



The Right to Bear Arms: Today's Gun Control Debate

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About this Lesson

This lesson invites students to examine differing interpretations of the Second Amendment. The Second Amendment is a useful model for introducing the concept of constitutional change by informal methods, as its meaning has been interpreted over the last two hundred years by judges, politicians, scholars, lobbyists and citizens and is still contested today.

Students must understand the amendment's history in order to develop informed positions on Second Amendment issues. Whether your students live in cities plagued by gun violence or in rural areas where hunting is a widespread pastime, the Second Amendment is relevant to their lives. It raises issues of personal freedom and safety that affect all Americans.

Becoming familiar with constitutional questions before the courts is an important step to becoming a well-informed, active citizen. Court decisions can transform society as often contentious issues are defined through their rulings. Students' familiarity with the Second Amendment and its competing interpretations is of particular relevance today as cases continue to be heard by the Supreme Court, most recently concerning the handgun ban in the District of Columbia

Background

The Second Amendment was ratified December 15, 1791; yet, its meaning is still debated today. Extensive scholarship supports opposing interpretations of the amendment.

At the time of its ratification, militias were believed to be a guard against tyranny, such as the American militiamen that fought in the Revolutionary War. During that time, citizens had a civic duty to arm themselves and fight when called upon by the militia. The political culture of this period valued the militia as a guarantor of liberty superior to a standing army.

With the ascendance of Jeffersonian Republicans, the belief that the Second Amendment secured state militias against a federal standing army led to an understanding that it also protected state-based military forces from the threats of national government.

This view, that states had a right to revolution in a constitutional democracy, was rejected by the national government during the Civil War. The Southern states' rebellion against the federal government was seen as plainly unconstitutional and the Union victory ensured that this interpretation would endure.

Proponents of yet another interpretation of the Second Amendment during this era were abolitionists who sought protection for freed blacks. According to this theory, the right to bear arms existed apart from involvement in state militias. With the passage of the Fourteenth Amendment, Republicans would advance the theory that all amendments applied to the states as well as Congress. It followed that states had to protect individuals, such as the newly freed slaves, from disarmament. However, the view of the Second Amendment as an individual right never had success in the courts, as time and time again, the Second Amendment was interpreted as a limit on federal power to disarm state militias.

In 1939, the Supreme Court heard its first Second Amendment case, *U.S. v. Miller*. The justices decided that the amendment protected only the right to bear arms used in militia service. This case remains precedent today, though there have been challenges to its decision in the federal courts, most notably in *U.S. v. Emerson* that upheld the idea that the Second Amendment protected an individual right and most recently in *District of Columbia v. Heller*.

Grade(s) Level

High School

Classroom Time

60 minutes period

Handouts

Armed Conflict panel at the National Constitution Center (PDF)

Second Amendment Worksheet

“Justices take on Second Amendment” [Justices take on Second Amendment - National Constitution Center](#)

Online Resources

Constitution of the United States
<http://www.constitutioncenter.org/constitution/>

Constitution Connections

Article I, Section VIII

Article VI, Supremacy Clause

Second Amendment

Fourteenth Amendment

Federalism

Incorporation

Objectives

Students will:

- Analyze the language of the Second Amendment.
- Distinguish between an individual and a collective right interpretation of the Second Amendment.
- Explain the arguments to support an individual right reading and a collective right reading of the Second Amendment.
- Understand the issues in the case before the Supreme Court trying the constitutionality of the D.C. handgun ban.

Activity

Warm Up

Pose this question to your students: Do America's cities have the right to ban handguns?

Ask students to respond by completing the following steps: think of an answer; jot it down on paper; discuss it briefly with a partner; share it with the class when called upon.

As there will likely be repetition among the student responses, the teacher may choose to capture the recurring themes on the board.

Distribute a copy of the National Constitution Center permanent exhibit's Armed Conflict Panel, which explains the current relevance of this question and offers three points to support both a yes and no answer. Have students point out any answers that correspond with those on the panel.

Set the learning objective, which will be measured by an exit assessment at the end of the lesson: students will be able to explain why the answer to the panel's question is determined by one's interpretation of the Second Amendment.

Primary Activity

1. Distribute Second Amendment Worksheet to each student in the class.
2. Read the Second Amendment aloud while students follow along on their papers.
3. Ask students to define for themselves the words or phrases “well regulated,” “Militia,” “keep and bear arms,” and “infringed” as they understand them in the context of the amendment. As an additional challenge, students may compare their definitions to the definitions they believe the framers of the amendment may have had. Review definitions with the group and provide historical context for the way the framers may have meant these words.
4. Introduce *Parker v. District of Columbia*, the case in which the U.S. Court of Appeals for the District of Columbia Circuit struck down the D.C. handgun ban, available at <http://pacer.cadc.uscourts.gov/docs/common/opinions/200703/04-7041a.pdf> or proceed with the modification offered below:
 - a. Modification: Deliver a mini-lesson on interpreting the Second Amendment based on resources at your disposal.
5. Set a purpose for reading by asking students to find an answer to this question: what reasoning would lead the justices to defend a collective rights interpretation of the Second Amendment and what reasoning would lead them to find an individual right? Then, distribute “Justices take on the Second Amendment” and direct students to read silently, while taking notes in a T-chart format with “Individual” on one side and “Collective” on the other. They must record the evidence that indicates what decision the Court may make based on each interpretation of the Second Amendment.
6. Students should now have a basic understanding of the differing interpretations of the Second Amendment. Review the difference between an individual right and a collective right with the students.
7. Finally, students must decide whether the D.C. handgun ban’s constitutionality rests on an individual right interpretation or collective right interpretation of the Second Amendment. Students may conclude by predicting whether the Supreme Court will uphold the law. Remind students that even if the court settles on an individual right interpretation of the Second Amendment, they would still need to determine whether this particular law infringes on that right.
8. *If you have time for an extension activity on another day, have students role-play Supreme Court justices deliberating the merits of the *District of Columbia v. Heller* case.

Assessment-Options

The Second Amendment Worksheet may be collected. The students’ notes may be evaluated on how well they capture the points made in the article. The students may be required to write an opinion-editorial to their school or local newspaper arguing for or against the constitutionality of the D.C. handgun ban based on an individual or collective right reading of the Second Amendment.

Further Resources

For Teachers:

Andrew J. McClurg, Brannon P. Denning, and David Kopel, eds. *Gun Control and Gun Rights*. New York: New York University Press, 2002.

Carl T. Bogus, ed., *The Second Amendment in Law and History*. New York: New Press, 2000.

Saul Cornell. *A Well-Regulated Militia: The Founding Fathers and the Origins of Gun Control in America*. New York: Oxford University Press, 2006.

United States Court of Appeals for the District of Columbia Circuit. *Parker v. District of Columbia*, 9 March 2007. <http://pacer.cadc.uscourts.gov/docs/common/opinions/200703/04-7041a.pdf> 16 Sept. 2007.

For Students:

Biskupic, Joan. "Justices take on Second Amendment." *USA Today* 21 Nov. 2007
<http://www.constitutioncenter.org/education/TeachingwithCurrentEvents/ConstitutionNewswire/18349.shtml>.

National Constitution Center's Interactive Constitution for text and explanation of Second Amendment
<http://www.constitutioncenter.org/constitution/>.

National Constitution Center's permanent exhibit panel: Armed Conflict.

Second Amendment Worksheet

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.

Directions:

Understanding the terms below is crucial to interpreting the Second Amendment. In the boxes on the left, write down your definition of these terms. On the right, imagine how the framers of the constitution might have understood them.

Your definition

Framers' definition

well regulated

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Militia

--	--

keep and bear Arms

--	--

infringed

--	--

ARMED CONFLICT

Do America's cities have the right to ban handguns?

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

The debate over the Second Amendment and gun rights in the United States was reignited this year when a federal appeals court struck down one of the toughest gun control laws in the country. In March, the U.S. Appeals Court for the District of Columbia Circuit overturned a 30-year old law that forbids almost all DC residents from owning handguns. The law was challenged by six Washington, DC, residents who said they wanted to keep guns in their homes to protect themselves against crime.



The court's ruling is being appealed. At issue is the

meaning of the Second Amendment. Opponents of gun control maintain that the Second Amendment guarantees an individual's right to have firearms. Gun control supporters say the amendment embodies only a collective right of the states to maintain militias.

Advocates of gun control say that easy access to firearms increases gun violence and therefore restriction of gun ownership will save lives. Opponents of gun control say that

such restriction violates an individual liberty guaranteed by the Constitution and cite the need for armed self-defense.

Do America's cities have the right to ban handguns?

YES

- Over the years, the federal courts have been nearly unanimous that the Second Amendment protects only the collective right of the states to maintain militias, and not an individual's right to own guns; the DC ruling is an exception to the rule.
- Tougher laws restricting gun ownership are needed to curb rising rates of gun-related violence in the nation's cities.
- Free access to handguns encourages people to take the law into their own hands and promotes vigilantism.

NO

- The DC court's decision reflects an emerging scholarly consensus that the Second Amendment guarantees an individual's right to keep and bear arms.
- There is no evidence that restrictions on gun ownership reduce the rate of violent crimes.
- City residents should be able to keep guns in their homes to protect themselves against crime.

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