987, over 800,000 permits to carry firearms were issued to people in the state.(32) FBI reports show that the homicide rate in Florida, which in 1987 was much higher than the national average, fell 52% during that 15-year period—thus putting the Florida rate below the national average.(33)

\* Do firearms carry laws result in chaos? No. Consider the case of Florida. A citizen in the Sunshine State is far more likely to be attacked by an alligator than to be assaulted by a concealed carry holder.

\* During the first fifteen years that the Florida law was in effect, alligator attacks outpaced the number of crimes committed by carry holders by a 229 to 155 margin.(34)

\* And even the 155 "crimes" committed by concealed carry permit holders are somewhat misleading as most of these infractions resulted from Floridians who accidentally carried their firearms into restricted areas, such as an airport.(35)

\* Concealed Carry v. Waiting Period Laws. In 1976, both Georgia and Wisconsin tried two different approaches to fighting crime. Georgia enacted legislation making it easier for citizens to carry guns for self-defense, while Wisconsin passed a law requiring a 48 hour waiting period before the purchase of a handgun. What resulted during the ensuing years? Georgia's law served as a deterrent to criminals and helped drop its homicide rate by 21 percent. Wisconsin's murder rate, however, rose 33 percent during the same period.(36)

### **C. Criminals avoid armed citizens**

\* Kennesaw, GA. In 1982, this suburb of Atlanta passed a law requiring heads of households to keep at least one firearm in the house. The residential burglary rate subsequently dropped 89% in Kennesaw, compared to the modest 10.4% drop in Georgia as a whole.(37)

\* Ten years later (1991), the residential burglary rate in Kennesaw was still 72% lower than it had been in 1981, before the law was passed.(38)

\* Nationwide. Statistical comparisons with other countries show that burglars in the United States are far less apt to enter an occupied home than their foreign counterparts who live in countries where fewer civilians own firearms. Consider the following rates showing how often a homeowner is present when a burglar strikes:



\* Homeowner occupancy rate in the gun control countries of Great Britain, Canada and Netherlands: 45% (average of the three countries); and,

\* Homeowner occupancy rate in the United States: 12.7%.(39)

### **Rapes averted when women carry or use firearms for protection**

**Pakistani women and girls are being raped as I write this because their government will not allow the women and girls of Pakistan to have any means of self-defense. They have been told to take knives, pepper spray, etc. to protect themselves, but that of course is no deterrent to a street gang of hoodlums. Will this be American women and girls fate if Obama's effort to eliminate our 2<sup>nd</sup> Amendment rights are bypassed! ...Yes but it will be worse because all the people of the United States will become slaves or subjects of a Marxist communist party style form of government. —Al Barrs January 26, 2013**

\* Orlando, FL. In 1966-67, the media highly publicized a safety course which taught Orlando women how to use guns. The result: Orlando's rape rate dropped 88% in 1967, whereas the rape rate remained constant in the rest of Florida and the nation.(40)

\* Nationwide. In 1979, the Carter Justice Department found that of more than 32,000 attempted rapes, 32% were actually committed. But when a woman was armed with a gun or knife, only 3% of the attempted rapes were actually successful.(41)

### **Justice Department study:**

\* 3/5 of felons polled agreed that "a criminal is not going to mess around with a victim he knows is armed with a gun."(42)

\* 74% of felons polled agreed that "one reason burglars avoid houses when people are at home is that they fear being shot during the crime."(43)

\* 57% of felons polled agreed that "criminals are more worried about meeting an armed victim than they are about running into the police."(44)

### **D. Police cannot protect—and are not required to protect—every individual**

\* The courts have consistently ruled that the police do not have an obligation to protect individuals, only the public in general. For example, in *Warren v. D.C.* the court stated "courts have without exception concluded that when a municipality or other governmental entity undertakes to furnish police services, it assumes a duty only to the public at large and not to individual members of the community."(45)

\* Former Florida Attorney General Jim Smith told Florida legislators that police responded to only about 200,000 of 700,000 calls for help to Dade County authorities. Smith was asked why so many citizens in Dade County were buying guns and he said, "They damn well better, they've got to protect themselves."<sup>(46)</sup>

\* The Department of Justice found that in 1989, there were 168,881 crimes of violence which were not responded to by police within 1 hour.<sup>(47)</sup>

\* The numbers clearly show that the police cannot protect every individual. In 1996, there were about 150,000 police officers on duty at any one time to protect a population of more than 260 million Americans—or more than 1,700 citizens per officer.<sup>(48)</sup>

### ***3. Failure of Gun Control***

#### **A. Poor track record**

\* Washington, D.C. has, perhaps, the most restrictive gun control laws in the country, and yet it is frequently the Murder Capital of the nation. In the 25 years following the DC gun ban, its murder rate INCREASED 51 percent, even while the national rate DECREASED 36 percent.<sup>(49)</sup>

\* Objection: Critics claim criminals merely get their guns in Virginia where the laws are more relaxed. This, they argue, is why the D.C. gun ban is not working.

\* Answer: Perhaps criminals do get their guns in Virginia, but this overlooks one point: If the availability of guns in Virginia is the root of D.C.'s problems, why does Virginia not have the same murder and crime rate as the District? Virginia is awash in guns and yet the murder rate is much, much lower. This holds true even for Virginia's urban areas, as seen by the following comparison on the 25-year anniversary of the DC gun ban (in 2001):

#### **City Murder rates: 25 years after DC's ban**

Washington, DC

46.4 per 100,000<sup>(50)</sup>

Arlington, VA

2.1 per 100,000<sup>(51)</sup>

(Arlington is just across the river from D.C.)

Total VA metropolitan area

6.1 per 100,000<sup>(52)</sup>

\* Guns are not the problem. On the contrary, lax criminal penalties and laws that disarm the law-abiding are responsible for giving criminals a safer working environment.

## **B. Criminologists turning from anti-gun position**

\* Dr. Gary Kleck. A criminologist at Florida State University, Kleck began his research as a firm believer in gun control. But in a speech delivered to the National Research Council, he said while he was once "a believer in the 'anti-gun' thesis," he has now moved "beyond even the skeptic position." Dr. Kleck now says the evidence "indicates that general gun availability does not measurably increase rates of homicide, suicide, robbery, assault, rape, or burglary in the U.S."<sup>(53)</sup>

\* James Wright. Formerly a gun control advocate, Wright received a grant from President Carter's Justice Department to study the effectiveness of gun control laws. To his surprise, he found that waiting periods, background checks, and all other gun control laws were not effective in reducing violent crime.<sup>(54)</sup>

\* Wright says that at one time, "It seemed evident to me, we needed to mount a campaign to resolve the crisis of handgun proliferation." But he says, "I am now of the opinion that a compelling case for 'stricter gun control' cannot be made."<sup>(55)</sup>

\* Every scholar who has "switched" has moved away from the anti-gun position. Dave Kopel, an expert in constitutional issues and firearms research, categorically states that, "Every scholar who has 'switched' has 'switched' to the side that is skeptical of controls. Indeed, most of the prominent academic voices who are gun control skeptics—including law professor Sanford Levinson and criminologists Gary Kleck and James Wright—are people who, when they began studying guns, were supporters of the gun control agenda."<sup>(56)</sup>

\* Kopel continues: "I do not know of a single scholar who has published a pro-control article who started out as a skeptic of gun control. This suggests how heavily the weight of the evidence is distributed, once people begin studying the evidence."<sup>(57)</sup>

## ***4. Problems with waiting periods and background checks***

### **A. Waiting periods threaten the safety of people in imminent danger**

\* Bonnie Elmasri—She inquired about getting a gun to protect herself from a husband who had repeatedly threatened to kill her. She was told there was a 48 hour waiting period to buy a handgun. But unfortunately, Bonnie was never able to pick up a gun. She and her two sons were killed the next day by an abusive husband of whom the police were well aware.<sup>(58)</sup>

\* Marine Cpl. Rayna Ross—She bought a gun (in a non-waiting period state) and used it to kill an attacker in self-defense two days later.(59) Had a 5-day waiting period been in effect, Ms. Ross would have been defenseless against the man who was stalking her.

\* Los Angeles riots—USA Today reported that many of the people rushing to gun stores during the 1992 riots were "lifelong gun-control advocates, running to buy an item they thought they'd never need." Ironically, they were outraged to discover they had to wait 15 days to buy a gun for self-defense.(60)

## **B. Prior restraints on rights are unconstitutional**

### **1. Second Amendment protects an individual right**

Report by the U.S. Senate Subcommittee on the Constitution (1982) —"The conclusion is thus inescapable that the history, concept, and wording of the second amendment to the Constitution of the United States, as well as its interpretation by every major commentator and court in the first half-century after its ratification, indicates that what is protected is an individual right of a private citizen to own and carry firearms in a peaceful manner."(61)

Supreme Court admits "the people" in the Second Amendment are the same "people" as in the rest of the Bill of Rights—In *U.S. v. Verdugo-Urquidez* the Court stated that "'the people' seems to have been a term of art employed in select parts of the Constitution. . . . [and] it suggests that 'the people' protected by the Fourth Amendment, and by the First and Second Amendments, and to whom rights and powers are reserved in the Ninth and Tenth Amendments, refers to a class of persons who are part of a national community or who have otherwise developed sufficient connection with this country to be considered part of that community."(62)

### **2. Courts agree that rights should be free from prior restraints**

*Near v. Minnesota*—In this case, the Supreme Court stated that government officials should punish the abuse of a right and not place prior restraints on the exercise of the right.(63)

What about yelling "Fire" in a crowded theater?—The courts have stated that one cannot use his "freedom of speech" to yell "Fire" in a crowded theater. And yet, no one argues that officials should gag everyone who goes into the theater, thus placing a prior restraint on moviegoers. The proper response is to punish the person who does yell "Fire." Likewise, citizens should not be "gagged" before exercising their Second Amendment rights, rather they should be punished if they abuse that right.

## **C. Background checks invite official abuse**

\* A review of FBI computer records reveals that the firearms industry was shut down for more than eight full business days during the first six months that the National Instant Background Check (NICS) was online. Many of these shutdowns have resulted in the virtual blackout of gun sales at gun shows across the country.

\* According to gun laws expert Alan Korwin, "With the NICS computer out of commission, the only place you could legally buy a firearm—in the whole country—was from a private individual, since all dealers were locked out of business by the FBI's computer problem."<sup>(64)</sup>

#### **D. Background checks can (and do) lead to gun registration**

\* Justice Department report (1989). "Any system that requires a criminal history record check prior to purchase of a firearm creates the potential for the automated tracking of individuals who seek to purchase firearms."<sup>(65)</sup>

\* Justice Department initiates registration (1994). The Justice Department gave a grant to the city of Pittsburgh and Carnegie Mellon University to create a sophisticated national gun registry using data compiled from states' background check programs. This attempt at registration was subsequently defeated in the courts.<sup>(66)</sup>

\* More gun owner registration (1996). Computer software distributed by the Justice Department allowed police officials to easily (and unlawfully) register the names and addresses of gun buyers. This software -- known as FIST -- also kept information such as the type of gun purchased, the make, model and caliber, the date of purchase, etc.<sup>(67)</sup> This demonstrates how easily background checks can be used to register gun owners' information.<sup>(68)</sup>

\* Federal Bureau of Investigation registers gun owners (1998). Despite prohibitions in federal law, the FBI announced that it would begin keeping gun buyer's names for six months. FBI had originally wanted to keep the names for 18 months, but reduced the time period after groups like Gun Owners of America strongly challenged the legality of their actions. GOA submitted a formal protest to the FBI, calling their attempt at registration both "unlawful" and "unconstitutional."<sup>(69)</sup>

\* California. State officials have used the state background check—required during the waiting period—to compile an illegal registry of handgun owners. These lists have been compiled without any statutory authority to do so.<sup>(70)</sup>

\* Nationwide. Highly acclaimed civil rights attorney, researcher and author, David Kopel, has noted several states where either registration lists have been illegally compiled from background checks or where such registration lists have been abused by officials.<sup>(71)</sup>

## E. Myth: The Brady registration law is dropping crime rates

\* Fact: Anti-gun journal pronounces the failure of the Brady law. One of the nation's leading anti-gun medical publications, the Journal of the American Medical Association, found that the Brady registration law has failed to reduce murder rates. In August 2000, JAMA reported that states implementing waiting periods and background checks did "not [experience] reductions in homicide rates or overall suicide rates."<sup>(72)</sup>

\* Fact: Brady checks are not taking criminals off the streets. Not every person who is denied a firearm is truly a criminal, as many persons have been denied erroneously. But even assuming each denial was legitimate, the Brady law is still not taking criminals off the streets (and thus keeping them from getting firearms).

The Washington Times reported in 1999 that, "Although federal officials say about 400,000 persons have been prevented from buying guns by the instant check system, only one has been prosecuted by the Department of Justice in the last three years."<sup>(73)</sup>

\* Fact: The Brady law has NOT stopped thugs like Benjamin Smith from going on killing sprees. In 1999, Benjamin Smith was rejected by a background check when he tried to buy a firearm from an Illinois gun dealer. But after this initial rejection, "he hit the streets and in just three days had two handguns" from an illegal source, reported the Associated Press. Three days after getting the guns, Smith went on a rampage that killed two people and wounded nine others.

\* Fact: The Brady Law is not physically keeping criminals from getting firearms. The simple truth is that any person who's denied a firearm can simply walk out the door and buy a gun down the street. Ohio's Attorney General, Betty Montgomery, testified to this very irony in the law in 1997:

"In 1996, 60,037 people went to licensed gun dealers to purchase handguns. Of that figure, 327—less than one half of one percent—were denied because of a disqualifying factor. . . . [W]hile we were able to keep 327 people from getting a handgun at point A—each of them was able to purchase a rifle or handgun the very same day at point B. To our knowledge, under the Brady Act, not a single one of the 327 people . . . have been prosecuted by the U.S. Justice Department."<sup>(74)</sup>

\* Criminals bypass gun controls. **(In fact criminals love and support gun controls of any and all kinds...it makes their businesses safer. Criminals know who has guns - them - and not their victims.—Al Barrs)** A Justice Department survey of felons showed that 93% of handgun predators had obtained their most recent guns "off-the-record."<sup>(75)</sup> And press reports show

that the few criminals who get their guns from retail outlets can easily get fake IDs or use surrogate buyers, known as "straw purchasers," to buy their guns.<sup>(76)</sup>

\* Legal gun shows are not a problem. Some have demonized gun shows and claimed that these are the outlets where criminals supposedly get their weapons. But the Clinton Justice Department found that less than two percent of the people arrested for using firearms in homicide got their weapons from gun shows.<sup>(77)</sup>

\* Fact: The Department of Justice has grossly overstated the number of people who were denied firearms. The Indianapolis Star and News reported in 1998 that the U.S. Department of Justice had overstated the number of people who were denied firearms in Indiana alone by more than 1,300%. Indiana was not an aberration, as the newspaper found that "paperwork errors and duplications inflated the [DOJ's] numbers" in many states.<sup>(78)</sup>

#### **F. General Accounting Office questions the Brady law's supposed effectiveness**

\* The Brady Law has failed to result in the incarceration of dangerous criminals. After the first year and a half, there were only seven successful prosecutions for making false statements on Brady handgun purchase forms—and only three of them were actually incarcerated.<sup>(79)</sup> Because the situation hardly improved in subsequent years, one cannot argue that the law is working to keep violent criminals from getting handguns on the street.<sup>(80)</sup>

\* The Brady Law has ERRONEOUSLY denied firearms to thousands of applicants. Over fifty percent of denials under the Brady Law are for administrative snafus, traffic violations, or reasons other than felony convictions.<sup>(81)</sup>

\* Gun control advocates admit the Brady Law is not a panacea. According to a January, 1996 report by the General Accounting Office, "Proponents [of gun control] acknowledge that criminal records checks alone will not prevent felons from obtaining firearms."<sup>(82)</sup>

\* Criminals can easily evade the background checks by using straw purchasers: "Opponents of gun control note that criminals can easily circumvent the law by purchasing handguns on the secondary market or by having friends or spouses without a criminal record make the purchases from dealers."<sup>(83)</sup>

#### **5. Problems with gun registration and licensing**

##### **A. Licensing or registration can lead to confiscation of firearms**

###### **1. New York City**



\* Registration. In the mid-1960's officials in New York City began registering long guns. They promised they would never use such lists to take away firearms from honest citizens. But in 1991, the city banned (and soon began confiscating) many of those very guns.<sup>(84)</sup>

\* Confiscation. In 1992, a New York City paper reported that, "Police raided the home of a Staten Island man who refused to comply with the city's tough ban on assault weapons, and seized an arsenal of firearms. . . . Spot checks are planned [for other homes]."<sup>(85)</sup>

## 2. California

Part 1: The Golden State passed a ban on certain semi-automatic firearms in 1989. Banned guns could be legally possessed if they were registered prior to the ban. In the Spring of 1995, one man who wished to move to California asked the Attorney General whether his SKS Sporter rifle would be legal in the state. The citizen was assured the rifle was legal, and based on that information, he subsequently moved into the state. But in 1998, the state's Attorney General reversed course and officials confiscated the firearm.<sup>(86)</sup> In a legal brief before the state supreme court, Attorney General Daniel Lungren said that "tens of thousands of California citizens" would have to either surrender their firearms or become felons.<sup>(87)</sup>

Part 2: Having registered the firearms, the California Department of Justice issued a notice in 1999 to explain how more than 1,500 individuals in the state were in possession of illegal firearms—all of which were subject to forfeiture without compensation.<sup>(88)</sup>

Part 3: Plans to confiscate firearms in California were leaked to the public in 1999, sending shock waves through the gun rights community. The document entitled "Relinquishment of Assault Weapons" stated: "Once the 90-day window of opportunity for turning in such assault weapons concludes, we will send each sheriff and police chief a listing of the affected individuals [who own banned firearms]."<sup>(89)</sup>

## 3. Foreign Countries

\* Gun registration has led to confiscation in several countries, including Greece, Ireland, Jamaica and Bermuda.<sup>(90)</sup>

\* And in an exhaustive study on this subject, Jews for the Preservation of Firearms Ownership has researched and translated several gun control laws from foreign countries. Their publication, *Lethal Laws: "Gun Control" is the Key to Genocide* documents how gun control (and confiscation) has preceded the slaughter and genocide of millions of people in Turkey, the Soviet Union, Germany, China, Cambodia and others.<sup>(91)</sup>

## **B. People in imminent danger can die waiting for a firearms license**

\* Igor Hutorsky was murdered by two burglars who broke into his Brooklyn furniture store. The tragedy is that some time before the murder his business partner had applied for permission to keep a handgun at the store. Even four months after the murder, the former partner had still not heard from the police about the status of his gun permit.<sup>(92)</sup>

## **C. The power to license a right is the power to destroy a right**

\* Arbitrary Delays—While New Jersey law requires applications to be responded to within thirty days, delays of ninety days are routine; sometimes, applications are delayed for several years for no readily apparent reason.<sup>(93)</sup>

\* Arbitrary Denials—Officials in New York City routinely deny gun permits for ordinary citizens and store owners because, as the courts have ruled, they have no greater need for protection than anyone else in the city. In fact, the authorities have even refused to issue permits when the courts have ordered them to do so.<sup>(94)</sup>

\* Arbitrary Fee Increases—In 1994, the Clinton administration pushed for a license fee increase of almost 1,000 percent on gun dealers. According to U.S. News & World Report, the administration was seeking the license fee increase "in hopes of driving many of America's 258,000 licensed gun dealers out of business."<sup>(95)</sup>

## **D. Officials cannot license or register a constitutional right**

\* The Supreme Court held in *Lamont v. Postmaster General* (1965) that the First Amendment prevents the government from registering purchasers of magazines and newspapers—even if such material is "communist political propaganda."<sup>(96)</sup>

## **6. Assault weapons: fact or fiction?**

### **A. Definition of real "assault weapons"**

\* According to one of the preeminent experts in the field of firearms, Dr. Edward Ezell,<sup>(97)</sup> a key characteristic of a true assault weapon is that it must have the capability of "full automatic fire."<sup>(98)</sup> Similarly, the U.S. Defense Department defines real assault weapons as "selective-fire weapons"—meaning that these guns can fire either automatically or semi-automatically.<sup>(99)</sup>

\* Anti-gun pundits in recent years have managed to define "assault weapons" as semi-automatic firearms which only externally resemble a military firearm.<sup>(100)</sup> Dr. Edward Ezell notes that true

assault weapons "were designed to produce roughly aimed bursts of full automatic fire"<sup>(101)</sup> — something which a semi-automatic firearm does not do.

## **B. Semi-automatic "assault rifles" are no different than many hunting rifles**

\* Officer William McGrath: "These [semi-automatic assault rifles] are little different than the semi-automatic hunting rifles that have been on the market since before World War II. The main difference between an assault rifle and a semi-automatic hunting rifle is that the assault rifle looks more 'military.'"<sup>(102)</sup>

\* "The term 'assault' rifle is really a misnomer as a true assault rifle is a selective fire weapon capable of switching from fully automatic to semi automatic and back with the flip of a lever."<sup>(103)</sup>

\* "The charge that the assault rifle holds more rounds than a 'legitimate' hunting rifle shows either a lack of knowledge or a deliberate twisting of the facts, as 10, 20 and 30 round magazines for 'legitimate' hunting rifles have been on the market for decades without the world coming to an end."<sup>(104)</sup>

## **C. So-called 'assault weapons' have never been the "weapon of choice" for criminals**

(All of the following figures pre-date the "assault weapons" ban passed by Congress in 1994)

\* Police View: Over 100,000 police officers delivered a message to Congress in 1990 stating that only 2% to 3% of crimes are committed using a so-called "assault weapon."<sup>(105)</sup>

\* New Jersey: The New York Times reported that, "Although New Jersey's pioneering ban on military-style assault rifles was sold to the state as a crime-fighting measure, its impact on violence in the state . . . has been negligible, both sides agree."<sup>(106)</sup> Moreover, New Jersey police statistics show that only .026 of 1 percent of all crimes involves "assault rifles."<sup>(107)</sup>

\* Nationwide: The Bureau of Justice Statistics reported in 1993 that violent criminals only carry or use a "military-type gun" in about one percent of the crimes nationwide.<sup>(108)</sup>

\* Knives more deadly: According to the FBI, people have a much greater chance of being killed by a knife or a blunt object than by any kind of rifle, including an "assault rifle."<sup>(109)</sup> In Chicago, the chance is 67 times greater. That is, a person is 67 times more likely to be stabbed or beaten to death in Chicago than to be murdered by an "assault rifle."<sup>(110)</sup>

\* Cops' own guns more deadly: So-called assault weapons are not menacing police officers nationwide. The FBI reports show that before the 1994 ban on semi-automatic "assault

weapons," no more than three officers were killed in any one year by such guns.<sup>(111)</sup> Contrastly, police officers were more than three times as likely to be killed by their own guns than by "assault weapons."<sup>(112)</sup>

\* It would seem one can't have it both ways. If Congress wants to ban weapons that are dangerous to police, then it should begin by pushing for a ban on police officers' own weapons, since these guns kill far more often than "assault weapons." The same is true with knives and blunt objects. These instruments kill policemen more often than semi-automatic "assault weapons."<sup>(113)</sup>

\* Sarah Brady's own figures show that so-called assault weapons are not the criminal's "weapon of choice." A study published by Handgun Control, Inc. in November of 1995 shows that the overwhelming majority of guns used to murder police officers are not "assault weapons."<sup>(114)</sup> The irony is that HCI used a very inflated definition of "assault weapon" and still could not demonstrate that they are used in over 50% of the crimes.<sup>(115)</sup>

\* Does tracing of crime guns show that "assault weapons" are the weapons of choice for criminals? No. Gun control advocates will often make the claim that so-called assault weapons are frequently used in crime. To justify this claim, such advocates will cite as "evidence" the fact that law-enforcement run a high percentage of traces on these types of firearms. But this is a classic example of circular reasoning: law enforcement arbitrarily run a high percentage of trace requests on "assault weapons," and then this figure is used to justify the "fact" that these guns are frequently used in crime. Consider the following:

\* Tracing requests are not representative of all guns used in crime. The Congressional Research Service states that, "Firearms selected for tracing do not constitute a random sample and cannot be considered representative of the larger universe of all firearms used by criminals."<sup>(116)</sup> (Emphasis added.) Moreover, BATF agents themselves have stated that, "ATF does not always know if a firearm being traced has been used in a crime."<sup>(117)</sup>

\* Tracing requests are not random samples. CRS notes that "ATF tracing data could be potentially biased because of screening conducted by local ATF agents prior to the submission of the tracing form."<sup>(118)</sup> This means that police could, if they wanted, only trace so-called assault weapons. Would this mean that they are the only guns used in crime? No, it would just mean that law enforcement have a particular interest in tracing "assault weapons" over other guns.

\* Tracing in L.A. That tracing is an unreliable measure of a gun's use in crime is clear. For example, in 1989 in Los Angeles, "assault rifles" represented approximately only 3% of guns seized, but 19% of gun traces.<sup>(119)</sup>

## **D. Semi-automatic "assault weapons" are excellent for self-defense**

\* Police Capt. Massad Ayoob: "The likelihood of multiple opponents who move fast, often wear body armor, know how to take cover, and tend to ingest chemicals that make them resistant to pain and shock, are all good reasons for carrying guns that throw a whole lot more bullets than six-shooters do."<sup>(120)</sup> **(Emphasis added.)**

\* "All four of these factors make it likely that more of the *Good Guys'* bullets will be expended before the *Bad Guys* are neutralized. All of these factors, therefore, militate for a higher capacity handgun in the hands of the lawful defenders."<sup>(121)</sup>

### 1. Drugs and alcohol can make criminals resistant to pain

Arkansas: A drunk opened fire on an officer, who responded by firing 29 shots—15 of them striking the criminal. It was only the last bullet which finally killed the drunk and effectively stopped him from shooting.<sup>(122)</sup>

Illinois: Police shot a drug-induced criminal 33 times before the junkie finally dropped and was unable to shoot any longer.<sup>(123)</sup>

### 2. Hi-capacity semi-autos can help decent people to defend themselves

Los Angeles riots: Many of the guns targeted by so-called assault weapons bans are the very guns with which the Korean merchants used to defend themselves during the 1992 Los Angeles riots.<sup>(124)</sup> Those firearms proved to be extremely useful to the Koreans. Their stores were left standing while other stores around them were burned to the ground.

The Korean merchants would probably agree with Capt. Massad Ayoob. When one is facing mob violence and the police are nowhere to be found, one needs a gun that shoots more than just six bullets. A ban on large capacity semi-automatic firearms will only harm one's ability to defend himself and his family.

## **E. The Second Amendment protects an individual's right to own military rifles and handguns**

\* Report by the U.S. Senate Subcommittee on the Constitution (1982)—"In the Militia Act of 1792, the second Congress defined 'militia of the United States' to include almost every free adult male in the United States. These persons were obligated by law to possess a [military-style] firearm and a minimum supply of ammunition and military equipment. . . . There can be little doubt from this that when the Congress and the people spoke of the a 'militia,' they had reference to the traditional concept of the entire populace capable of bearing arms, and not to any formal group such as what is today called the National Guard."<sup>(125)</sup>

\* The Supreme Court—In *U.S. v. Miller*, the Court stated that, "The Militia comprised all males physically capable of acting in concert for the common defense . . . [and that] when called for service, these men were expected to appear bearing arms supplied by themselves and of the kind in common use at the time."<sup>(126)</sup>

## **7. Firearms statistics**

### **A. General Death Rates**

#### **Cause and Number**

Heart disease 710,760

Cancer 553,091

Stroke (cerebrovascular disease) 167,661

Chronic lower respiratory diseases 122,009

Doctor's negligence 98,329

Influenza and pneumonia 65,313

Motor-vehicle 43,354

Suicides (all kinds, including firearms) 29,350

- Firearms (Total)\* 16,586
- Suicides 10,801
- Homicides 776
- Accidents 28,163
- Accidents (six causes)
  - Falls 13,322
  - Poison (solid, liquid) 12,757
  - Choking on food or other object 4,313
  - Drowning 3,402
  - Fires, flames 3,377
  - Firearms 776

Homicides (all instruments) 16,765

**Source:** Except for the figure on doctor's negligence, the above information is for 2000 and is taken from National Safety Council, Injury Facts: 2003 Edition, at 10, 19-20, 129. The number of yearly deaths attributed to doctor's negligence is based on the Harvard Medical Practice Study (1990) which is cited in Kleck, Point Blank, at 43.<sup>(127)</sup>

\*The total firearms death figure above is a summary of the "Suicides," "Homicides" and "Accidents" subcategories. The Total excludes two categories: Legal Intervention and Undetermined.

### B. Children Accidental Death Rates (Ages 0-14)

| Cause                      | Number (Ages 0-14) | Number (Ages 0-4) |
|----------------------------|--------------------|-------------------|
| Motor-vehicle              | 2,591              | 819               |
| Drowning                   | 943                | 568               |
| Fires and flames           | 593                | 327               |
| Mechanical suffocation     | 601                | 508               |
| Ingestion of food, object* | 169                | 169               |
| Firearms                   | 86                 | 19                |

Source: Figures are for 2000. National Safety Council, Injury Facts: 2003 Edition, at 10-11, 129.

\* The "Ingestion of food, object" category is underreported in the first column since the NSC did not include death rates for "5 to 14 Years."

### C. Children and Guns

\*Fact: Accidental gun deaths among children have declined by over 50 % in 25 years, even though the population (and the gun stock) has continued to increase.<sup>(128)</sup>

\* Fact: Despite the low number of gun accidents among children (see above), most of these fatalities are not truly "accidents." According to Dr. Gary Kleck, many such accidents are misnamed—those "accidents" actually resulting from either suicides or extreme cases of child abuse.<sup>(129)</sup>

\* Dr. Kleck also notes that, "Accidental shooters were significantly more likely to have been arrested, arrested for a violent act, arrested in connection with alcohol, involved in highway crashes, given traffic citations, and to have had their driver's license suspended or revoked."<sup>(130)</sup>



\* Myth: One child is accidentally killed by a gun every day. Dr. Gary Kleck notes that to reach this figure, anti-gun authors must include "children" aged 18-24.<sup>(131)</sup> As noted above, there were only 142 fatal gun accidents for children in 1997.

\* Myth: 135,000 children take guns to school every day. This factoid was based on a survey that did not even ask children if they carried a weapon to school. The "take guns to school" statement is completely imputed into the survey results. With regard to the 135,000 figure, Dr. Gary Kleck has shown that this number is wildly inflated.<sup>(132)</sup>

\* Myth: Children gun deaths are at epidemic proportions.

Fact: Twice as many children are killed playing football in school than are murdered by guns. That's right. Despite what media coverage might seem to indicate, there are more deaths related to high school football than guns. In the last three years, twice as many football players died from hits to the head, heat stroke, etc. <sup>(45)</sup>, as compared with students who were murdered by firearms <sup>(22)</sup> during that same time period.<sup>(133)</sup>

Fact: More children will die in a car, drown in a pool, or choke on food than they will by firearms. As seen by the chart above, children are at a 2,000 percent greater risk from the car in their driveway, than they are by the gun in their parents' closet. Children are almost 7 times more likely to drown than to be shot, and they are 130 percent more likely to die from choking on their dinner.<sup>(134)</sup>

\* Myth: There are more guns in schools today because of lax gun control laws. To the contrary, two facts put this myth to rest:

Fact: Currently, there are strict laws that, with few exceptions, prevent adults from possessing a firearm within 1,000 feet of a school. These and other gun control laws have failed to keep guns off school grounds.

Fact: In the past, "guns in schools" were never a problem during the era when children had the greatest access to firearms. For example, even though there were far fewer gun control laws on the books in the 1950's, there was not a problem with illegal guns in schools. Rather, the top problems in American classrooms during that era were such (non-violent) activities as chewing gum, talking in class and running in the halls.

\* More on guns in schools. So what has changed? Why do illegal guns make their way onto school grounds today, even though federal gun control laws have now grown to comprise more than 88,000 words of restrictions and requirements?<sup>(135)</sup> There are several possible reasons, including:

a. Lax punishment of juvenile children. Several state studies have shown that juvenile offenders will make several journeys through the legal system before doing any time in a penal facility.<sup>(136)</sup> This problem, of course, is not just limited to juveniles. A murderer of any age (in 1990) could expect to serve only 1.8 years in prison, after one considers the risk of apprehension and the length of the sentence.<sup>(137)</sup>

b. Imitation of T.V. violence. Before completing the sixth grade, the average American child sees 8,000 homicides and 100,000 acts of violence on television.<sup>(138)</sup> Two surveys of young American males found that 22 to 34 percent had tried to perform crime techniques they had watched on television.<sup>(139)</sup>

c. Morality shift. "The kids have changed," says Judge Gaylord Finch, speaking with the help of a dozen years of observation from his bench, where he sits as chief judge of Juvenile and Domestic Relations District Court. "The values have just become so relative, and it sometimes seems we have no values in common anymore."<sup>(140)</sup>

#### **D. Women and Guns**

\* At least 17 million women own firearms in the United States.<sup>(141)</sup> And according to the National Research Opinion Center, 44 percent of adult women either own or have access to firearms.<sup>(142)</sup>

\* As many as 561 times a day, women use guns to protect themselves against sexual assault.<sup>(143)</sup>

\* In 89.6% of violent crimes directed against women, the offender does not have a gun; and only 10% of rapists carry a firearm.<sup>(144)</sup> Thus, armed women will usually have a decided advantage against their attackers.

\* A man can kill a woman with whatever he has at hand, but she can usually only resist him successfully with a gun. Don Kates, a civil rights attorney who specializes in firearms issues, cites a Detroit study showing that three-quarters of wives who killed their spouses were not even charged, since prosecutors found their acts necessary to protect their lives or their children's lives.<sup>(145)</sup>

#### ***8. Eight Common Gun Control Myths***

**A. Myth #1: If one has a gun in the home, one is three times more likely to be killed than if there is no gun present.**

1. Fact: Guns are used more often to save life. Dr. Edgar Suter has pointed out that studies which make the claim that guns are more likely to kill the owner are flawed because they fail to consider the number of lives saved by guns.<sup>(146)</sup> That is, such claims ignore the vast number of non-lethal defensive uses with firearms. Criminologists have found that citizens use firearms as often as 2.5 million times every year in self-defense. In over 90% of these defensive uses, citizens merely brandish their gun or fire a warning shot to scare off the attacker.<sup>(147)</sup>

2. Fact: A study claiming "guns more likely to kill you than help you" is a total fraud. Not surprisingly, the figure claiming one is three times more likely to be killed by one's own gun is a total lie. The author of this study, Dr. Arthur Kellerman, refused to release the data behind his conclusions for years.<sup>(148)</sup> Subsequently available evidence shows why Kellerman stonewalled for so long:

\* Researcher Don Kates reveals that all available data now indicates that the "home gun homicide victims [in Kellerman's study] were killed using guns not kept in the victim's home." In other words, the victims were NOT murdered with their own guns! They were killed "by intruders who brought their own guns to the victim's household."<sup>(149)</sup>

\* In retrospect, Kates found, it was not the ownership of firearms that put these victims at high risk. Rather, it was the victim's "high-risk life-styles [such as criminal associations] that caused them to own guns at higher rates than the members of the supposedly comparable control group."<sup>(150)</sup>

## **B. Myth #2: Most homicides are committed by otherwise law-abiding people who end up killing a friend or relative.**

1. While most murders do involve the killing of an acquaintance, it is fallacious to assume these are otherwise law-abiding people killing one another. In fact, sixty-one percent of murder victims themselves—and an even greater majority of murderers—have prior criminal records.<sup>(151)</sup> This indicates that most murders occur between criminals who have already demonstrated a pattern of violence.

2. The problem? The criminal justice system is a revolving door which continues to throw violent offenders back onto the street. Nationwide, 70% of murderers (under sentence of death) have prior felony convictions.<sup>(152)</sup> This number does not include criminals who have plea-bargained their felonies down to lesser charges.

## **C. Myth #3: Gun Control has reduced the crime rates in other countries.**

1. The murder rates in many nations (such as England) were ALREADY LOW BEFORE enacting gun control. Thus, their restrictive laws cannot be credited with lowering their crime rates.<sup>(153)</sup>

2. Gun control has done nothing to keep crime rates from rising in many of the nations that have imposed severe firearms restrictions.

\* Australia: Readers of the USA Today newspaper discovered in 2002 that, "Since Australia's 1996 laws banning most guns and making it a crime to use a gun defensively, armed robberies rose by 51%, unarmed robberies by 37%, assaults by 24% and kidnappings by 43%. While murders fell by 3%, manslaughter rose by 16%."<sup>(154)</sup>

\* Canada: After enacting stringent gun control laws in 1991 and 1995, Canada has not made its citizens any safer. "The contrast between the criminal violence rates in the United States and in Canada is dramatic," says Canadian criminologist Gary Mauser in 2003. "Over the past decade, the rate of violent crime in Canada has increased while in the United States the violent crime rate has plummeted."<sup>(155)</sup>

\* England: According to the BBC News, handgun crime in the United Kingdom rose by 40% in the two years after it passed its draconian gun ban in 1997.<sup>(156)</sup>

\* Japan: One newspaper headline says it all: Police say "Crime rising in Japan, while arrests at record low."<sup>(157)</sup>

3. British citizens are now more likely to become a victim of crime than are people in the United States:

\* In 1998, a study conducted jointly by statisticians from the U.S. Department of Justice and the University of Cambridge in England found that most crime is now worse in England than in the United States of America.

\* "You are more likely to be mugged in England than in the United States," stated the Reuters news agency in summarizing the study. "The rate of robbery is now 1.4 times higher in England and Wales than in the United States, and the British burglary rate is nearly double America's."<sup>(158)</sup> The murder rate in the United States is reportedly higher than in England, but according to the DOJ study, "the difference between the [murder rates in the] two countries has narrowed over the past 16 years."<sup>(159)</sup>

\* The United Nations confirmed these results in 2000 when it reported that the crime rate in England is higher than the crime rates of 16 other industrialized nations, including the United States.<sup>(160)</sup>

4. British authorities routinely underreport murder statistics. Comparing statistics between different nations can be quite difficult since foreign officials frequently use different standards in compiling crime statistics.

\* The British media has remained quite critical of authorities there for "fiddling" with crime data. Consider some of the headlines in their papers: "Crime figures a sham, say police,"<sup>(161)</sup> "Police are accused of fiddling crime data,"<sup>(162)</sup> and "Police figures under-record offences by 20 percent."<sup>(163)</sup>

\* British police have also criticized the system because of the "widespread manipulation" of crime data:

a. "Officers said that pressure to convince the public that police were winning the fight against crime had resulted in a long list of ruses to 'massage' statistics."<sup>(164)</sup>

b. Sgt. Mike Bennett says officers have become increasingly frustrated with the practice of manipulating statistics. "The crime figures are meaningless," he said. "Police everywhere know exactly what is going on."<sup>(165)</sup>

c. According to The Electronic Telegraph, "Officers said the recorded level of crime bore no resemblance to the actual amount of crime being committed."<sup>(166)</sup>

\* Underreporting crime data: "One former Scotland Yard officer told The Telegraph of a series of tricks that rendered crime figures 'a complete sham.' A classic example, he said, was where a series of homes in a block of flats were burgled and were regularly recorded as one crime. Another involved pick-pocketing, which was not recorded as a crime unless the victim had actually seen the item being stolen."<sup>(167)</sup>

\* Underreporting murder data: British crime reporting tactics keep murder rates artificially low. "Suppose that three men kill a woman during an argument outside a bar. They are arrested for murder, but because of problems with identification (the main witness is dead), charges are eventually dropped. In American crime statistics, the event counts as a three-person homicide, but in British statistics it counts as nothing at all. 'With such differences in reporting criteria, comparisons of U.S. homicide rates with British homicide rates are a sham,' [a 2000 report from the Inspectorate of Constabulary] concludes."<sup>(168)</sup>

5. Violence by any other name is still violent -- Many countries with strict gun control laws have violence rates that are equal to, or greater than, that of the United States.

Consider the following rates:

| High Gun<br>Ownership Countries |         |          |        | Low Gun<br>Ownership Countries |         |          |        |
|---------------------------------|---------|----------|--------|--------------------------------|---------|----------|--------|
| Country                         | Suicide | Homicide | Total* | Country                        | Suicide | Homicide | Total* |
| Switzerland                     | 21.4    | 2.7      | 24.1   | Denmark                        | 22.3    | 4.9      | 27.2   |
| U. S. A.                        | 11.6    | 7.4      | 19.0   | France                         | 20.8    | 1.1      | 21.9   |
| Israel                          | 6.5     | 1.4      | 7.9    | Japan**                        | 16.7    | 0.6      | 17.3   |

\*The figures listed in the table are the rates per 100,000 people.

\*\*Suicide figures for Japan also include many homicides.

Source for table: U.S. figures for 1996 are taken from the Statistical Abstract of the U.S. and FBI Uniform Crime Reports. The rest of the table is taken from the UN 1996 Demographic Yearbook (1998), cited at <http://www.haciendapub.com/stolinsky.html>

6. The United States has experienced far fewer TOTAL MURDERS than Europe over the last 70 years. In trying to claim that gun-free Europe is more peaceful than America, gun control advocates routinely ignore the overwhelming number of murders that have been committed in Europe.

\* Over the last 70 years, Europe has averaged about 400,000 murders per year, when one includes the murders committed by governments against mostly unarmed people.<sup>(169)</sup> That murder rate is about 16 times higher than the murder rate in the U.S.<sup>(170)</sup>

\* Why hasn't the United States experienced this kind of government oppression? Many reasons could be cited, but the Founding Fathers indicated that an armed populace was the best way of preventing official brutality. Consider the words of James Madison in Federalist 46: Let a regular army, fully equal to the resources of the country, be formed; and let it be entirely at the devotion of the federal government; still it would not be going too far to say, that the State governments, with the people on their side, would be able to repel the danger . . . a militia amounting to near half a million of citizens with arms in their hands.<sup>(171)</sup>

#### **D. Myth #4: Recent gun control laws have reduced the U.S. murder rate.**

1. Murder rate was already decreasing before Brady and semi-auto gun ban passed. Those who claim that the two gun control laws enacted in 1994 have reduced the murder rate ignore the fact that the U.S. murder rate has been decreasing from the high it reached in 1991.<sup>(172)</sup> Thus, the murder rate had already begun decreasing two to three years before the Brady law and the semi-auto gun ban became law.

2. Murder rate decrease results from fewer violent youths. The Democratic Judiciary Committee noted in 1991 that, "An analysis of the murder tolls since 1960 offers compelling

evidence of the link—the significant rise of murder in the late 1960's, and the slight decrease in murder in the early 1980's follows from an unusually large number of 18-24 year-olds in the general population. This age group is the most violent one, as well as the group most likely to be victimized—and the murder figures ebb and flow with their ranks."<sup>(173)</sup> **(Emphasis added.)**

3. According to the Clinton Justice Department, crime has decreased even while the number of guns increased. The Bureau of Justice Statistics, the research arm of the Justice Department, reported in 2000 that while the number of firearms in circulation rose nearly 10% during a recent five-year period, gun-related deaths and wounding cases dropped 33%.<sup>(174)</sup>

4. Concealed carry laws have dropped murder and crime rates in the states that have enacted them. According to a comprehensive study which studied crime statistics in all of the counties in the United States from 1977 to 1992, states which passed concealed carry laws reduced their murder rate by 8.5%, rapes by 5%, aggravated assaults by 7% and robbery by 3%.<sup>(175)</sup>

**E. Myth #5: The Courts have never overturned a gun control law, and thus, there is no individual right guaranteed by the Second Amendment.**

### **1. U.S. Senate Subcommittee Report (1982)**

\* Courts have used the Second Amendment to strike down gun control: *Nunn v. State* and *in re Brickey* are just two examples where the Courts have struck down gun control laws using the Second Amendment.<sup>(176)</sup>

\* An individual right protected: "The conclusion is thus inescapable that the history, concept, and wording of the second amendment to the Constitution of the United States, as well as its interpretation by every major commentator and court in the first half-century after its ratification, indicates that what is protected is an individual right of a private citizen to own and carry firearms in a peaceful manner."<sup>(177)</sup>

### **2. U.S. Supreme Court**

\* *U.S. v. Verdugo-Urquidez* (1990). "'The people' seems to have been a term of art employed in select parts of the Constitution. . . . [and] it suggests that 'the people' protected by the Fourth Amendment, and by the First and Second Amendments, and to whom rights and powers are reserved in the Ninth and Tenth Amendments, refers to a class of persons who are part of a national community or who have otherwise developed sufficient connection with this country to be considered part of that community."<sup>(178)</sup>



\* U.S. v. Lopez (1995). The Court struck down a federal law which prevented the possessing of firearms within 1,000 feet of a school. The Court argued that the Commerce Clause of the Constitution in no way grants Congress the authority to enact such gun control legislation.<sup>(179)</sup>

\* Printz v. U.S. (1997). The Supreme Court ruled the federal government could not force state authorities to conduct so-called Brady background checks on gun buyers.<sup>(180)</sup>

\* Majority of the Supreme Court cases clearly point to an individual right. In a mammoth work produced January 2004, three authors reprinted and analyzed the dozens of Supreme Court cases that have referenced the Second Amendment. Their conclusion? "These cases suggest that the Justices of the Supreme Court do now and usually have regarded the Second Amendment 'right of the people to keep and bear arms' as an individual right, rather than as a right of state governments."<sup>(181)</sup>

### **3. U.S. Congress:**

#### **Fourteenth Amendment (1868):**

\* The framers of the 14th Amendment intended to protect an individual's Second Amendment right to keep and bear arms by striking down state laws that denied this right. As stated by a Senate subcommittee in 1982, "[During] the debates over the Fourteenth Amendment, Congress frequently referred to the Second Amendment as one of the rights which it intended to guarantee against state action."<sup>(182)</sup>

#### **Firearm Owners' Protection Act (1986):**

\* The 1986 Law affirms individual right to keep and bear arms: "The Congress finds that the right of citizens to keep and bear arms under the second amendment to the United States Constitution . . . require[s] additional legislation to correct existing firearms statutes and enforcement policies."<sup>(183)</sup> **[Emphasis added.]**

4. Nothing in Article I, Section 8 of the U.S. Constitution authorizes Congress to pass gun control legislation (see U.S. v. Lopez, 1995). Since the adoption of the Constitution, courts have ruled on both sides of the issue, indicating that judges are just as political as the common man.

### **F. Myth #6: The Second Amendment militia is the National Guard.**

The Founding Fathers made it clear that the Militia was composed of the populace at large. Both the Congress and Supreme Court have affirmed this definition of the Militia.

#### **1. Founding Fathers**

\* George Mason: "I ask, who are the militia? They consist now of the whole people, except a few public officers."<sup>(184)</sup>

\* Virginia Constitution, Art. I, Sec. 13 (1776): "That a well-regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defense of a free State; that standing armies, in time of peace, should be avoided, as dangerous to liberty. . . ."

\* Richard Henry Lee: "To preserve liberty, it is essential that the whole body of the people always possess arms, and be taught alike, especially when young, how to use them . . . . The mind that aims at a select militia [like the National Guard], must be influenced by a truly anti-republican principle"<sup>(185)</sup>

## 2. U.S. Congress

\* The Militia Act of 1792. One year after the Second Amendment was added to the Constitution, Congress passed a law defining the militia. The Militia Act of 1792 declared that all free male citizens between the ages of 18 and 44 were to be members of the militia. Furthermore, every citizen was to be armed. The Act stated: "Every citizen . . . [shall] provide himself with a good musket, or firelock, a sufficient bayonet and belt, two spare flints . . ."<sup>(186)</sup>

The Militia Act of 1792 made no provision for any type of select militia such as the National Guard.

\* U.S. Senate Subcommittee Report (1982). "In the Militia Act of 1792, the second Congress defined 'militia of the United States' to include almost every free adult male in the United States. These persons were obligated by law to possess a [military-style] firearm and a minimum supply of ammunition and military equipment. . . There can be little doubt from this that when the Congress and the people spoke of the a 'militia,' they had reference to the traditional concept of the entire populace capable of bearing arms, and not to any formal group such as what is today called the National Guard."<sup>(187)</sup>

\* Current Federal Law: 10 U.S.C. Sec. 311. "The militia of the United States consists of all able-bodied males at least 17 years of age and . . . under 45 years of age who are, or who have made a declaration of intention to become, citizens of the United States . . ."<sup>(188)</sup>

3. Supreme Court: U.S. v. Miller (1939). In this case, the Court stated that, "The Militia comprised all males physically capable of acting in concert for the common defense . . . [and that] when called for service, these men were expected to appear bearing arms supplied by themselves and of the kind in common use at the time."<sup>(189)</sup>

## **G. Myth #7: Trigger locks will help save lives.**

1. Fact: Locking up firearms can cost lives during a life-threatening situation. Consider two different cases from California.

\* Merced. On the morning of August 23, 2000, Jonathon David Bruce attacked a household of kids. Armed with a pitchfork—and without a stitch of clothing on his body—Bruce proceeded to stab the children. Two of them died.

The oldest of the children, Jessica Carpenter <sup>(14)</sup>, was quite proficient with firearms. She had been trained by her father and knew how to use them. There was just one problem: the guns were locked up in compliance with California state law. Unable to use the firearms, Jessica was forced to flee the house to get help. Mr. Bruce's murderous rampage was finally cut short when officers—carrying guns—arrived on the scene.<sup>(190)</sup>

\* San Francisco. Contrast the Carpenter's tragic situation to that of A.D. Parker. In February 2000, he was awakened by strange noises outside his bedroom in the middle of the night. The 83-year-old Parker grabbed a handgun he had not even used in several decades, went to his bedroom door, and found himself face-to-face with a thug holding a crowbar.

Thankfully, Mr. Parker didn't have to fiddle with a trigger lock, remember a combination, or look for a key in the dark room. He simply pointed the gun and pulled the trigger. That is why he survived the attack.<sup>(191)</sup>

2. Fact: A trigger lock can be very difficult to remove from a firearm in an emergency. Maryland Governor Parris Glendening struggled for at least two whole minutes to remove a trigger lock at a training session in March 2000.<sup>(192)</sup> If it can take that long to remove such a lock—when there's only the pressure of being embarrassed in front of the cameras—what will a trigger lock mean for a homeowner who needs to use his or her self-defense gun during an emergency, in the bedroom, in the dark?

3. Fact: The Mafia favors trigger locks—for their victims. Mafia turncoat, Sammy "the Bull" Gravano, expressed his love for gun control in an interview with Vanity Fair: "Gun control? It's the best thing you can do for crooks and gangsters. I want you to have nothing. If I'm a bad guy, I'm always gonna have a gun. Safety locks? You pull the trigger with a lock on, and I'll pull the trigger. We'll see who wins."<sup>(193)</sup>

## **H. Myth #8: A majority of Americans favor gun control.**

1. Fact: Biases exist in almost any poll. Those who understand how politics work will realize that many surveys get the "desired result" by asking questions in a certain way. In fact, pollsters

such as Harris and Gallup have been severely criticized for designing gun-related questions that will reach a preordained conclusion.<sup>(194)</sup>

2. Fact: The poll that counts takes place on Election Day. Because of the potential for bias among pollsters, it is often helpful to see how voters respond to specific gun laws AFTER they are enacted. Even more to the point, it is helpful to see how anti-gun candidates have reacted to the elections where gun control was a hot button issue.

Gun rights were the number one issue in Bush's victory over Gore (2000)

a. Gun control views handed Gore a loss in three key Democratic states (Baltimore Sun). "Had Al Gore carried Bill Clinton's home state [Arkansas], his own home state [Tennessee] or what arguably has been the most reliable Democratic state in the country [West Virginia], he'd had been president. But Mr. Gore lost all three. Professionals in both parties think his position on gun control was the reason why."<sup>(195)</sup>

b. Democratic governors faulted Gore for pushing gun control (The Christian Science Monitor). "A group of Southern Democratic governors recently told reporters that they believed the gun-control issue had hurt Gore in their region [in November of 2000]. 'We like to hunt; we like to fish—and I think there was a perception in the last general election ... that [Gore] was out of step with what most of us thought about that issue,' said Gov. Roy Barnes (D) of Georgia."<sup>(196)</sup>

c. Gore officials lament how there is little voter "intensity" for gun control:

\* The New Republic Online: Democratic Party strategists speak of an "intensity gap." "Guns are a motivating issue for a sizable number of voters on the right, but that's not matched elsewhere on the [left]," laments Gore spokesman Doug Hattaway.<sup>(197)</sup>

\* USA Today: "We lost a number of voters who on almost every other issue realized they'd be better off with Al Gore," Connecticut Sen. Joe Lieberman, Gore's running mate, says of the gun issue. "They were anxious ... about what would happen if Al was elected. This one matters a lot to people who otherwise want to vote for us."<sup>(198)</sup>

Gun control caused Democrats to lose their grip on Congress (1994)

a. President Bill Clinton repeatedly blamed gun control (which he supported) as the reason that Democrats lost control of the Congress during the elections of 1994:

\* January 14, 1995. "The fight for the assault-weapons ban cost 20 members their seats in Congress ... [and is] the reason the Republicans control the House."<sup>(199)</sup>

\* January 24, 1995. "I don't think it's a secret to anybody in this room that several members of the last Congress who voted for [the Brady bill and the semi-auto ban] aren't here tonight because they voted for it. . . . [A] lot of people laid down their seats in Congress."<sup>(200)</sup>

\* April 27, 1999. "There are some [Democrats] who would be on this platform today who lost their seats in 1994 because they voted for the Brady Bill and they voted for the assault weapons ban."<sup>(201)</sup>

\* June 4, 1999. "This Congress came to power after the 1994 elections because in critical races the people who voted for more modest things, like the Brady Bill . . . got beat. They got beat, Charlie."<sup>(202)</sup> After the 1994 election, Campaigns & Elections magazine documented how the gun issue was a major factor in 55 races where pro-gun challengers beat sitting incumbents.<sup>(203)</sup>

Voters often support pro-gun positions on initiatives around the country

a. Washington voters shot down a trigger locks initiative by a whopping 71-29% margin in 1997.<sup>(204)</sup>

b. Wisconsin voters passed a Right to Keep and Bear Arms Constitutional Amendment by a 74-26% margin in 1998.<sup>(205)</sup>

c. Also in the state of Wisconsin, Milwaukee voters trounced a city-wide handgun ban in 1994. The initiative lost 67-33%.<sup>(206)</sup>

d. In 1982, California voters rejected (against heavy odds and a hostile media) Proposition 15, a statewide initiative which would have banned the possession of privately owned handguns. The handgun ban lost by a 63-37% margin.<sup>(207)</sup>

e. Even in liberal Massachusetts, voters overwhelmingly rejected a ban on handguns in 1976. More than 70 percent of voters cast their ballots against the ban.<sup>(208)</sup>

3. Fact: Several polls show that Americans are still pro-gun. While affirming that the potential for bias exists in any given poll, there are, nevertheless, several scientific polls indicating that the right to keep and bear arms is revered—and gun control disdained—by a majority of Americans today.

a. In 2002, an ABC News poll found that almost three-fourths of the American public believe that the Second Amendment of the U.S. Constitution protects the rights of "individuals" to own guns.<sup>(209)</sup>

b. Zogby pollsters found that by a more than 3 to 1 margin, Americans support punishing "criminals who use a gun in the commission of a crime" over legislation to "ban handguns."<sup>(210)</sup>

c. A Research 2000 poll found that 85% of Americans would find it appropriate for a principal or teacher to use "a gun at school to defend the lives of students" to stop a school massacre.<sup>(211)</sup>

d. In a Time/CNN poll conducted just weeks after the September 11 terrorist attacks, 61 percent said they favored allowing pilots to carry guns.<sup>(212)</sup> A subsequent poll conducted by Wilson Research Strategies found support for arming pilots had risen to almost seven in ten people (68 percent).<sup>(213)</sup>

e. Shortly after the 1999 Columbine High School massacre in Littleton, Colorado, a Colorado News poll showed that 65 percent of people surveyed favored a concealed-carry law allowing private citizens to carry firearms.<sup>(214)</sup>

This finding shocked anti-gun spokesmen who felt that the then-recent tragedy should have suppressed support for gun rights in the state of Colorado. "What really surprises me is we're at ground zero and I would expect our numbers to be higher," said Arnie Grossman, co-founder of SAFE, an anti-gun group in Colorado. "I think it means we have a big job ahead of us."<sup>(215)</sup>

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1 Gary Kleck and Marc Gertz, "Armed Resistance to Crime: The Prevalence and Nature of Self-Defense With a Gun," 86 *The Journal of Criminal Law and Criminology*, Northwestern University School of Law, 1 (Fall 1995):164.

Dr. Kleck is a professor in the school of criminology and criminal justice at Florida State University in Tallahassee. He has researched extensively and published several essays on the gun control issue. His book, *Point Blank: Guns and Violence in America*, has become a widely cited source in the gun control debate. In fact, this book earned Dr. Kleck the prestigious American Society of Criminology Michael J. Hindelang award for 1993. This award is given for the book published in the past two to three years that makes the most outstanding contribution to criminology.

Even those who don't like the conclusions Dr. Kleck reaches, cannot argue with his impeccable research and methodology. In "A Tribute to a View I Have Opposed," Marvin E. Wolfgang writes that, "What troubles me is the article by Gary Kleck and Marc Gertz. The reason I am troubled is that they have provided an almost clear-cut case of methodologically sound research in support of something I have theoretically opposed for years, namely, the use of a gun in defense against a criminal perpetrator. . . . I have to admit my admiration for the care and caution expressed in this article and this research. Can it be true that about two million

instances occur each year in which a gun was used as a defensive measure against crime? It is hard to believe. Yet, it is hard to challenge the data collected. We do not have contrary evidence." Wolfgang, "A Tribute to a View I Have Opposed," *The Journal of Criminal Law and Criminology*, at 188.

Wolfgang says there is no "contrary evidence." Indeed, there are more than a dozen national polls—one of which was conducted by *The Los Angeles Times*—that have found figures comparable to the Kleck-Gertz study. Even the Clinton Justice Department (through the National Institute of Justice) found there were as many as 1.5 million defensive users of firearms every year. See National Institute of Justice, "Guns in America: National Survey on Private Ownership and Use of Firearms," *Research in Brief* (May 1997).

As for Dr. Kleck, readers of his materials may be interested to know that he is a member of the ACLU, Amnesty International USA, and Common Cause. He is not and has never been a member of or contributor to any advocacy group on either side of the gun control debate.

2 According to the National Safety Council, the total number of gun deaths (by accidents, suicides and homicides) account for less than 30,000 deaths per year. See *Injury Facts*, published yearly by the National Safety Council, Itasca, Illinois.

3 Philip J. Cook and Jens Ludwig, "Guns in America: National Survey on Private Ownership and Use of Firearms," NIJ *Research in Brief* (May 1997); available at <http://www.ncjrs.org/txtfiles/165476.txt>. The finding of 1.5 million yearly self-defense cases did not sit well with the anti-gun bias of the study's authors, who attempted to explain why there could not possibly be one and a half million cases of self-defense every year.

Nevertheless, the 1.5 million figures are consistent with a mountain of independent surveys showing similar figures. The sponsors of these studies—nearly a dozen—are quite varied, and include anti-gun organizations, news media organizations, governments and commercial polling firms. See also Kleck and Gertz, *supra* note 1, pp. 182-183.

4 One of the authors of the University of Chicago study reported on the study's findings in John R. Lott, Jr., "More Guns, Less Violent Crime," *The Wall Street Journal* (28 August 1996). See also John R. Lott, Jr. and David B. Mustard, "Crime, Deterrence, and Right-to-Carry Concealed Handguns," University of Chicago (15 August 1996); and Lott, *More Guns, Less Crime* (1998, 2000).

5 Jens Ludwig and Philip J. Cook, "Homicide and Suicide Rates Associated With Implementation of the Brady Handgun Violence Prevention Act," *Journal of the American Medical Association*, vol. 284, no. 5 (August 2, 2000)



6 For football deaths, see Frederick O. Mueller, Annual Survey of Football Injury Research: 1931-2001, National Center for Catastrophic Sport Injury Research (February 2002) at <http://www.unc.edu/depts/nccsi/SurveyofFootballInjuries.htm>. For school firearms murders, see Dr. Ronald D. Stephens, "School Associated Violent Deaths," The National School Safety Center Report (June 3, 2002) at <http://www.NSSC1.org>. In addition to the 22 murders which occurred on school property or at school-sponsored events, there were another two shooting deaths which were accidents and twelve which were suicides.

7 The BATF estimates that licensed gun dealers sell about 4 million new firearms each year. See US Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Commerce in Firearms in the United States (February 2000), p. 6, which is available at [http://www.atf.treas.gov/pub/fire-explo\\_pub/020400report.pdf](http://www.atf.treas.gov/pub/fire-explo_pub/020400report.pdf). A similar statistic which tracks with the number of firearms sold is the production of new firearms. According to the American Firearms Industry, there were about 4 million new firearms produced each year during the first half of the 1990s in this country. See American Firearms Industry, Production: 1973-1995 at <http://www.amfire.com/production.htm>. Numbers revealing the drop in the U.S. murder rate during the 1990s, can be examined using the FBI's Uniform Crime Reports. Murders in the United States dropped from a high of 9.4 murders per 100,000 in 1990 to a rate of 5.7 per 100,000 in 1999—a drop of 39%.

8 Accidental gun deaths in the home decreased by 38% between 1990 and 1999: National Safety Council, Injury Facts (2000), p. 125.

9 The CDC study examined gun and ammunition bans, waiting periods, background checks, lock-up your safety laws, plus much more. The inescapable conclusion was that the "evidence was insufficient" to show that such gun restrictions reduced crime rates. [Centers for Disease Control and Prevention, "First Reports Evaluating the Effectiveness of Strategies for Preventing Violence: Early Childhood Home Visitation and Firearms Laws," *Morbidity and Mortality Weekly Report* (October 3, 2003), vol. 52(No. RR-14):14-18.] It should be noted that Dr. John's Lott research—made widely available in *More Guns, Less Crime* (see supra note 4)—was part of the data examined by the CDC. The agency concluded there was no evidence to support the idea that "shall issue" carry laws reduce crime. Despite the agency's vote of no confidence in Lott's data, his research has been verified by other independent works, such as the one published in the *Stanford Law Review*. [Florenz Plassmann and John Whitley, "Confirming 'More Guns, Less Crime,'" *Stanford Law Review* (April 16, 2003), vol. 55:1313.] This law review article by Plassmann and Whitley cites several other studies showing that concealed carry laws have made a positive impact on crime rates—in some cases, finding benefits much greater than what was reported in Lott's research. Those studies include the following: William Alan Bartley & Mark A. Cohen, *The Effect of Concealed Weapons Laws: An Extreme Bound Analysis*, 36 *ECON. INQUIRY* 258, 258-65 (1998); Stephen G. Bronars and John R. Lott, Jr., *Criminal Deterrence, Geographic Spillovers, and Right-to-Carry Laws*, *AM.*

ECON. REV., May 1998, at 475-79; John R. Lott, Jr. & John E. Whitley, *Safe-Storage Gun Laws: Accidental Deaths, Suicides, and Crime*, 44 J.L. & ECON. 659, 659-89 (2001); Tomas B. Marvell, *The Impact of Banning Juvenile Gun Possession*, 44 J.L. & ECON. 691, 691-714 (2001); Carlisle E. Moody, *Testing for the Effects of Concealed Weapons Laws: Specification Errors and Robustness*, 44 J.L. & ECON. 799, 799-813 (2001); David B. Mustard, *The Impact of Gun Laws on Police Deaths*, 44 J.L. & ECON. 635, 635-58 (2001); David E. Olson & Michael D. Maltz, *Right-to-Carry Concealed Weapon Laws and Homicide in Large U.S. Counties: The Effect on Weapon Types, Victim Characteristics, and Victim-Offender Relationships*, 44 J.L. & ECON. 747, 747-70 (2001); Florenz Plassmann & T. Nicolaus Tideman, *Does the Right to Carry Concealed Handguns Deter Countable Crimes? Only a Count Analysis Can Say*, 44 J.L. & ECON. 771, 771-98 (2001); Eric Helland & Alexander Tabarrok, *Using Placebo Laws to Test "More Guns, Less Crime": A Note* (Univ. of Chi. Graduate School of Business, Working Paper, 2002).

10 National Institute of Justice, "Homicide in Eight U.S. Cities: Trends, Context, and Policy Implications," Research Report (December 1997), p. 99.

11 Caroline Wolf Harlow, "Firearm Use by Offenders: Survey of Inmates in State and Federal Correctional Facilities," Bureau of Justice Statistics Special Report (November 2001), p. 1.

12 Daniel Merkle, "America: It's Our Right to Bear Arms," ABCNews.com (May 14, 2002). The poll of 1,028 adults was conducted between May 8 and 12 of 2002. The poll found that after hearing the text of the Second Amendment verbatim, 73 percent of the American public viewed the amendment as guaranteeing an individual right. Only 20 percent thought the amendment guaranteed the right of a state to maintain a militia.

13 "Zogby American Values Poll Results," The Washington Times (March 28, 2000).

14 2002 Research of Rockville, Maryland. This survey was conducted from January 30 through February 1, 2002. A total of 1101 likely voters nationally were interviewed by telephone.

15 See supra notes 2 and 3.

16 Don B. Kates, "Guns and Public Health: Epidemic of Violence, or Pandemic of Propaganda?" in Gary Kleck & Kates, *Armed: New Perspectives on Gun Control* (2001), p.75.

17 Ibid.

18 "Handgun crime 'up' despite ban," BBC News Online (July 16, 2001) at [http://news.bbc.co.uk/low/english/uk/newsid\\_1440000/1440764.stm](http://news.bbc.co.uk/low/english/uk/newsid_1440000/1440764.stm).

19 John van Kesteren, Pat Mayhew and Paul Nieuwbeerta, "Criminal Victimization in Seventeen Industrialized Countries: Key findings from the 2000 International Crime Victims Survey," (2000). This study can be read at [http://www.unicri.it/icvs/publications/index\\_pub.htm](http://www.unicri.it/icvs/publications/index_pub.htm). The link is to the ICVS homepage; study data are available for download as Acrobat PDF files.

20 See supra note 1.

21 See supra note 2.

22 Kleck and Gertz, "Armed Resistance to Crime," at 173, 185

23 Kleck and Gertz, "Armed Resistance to Crime," at 185.

24 See supra note 3.

25 Kleck, *Point Blank: Guns and Violence in America*, (1991):111-116, 148.

26 George F. Will, "Are We 'a Nation of Cowards'?", *Newsweek* (15 November 1993):93.

27 *Id.* at 164, 185.

28 Dr. Gary Kleck, interview with J. Neil Schulman, "Q and A: Guns, crime and self-defense," *The Orange County Register* (19 September 1993). In the interview with Schulman, Dr. Kleck reports on findings from a national survey which he and Dr. Marc Gertz conducted in Spring, 1993—a survey which findings were reported in Kleck and Gertz, "Armed Resistance to Crime."

29 See supra note 4.

30 Lott and Mustard, "Crime, Deterrence, and Right-to-Carry Concealed Handguns."

31 Kathleen O'Leary Morgan, Scott Morgan and Neal Quitno, "Rankings of States in Most Dangerous/Safest State Awards 1994 to 2003," Morgan Quitno Press (2004) at <http://www.statestats.com/dang9403.htm>. Morgan Quitno Press is an independent private research and publishing company which was founded in 1989. The company specializes in reference books and monthly reports that compare states and cities in several different subject areas. In the first 10 years in which they published their Safest State Award, Vermont has consistently remained one of the top five safest states.

32 Memo by Jim Smith, Secretary of State, Florida Department of State, Division of Licensing, *Concealed Weapons/Firearms License Statistical Report* (October 1, 2002).

33 Florida's murder rate was 11.4 per 100,000 in 1987, but only 5.5 in 2002. Compare Federal Bureau of Investigation, "Crime in the United States," Uniform Crime Reports, (1988): 7, 53; and FBI, (2003):19, 79.

34 From 1988 through 2002, there were 229 documented alligator attacks on human beings in Florida. This does not include any unreported encounters. Interview with Henry Cabbage, Media Relations for the Florida Fish and Wildlife Conservation, Tallahassee, Florida (25 July 2003). By contrast, there were only 155 CCW holders who used their guns during the same period to commit a crime. See supra note 32.

35 John R. Lott, Jr., "Right to carry would disprove horror stories," Kansas City Star, (12 July 2003)

36 The comparison period between Georgia and Wisconsin is for the years 1976 to 1993. The enactment of the national Brady waiting period in 1994 ended the ability to extend, beyond 1993, any comparison of waiting periods and concealed carry laws in states such as Georgia and Wisconsin. Compare FBI, "Crime in the United States," Uniform Crime Reports (1977):45, 53; and FBI, (1994):70, 78.

37 Gary Kleck, "Crime Control Through the Private Use of Armed Force," Social Problems 35 (February 1988):15.

38 Compare Kleck, "Crime Control," at 15, and Chief Dwaine L. Wilson, City of Kennesaw Police Department, "Month to Month Statistics: 1991." (Residential burglary rates from 1981-1991 are based on statistics for the months of March - October.)

39 Kleck, Point Blank, at 140.

40 Kleck, "Crime Control," at 13.

41 U. S. Department of Justice, Law Enforcement Assistance Administration, Rape Victimization in 26 American Cities (1979), p. 31.

42 U.S., Department of Justice, National Institute of Justice, "The Armed Criminal in America: A Survey of Incarcerated Felons," Research Report (July 1985): 27.

43 Id.

44 Id.

45 Warren v. District of Columbia, D.C. App., 444 A. 2d 1 (1981). See also Richard W. Stevens, Dial 911 and Die (1999) which gives the laws and cases in all 50 states to support the statement that government (police) owes no duty to protect individual citizens from criminal attack.

46 Statement of Representative Ron Johnson in U.S. Senate, "Handgun Violence Prevention Act of 1987," Hearing before the Subcommittee on the Constitution of the Committee on the Judiciary (16 June 1987):33.

47 Bureau of Justice Statistics, Sourcebook of Criminal Justice Statistics—1990 (1991):257.

48 Interview with Brian A. Reaves, Ph.D., statistician for the Bureau of Justice Statistics in Washington, D.C. (January 11, 2001). In 1996, the total number (estimated) of all law enforcement combined (federal, state and local) that were on duty and assigned to respond to calls at any one time—on the average—was approximately 146,395 officers. There were 265,463,000 people living in the United States in 1996 for an actual ratio of 1,813 citizens for every officer. See also Kleck, Point Blank, at 132.

49 The murder rates for Washington, D.C. and the nation were 26.8 and 8.8 respectively in 1976. Their respective murder rates 25 years later were 40.6 and 5.6. These murder rates are based on the population per 100,000 people. FBI, "Crime in the United States," Uniform Crime Reports (1977 and 2002).

50 FBI, "Crime in the United States," Uniform Crime Reports (October 28, 2002): 77.

51 Id. at 190. According to Arlington County's Department of Planning, Housing and Development, the population in Arlington, Virginia for 2001 was 190,092.

52 Id. at 85.

53 Gary Kleck, speech delivered to the National Research Council, quoted in Don B. Kates, Jr., "Scholars' ignorant bias causes anti-gun sentiments," Handguns (June 1991), pp. 12-13.

54 "Gun Critic Shifts His Position," The Denver Post (November 28, 1985).

55 James D. Wright, "Second Thoughts About Gun Control," The Public Interest, 91 (Spring 1988):23, 25.

56 Dave Kopel, "Guns, Germs, and Science: Public Health Approaches to Gun Control," 84 The Journal of the Medical Association of Georgia (June 1995): 272.

57 Id.

58 Congressional Record (May 8, 1991), at H 2859, H 2862

59 Wall Street Journal (March 3, 1994) at A10.

60 Jonathan T. Lovitt, "Survival for the armed," USA Today (May 4, 1992)

61 U.S. Senate, "The Right to Keep and Bear Arms," Report of the Subcommittee on the Constitution of the Committee on the Judiciary, (1982):12.

62 U.S. vs. Verdugo-Urquidez, 494 US 259 (1990)

63 The court stated, "The fact that the liberty of the press may be abused by miscreant purveyors of scandal does not make any less necessary the immunity of the press from previous restraint in dealing with official misconduct. Subsequent punishment for such abuses as may exist is the appropriate remedy, consistent with constitutional privilege." *Near v. Minnesota*, 283 U.S. 697, 51 S. Ct. 625, 75 L. Ed. 1357 (1931).

64 Alan Korwin, *Brady Law Closes Gun Stores More Than 8 Days*, (Bloomfield Press: July 28, 1999). Bloomfield Press can be contacted at <http://www.bloomfieldpress.com>.

65 Richard B. Abell, Assistant Attorney General, Task Force Chairman, Report to the Attorney General on Systems for Identifying Felons Who Attempt to Purchase Firearms (October 1989), p. 75.

66 Bureau of Justice Assistance, *Grant Manager's Memorandum, Pt. 1: Project Summary* (September 30, 1994), Project Number: 94-DD-CX-0166.

67 Copy of "FIST" (Firearms Inquiry Statistical Tracking) software at GOA headquarters, Springfield, VA. See also *Pennsylvania Sportsmen's News* (Oct./Nov. 1996). The default in the "FIST" computer software is for the police officials to indefinitely retain the information on gun owners—despite the fact that the Brady law only allows officials to retain this data for 20 days. One wonders who will ensure that this information will be deleted after the 20th day.

68 Mike Slavonic, NRA Director and Chairman of the Legislative Committee for the Allegheny County Sportsmen's League, states that the instant background check could be "our downfall." He notes that, "What most Americans don't know is that once instant check goes into effect in 1998 the purpose of Brady could be used to set the stage for national confiscation. Instant check could eventually keep guns out of the hands of everyone by registering everyone who purchases a handgun, rifle and shotgun and who obtained concealed weapons permits in a

computerized database like 'FIST'. The most difficult problem with a gun ban is locating the firearms. FIST [with the help of the instant check], over time, could solve that problem." Slavonic, "Another Gun Database Discovered," *Pennsylvania Sportsmen's News* (Oct./Nov. 1996) at 7.

69 FBI's Final Rule printed in the *Federal Register* (October 30, 1998) at 58311. After the FBI submitted its proposed regulations on June 4, 1998, Gun Owners of America submitted written comments (in September of 1988) to challenge the FBI's regulations. GOA stated, "These proposed regulations are unlawful and unconstitutional. They are so fundamentally corrupt that there are no incremental changes which will even marginally improve them. Rest assured that they will be challenged in every possible judicial and legislative forum. . . . The efforts to retain information on gun owners for eighteen months—and indefinitely in your computer backup system—constitutes an illegal system of firearms registration, in violation of 18 U.S.C. 926. The same is, in fact, true even for efforts to retain information about persons prohibited from purchasing firearms."

70 David B. Kopel, *Policy Review* 63 (Winter 1993):6.

71 Kopel, ed., *Guns: Who Should Have Them?* (1995) at 88, 117 (fn. 75), and 122 (fn. 124).

72 See *supra* note 5.

73 Scully, "Supremacist's shooting spree could spur gun control moves," *The Washington Times* (July 8, 1999).

74 Attorney General Betty D. Montgomery, "The U.S. Supreme Court's Action in Striking Portions of the Brady Act," *News Statement* (June 30, 1997).

75 Department of Justice, "Survey of Incarcerated Felons," p. 36.

76 Pierre Thomas, "In the Line of Fire: The 'Straw Purchase' Scam," *The Washington Post* (August 18, 1991); and Thomas, "Va. Driver's License is Loophole for Guns: Fake Addresses Used in No-Wait Sales," *The Washington Post* (January 20, 1992).

77 National Institute of Justice, "Homicide in Eight U.S. Cities: Trends, Context, and Policy Implications," *Research Report* (December 1997), p. 99.

78 Meghan Hoyer, "Brady Act results overstated in Indiana," *Indianapolis Star and News* (June 23, 1998).



79 See General Accounting Office, "Gun Control: Implementation of the Brady Handgun Violence Prevention Act," Report to the Committee on the Judiciary, U.S. Senate, and the Committee on the Judiciary, House of Representatives (January 1996), p. 8.

80 The Washington Times noted in July of 1999 that:

Although federal officials say about 400,000 persons have been prevented from buying guns by the instant check system, only one has been prosecuted by the Department of Justice in the last three years. [Sean Scully, "Supremacist's shooting spree could spur gun control moves," The Washington Times (July 8, 1999).]

That made for a whopping total of just eight prosecutions and merely three persons sent to jail in the first five years the Brady Law was in existence. One certainly had to conclude that the Brady Law was not working to put criminals behind bars. There are no reliable, government statistics that regularly update the public on how many Brady violators are being incarcerated. However, everyone agrees the number is very low. For example, a training manual produced by Handgun Control, Inc., guides its activists in how to answer a question regarding the low number of convictions under the Brady Law. The manual basically says, when you are asked why so few people are being sent to jail under Brady, just ignore the question. The question posed in the manual reads: "Q: You claim that the Brady Law works, why have only 7 people been convicted for violating the law?" To answer this question, the manual encourages activists to go on the offensive and say the following: "A quarter-million high-risk people have been stopped from buying firearms since 1994, and that was always the point of the Brady law. Ninety percent of Americans agree that background checks and waiting periods are sensible regulations that protect public safety. With the success of the Brady law, the only people who continue to oppose regulating guns like other products are the gun lobby and the politicians who receive their enormous campaign contributions." [Naomi Paiss, "Sense and Sanity: A Guide to Talking about Gun Control," Handgun Control, Center to Prevent Handgun Violence (November 1997).] In other words, since there is no good answer to this question, from their perspective, activists is to remember three words: Attack, Attack and Attack.

81 Of persons denied the right to purchase a firearm under the Brady Law, 7.6 percent of the denials involved routine traffic stops. Another 38.9 percent were the result of administrative snafus. Only 44.7 percent of denials were as a result of felony convictions, and many of these resulted from white collar crimes and ancient peccadilloes which would not suggest that the person would pose a danger. See supra note 79 at 39-40, 64-65.

82 Id., at 4.

83 Id.

84 On August 16, 1991, New York City Mayor David Dinkins signed Local Law 78 which banned the possession and sale of certain rifles and shotguns.

85 John Marzulli, "Weapons ban defied: S.I. man, arsenal seized," Daily News (September 5, 1992).

86 "Thousands of Californians Become Instant Criminals," *The New Gun Week* (March 1, 1998). See also "Gun Confiscation Begins: Gun Law Victim Holds Press Conference and Turns in Gun to Local Officials," NRA Press Release (January 28, 1998).

87 Id.

88 To read a photocopy of this notice, go to <http://www.gunowners.org/fs9906.htm>.

89 Id.

90 David Kopel, "Trust the People: The Case Against Gun Control," [Cato Institute] Policy Analysis 109 (July 11, 1988):25.

91 Jay Simkin, Aaron Zelman and Alan M. Rice, *Lethal Laws: "Gun Control" is the Key to Genocide*, (Milwaukee: Jews for the Preservation of Firearms Ownership, 1994).

92 Senate, "Handgun Violence," at 107, citing *Novae Russkae Slovo*, Vol. LXXII, No. 26.291, (6 Nov. 1983)

93 Kopel, "Trust the People," at 26.

94 Id., at 25-26.

95 U.S. News & World Report, (17 January 1994): 8.

96 *Lamont v. Postmaster General*, 381 U.S. 301, 85 S. Ct. 1493, 14 L. Ed. 2d 398 (1965)

97 Dr. Edward Ezell presented testimony before the Senate Subcommittee on the Constitution in 1989, and while doing so, helped clarify the true definition of an "assault rifle." The subcommittee record reports the following credentials for Dr. Ezell: Curator of the National Firearms Collection at the Smithsonian Institution's National Museum of American History, and founding Director of the Institute for Research on Small Arms in International Security.

98 Statement by Edward Ezell, "Assault Weapons," Hearings Before the Subcommittee on the Constitution of the Committee on the Judiciary, U.S. Senate, (5 May 1989):396.

99 Defense Intelligence Agency, *Small Arms Identification and Operation Guide—Eurasian Communist Countries* (Washington, D.C.: Government Printing Office, 1988):105, cited in Kopel, *Guns: Who Should Have Them?* at 162.

100 Kleck, *Point Blank*, at 70

101 Senate, "Assault Weapons," at 396

102 Officer William R. McGrath, "An Open Letter to American Politicians," *The Police Marksman* (May/June 1989): 19.

103 *Id*

104 *Id*

105 *Congressional Record*, 13 September 1990:E 2826, citing [Police Advertisement], *Roll Call*, 3 September 1990. Also, see Howard Schneider, "Gun Owners Take Shot at Schaefer Assault-Weapon Bill," *The Washington Post* (February 15, 1991).

106 Iver Peterson, "Both Sides Say Trenton's Ban on Assault Rifles Has Little Effect on Crime," *The New York Times* (June 20, 1993).

107 *Id.*

108 U.S. Department of Justice, Bureau of Justice Statistics, "Survey of State Prison Inmates, 1991" (March 1993):18.

109 FBI, "Crime in the United States," (1994):18.

110 Matt L. Rodriguez, Superintendent of Police for the City of Chicago, 1993 Murder Analysis at 12, 13

111 Compare FBI, "Law Enforcement Officers Killed and Assaulted," *Uniform Crime Reports*, for the years 1989 (0 officers); 1990 (two officers), at 24, 36; 1991 (three officers), at 40, 41, 45; 1992 (two officers), at 46; 1993 (2 officers), at 41, 45.

Note: In 1993, there were three officers who died by unknown firearms which possibly could have been classified as semi-automatic "assault weapons." (FBI, "Law Enforcement Officers

Killed and Assaulted, 1993," at 55.) These three died at Waco, Texas—a jury later finding that authorities had provoked the residents at Mt. Carmel into firing. (Carol Moore, *The Davidian Massacre* (1995): 450.) Also supporting this view were two BATF agents who initially told the Texas Rangers that authorities had fired first upon the Davidians. (J. L. Pate, "Prosecution Against Waco Survivors Begins," *The New Gun Week*, (11 February 1994):5.) Despite the jury's finding that authorities provoked the residents in Mt. Carmel into firing, *Newsweek* and other news sources have pointed out that the officers might have died from "friendly fire." ("Was it Friendly Fire? In the bungled Waco raid, federal agents may have been shot by their own men," *Newsweek*, (5 April 1993):50.)

112 In the five years of 1989 to 1993, 30 officers were killed by their own service weapons. By contrast, only 9 officers were killed by so-called assault weapons. *Id.*, for the years 1989, at 4; 1990, at 4, 24, 36; 1991, at 4, 40, 41, 45; 1992, at 4, 46; 1993, at 4, 41, 45.

113 In the five years of 1989 to 1993, 15 officers were killed by knives and blunt objects. By contrast, only nine officers were killed by so-called assault weapons. Compare FBI, "Officers Killed," for the years 1989, at 4, 13, 26; 1990, at 4, 12, 24, 36; and 1991, at 4, 40, 41, 45; 1992, at 4, 46; 1993, at 4, 13, 41 and 45.

114 By using an inflated definition of "assault weapon," HCI attempts to "show" that these guns killed 36 percent (a minority) of the policemen who were murdered between January 1, 1994 and September 30, 1995. Of course, HCI's figure wildly departs from the 1% figure given by official government studies. (See *supra* note 108.) See *Handgun Control, Inc., Cops Under Fire: Law Enforcement Officers Killed with Assault Weapons or Guns with High Capacity Magazines*, (29 November 1995):2.

115 *Id.* The HCI study borrowed the very expansive definition of semi-automatic firearm from the Clinton gun ban which passed in 1994. This definition is so broad that it covers over 180 types of firearms, including reproductions of the 1873 Winchester and the 1860 Henry Rifles. (While the Clinton gun ban exempted reproductions of these two guns under section 922(v)(3) of Title 18—the provisions defining what a semi-automatic "assault weapon" is—the ban did not exempt these rifles under section 922(w)—the provision banning high-capacity magazines. Both of these rifles have tubular-fed magazines holding over 10 rounds, thus making them banned firearms.)

The generic definition for an "assault weapon" in the Clinton gun ban would include many, many other guns, had the law failed to specifically exclude several hundreds of common guns which would have easily fallen under the definition of an "assault weapon."

Not surprisingly, by using President Clinton's over-inflated definition of an "assault weapon," HCI was able to find more and more of these guns killing officers. To extend their logic, if HCI

figures a way to define ALL guns as "assault weapons," then it will be able to claim that these "assault weapons" comprise 100 percent of the guns that kill policemen.

Even so, HCI has now encountered a dilemma with the publishing of their study: their study "shows" that there has been a dramatic increase in the number of policemen being killed by so-called assault weapons AFTER the ban was put in place. (HCI claims that 36% of the guns killing officers are "assault weapons," but the government's own pre-ban figures show the number was only one percent. See supra note 108.) Thus, either HCI's data is wrong, or it must concede that gun control INCREASES the threat to police officers.

116 Keith Bea, Congressional Research Service, "Assault Weapons': Military-Style Semiautomatic Firearms Facts and Issues," CRS Report for Congress (13 May 1992, Technical Revisions: 4 June 1992): 65.

117 Id. at 67

118 Id. at 69

119 Kleck, Point Blank, at 75

120 Massad Ayoob, "Defending Firepower," *Combat Handguns* (October 1990), p. 71

121 Id. at 70

122 Id. at 25

123 Id. at 71

124 "Koreans make armed stand to protect shops from looters," *Roanoke Times & World-News*, 3 May 1992.

125 U.S. Senate, "The Right to Keep and Bear Arms," Report of the Subcommittee on the Constitution of the Committee on the Judiciary (1982):7.

126 U.S. v. Miller, 307 U.S. 174 (1939)

127 The Institute of Medicine says the number of yearly deaths in the United States resulting from medical errors ranges from 44,000 to 98,000 people. See Linda T. Kohn, Janet M. Corrigan, and Molla S. Donaldson, ed., "To Err is Human: Building a Safer Health System," National Academy Press (2000). The full text of this report is available at

<http://www.nap.edu/books/0309068371/html>.

128 From 1970 to 1991, the number of fatal gun accidents for children aged 0-14 declined from 530 to 227. Kopel, *Guns: Who Should Have Them?* at 311. And according to the National Safety Council, the decline has continued as there were only 142 fatal gun accidents for children in that age group in 1997. National Safety Council, *Injury Facts: 2000 Edition*, at 18.

129 Kleck, *Point Blank*, at 271, 276

130 *Id.* at 286

131 *Id.* at 276, 277

132 According to Dr. Kleck, the number of children who take guns to school is between 16,000 and 17,000 students on any given day—or about 1 in every 800 high school students. Kleck, cited in Kopel, *Guns: Who Should Have Them?*, at 323.

133 See *supra* note 6.

134 National Safety Council, *Injury Facts: 2000 Edition*, p. 10, 11, 18

135 Alan Korwin, *Researcher Finds Federal Gun Law Grew Nearly 6% in 1998*, at <http://www.bloomfieldpress.com/6percent.htm>

136 Kopel, *Guns: Who Should Have Them?*, at 355.

137 *Id.*, at 356

138 *Id.*, at 359

139 *Id.*, at 360. Kopel notes how several infamous criminals—such as John Hinckley (who shot Jim Brady) and George Hennard (who killed 22 people at Luby's Cafeteria in Killeen, Texas)—were each reenacting scenes from movies that they had previously seen or studied.

140 Steve Twomey, "Indiscretions That Are Not So Youthful," *The Washington Post* (December 6, 1993)

141 Christine Biegler, "Fearing crime, more women buy firearms," *The Washington Times* (November 19, 1992).

142 Paxton Quigley, *Armed & Female* (1989): 7.

143 According to Dr. Gary Kleck, about 205,000 women use guns every year to protect themselves against sexual abuse. Kleck and Gertz, "Armed Resistance to Crime," at 185.

144 Don B. Kates, Jr., *Guns, Murders, and the Constitution: A Realistic Assessment of Gun Control* (1990), at 29, citing U.S. Bureau of Justice Statistics.

145 *Id.*, at 25, 26

146 Dr. Edgar A. Suter, "Guns in the Medical Literature—A Failure of Peer Review," *The Journal of the Medical Association of Georgia*, vol. 83 (March 1994):136

147 Kleck and Gertz, "Armed Resistance to Crime," at 173, 185

148 Don B. Kates, "Guns and Public Health: Epidemic of Violence, or Pandemic of Propaganda?" in Gary Kleck & Kates, *Armed: New Perspectives on Gun Control* (2001), p. 79.

149 *Ibid.*, p. 75.

150 *Ibid.*, p. 76.

151 Criminal histories of murder victims is based on statistics from the city of Chicago: Matt L. Rodriguez, Superintendent of Police for the City of Chicago, 1997 Murder Analysis, at 21; 1996 Murder Analysis, at 21; and 1995 Murder Analysis, at 21. For the city of Chicago, 76% of murderers have prior criminal records. For criminal histories of murderers nationwide, see Bureau of Justice Statistics, *National Update* (October 1991): 4.

152 Bureau of Justice Statistics, *National Update*, at 4

153 Kleck, *Point Blank*, at 393, 394; Colin Greenwood, Chief Inspector of West Yorkshire Constabulary, *Firearms Control: A Study of Armed Crime and Firearms Control in England and Wales* (1972):31; David Kopel, *The Samurai, the Mountie, and the Cowboy: Should America Adopt the Gun Controls of Other Democracies* (1992):91, 154.

154 Dr. John R. Lott, Jr., "Gun laws don't reduce crime," *USA Today* (May 9, 2002). See also Rhett Watson and Matthew Bayley, "Gun crime up 40pc since Port Arthur," *The Daily Telegraph* (April 28, 2002). See also *supra* note 155.

155 Gary A. Mauser, "The Failed Experiment: Gun Control and Public Safety in Canada, Australia, England and Wales," *Public Policy Sources* (The Fraser Institute, November 2003),



no. 71:4. This study can be accessed at

<http://www.fraserinstitute.org/shared/readmore.asp?sNav=pb&id=604>

156 "Handgun crime 'up' despite ban," BBC News Online (July 16, 2001) at [http://news.bbc.co.uk/low/english/uk/newsid\\_1440000/1440764.stm](http://news.bbc.co.uk/low/english/uk/newsid_1440000/1440764.stm). England is a prime example of how crime has increased after implementing gun control. For example, the original Pistols Act of 1903 did not stop murders from increasing on the island. The number of murders in England was 68 percent higher the year after the ban's enactment (1904) as opposed to the year before (1902). (Greenwood, supra note 153.) This was not an aberration, as almost seven decades later, firearms crimes in the U.K. were still on the rise: the number of cases where firearms were used or carried in a crime skyrocketed almost 1,000 percent from 1946 through 1969. (Greenwood, supra note 153 at 159.) And by 1996, the murder rate in England was 132 percent higher than it had been before the original gun ban of 1903 was enacted. (Compare Greenwood, supra note 153, with Bureau of Justice Statistics, *Crime and Justice in the United States and in England and Wales, 1981-96*, Bureau of Justice Statistics, October 1998)

157 "Crime rising in Japan, while arrests at record low: police," AFP News (August 3, 2001); "A crime wave alarms Japan, once gun-free," *The Philadelphia Inquirer*, 11 July 1992.

158 "Most Crime Worse in England Than US, Study Says," Reuters (October 11, 1998). See also Bureau of Justice Statistics, *Crime and Justice in the United States and in England and Wales, 1981-96* (October 1998).

159 See BJS study, supra note 158 at iii

160 John van Kesteren, Pat Mayhew and Paul Nieuwbeerta, "Criminal Victimization in Seventeen Industrialized Countries: Key findings from the 2000 International Crime Victims Survey," (2000). This study can be read at [http://www.unicri.it/icvs/publications/index\\_pub.htm](http://www.unicri.it/icvs/publications/index_pub.htm). The link is to the ICVS homepage; study data are available for download as Acrobat PDF files.

161 Ian Henry and Tim Reid, "Crime figures a sham, say police," *The Electronic Telegraph* (April 1, 1996)

162 Tim Reid, "Police are accused of fiddling crime data," *The Electronic Telegraph* (May 4, 1997).

163 John Steele, "Police figures under-record offences by 20 percent," *The Electronic Telegraph* (July 13, 2000).

164 See supra note 161.

165 Ibid

166 Ibid

167 See supra note 162.

168 Dave Kopel, Dr. Paul Gallant and Dr. Joanne Eisen, "Britain: From Bad to Worse," NewsMax.com (March 22, 2001).

169 The number of people killed by their own government in Europe averages about 400,000 for the last 70 years. This includes Hitler's extermination of Jews, gypsies and other peoples (20,946,000); Stalin's genocide against the Ukrainian kulaks (6,500,000); and more. R.J. Rummel, *Death by Government* (2000), pp. 8 and 80.

170 At our historic worst, murders in the United States approached 25,000 in 1993—or 23,180 to be exact. So even applying our highest single-year tally over the past 70 years would mean that Europeans have experienced 16 times as many murders as we have in the United States.

171 THE FEDERALIST 46 (James Madison).

172 FBI, "Crime in the United States" (1996): 58.

173 United States Senate, *A Majority Staff Report prepared for the use of the Committee on the Judiciary, 1991 Murder Toll: Initial Projections* (August 1991).

174 Gary Fields, "Gun Conundrum: More on Streets, Fewer Reports of Deaths, Wounding cases," *The Wall Street Journal* (December 11, 2000).

175 See supra note 4.

176 U.S. Senate, "The Right to Keep and Bear Arms," Report of the Subcommittee on the Constitution of the Committee on the Judiciary (1982): 8-17.

177 *Id.*, at 12

178 *U.S. v. Verdugo-Urquidez*, 494 US 259 (1990)

179 *U.S. v. Lopez*, 514 US 549 (1995)

180 *Printz v. U.S.*, 521 US 98 (1997)

181 David B. Kopel, Stephen P. Halbrook and Alan Korwin, *Supreme Court Gun Cases: Two Centuries of Gun Rights Revealed* (2004), p. 75. The quote in the text comes from an article in the book by Kopel. The article is entitled, "The Supreme Court's Thirty-five Other Gun Cases: What the Supreme Court has said about the Second Amendment."

182 U.S. Senate: "The Right to Keep and Bear Arms," at 9. See also Stephen P. Halbrook, *That Every Man be Armed: The Evolution of a Constitutional Right* (1984): 107-153.

The Senate sponsor of the 14th Amendment, Senator Jacob Howard (R-MI), said the Amendment would force the states to respect "the personal rights guaranteed and secured by the first eight amendments of the Constitution; such as freedom of speech and of the press; ... the right to keep and bear arms . . ." *Cong. Globe*, 39th Cong., 1st Session., pt. 3, 2765 (23 May 1866), cited in Halbrook, at 112

The House author of the 14th Amendment, Rep. John Bingham (R-OH), said that the first eight amendments to the U.S. Constitution "never were limitations upon the power of the States, until made so by the fourteenth amendment. The words of that amendment, 'no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States,' are an express prohibition upon every State of the Union." *Congress Globe*, 42d Congress, 1st Session, pt. 2, Appendix, 84 (31 Mr. 1871), cited in Halbrook, at 146. (Rep. Bingham stated that the "privileges and immunities of citizens of a State, are chiefly defined in the first eight amendments to the Constitution of the United States.")

That the Fourteenth Amendment was intended, among other things, to prevent states from disarming black citizens is clear. During debate over the 14th Amendment, Senator Thomas Hendricks (D-IN) bragged that "colored" people in his state do not enjoy the same rights as white people. Thus, he opposed adoption of the 14th Amendment because among other things, it would grant Second Amendment rights to the "negroes, the coolies, and the Indians." *Cong. Globe*, 39th Cong., 1st Session, pt. 3, 2939 (4 June 1866) cited in Halbrook, at 113

183 Public Law 99-308, Sect. 1(b)

184 Elliot, 3:425.

185 [Richard Henry Lee], *Letters from the Federal Farmer to the Republican*, ed. Walter Hartwell Bennett (Alabama: The University of Alabama Press, 1978): 124.

186 Militia Act of 1792, printed in John F. Callan, *The Military Laws of the United States* (Baltimore: John Murphy & Co., 1858): 65.

187 U.S. Senate, "The Right to Keep and Bear Arms," Report of the Subcommittee on the Constitution of the Committee on the Judiciary (1982):7.

188 Title 10 of the U.S. Code (Sec. 311) also defines the Militia to include "female citizens of the United States who are members of the National Guard." The Code then divides the Militia into two groups—the "unorganized" militia (the body of the people) and the "organized" militia (the National Guard). This two-fold division of the Militia was not added to federal law until 1903.

189 *U.S. v. Miller*, 307 U.S. 174 (1939)

190 Kimi Yoshino, "Gun advocates say fear of liability keeps parents from teaching survival skills," *The Fresno Bee* (August 26, 2000).

191 William Raspberry, "Ask A.D. Parker about gun control," *The Denver Post* (March 20, 2000).

192 Gerald Mizejewski, "Device wins police praise but fails to move skeptics," *The Washington Times* (March 23, 2000).

193 Interview with Sammy Gravano in Howard Blum, "The Reluctant Don," *Vanity Fair* (September 1999), p. 165.

194 In *Gun Facts*, Guy Smith astutely observes that pollsters will often use questions like "If it reduced crime, would you favor stronger gun control laws." These questions, he says, are then rephrased in an editor's headline to read "Americans demand gun control" while ignoring the leading goal of reducing crime. These surveys also fail in one other important respect, Smith says. They fail to ask counter balancing questions to prove/disprove any bias in questions. For example, a counter-balancing question might be "If it were shown that gun control laws were ineffective in preventing crime, would you favor enacting more gun control laws?" Guy Smith, *Gun Facts* (2001) at <http://www.KeepAndBearArms.com/images/gunfacts.pdf>.

195 Jack Kelly, "Moms Make Too Much of Guns," *The Baltimore Sun* (May 22, 2001).

196 Liz Marlantes, "Democrats tone down gun-control stance: After years of pushing restrictions, they're on a new quest to capture southern votes," *The Christian Science Monitor* (May 10, 2002).

- 197 Noam Scheiber, "The Dems abandon gun control: Gun shy," *The New Republic Online* (January 24, 2001).
- 198 Susan Page, "Democrats sing new tune on gun control," *USA Today* (August 13, 2001).
- 199 Evelyn Theiss, "Clinton blames losses on NRA," *The (Cleveland) Plain Dealer* (January 14, 1995).
- 200 President Bill Clinton, *State of the Union Address* (January 24, 1995)
- 201 The White House, Office of the Press Secretary, "Remarks by the President and the First Lady on Gun Control Legislation," *White House Briefing Room* (April 27, 1999).
- 202 President Bill Clinton on *ABC's Good Morning America* (June 4, 1999)
- 203 Brady O'Leary, "Fire Power: Surprising poll results and election returns show that the National Rifle Association had a lot more to do with November 8 than most pundits realize," *Campaigns & Elections* (December/January 1995), pp. 32-34.
- 204 Michelle Malkin, "Feminization of gun debate drowns out sober analysis," *Seattle Times* (June 23, 1998).
- 205 "Election 98," *Milwaukee Journal Sentinel* (November 5, 1998).
- 206 "Ballot Issues," *Chicago Sun-Times* (November 10, 1994). Neal Knox, "Referendums Defeated In Milwaukee, Kenosha," *Online Report to the Firearms Coalition* (January 10, 1995).at <http://www.rkba.org/knox/9jan95>
- 207 Josh Sugarman, *The National Rifle Association: Money, Firepower and Fear* (1992) at <http://www.vpc.org/nrainfo/chapter2.html>
- 208 Tanya Metaksa, "The Price of Appeasement," [FrontPageMagazine.com](http://www.frontpagemagazine.com) (October 24, 2000).
- 209 Daniel Merkle, "America: It's Our Right to Bear Arms: ABCNEWS.com Poll Finds Most Support Individuals' Right to Own Guns," *ABCNEWS.com* (May 14, 2002). The poll of 1,028 adults was conducted between May 8 and 12 of 2002. The poll found that after hearing the text of the Second Amendment verbatim, 73 percent of the American public viewed the amendment as guaranteeing an individual right. Only 20 percent thought the amendment guaranteed the right of a state to maintain a militia.

210 "Zogby American Values Poll Results," The Washington Times (March 28, 2000).

211 Research 2000 of Rockville, Maryland. This survey was conducted from January 30 through February 1, 2002. A total of 1101 likely voters nationally were interviewed by telephone.

212 Nancy Wong, "American Confidence in Bush Remains High Post Attacks," Harris Interactive (October 3, 2001) at <http://www.harrisinteractive.com/news/allnewsbydate.asp?NewsID=369>.

213 "Poll: Majority Support Guns in the Cockpit," U.S. Newswire (May 14, 2002) at <http://www.usnewswire.com/topnews/first/0514-127.html>.

214 Carla Crowder, "Gun-Control Opinions Unchanged," Denver Rocky Mountain News (May 20, 1999). The Colorado News Poll was conducted between May 6 - 16 of 1999 for the Denver Rocky Mountain News and News4 in Denver. Results were based on 600 random phone interviews with Coloradans.

215 Ibid.

--<http://www.gunowners.org/fs0404.htm>

## Gun Control Fiasco

*From the CONGRESS ACTION Newsletter, Published on the Internet by Kim Weissman  
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JUST IMAGINE, what if . . . .

Among every 10 cars manufactured, 4 are defective. Among every 10 airline flights which took off, 4 crashed. Among every 10 bridges built, 4 collapsed the first time they were used. Among every 10 routine surgeries performed, 4 patients died. Among every 10 people put in jail, 4 are innocent.

If the standards of incompetence exemplified by the above list actually occurred, the public would be outraged. Congressional hearings would be demanded. Investigations launched. Lawsuits filed. Heads would roll. Those examples are fictitious to make a point; the following statistic is real, the finding of a Government Accounting Office study of the Brady Handgun Violence Prevention Act after its first full year in operation: Among every 10 people denied their Constitutional right to purchase a firearm, 4 denials were improper, the result of Federal Government administrative foul-ups: "Denials based on administrative or other reasons accounted for 7,216 (38.9 percent) of the 18,570 handgun purchase denials... These 7,216 denials were based on a variety of reasons, but the large majority (97.2 percent) involved application forms sent to the wrong law enforcement agency." "Traffic offenses accounted for

1,413 (7.6 percent) of the 18,570 denials." "Misdemeanor warrants [not convictions] accounted for 452 (2.4 percent) of the 18,570 denials."

Filing a false statement on a firearm purchase form (the prospective buyer certifying that he is not barred from purchase) is a criminal offense. Yet the GAO report found that out of the apparently 7632 (41.1%) prospective buyers who had felony histories, "...as of July 1995, at least seven Brady-related cases were successfully prosecuted."

A prosecution rate of 0.09%. Actually punishing criminals is simply not on the agenda of the gun control extremists, who admit that punishment of criminals is not a priority. GAO: "In response to our inquiries...the Acting Assistant Attorney General...reinforced the view that the act was intended primarily to deter or prevent unauthorized individuals from obtaining handguns from federally licensed firearms dealers."

DOJ has noted that because prosecutions for false statements on handgun purchase applications are inefficient and ineffective in advancing this purpose, the number of prosecutions is not a good measure of Brady's effectiveness or usefulness." Do officials think that the felon, denied a purchase at a licensed dealer, simply goes home and becomes a law abiding citizen?

GAO: "Opponents of Brady point to a 1991 survey of state prison inmates, which showed that 73% of those who had ever possessed a handgun did not purchase it from a gun dealer. Generally, opponents contend that it is a mistake to claim Brady prevents criminals from obtaining handguns since anyone denied a purchase from a licensed dealer can easily obtain a gun from another source and will almost certainly do so."

All this is deemed a resounding success by Bill Clinton and the other gun-control extremists. This certainly gives new meaning to the phrase "close enough for government work."  
BRADY FOOTNOTE: With the Supreme Court holding that "The Brady Act's... provision... to conduct background checks...is unconstitutional", the media has been quoting a statistic that 84% of people believe that there should be restrictions on firearms purchases. Setting aside for the moment the pernicious implication that Constitutional rights should be determined by public opinion polls, why isn't the media equally forthright in quoting the 1996 Harris poll showing the same 84% also think government should regulate the content of news broadcasts, and more than half believing that journalists should be government licensed?

Their rights are sacred and as limitless as their arrogance. The People's rights are expendable. ACLU HOGWASH: The Clinton Administration, the most anti-Second Amendment, anti-freedom administration in American history, fails to punish criminals yet continues to attempt further restrictions of the rights of law abiding citizens. Relying on the hogwash propagated by the ACLU, the blatant misinterpretation of the Second Amendment continues to gain popularity.

The lie which the ACLU continues to spread is that the Second Amendment is a "collective" right belonging to the State, not an individual right; and that the word "militia" in the Second Amendment really means only the National Guard, military, and police forces.

The ACLU's fallacious argument was rejected by the Supreme Court in 1990: "Contrary to the suggestion of *amici curiae* [ACLU] that the Framers used this phrase 'simply to avoid [an] awkward rhetorical redundancy' ... 'the people' seems to have been a term of art employed in select parts of the Constitution. '...the people' protected by the Fourth Amendment, and by the First and Second Amendments, and to whom rights and powers are reserved in the Ninth and Tenth Amendments, refers to a class of persons who are part of a national community..."

Does anyone seriously contend that the Freedom of speech, religion, assembly, to petition the government for redress of grievances, or to be secure against unreasonable searches and seizures, really protects the State and does not apply to individuals? Neither does the same phrase "the People" in the Second Amendment refer only to the State, and not to individuals. "Can we forget for whom we are forming a government? Is it for men, or for the imaginary beings called States?" asked James Wilson, Pennsylvania delegate to the Constitutional Convention. But the ACLU has abandoned its traditional defense of individual liberties in other areas as well, prostituting itself into nothing more than the legal mouthpiece of big government liberalism and radical egalitarian socialism.

Anyone who troubles to read what the Founders wrote about the right to keep and bear arms will have no doubt about their intentions. The Second Amendment was not ratified to grant a few rights to states or the federal government -- the very idea is ludicrous: Ratification of the Constitution almost failed until promises were given to enact a Bill of Rights specifically to further protect INDIVIDUAL rights -- it was ratified to allow people to protect themselves FROM THE STATE; and to allow them to protect themselves, their families, their homes, and their country:

"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." --*Thomas Jefferson*

"...in this country, every man is a militia-man..." --*Thomas Paine*

"The great object is that every man be armed. Everyone who is able may have a gun." --*Patrick Henry*.

"Here, every private person is authorized to arm himself..." --*John Adams*

"...to preserve liberty, it is essential that the whole body of the people always possess arms, and be taught alike, especially when young, how to use them..." --*Samuel Adams*



"...the advantage of being armed, which Americans possess over the people of almost every other nation..."--*James Madison*

"Little more can reasonably be aimed at with respect to the people at large than to have them properly armed and equipped..."--*Alexander Hamilton*

"Are we at last brought to such an humiliating and debasing degradation that we cannot be trusted with arms for our own defense? If our defense be the real object of having those arms, in whose hands can they be trusted with more propriety, or equal safety to us, as in our own hands?"--*George Mason*

Supreme Court Justice Joseph Story summed it up: "The right of the citizens to keep and bear arms has justly been considered a palladium of the Liberties of a Republic; since it offers a strong moral check against usurpation and arbitrary power of rulers and will generally, even if these are successful in the first instance, enable people to resist and triumph over them." In *Federalist #29*, Alexander Hamilton discussed militias and standing armies in detail. He argued against a formal standing army, recommending "...an excellent body of well trained militia ready to take the field whenever the defense of the State shall require it. This will not only lessen the call for military establishments, but if circumstances should at any time oblige the government to form an army of any magnitude, that army can never be formidable to the liberties of the people while there is a large body of citizens, little if at all inferior to them in discipline and the use of arms who stand ready to defend their own rights and those of their fellow citizens."

If Hamilton expected the militia to be able to oppose the regular army, if necessary, with what would they be expected to fight, if not their own arms? Hamilton's entire exposition assumed that people would always possess their own weapons with which they could defend the People's liberties against any formal "military establishment" of the State which might turn tyrannical. It is not possible to explore the history of the right to keep and bear arms, and the words of the Founders, and accept the ACLU's reasoning. The ACLU knows this, and therefore never cites any authority to support their position. Instead, they fall back on the lame excuse that "times have changed", the Constitution is "evolving". If the Constitution is no longer appropriate because "times have changed", then the way to alter it is through the amendment process, not by simply ignoring those clauses which some people don't like. The right to keep and bear arms, private property rights, [protection against] double jeopardy, search and seizure (SP), and limited delegation of federal powers, have already been distorted beyond recognition by court decision and common usage. The result is a government which arrogates to itself the power to set its own limits, meaning that it has no limits; acquiesced in by people rendered ignorant of their rights by incompetent schools and elite "experts" who despise the concept of popular government.

[Washington warned of this:] "One method of assault may be to effect, in the forms of the Constitution, alterations which will impair the energy of the system, and thus to undermine what cannot be directly overthrown." -- George Washington, in his "Farewell Address"

Given the propensity of mush headed judges to coddle criminals, the right to keep and bear arms is even more important today than it was 200 years ago: "The laws that forbid the carrying of arms ... disarm only those 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 ... will respect the less important and arbitrary ones... 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."  
--Thomas Jefferson

The ACLU had a choice. Who best knows the true meaning of the words of the Second Amendment: The men who actually wrote, debated, and ratified those words 200 years ago; or some alleged "expert" 200 years after the fact? The ACLU has chosen the latter, totally ignoring the former. What the ACLU is trying (successfully) to foist on the public, with the willing complicity of the media, is nothing less than the Big Lie. And they know it.  
--<http://www.biblicalphatriot.net/PatrioticWorks/gunarticle.htm>



Sign the Petition: <http://pages.townhall.com/campaign/2nd-amendment>

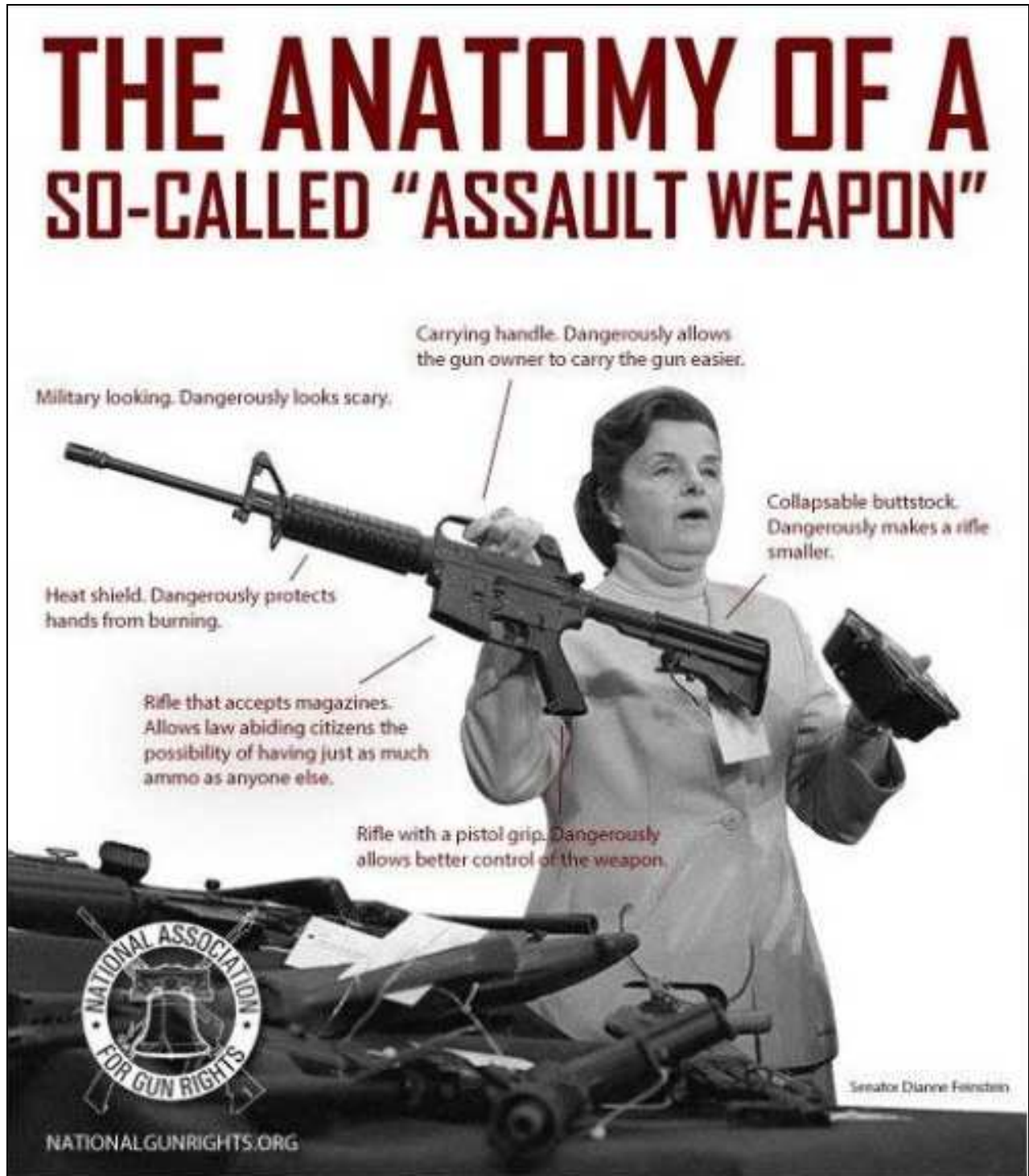
## Tell Congress, Support the 2nd Amendment

December 29, 2012

Congress is currently weighing another assault weapons ban that could include the outright prohibition of magazines that hold more than 10 bullets.

If such a bill is passed into law there is no telling how far Congress or Barack Obama will go to limit and bypass our 2nd Amendment constitutional **"right of the people to keep and bear Arms, shall not be infringed"**.

We need to stand strong and send a message to Washington that our constitutionally protected right to bear arms must not be infringed!



# The Right To Keep And Bear Arms SHALL NOT BE INFRINGED!

## --Quotes

"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."—2<sup>nd</sup> Amendment of the Bill of Rights for INDIVIDUALS to the Constitution of the United States of America...

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"No free man shall ever be debarred the use of arms."

-- Proposed Virginia Constitution, 1776

"Laws that forbid the carrying of arms...disarm only those who are neither inclined nor determined to commit crimes... 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."

-- Jefferson's "Commonplace Book," 1774-1776, quoting from *On Crimes and Punishment*, by criminologist Cesare Beccaria, 1764 --Thomas Jefferson

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"[A] string of amendments were presented to the lower House; these altogether respected personal liberty." -- Letter to Patrick Henry, June 12, 1789, referring to the introduction of what became the Bill of Rights -- William Grayson

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The Constitution preserves "the advantage of being armed which Americans possess over the people of almost every other nation... (where) the governments are afraid to trust the people with arms." -- The Federalist, No. 46 -- James Madison

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"[I]f circumstances should at any time oblige the government to form an army of any magnitude, that army can never be formidable to the liberties of the people while there is a large body of citizens, little if at all inferior to them in discipline and the use of arms, who stand ready to defend their rights and those of their fellow citizens." -- *The Federalist*, No. 29 by Alexander Hamilton

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"[A]rms discourage and keep the invader and plunderer in awe, and preserve order in the world as well as property. . . Horrid mischief would ensue were the law-abiding deprived of the use of them." --*Thoughts On Defensive War*, 1775 by Thomas Paine

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"What, sir, is the use of militia? It is to prevent the establishment of a standing army, the bane of liberty. . . Whenever Government means to invade the rights and liberties of the people, they always attempt to destroy the militia, in order to raise a standing army upon its ruins." -- *Debate*, U.S. House of Representatives, August 17, 1789 by Elbridge Gerry

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"The great object is, that every man be armed." -- *Patrick Henry*

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"That the people have a Right to mass and to bear arms; that a well regulated militia composed of the Body of the people, trained to arms, is the proper natural and safe defense of a free State..." -- *George Mason*

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"Are we at last brought to such an humiliating and debasing degradation that we cannot be trusted with arms for our own defense? Where is the difference between having our arms under our own possession and under our own direction, and having them under the management of Congress? If our defense be the real object of having those arms, in whose hands can they be trusted with more propriety, or equal safety to us, as in our own hands?" -- *Patrick Henry*

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"...who are the militia, if they be not the people of this country...? I ask, who are the militia? They consist of now of the whole people, except a few public officers." -- *George Mason*

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"Guard with jealous attention the public liberty. Suspect every one who approaches that jewel. Unfortunately, nothing will preserve it but downright force. Whenever you give up that force, you are ruined.... O sir, we should have fine times, indeed, if to punish tyrants, it were only sufficient to assemble the people!" -- *Patrick Henry*

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"No free government was ever founded or ever preserved its liberty, without uniting the characters of the citizen and soldier in those destined for the defense of the state.... Such are a well regulated militia, composed of the freeholders, citizen and husbandman, who take up arms to preserve their property, as individuals, and their rights as freemen." -- *State Gazette (Charleston), September 8, 1788*

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"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." -- *Rev. Nicholas Collin, Fayetteville Gazette (N.C.), October 12, 1789*

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"The powers of the sword, say the minority of Pennsylvania, is in the hands of Congress. My friends and countrymen, it is not so, for the powers of the sward are in the hands of the yeomanry of America from sixteen to sixty. The militia of these free commonwealths, entitled and accustomed to their arms, when compared with any possible army, must be tremendous and irresistible. Who are the militia? Are they not ourselves? Is it feared then, that we shall turn our arms each man against his own bosom? Congress have no right to disarm the militia. Their swords, and every other terrible implement of the soldier, are the birth-right of an American.... The unlimited power of the sword is not in the hands of either the federal or the state governments, but where I trust in God it will ever remain, in the hands of the people." -- *Pennsylvania Gazette, February 20, 1788*

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"Another source of power in government is a military force. But this, to be efficient, must be superior to any force that exists among the people, or which they can command; for otherwise this force would be annihilated, on the first exercise of acts of oppression. Before a standing army can rule, the people must be disarmed; as they are in almost every kingdom in Europe. The supreme power in America cannot enforce unjust laws by the sword; because the whole body of the people are armed, and constitute a force superior to any band of regular troops that can be, on any pretense, raised in the United States. A military force, at the command of Congress, can execute no laws, but such as the people perceive to be just and constitutional; for they will possess the power and jealousy will instantly inspire the inclination, to resist the execution of a law which appears to them unjust and oppressive." -- Noah Webster *An Examination of the Leading Principles of the Federal Constitution, Philadelphia, 1787*

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"The militia, who are in fact the effective part of the people at large, will render many troops quite unnecessary. They will form a powerful check upon the regular troops, and will generally be sufficient to over-awe them" -- Tench Coxe, *An American Citizen IV, October 21, 1787*

"Who are the militia? Are they not ourselves? Congress has no power to disarm the militia. Their swords and every other terrible implement of the soldier are the birthright of an American... The unlimited power of the sword is not in the hands of either the federal or state governments, but, where I trust in God it will ever remain, in the hands of the people." -- *The Pennsylvania Gazette, Feb. 20, 1788*

"As the military forces which must occasionally be raised to defend our country, might pervert their power to the injury of their fellow citizens, the people are confirmed by the next article (of amendment) in their right to keep and bear their private arms." -- *Federal Gazette, June 18, 1789*

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"And that the said Constitution be never construed to authorize Congress to infringe the just liberty of the press, or the rights of conscience; or to prevent the people of the United States, who are peaceable citizens, from keeping their own arms; or to raise standing armies, unless necessary for the defense of the United States, or of some one or more of them; or to prevent the people from petitioning, in a peaceable and orderly manner, the federal legislature, for a redress of grievances; or to subject the people to unreasonable searches and seizures of their persons, papers or possessions." -- *Samuel Adams, Debates of the Massachusetts Convention of 1788*

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"A militia when properly formed is in fact the people themselves . . . and includes all men capable of bearing arms. . . To preserve liberty it is essential that the whole body of people always possess arms... The mind that aims at a select militia, must be influenced by a truly anti-republican principle." -- "... whereas, to preserve liberty, it is essential that the whole body of the people always possess arms, and be taught alike, especially when young, how to use them..." -- *Richard H. Lee, Additional Letters from the Federal Farmer 53, 1788*

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"... of the liberty of conscience in matters of religious faith, of speech and of the press; of the trial by jury of the vicinage in civil and criminal cases; of the benefit of the writ of habeas corpus; of the right to keep and bear arms.... If these rights are well defined, and secured against encroachment, it is impossible that government should ever degenerate into tyranny."

-- James Monroe

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"... the loyalists in the beginning of the late war, who objected to associating, arming and fighting, in defense of our liberties, because these measures were not constitutional. A free people should always be left... with every possible power to promote their own happiness."

-- Pennsylvania Gazette, April 23, 1788

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"God forbid we should ever be twenty years without such a rebellion.... And what country can preserve its liberties, if its rulers are not warned from time to time, that this people preserve the spirit of resistance? Let them take arms.... The tree of liberty must be refreshed from time to time with the blood of patriots and tyrants." -- Thomas Jefferson, in letter to William S. Smith, 1787

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## Founding Fathers on the Second Amendment

- **GEORGE WASHINGTON** (First President)
- **THOMAS JEFFERSON** (Author of Declaration of Independence, member Continental Congress, Governor of Virginia, Minister to France, Secretary of State, Vice President, 3rd President )
  - "On every question of construction (of the Constitution) let us carry ourselves back to the time when the Constitution was adopted, recollect the spirit manifested in the debates, and instead of trying what meaning may be squeezed out of the text, or invented against it, conform to the probable one in which it was passed." 12 Jun 1823 (*The Complete Jefferson* p.32)
  - "No free man shall ever be debarred the use of arms." (*Jefferson Papers*, p. 334, C. J. Boyd, 1950)
  - "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." (*Thomas Jefferson Papers* p. 334, 1950)
  - "And what country can preserve its liberties, if its rulers are not warned from time to time, that this people preserve the spirit of resistance? Let them take arms...The tree of liberty must be refreshed from time to time, with the blood of patriots and tyrants." Letter to William S. Smith 13 Nov 1787 (*Jefferson, On Democracy* p. 20, 1939; Padover, editor)
  - "The few cases wherein these things (proposed Bill of Rights) may do evil, cannot be weighed against the multitude where the want of them will do evil...I hope therefore a bill of rights will be formed to guard the people against the federal

- government..." (letter to Madison 31 July 1788, *The Papers of James Madison*, Hobson & Rutland, p.11:212)
- "I have a right to nothing which another has a right to take away." (letter to Uriah Forrest, 1787, Jefferson Papers, 12:477)
  - "Rightful liberty is unobstructed action according to our will within limits drawn around us by the equal rights of others. I do not add 'within the limits of the law,' because law is often but the tyrant's will, and always so when it violates the rights of the individual." (letter to Isaac Tifany, 1819)
  - **GEORGE MASON** (Virginia House of Burgesses, Virginia delegate to Constitutional Convention, wrote Virginia Declaration of Rights, wrote "Objections to the Constitution", urged creation of a Bill of Rights)
    - "I ask, Who are the militia? They consist now of the whole people, except a few public officers." (Jonathan Elliot, *The Debates of the Several State Conventions on the Adoption of the Federal Constitution*, [NY: Burt Franklin,1888] p.425-6)
    - "Forty years ago, when the resolution of enslaving America was formed in Great Britain, the British Parliament was advised...to disarm the people; that it was the best and most effectual way to enslave them; but that they should not do it openly, but weaken them, and let them sink gradually, by totally disusing and neglecting the militia..." (In Virginia's Ratifying Convention, Elliot p.3:379-380)
    - "The militia may be here destroyed by that method which has been practiced in other parts of the world before; that is, by rendering them useless - by disarming them." (Elliot, p. 3:379-80)
    - "I consider and fear the natural propensity of rulers to oppress the people. I wish only to prevent them from doing evil." (In Virginia's Ratifying Convention, Elliot p.3:381)
  - **JOHN ADAMS** (Signed Declaration of Independence, Continental Congress delegate, 1st Vice President, 2nd President)
    - "Arms in the hands of citizens (may) be used at individual discretion...in private self-defense..." 1788(*A Defense of the Constitution of the Government of the USA*, p.471)
  - **JAMES MONROE** (Served in Revolutionary Army, member Continental Congress, Governor of Virginia, U.S. Secretary of State, Secretary of War, 5th President)
    - "But it ought always be held prominently in view that the safety of these States and of everything dear to a free people must depend in an eminent degree on the militia." (his first Inaugural Address, 1817)
  - **SAM ADAMS** (Signed Declaration of Independence, organized the Sons of Liberty, participated in Boston Tea Party, Member of Continental Congress, Governor of Massachusetts)
    - "And that the said Constitution be never construed to authorize Congress to infringe the just liberty of the press, or the right of conscience; or to prevent the people of the United States, who are peaceable citizens, from keeping their own



arms; ...or to prevent the people from petitioning , in a peaceable and orderly manner; or to subject the people to unreasonable searches and seizures of their persons, papers or possessions." (*Debates of the Massachusetts Convention of 1788*, p86-87)

- **JAMES MADISON** (Drafted Virginia Constitution, Member of Continental Congress, Virginia delegate to Constitutional Convention, named "Father of the Constitution", author of Federalist Papers, author of the Bill of Rights, Congressman from Virginia, Secretary of State, 4th President)
  - "Besides the advantage of being armed, which the Americans possess over the people of almost every other nation.. (where) ..the governments are afraid to trust the people with arms." (Federalist Papers #46)
  - "I believe there are more instances of the abridgment of freedom of the people by gradual and silent encroachments of those in power than by violent and sudden usurpations."
  - "They [proposed Bill of Rights] relate 1st. to private rights....the great object in view is to limit and qualify the powers of government..." 8 June 1789 (*The Papers of James Madison*, Hobson & Rutland, 12:193, 204)
  - "To these (federal troops attempting to impose tyranny) would be opposed a militia amounting to near half a million of citizens with arms in their hands." (Federalist Papers #46)
- **RICHARD HENRY LEE** (Signed Declaration of Independence, introduced resolution in Continental Congress to become independent, proposed Bill of Rights from beginning, author of Anti-Fed Papers, Congressman and Senator from Virginia)
  - "A militia, when properly formed, is in fact the people themselves...and includes all men capable of bearing arms." 1788 (*Federal Farmer*, p.169)
  - "To preserve liberty it is essential that the whole body of the people always possess arms and be taught alike, especially when young, how to use them..." 1788 (*Federal Farmer*)
  - "No free government was ever founded, or ever preserved its liberty, without uniting the characters of the citizen and soldier in those destined for the defense of the state... Such are a well regulated militia, composed of the freeholders, citizens and husbandman, who take up arms to preserve their property, as individuals, and their rights as freemen."
- **PATRICK HENRY** ('Liberty or Death' Speech, member of Continental Congress, Governor of Virginia, member Virginia convention to ratify U.S. Constitution, urged creation of Bill of Rights for Constitution )
  - "The great object is, that every man be armed.... Every one who is able may have a gun." (Elliot p.3:386)
  - "Guard with jealous attention the public liberty. Suspect everyone who approaches that jewel. Unfortunately, nothing will preserve it but downright force. Whenever

you give up that force, you are inevitably ruined." During Virginia Ratification Convention 1788 (Elliot p.3:45)

- "I am not well versed in history, but I will submit to your recollection, whether liberty has been destroyed most often by the licentiousness of the people, or by the tyranny of rulers. I imagine, sir, you will find the balance on the side of tyranny." (Elliot P.3:74)
- "My great objection to this government is, that it does not leave us the means of defending our rights, or of waging wars against tyrants." (Elliot, 3:47-48; in Virginia Ratifying Convention, before Bill of Rights)
- "O sir, we should have fine times, indeed, if, to punish tyrants, it were only sufficient to assemble the people! Your arms, wherewith you could defend yourselves, are gone..." (Elliot p.3:50-52, in Virginia Ratifying Convention demanding a guarantee of the right to bear arms.)
- **BEN FRANKLIN** (member, Continental Congress, signed Declaration of Independence, attended Constitutional Convention, 1st Postmaster General)
  - "Those who would give up essential Liberty to purchase a little temporary Safety, deserve neither Liberty nor Safety." (*Respectfully Quoted*, p. 201, Suzy Platt, Barnes & Noble, 1993)
- **NOAH WEBSTER** (Served in Revolutionary Army, Printed dictionary; a federalist)
  - "Before a standing army can rule, the people must be disarmed; as they are in almost every kingdom in Europe. The supreme power in America cannot enforce unjust laws by the sword; because the whole body of the people are armed..." (*An Examination of the Leading Principles of the Federal Constitution*, Webster 1787)
  - "A people can never be deprived of their liberties, while they retain in their own hands, a power sufficient to any other power in the state." (Webster, p.42-43)
- **ALEXANDER HAMILTON** (Member of Continental Congress, Aid-de-camp to General Washington, commanded forces at Yorktown, New York delegate to the Constitutional Convention, wrote Federalist Papers, 1st Secretary of Treasury for George Washington, wanted 'President for life')
  - "Little more can reasonably be aimed at with respect to the people at large than to have them properly armed and equipped." (Federalist Papers #29)
- **TENCH COXE** (friend of Madison, member of Continental Congress)
  - "Who are the militia? Are they not ourselves. Congress have no power to disarm the militia. Their swords, and every other terrible implement of the soldier, are the birth-right of an American...(T)he unlimited power of the sword is not in the hands of either the federal or state governments, but, where I trust in God it will ever remain, in the hands of the people." (*Freeman's Journal*, 20 Feb 1778)
  - "As civil rulers, not having their duty to the people duly before them, may attempt to tyrannize, and as the military forces which must be occasionally raised to defend our country, might pervert their power to the injury of their fellow-citizens, the people are confirmed by the next article in their right to keep and

bear their private arms." (introduction to his discussion, and support, of the 2nd Amend) "Remarks on the First Part of the Amendments to the Federal Constitution" *Philadelphia Federal Gazette*, 18 June 1789, pg.2

- "The militia, who are in fact the effective part of the people at large, ...will form a powerful check upon the regular troops..." (Coxe, *An Examination of the Constitution of the United States of America* p.20-21)
  - **REPRESENTATIVE WILLIAMSON** (member of the first Congress of the United States)
    - "The burden of the militia duty lies equally upon all persons;" in Congress, 22 Dec 1790 (Elliot, p423)
  - **WILLIAM GRAYSON** (Senator from Virginia in first Congress under the United States Constitution)
    - "Last Monday a string of amendments were presented to the lower house; these altogether respect personal liberty..." (in letter to Patrick Henry)
  - **ZACHARIA JOHNSON** (delegate to Virginia Ratifying Convention)
    - "The people are not to be disarmed of their weapons. They are left in full possession of them." (Elliot, 3:645-6)
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### Everyone on Liberty...

- **CAPTAIN JOHN PARKER** (Commander, Lexington Militia Company)
  - "Every man of you who is equipped, follow me... Stand your ground! Don't fire unless fired upon. But if they want to have a war, let it begin here." Lexington, MA, 19 April 1775, as British troops approached on their march to Concord to implement gun control (*Mine Eyes Have Seen*, Goldstein 1997 & *Quotes for the Military Writer*, U.S. Army Command Information Unit, Library of HQ TRADOC)
- **GEORGE WASHINGTON**
  - "Government is not reason; it is not eloquence; it is force! Like fire, it is a dangerous servant and a fearful master."
  - "If in the opinion of the people the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this in one instance may be the instrument of good, it is the customary weapon by which free governments are destroyed." (farewell address)
  - "A free people ought not only to be armed but disciplined..." (*Papers of the President*, p.65, Richardson, ed)
- **THOMAS JEFFERSON**
  - "Enlighten the people generally, and tyranny and oppressions of body and mind will vanish like evil spirits at the dawn of day." (Letter to Du Pont de Nemours 24 April 1816)
  - "When the government fears the people, there is liberty. When the people fear the government, there is tyranny."

- **SAMUEL ADAMS**

- "If ye love wealth more than liberty, the tranquility of servitude greater than the animating contest for freedom, go home and leave us in peace. We seek not your council, nor your arms. Crouch down and lick the hand that feeds you; and may your chains set lightly upon you, and posterity forget that ye were our country men."  
1776
- "The liberties of our country, the freedom of our civil constitution, are worth defending at all hazards; and it is our duty to defend them against all attacks. We have received them as a fair inheritance from our worthy ancestors: they purchased them for us with toil and danger and expense of treasure and blood, and transmitted to us with care and diligence. It will bring an everlasting mark of infamy on the present generation, enlightened as it is, if we should suffer them to be wrested from us by violence without a struggle, or be cheated out of them by the artifices of false and designing men."

- **PATRICK HENRY**

- "Millions of people armed in the holy cause of liberty, and in such a country as that which we possess, are invincible. ...The battle, is not to the strong alone; it is the vigilant, the active, the brave. ...Is life so dear, or peace so sweet, as to be purchased at the price of chains and slavery? Forbid it, Almighty God! I know not what course others may take; but as for me, give me liberty or give me death."  
Excerpts of speech made before the Virginia House of Burgesses, 1775
- "Are we at last brought to such a humiliating and debasing degradation, that we cannot be trusted with arms for our own defense?... If our defense be the real object of having those arms, in whose hands can they be trusted with more propriety, or equal safety to use, as in our own hands?" (3 Elliot, p. 168-9)

- **THOMAS PAINE** (Author: *Common Sense* & *The Rights of Man*, urged Declaration of Independence)

- "Those who expect to reap the blessings of freedom must, like men, undergo the fatigue of supporting it."
- "...arms like laws discourage and keep the invader and plunderer in awe...Horrid mischief would ensue were the good deprived of the use of them."

- **DANIEL WEBSTER** (Representative and Senator from New Hampshire, U.S. Secretary of State )

- "Good intentions will always be pleaded for every assumption for authority. It is hardly too strong to say that the Constitution was made to guard the people against the dangers of good intentions. There are men in all ages who mean to govern well, but they mean to govern. They promise to be good masters, but they mean to be masters."

- **REPRESENTATIVE JOHN RANDOLPH**

- "A people who mean to continue free must be prepared to meet danger in person..."  
(22 Dec 1790, Elliot p.4:411)

- **LUTHER MARTIN** (Member Continental Congress, Maryland delegate to the Constitutional Convention)
  - "...the whole history of mankind proves that so far from parting with the powers actually delegated to it, government is constantly encroaching on the small pittance of rights reserved by the people to themselves and gradually wresting them out of their hands..." (*The Maryland Journal*, 28 March 1788)
- **WILLIAM PITT**
  - "Necessity is the plea for every infringement of human freedom. It is the argument of tyrants; it is the creed of slaves." Speech to House of Commons, 1787
- **EDMUND BURKE**
  - "Nobody makes a greater mistake than he who does nothing because he could only do a little."
  - "The people never give up their liberties but under some delusion." 1784
- **ANDREW JACKSON** (Served in Revolutionary Army, Senator, Major General US Army, 17th President)
  - "...but a million armed freemen, possessed of the means of war, can never be conquered by a foreign foe." his first Inaugural Address, 1829 (total popular vote for his election was just over one million)
- **ARISTOTLE**
  - "Both Oligarch and Tyrant mistrust the people, and therefore deprive them of arms." (*Politics*, Aristotle p. 218)
- **ABRAHAM LINCOLN**
  - "The people of the United States are the rightful masters of both Congress and the Courts, not to overthrow the Constitution, but to overthrow the men who pervert the Constitution." (17 September 1859, speech in Cincinnati, OH)
  - "To sin by silence when they should protest makes cowards out of men."
- **WILLIAM RAWLE** (U.S. Attorney for Pennsylvania, appointed by President Washington)
  - "No clause in the Constitution could by any rule of construction be conceived to give to congress a power to disarm the people." (Rawle, *A View of the Constitution*, p. 125-6, 1829)
- **ALBERT EINSTEIN**
  - "The strength of the Constitution lies entirely in the determination of each citizen to defend it. Only if every single citizen feels duty bound to do his share in this defense are constitutional rights secure."
- **HUBERT H. HUMPHREY** (Senator, Vice President)
  - "Certainly one of the chief guarantees of freedom under any government, no matter how popular and respected, is the right of citizens to keep and bear arms...The right of citizens to bear arms is just one guarantee against arbitrary government, one more safeguard, against the tyranny which now appears remote in America but which historically has proven to be always possible." (22 October 1959)



- **WINSTON CHURCHILL**
  - "If you will not fight for the right when you can easily win without bloodshed, if you will not fight when your victory will be sure and not so costly, you may come to the moment when you will have to fight with all the odds against you and only a precarious chance for survival. There may be a worse case. You may have to fight when there is no chance of victory, because it is better to perish than to live as slaves."
- **REVEREND MARTIN NIEMOLLER** (arrested by the Gestapo in 1937)
  - "In Germany, they first came for the communist, and I didn't speak up because I wasn't a communist. Then, they came for the Jews, and I didn't speak up because I wasn't a Jew...Then they came for the Catholics. I didn't speak up because I was a Protestant. Then they came for me, and there was no one left to speak up."
- **FREDERICK DOUGLASS** (U.S. Marshal, son of a slave)
  - "Find out just what people will submit to, and you have found out the exact amount of injustice and wrong which will be imposed upon them; ...The limits of tyrants are prescribed by the endurance of those whom they oppress." 1857
- **DR. MARTIN LUTHER KING, JR.**
  - "A right delayed is a right denied."
- **JOSEPH STORY** (Supreme Court Justice)
  - "The militia is the natural defense of a free country against sudden foreign invasions, domestic insurrections, and domestic usurpation of power by rulers. The right of the citizens to keep and bear arms has justly been considered, as the palladium of the liberties of the republic; since it offers a strong moral check against the usurpation and arbitrary power of rulers; and will generally...enable the people to resist and triumph over them." (Story, *Commentaries on the Constitution of the United States*, p.3:746-7, 1833)
- **WILLIAM HOWARD TAFT** (27th President, Chief Justice US Supreme Court)
  - "Constitutions are checks upon the hasty action of the majority. They are self imposed restraints of a whole people upon a majority of them to secure sober action and a respect for the rights of the minority." (22 August 1911)
- **WILLIAM O. DOUGLAS** (Supreme Court Justice 1939-75)
  - "As nightfall does not come at once neither does oppression. In both instances, there is a twilight when everything remains seemingly unchanged. And it is in such a twilight that we all must be most aware of change in the air-- however slight-- lest we become the unwitting victims of the darkness."
  - "Fear of assassination often produces restraints compatible with dictatorship, not democracy."
- **HUGO BLACK** (Supreme Court Justice, U.S. Senator)
  - "I cannot agree with those who think of the Bill of Rights as an 18th century straitjacket, unsuited for this age...The evils it guards against are not only old, they are with us now, they exist today." ( *The Great Rights*, Cahn '63, p 44-45)

- **GEORGE SUTHERLAND** (Supreme Court Justice)
  - "For the saddest epitaph which can be carved in memory of a vanished freedom is that it was lost because its possessors failed to stretch forth a saving hand while there was still time."
- **LOUIS BRANDEIS** (Supreme Court Justice)
  - "Those who won our independence by revolution were not cowards. They did not fear political change. They did not exalt order at the cost of liberty." (Whitney v. California, 1927)
  - "Experience should teach us to be most on our guard to protect liberty when the government's purposes are beneficent. Men born to freedom are naturally alert to repel invasion of their liberty by evil-minded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well meaning but without understanding." (Olmstead v. United States, 1928)
- **ANTONIN SCALIA** (Supreme Court Justice)
  - "It would be strange to find in the midst of a catalog of the rights of individuals a provision securing to the states the right to maintain a designated 'Militia.' Dispassionate scholarship suggests quite strongly that the right of the people to keep and bear arms meant just that . There is no need to deceive ourselves as to what the original Second Amendment said and meant." *A Matter of Interpretation: Federal Courts and the Law*, Princeton University Press
  - "[T]hey [the Founders] feared that some future generation might wish to abandon liberties that they considered essential, and so sought to protect those liberties in a Bill of Rights." *A Matter of Interpretation*
  - "The Constitution Protects us from our own best intentions." (*U.S. v. Printz*, 1997)
- **CLARENCE THOMAS** (Supreme Court Justice)
  - "The Second Amendment similarly appears to contain an express limitation on the government's authority. If the Second Amendment is read to confer a personal right to 'keep and bear arms,' a colorable argument exists that the Federal Government's regulatory scheme, at least as it pertains to possession of firearms, runs afoul of that amendment's protections" (*U.S. v. Printz*, 1997)
- **EARL WARREN** (former Supreme Court Chief Justice)
  - "Today, as always, the people, no less than the courts, must remain vigilant to preserve the principals of our Bill of Rights, lest in our desire to be secure we lose our ability to be free." (James Madison Lecture, NY University, 1962)
- **DAVID KOPEL** (Civil Rights Attorney)
  - "They will never outlaw all of your guns at once. But every 'reasonable' control they can impose without your resistance gives them one more bit of leverage to make gun ownership for you and your children and your grandchildren as difficult as possible."
- **REBECCA WYATT** (Founder of Safety for Women and Responsible Motherhood, Inc.)

- "The advice on self-defense that I received after [my] assault was 'Don't get a gun. It will only add to the violence.' Never having been exposed to guns before, this seemed to make sense -- until I was attacked again."
- **SHERIFF RICHARD MACK** (Sheriff of Graham County, AZ; filed suit challenging Constitutionality of the Brady Law)
  - "...the only background check I'd support is one on politicians."
- **LIEUTENANT LOWELL DUCKETT** (Pres., Black Police Caucus, Special Assistant to Washington, D.C. Police Chief)
  - "Gun control has not worked in D.C. The only people who have guns are criminals. We have the strictest gun laws in the nation and one of the highest murder rates. It's quicker to pull your Smith and Wesson than to dial 911 if you're being robbed." *The Washington Post*
- **MAHATMA GANDHI**
  - "Among the many misdeeds of British rule in India, history will look upon the Act depriving a whole nation of arms as the blackest." (*My Autobiography*, p. 446)
- **TENCH COXE**
  - "What should we think of a gentleman, who, upon hiring a waiting-man, should say to him 'my friend, please take notice, before we come together, that I shall always claim the liberty of eating when and what I please, of fishing and hunting upon my own ground, of keeping as many horses and hounds as I can maintain, and of speaking and writing any sentiments upon all subjects.' (A) master reserves to himself...every thing else which he has not committed to the care of those servants." [editor's translation: Bill of Rights not needed; repetitive]
- **CESARE BECCARIA**
  - "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; ...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, ...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." *On Crime and Punishment*, p.145 (1819) originally published in 1764
- **JAMES BURGH** (18th Century English Libertarian writer)



- "...most attractive to Americans, the possession of arms is the distinction between a freeman and a slave, it being the ultimate means by which freedom was to be preserved." (Shalhope, *The Ideological Origins of the Second Amendment*, p.604)
  - **DR. SUZANNE GRATIA** (Texas State Representative)
    - "I blame the deaths of my parents on those legislators who deny me my right to defend myself." (Both her parents and 20 others were killed by a mad man in the Luby's Cafeteria in Killeen, TX, 1991. TX law prevented her from carrying her handgun into the restaurant, so she left it in the car)
  - **UNKNOWN**
    - "War is an ugly thing, but not the ugliest of things. The decayed and degraded state of moral and patriotic feelings which thinks that nothing is worth war is much worse. A man who has nothing for which he is willing to fight, nothing he cares about more than his own personal safety, is a miserable creature who has no chance of being free unless made and kept so by the exertions of better men than himself."
  - **THE TALMUD**
    - "Who can protest an injustice but does not is an accomplice in the act."
  - **EDWARD ABBEY**
    - "The tank, the B-52, the fighter-bomber, the state controlled police are the weapons of dictatorship. The rifle is the weapon of democracy....If guns are outlawed, only the government will have guns. Only the police, the secret police, the military, the hired servants of our rulers. Only the government and a few outlaws. I intend to be among the outlaws."
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## OTHER NOTABLE QUOTES

### Those who disagree with the previous quotes

- **BRITISH MAJOR JOHN PITCAIRN** (Commander of Advance Guard of British forces marching to Concord, MA)
  - "Disperse you rebels; damn you, throw down your arms and disperse." (order to American militiamen at Lexington, 1775)
- **BILL CLINTON** (President of the United States)
  - "We can't be so fixated on our desire to preserve the rights of ordinary Americans to legitimately own handguns and rifles...that we are unable to think about reality." (*USA Today*, 11 March 93, pg. 2A)
  - "The last time I checked, the Constitution said 'of the people, by the people and for the people'. That's what the Declaration of Independence says." Reuters News Agency ([Editor's note: actually those words are in neither of those documents, but part of *The Gettysburg Address* by Abraham Lincoln])

- "I don't think the American people are there right now. But with more than 200 million guns in circulation, we've got so much more to do on this issue before we even reach that. I don't think that's an option now. But there are certain kinds of guns that can be banned and a lot of other reasonable regulations that can be imposed." when asked of the possibility of a federal law banning handguns, interview in *Rolling Stone* magazine, 9 Dec 93, pg. 45
- "We've banned these guns ['assault' weapons] because you don't need an Uzi to go deer hunting, and everyone knows it." Weekly radio address, 15 Nov 97, the Roosevelt Room, the White House
- **JOSE CERDA** (White House official)
  - "We are taking the law and bending it as far as we can to capture a whole new class of guns [to ban]" (*Los Angeles Times*, 22 Oct 97, Mr. Cerda was named as a "White House official who specializes in gun control.")
- **RONNIE EDLEMAN** (Department of Justice, Clinton Administration)
  - "The current state of federal law does not recognize that the Second Amendment protects the right of private citizens to possess firearms of any type. Instead, the Second Amendment is deemed to be a collective right belonging to the state and not to an individual. Accordingly, the Second Amendment is interpreted by this administration as prohibiting the federal government from preventing a state government from forming or having a state recognized militia force. With this understanding in mind, the source of citizens' authority to possess a handgun has never been particularly identified in American law." In a letter written on behalf of President Clinton
- **JANET RENO** (U.S. Attorney General)
  - "Gun registration is not enough." (Associated Press 10 Dec 93)
  - "I've always proposed state licensing...with some federal standards." (ABC's "Good Morning America" 10 Dec 93)
  - "[Assault weapons] are used on school yards, at airports, in bank lobbies, on trains, in traffic and in front of the White House. They have no legitimate sporting purpose, and you won't find them in a duck blind or at the Olympics." (*The Washington Times*, 22 March 96, A4)
  - "What we have got to do is make sure that before a person possesses a gun, they have exhibited by test that they know how to safely and lawfully use the weapon and by experience that they are capable of doing that." (Associated Press, 29 Mar 99)
- **JOYCELYN ELDERS** (Former U.S. Surgeon General) ...on gun ownership
  - "I want to make it as hard as possible. Gun owners would have to be evaluated by how they scored on written and firing tests, and have to pass the tests in order to own a gun. And I would tax the guns, bullets and the license itself very heavily." (*Mother Jones* magazine, Jan/Feb '94)
- **FIDEL CASTRO**

- "Armas para que?" ("Guns, for what?") (response to a Cuban citizens who said the people might need to keep their guns, after Castro announced strict gun control in Cuba)
- **JOSEPH McNAMARA** (Police Chief, San Jose, CA)
  - "I have made it considerably tougher for residents to get handgun permits." (in his book *Safe and Sane*, 1984)
- **DANIEL PATRICK MOYNIHAN** (U.S. Senator)
  - "...we could tax them [firearms] out of existence." (*Washington Post* 4 Nov 93)
- **MAJOR OWENS** (U.S. Congressman)
  - "My bill...establishes a 6-month grace period for the turning in of handguns." (Congressional Record 10 Nov 93)
  - "The second article of amendment (Second Amendment) to the Constitution of the United States is repealed." (U.S. House Joint Resolution 438 introduced 11 March 1992 by Congressman Owens, D-NY)
- **DIANE FEINSTEIN** (California Senator, author of "Feinstein Amendment" which became the '94 gun ban)
  - "If I could have gotten 51 votes in the Senate of the United States for an outright ban, picking up every one of them 'Mr. and Mrs. America, turn 'em all in,' I would have done it." (*60 Minutes* episode, CBS) [Sen Feinstein holds a CCP]
- **MEL REYNOLDS** (U.S. Congressman)
  - "If it were up to me, we'd ban them all [firearms]." (CNN *Crossfire* 9 Dec 93)
- **PATRICK KENNEDY** (U.S. Congressman, R.I.)
  - "Kennedy said he favors an outright ban on handguns, but doubts its palatability in the current political climate." (*Providence Journal*, 4 Jan 99)
- **NELSON T. (PETE) SHIELDS III** (Founder, Handgun Control, Inc./National Council to Control Handguns)
  - "We're going to have to take this one step at a time, and the first step is necessarily - given the political realities - going to be very modest. Right now, though, we'd be satisfied not with half a loaf but with a slice. Our ultimate goal - total control of all guns - is going to take time.....The final problem is to make the possession of all handguns and all handgun ammunition - except for the military, policemen, licensed security guards, licensed sporting clubs and licensed gun collectors - totally illegal." (*New Yorker Magazine*, p.57-58, 26 Jul 76)
- **SARAH BRADY** (Chairman, Handgun Control, Inc.)
  - "There is no personal right to be armed for private purposes unrelated to the service in a well regulated militia." (*Richmond Times-Dispatch*, 6 June 97, pg. 6)
  - "We have a tremendous opportunity to take a giant leap forward in our fight to require gun licensing in this country if Initiative 676 succeeds, there's no question but that we will have created enormous momentum for a national gun licensing law." (HCI fund-raising letter, Oct 97, speaking of Initiative 676 in WA)

- "I don't believe gun owners have rights. The Second Amendment has never been interpreted that way and every court case that's ever come down has shown that." ("Guns in America: Part III", Hearst Newspaper 1997, By Holly Yeager)
- **JOSH SUGARMANN** (Executive Director, Violence Policy Center; former Communications Director of the National Coalition to Ban Handguns)
  - "To end the crisis [of gun violence], we have to regulate -or, in the case of handguns and assault weapons, completely ban -the product. We are far past the [point] where registration, licensing, safety training, background checks, or waiting periods will have much effect on firearms violence." (*Mother Jones Magazine*, Jan/Feb 94, article titled "Reverse Fire")
  - "Under such a plan (proposed by Sugarman, where ATF would have total say on legality of guns) would result in an immediate ban on the future production and sale of handguns and assault weapons" (*Mother Jones Magazine*, Jan/Feb 94, article titled "Reverse Fire")
  - "the semiautomatic weapons' menacing looks, coupled with the public's confusion ..[that] anything that looks like a machine gun is assumed to be a machine gun - can only increase the chance of public support for restrictions on these weapons." ("Assault Weapons and Accessories in America" [Washington, DC Education Fund to End Handgun Violence and New Right Watch] Sep 88, p. 26)
- **SUSAN GLICK** (Spokesperson for the Violence Policy Center)
  - "We endorse a handgun ban. I will tell you that right now. We absolutely endorse that ban and we are absolutely vocal about it." [answering: "What is your ultimate goal?"] (Talk Show *Front Page* on WVLC AM 590, Lexington, KY, 3 Dec 97)
- **DR. ARTHUR KELLERMAN** (Published 1986 "study" discouraging people from using guns for self defense)
  - "If you've got to resist [an attacker], your chances of being hurt are less the more lethal your weapon. If that were my wife, would I want her to have a .38 Special in her hand? Yeah." (*Health magazine*, Mar/Apr 94 )
- **MICHAEL GARTNER** ( President NBC News)
  - "There is no reason for anyone in this country, anyone except a police officer or military person to buy, to own, to have, to use a handgun." (*USA Today* 16 Jan 92)
- **USA Today** Newspaper Articles
  - "We will never fully solve our nation's horrific problem of gun violence unless we ban the manufacture and sale of handguns and semi-automatic assault weapons." 29 Dec 93
  - "A bill requiring all handguns to be given to the government will be introduced Tuesday by Sen. John Chafee." 1 Jun 92
- **LOS ANGELES TIMES** Newspaper Article
  - "Why should America adopt a policy of near-zero tolerance for private gun ownership?...who can still argue compellingly that Americans can be trusted to



handle guns safely? We think the time has come for Americans to tell the truth about guns. They are not for us, we cannot handle them." 28 Dec 93

- **CHARLES KRAUTHAMMER** (Syndicated columnist)
  - "The claim of the advocates that banning these 19 types of 'assault weapons' will reduce the crime rate is laughable...Ultimately, a civilized society must disarm its citizenry if it is to have a modicum of domestic tranquillity...Passing a law like the assault weapons ban is a symbolic -- purely symbolic move in that direction. Its only real justification is not to reduce crime but to desensitize the public to the regulation of weapons in preparation for their ultimate confiscation...De-escalation begins with a change in mentality. And that change in mentality starts with the symbolic yielding of certain types of weapons. The real steps, like the banning of handguns, will never occur unless this one is taken first, and even then not for decades. (*The Washington Post*, 5 April 1996)
- **WILLIAM GREIDER** (writer, *Rolling Stone* magazine)
  - "The plain fact is that the United States is now hostage to a harrowing epidemic of gun violence, and the Brady bill won't do much to change that. The National Rifle Association has been saying this all along, and the NRA is right. The NRA has also argued that a waiting period won't prevent criminals from getting guns. And it's right about that, too. Enactment of the Brady bill will, however, represent a victory of some political significance - a visible defeat for the tenacious lobbying power of the NRA. Thus the limited scope of the Brady bill was justified as a necessary first step toward breaking the NRA's power - a way to demonstrate that politicians could support a moderate version of control and survive." (*Rolling Stone*, article entitled: "A Pistol-whipped Nation - Pass the Brady Bill - then ban handguns", 30 Sep 93, pg. 31)
- **CHARLES MORGAN** (Director, American Civil Liberties Union, Washington, D.C. office)
  - "I have not one doubt, even if I am in agreement with the National Rifle Association, that that kind of record keeping procedure (gun registration) is the first step to eventual confiscation under one administration or another" in a 1975 hearing before the House Subcommittee on Crime
- **CARL ROWAN** (Washington, DC Syndicated Columnist)
  - "We must reverse this psychology (of needing guns for home defense). We can do it by passing a law that says anyone found in possession of a handgun except a legitimate officer of the law goes to jail- period! (1981 article)
  - "as long as authorities leave this society awash in drugs and guns, I will protect my family." (1988 article titled "At Least They're Not Writing My Obituary", after shooting an unarmed trespasser with an unregistered handgun)
- **DR. JOYCE BROTHERS** (Psychiatrist, TV personality)
  - "Men possess handguns in order to compensate for sexual dysfunction." [her husband is among NYC elite that has been issued a permit to carry a concealed handgun]

- **SYLVESTER STALLONE** (Actor)
  - "The only way to make America safe: go house to house and confiscate every gun." (Access Hollywood, 8 June 98)
- **MIKE SEELY** (Spokesman for Washington Citizens for Handgun Safety, gun control lobby group pushing I-676, a gun licensing law)
  - "Their movement [2<sup>nd</sup> Amendment supporters] is so well grounded in the Constitution, it's 200 years old. Our movement is probably 20 years from reaching its peak." (Reuters)
  - "Maybe we brought out the extremist vote with this one." (The News Tribune, Tacoma, WA 6 Nov 97, after their ballot measure requiring gun licenses was defeated 71% - 29%)
- **NAZI LAW** (Regulations Against Jews' Possession of Weapons, 11 Nov 1938, German Minister of the Interior)
  - "Those now possessing weapons and ammunition are at once to turn them over to the local police authority. Firearms and ammunition found in a Jew's possession will be forfeited to the government without compensation. Whoever willfully or negligently violates the provisions will be punished with imprisonment and a fine."
   
-- <http://whatreallyhappened.com/RANCHO/POLITICS/RKBA/2ndQuotes.php>

You be the judge... which side do you come down on?—Al Barrs

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*"Educate and inform the whole mass of the people... They are the only sure reliance for the preservation of our liberty."--Thomas Jefferson*

*When the people find that they can vote themselves money; that will herald the end of the republic.-- Benjamin Franklin*

*The republic will cease to exist when you take away from those who are willing to work and give to those who would not.--Thomas Jefferson*

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