

LEGAL



WINTER 2014

Gun Control, Gun Rights and the Second Amendment

by Phyllis Raybin Emert

Breaking News. Shots fired. It's become an all too familiar opening on the nightly news. On December 14, 2012, the news led with the mass shooting at Sandy Hook Elementary School in Newtown, Connecticut, where 26 people were shot and killed by a lone gunman. The young, male shooter killed 20 children, all between the ages of six and seven, as well as six adults, before killing himself.



The Newtown tragedy was by no means the first mass shooting to grab headlines. In fact, it was the 60th such shooting since 1996. Mass shootings reap the most media coverage; however, the reality is that gun violence occurs every day with very little media attention.

According to the U.S. Centers for Disease Control and Prevention, gun violence kills more than 30,000 people on a yearly basis. Statistics also show that nearly 100,000 people are victims of gun violence in the United States each year. *The Guardian*, a British newspaper, published the staggering statistic that a total of 1.17 million Americans have been killed in all wars since 1775 and the number of Americans killed by firearms (including suicides) just since 1968 is 1.38 million.

Firearms are a part of American history and America's romance with guns has continued into the 21st century. According to researchers, the number of guns in this country is hard to pin down. The Pew Research Center puts the number anywhere from 270 million to 310 million and also claims that only 37

Bradley Manning—Hero or Traitor?

by Cheryl Baisden

On May 26, 2010, 22-year-old U.S. Army Private First Class Bradley Manning was arrested while serving in Iraq. Manning's crime was leaking over 700,000 classified military reports, diplomatic communications and related material associated with Iraq and Afghanistan to WikiLeaks, which then posted some of the information on its website.

Among the leaked material was a 2007 video of a helicopter raid in Iraq, where bystanders, including two journalists, were killed; evidence of unreported civilian deaths in Afghanistan; and information pointing to a lack of documentation for prisoners at Guantanamo Bay. Some of the confidential documents were published without WikiLeaks



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Marijuana Is Legal in Two States—Will More Follow?

by Barbara Sheehan



A recent Gallup Poll revealed that 58 percent of Americans favor legalizing marijuana. In 2012, as a result of ballot initiatives, two states—Colorado and Washington—became the first to legalize marijuana, not for medicinal purposes, but for recreational use. Well over a year since the historic votes in Colorado and Washington, the debate over drug laws in general and whether recreational marijuana use should be legal continues.

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This publication was made possible through funding from the IOLTA Fund of the Bar of New Jersey.

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removing sensitive information, like the names of sources.

A military intelligence analyst stationed in Baghdad, Manning said during his trial that he had hoped releasing the material would open Americans' eyes to issues surrounding the military conflicts and prompt public debate on the wars. "I started to question the morality of what we were doing," he explained in his statement to the court. "We had forgotten our humanity."

Blowing the whistle

Some think of Manning as a hero, others call him a traitor. Manning saw himself as a whistleblower, which according to Darren Gelber, a New Jersey criminal and civil rights attorney, is someone who reports the improper or illegal activities of supervisors to his or her employer or to outside authorities, if those activities could impact the public. Whistleblowers are granted protection under federal and state laws, like New Jersey's Conscientious Employee Protection Act.

"When I made these decisions, I believed I was going to help people, not hurt people," Manning stated during his trial.

Government prosecutors viewed Manning as a traitor who, while in the service of the U.S. Army, placed national security at risk by leaking confidential information, which could potentially be of use to the nation's enemies. He was charged with stealing military secrets, violating the **Espionage** Act of 1917 and, the most serious of the accusations, aiding the enemy.

Aiding the enemy

At a hearing before his military trial (known as a court martial), the judge, Col. Denise Lind, said that to prove Manning aided the enemy, the government would have to show "that the accused had to know he was dealing, directly or indirectly, with an enemy of the United States."

Professor Yochai Benkler, co-director of the Berkman Center for Internet and Society at Harvard Law School, testified at the trial, stating, "the cost of finding Pfc. Manning guilty of aiding the enemy would impose too great a burden on the willingness of people of good conscience but not infinite courage to come forward." Professor Benkler went on to say that a guilty verdict on this charge "would severely undermine the way in which leak-based investigative journalism has worked in the tradition of the free press in the United States. If handing materials over to an organization that can be read by anyone with an Internet connection, means that you are handing it over to the enemy—that essentially means that any leak to a media organization that can be read by any enemy anywhere in the world, becomes automatically aiding the enemy."

Manning could have faced the death penalty for the charge of aiding the enemy. In the end, he was found not guilty on that count, but was convicted in July 2013 on 20 other counts, including theft, computer fraud, and six violations of the Espionage Act. He was stripped of his military rank, dishonorably discharged and sentenced to 35 years in prison. The judge could have sentenced him to up to 90 years based on the court's ruling on his convictions.

Capt. Joe Morrow, the prosecutor in the case, pleaded with the judge to give Manning a 60-year sentence. "There is value in deterrence, your honor; this court must send a message to any soldier contemplating stealing classified information," Capt. Morrow said. "National security crimes that undermine the entire system must be taken seriously."

Judge Lind reduced Manning's 35-year sentence by the three years he had already served in prison, and gave him a credit of 112 days because of the severe treatment he received when he was arrested. (A formal investigation by the United Nations found his treatment was cruel,

inhuman and degrading.) According to military parole rules Manning could be released from jail in seven years.

Reaction to the sentencing was mixed, with some believing it was too harsh, while others found it not harsh enough. A *New York Times* editorial stated “35 years is far too long a sentence by any standard;” however, the editorial also stated, “he broke the law and breached his responsibility as a military intelligence analyst to protect those files. It was by far the biggest leak of classified documents in U.S. history, and thus it is not surprising that the punishment would be the longest ever on record for leaking such information.”

Manning’s lawyer, Lt. Col. David Coombs, advised after Manning’s sentencing that he would file paperwork asking President Barack Obama to pardon Manning. At a press conference, Lt. Col. Coombs read the following statement from Manning: “I understand my actions violated the law. I regret if my actions hurt anyone or harmed the United States. When I chose to disclose classified information, I did so out of a love for my country and a sense of duty to others. If you deny my request for a pardon, I will serve my time knowing that sometimes you have to pay a heavy price to live in a free society. I will gladly pay that price if it means we could have a country that is truly conceived in liberty.”

Government crackdown

A presidential pardon seems unlikely, since the Obama administration has been cracking down on individuals who leak confidential governmental information, prosecuting eight individuals so far under the Espionage Act.

In a *Time* magazine article, Robert Bryant, the U.S. national counterintelligence executive, said, “Insider threats remain the top counterintelligence challenge to our community.”

The Espionage Act of 1917 was originally intended to, among other things, “prevent insubordination in the military and prevent the support

of U.S. enemies during wartime.” The constitutionality of the Act was tested with the 1919 U.S. Supreme Court case of *Schenck v. United States*. The Court unanimously held that the Act did not violate freedom of speech.

“The Espionage Act has been used only a handful of times to try to prosecute leaks to the media, and until recently, the effort hasn’t been very successful,” Elizabeth Goitein, a co-director of New York University



Law School’s liberty and national security program, told *The Guardian*. “That’s why the verdict and 35-year sentence in Manning’s case was such a breakthrough for the government.”

Another famous leaker

Before Manning, the most famous case dealing with the Espionage Act of 1917 involved Daniel Ellsberg, a Pentagon analyst who in 1971 leaked 7,000 pages of documents to *The Washington Post*, *The New York Times* and other newspapers. Dubbed the Pentagon Papers, the documents showed that the U.S. government had lied to Congress and the public about its activities in Vietnam, including claiming to seek peace while actually working to escalate the war and embarking on a host of illegal and unethical activities related to the war-torn region.

Ellsberg was charged under the Espionage Act, along with violating other laws. All together, he could have been sentenced to 115 years in prison.

“Ellsberg was tried on 12 felony counts under the Espionage Act but his case was dismissed in 1973 on

the grounds of gross governmental misconduct,” explained Gelber. “The government misconduct included the fact that White House staff orchestrated the burglary of the offices of Daniel Ellsberg’s psychiatrist to obtain the doctor’s files on Ellsberg.” As a result of the dismissal, Ellsberg has been labeled as a whistleblower who revealed what the government really thought about the Vietnam War, not as a criminal.

Ellsberg, who has been critical of the Obama administration’s tactics with handling leakers, believes Manning is a hero and sees many similarities between his own case in the 70s and Manning’s today. In an interview with *The Washington Post*, he said, “We need more whistleblowers and to allow the government simply to stigmatize them without opposition does not encourage that.”

Prosecuting the publishers

While the Obama administration has charged government personnel and contractors who leak classified material under the Espionage Act, individuals and organizations that actually *publish* the classified information are not generally charged, since they did not actually *leak* the information. Such is the case with Julian Assange, the founder of the online website WikiLeaks, which originally published the classified documents. Although Assange left the country following publication of Manning’s material, and has been granted political asylum in Ecuador, U.S. officials have not attempted to charge him in the case.

“The problem the department has always had in investigating Julian Assange is there is no way to prosecute him for publishing information without the same theory being applied to journalists,” former Justice Department spokesman Matthew Miller told *The Washington Post*. “And if you are not going to prosecute journalists for publishing classified information, which the department is not, then there is no way to prosecute Assange.”

Marijuana—A brief history

According to a timeline by PBS's *Frontline*, the recreational use of marijuana (also called cannabis, reefer, pot and many other slang terms) was introduced after the Mexican Revolution of 1910 when Mexican immigrants came to the U.S. These immigrants used the drug to help them relax after a hard day's work in the fields. By 1931, the use of marijuana had been outlawed in 29 states.

In 1944, the New York Academy of Medicine issued a report revealing that smoking marijuana did not encourage violence, cause insanity or lead to addiction or other drug use, as once thought. Subsequent reports commissioned by Presidents John Kennedy and Lyndon Johnson confirmed this information. In 1972, President Richard Nixon appointed the Shafer Commission to consider laws regarding marijuana. The recommendation of the Commission was that personal use of marijuana should be **decriminalized**. President Nixon ignored the Commission's recommendations and the "war on drugs" began.

Medical marijuana

While marijuana continues to be illegal in the U.S. under federal law, its medical use and benefits continue to be debated. The 1970 federal Controlled Substance Act classified marijuana as a schedule 1 drug, with "no currently accepted medical use." Proponents of medical marijuana, however, argue that some forms of the drug (not all of which will get the user high) can be used to treat the symptoms of cancer, AIDS, multiple sclerosis, glaucoma, epilepsy and other pain-related conditions. Opponents of legalizing medical marijuana argue that there are legal drugs that do the same thing and point out that medical marijuana lacks FDA approval.

In 1996, California became the first state to make medical marijuana available legally. Today, according to the National Conference of State Legislatures, 20 states and Washington, D.C. allow medical marijuana. There are strict laws governing the dispensing and use of medical marijuana in these states. For example, New Jersey's 2010 law set up the creation of six state-licensed "alternative treatment centers," where patients with certain diseases and the terminally ill could legally obtain marijuana. Among other things, the law prohibits patients from growing their own marijuana plants and limits their marijuana possession to two ounces per month.

Bending the rules

While the recreational use of marijuana is legal at the state level in Colorado and Washington,

federally the drug remains illegal in all 50 states. Even though the Obama administration could sue Colorado and Washington for not following the federal drug policy, it has given the two states a chance to try out their marijuana policies provided they meet certain conditions, with strict rules that are strongly enforced.

An August 2013 memo to U.S. attorneys nationwide from Deputy Attorney General James Cole stated, "The Department's guidance in this memorandum rests on its expectation that states and local governments that have enacted laws authorizing marijuana-related conduct will implement strong and effective regulatory and enforcement interests. A system adequate to that task must not only contain robust controls and procedures on paper; it must also be effective in practice."

In both Colorado and Washington, marijuana use will be allowed only for people 21 and older, and strong laws are being enacted to govern how pot will be grown, sold and regulated. Marijuana sales began in Colorado in January 2014 and will begin in Washington later this year.

Whether the federal government sticks with its hands-off

approach remains to be seen. As Amelia Thomson-Deveaux pointed out in her article "In the Weeds" for *The American Prospect*, "The instructions that came down in August aren't the law. A change of leadership in the department, or the election of a new president with a less generous attitude toward pot, could usher in a new wave of raids and **punitive policies.**"

Mixed opinions

Clearly, opinions about marijuana use and penalties are mixed.

Organizations like the Drug Policy Alliance (DPA), which describes itself

as a national advocacy leader of drug law reform based on science, compassion, health and human rights, argue that decriminalizing marijuana will help reduce violence and destruction caused by the illegal marijuana market; free up law enforcement resources to better protect the public safety; create jobs and help raise money through taxes that can be used by state and local governments; and help sick people gain better access to medical marijuana.

"At DPA, we don't condone the use of marijuana, alcohol or any other drugs by young people," said Elizabeth Thompson, policy coordinator at the New Jersey DPA. "However, evidence shows that prohibition does an unacceptably poor job at achieving this goal. Any legal regulatory system for marijuana should absolutely include enforceable age limits."



Others, like New Jersey Senator Jim Holzapfel of the 10th Legislative District, believe that legalizing marijuana will lead to more—not fewer—problems.

“As a former Ocean County Prosecutor, I have witnessed the detrimental effects of marijuana use on young adults,” Senator Holzapfel said in an email. “If marijuana becomes legally available we risk more people under the influence on the roads, resulting in more accidents and traffic violations. In addition, because marijuana is viewed by the public as a drug, whereas alcohol generally is not, if legalized its use may open the door to the use of additional and potentially more harmful drugs. Once someone has done one drug, the barrier of being a ‘drug user’ has been breached in their own minds, making the progression to other drug[s] easier.”

There are differing views on whether marijuana use leads to other more serious drug problems. On its website, the DPA says, “Most marijuana users never use any other illegal drug and the vast majority of those who do try another drug never become addicted or go on to have associated problems.”

Arresting facts

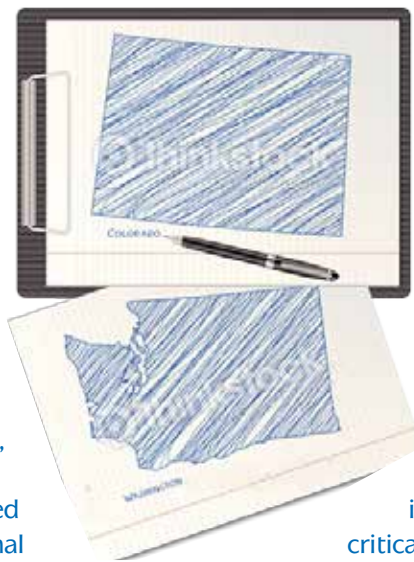
Even though Colorado and Washington are the only states so far to legalize marijuana, many states have enacted other laws related to marijuana use and penalties. During the 1970s, after the Shafer Commission’s recommendations, 11 states decriminalized marijuana. Today, according to the National Organization for the Reform of Marijuana Laws (NORML), which works to reform marijuana laws, 16 states (not New Jersey) have passed laws decriminalizing marijuana.

As described by NORML “Typically, decriminalization means no prison time or criminal record for first-time possession of a small amount for personal consumption. The conduct is treated like a minor traffic violation.” This is different from legalizing marijuana, which makes it okay to use pot and sets up laws and rules to govern its use.

According to the DPA, “Roughly three quarters of a million people are arrested for marijuana each year, the vast majority of them for simple possession.”

Marijuana risks for young people

Some studies have shown that marijuana affects young people differently than adults, and that marijuana may have harmful effects on the developing brain. Researchers at Duke University conducted a study in New Zealand, which revealed that teens who started smoking marijuana before age 18 were more likely to become addicted and experience



a drop in IQ, whereas those who started smoking after the age of 18 (even if they used marijuana heavily) did not show a significant decline in IQ.

“The effect of cannabis on IQ is really confined to adolescent users,” Madeline Meier, lead author of the study and a postdoctoral researcher at Duke University, told *Time*. “Our hypothesis is that we see this IQ decline in adolescence because the adolescent brain is still developing and if you introduce cannabis, it might interrupt these critical developmental processes.”

Most researchers agree that more investigation needs to be done regarding drug use and brain development in adolescents, as there are still many unanswered questions.

“The bottom line is, marijuana is an illegal drug,” said Nicholas R. DeMauro, CEO of DARE (Drugs, Awareness, Resistance and Education) New Jersey. “Regardless of any medical marijuana legislation, children must be educated as to the effects and consequences of the use of marijuana.”

What’s next?

Morgan Fox, communications manager for a marijuana advocacy group called the Marijuana Policy Project, which led the movement to legalize marijuana in Colorado, predicted that at least 10 more states will have marijuana policies similar to those in Colorado and Washington by 2017.

For now, marijuana legalization in New Jersey seems unlikely. Even though New Jersey has passed medical marijuana legislation, Governor Chris Christie has resisted some efforts by people to expand the state’s medical marijuana laws, and he has publicly spoken out against legalizing recreational marijuana.

In a December 2013 press conference, Governor Christie said, “Every time you sign one [medical marijuana] expansion, then the advocates will come back and ask for another one. Here’s what the advocates want: they want legalization of marijuana in New Jersey. It will not happen on my watch, ever.”

Among the states that are reportedly considering legalization are California and New York. In Oregon, a ballot measure to legalize marijuana failed in 2012, but some say it is likely to come up again. Also, in Portland, Maine, citizens voted in 2013 to pass a referendum allowing the city’s adult residents to possess small amounts of pot, which some see as a sign of future statewide legalization.

As the debate on whether to legalize marijuana in other states, as well as federally, rages on, all eyes will be watching Colorado and Washington. 🍌

percent of American households contain a gun. The gun argument, whether you are an advocate for gun control or gun rights, centers on the interpretation of the U.S. Constitution's Second Amendment.

The Second Amendment

The Second Amendment reads: "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." These few words have resulted in numerous writings and analyses of what the Founding Fathers intended. At the time the Second Amendment was written, citizen soldiers, sometimes called minutemen, were ready at a moment's notice to fight in militias against the British with single-shot muskets that required loading a ball and gunpowder. When the amendment was written, the Founding Fathers couldn't have imagined the vast array of weaponry that can be obtained by 21st century citizens.

Second Amendment interpretations have divided into two main views — the collective right to bear arms within a regulated militia, and the individual right to bear arms. The collective rights explanation was originally the most widely accepted viewpoint. By 1960, the first legal article regarding individual's right to keep and bear arms appeared. In the years since, many articles have been written supporting the individual rights interpretation, which has been adapted and politicized by gun rights organizations, such as the National Rifle Association (NRA).

Collective vs. individual

Robert Spitzer, a political science professor at the State University of New York at Cortland, wrote an article titled, "Lost and Found: Researching the Second Amendment," which appeared in the book *The Second Amendment in Law and History*. Professor Spitzer wrote, "The Second Amendment pertains only to citizen service in a government-organized and regulated militia (remembering that militiamen were expected to bring their own firearms)...the Second Amendment provides no protection for personal weapons use, including hunting, sporting, collecting, or even personal self-protection (this latter is covered under criminal law and the common law tradition)." He also wrote, "'Universal' citizen militia service and the right to bear arms is not, and never has been, a right enjoyed by all citizens, unlike other Bill of Rights protections such as free speech, religious freedom, or right to counsel...Legal protection for personal self-defense arises from the British common law tradition and modern criminal law, not from constitutional law."

Dick Metcalf, a long-time columnist for *Guns & Ammo* magazine, wrote, "Note carefully: Those last four words say 'shall not be infringed.' They do not say 'shall not be regulated.' Well regulated is, in fact, the initial criterion of the amendment itself." Metcalf's column, which ran in the December 2013 issue of *Guns & Ammo*, angered gun rights organizations and gun manufacturers. He was fired soon after.

Gun rights organizations, like the NRA, believe that every American citizen over 18 has the right to purchase and keep guns and that right is guaranteed in the Second Amendment to the U.S. Constitution. As they see it, it is not the business of the government to regulate firearms in the form of gun control legislation. Such regulations, no matter how minor, will eventually lead to the "slippery slope" of complete gun regulation. The government will ultimately disarm the public, leaving the citizenry open to an oppressive government.

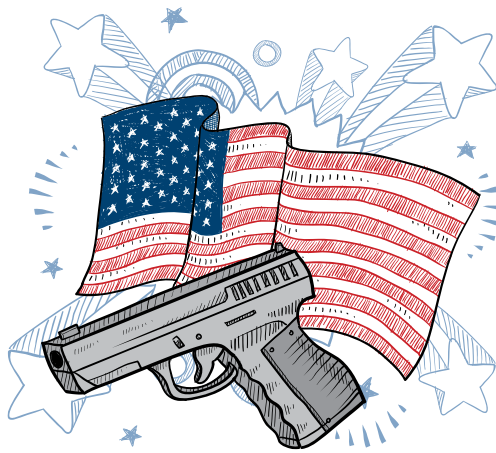
Joyce Lee Malcolm, a professor at George Mason University School of Law and an outspoken proponent of gun rights, testified before the House Subcommittee on Crime in September 2011. "If self-defense is to be effective people must be able to be armed.

The police cannot protect everyone, or even anyone all of the time," Professor Malcolm testified. .

Former U.S. Supreme Court Chief Justice Warren Burger called the NRA's interpretation of the Second Amendment "a myth." In a 1991 interview with PBS's *News Hour*, Chief Justice Burger said the organization's interpretation is "one of the greatest pieces of fraud, I repeat the word fraud, on the American people by any special interest group that I have ever seen in my lifetime."

What has the Supreme Court said?

The U.S. Supreme Court has only ruled on a handful of Second Amendment cases—one being the 1939 case of *United States v. Miller*. In that case, Jack Miller carried an unregistered shotgun across state lines violating the National Firearms Act. Miller argued the Act violated the Second Amendment and the U.S. District Court agreed. The appeal went to the U.S. Supreme Court which reversed the district court. The Court used the Militia Clause (Article I, Section 8) of the U.S. Constitution in the majority opinion and stated, "We cannot say that the Second Amendment guarantees the right to keep and bear such an instrument," since there was no evidence showing that owning the shotgun had any relationship to the militia. In all previous cases, the Court never actually decided that the Second Amendment guaranteed an individual's right to keep and bear arms.



That changed with the Court's decision in the 2008 case of *District of Columbia v. Heller*. Gun owners challenged local gun control laws, which banned new registration of handguns and carrying a pistol without a license, and a regulation that guns in the home had to be kept unloaded and locked up. They filed a lawsuit in federal court claiming that these laws were unconstitutional under the Second Amendment. The district court held that the Second Amendment applied only to militias and not to private gun possession. The Appeals Court reversed and ruled that individuals had a right to own handguns for self defense and did not have to lock them up in their homes.

In a 5-4 vote, the U.S. Supreme Court upheld the appellate court's decision. In the majority opinion Justice Antonin Scalia wrote, "the Second Amendment confers an individual right to keep and bear arms, and... the D.C. provisions banning handguns and requiring firearms in the home disassembled or locked violate this right." However, the Court left open the possibility of local gun rules when Justice Scalia wrote "that the right to keep and bear arms is subject to regulation, such as concealed weapons prohibitions, limits on the rights of felons and the mentally ill, laws forbidding the carrying of weapons in certain locations, laws imposing conditions on commercial sales and prohibitions on the carrying of dangerous and unusual weapons."

Gun control

While many thought the Newtown shooting would serve as a wake-up call to pass stricter gun control

laws, so far that has not been the case. In April 2013, the Obama administration introduced gun control legislation in the U.S. Senate. Among other things, the legislation attempted to ban assault weapons (machine guns) and large ammunition magazines, require universal background checks on all sales of guns, and prohibit gun trafficking (smuggling, illegal buying and selling). In order for any of this legislation to pass, 60 votes were needed because of a threatened **filibuster**. As a result, background checks failed to pass 54 to 46; gun trafficking failed 58 to 42; assault weapons lost 40 to 60; and the ban on large ammunition magazines failed 46 to 54. The only actual gun-related bill to pass (67 to 30) was one that protected the privacy of gun owners.

Senator Kelly Ayotte of New Hampshire was one of the senators who voted against expanding background checks. At a town meeting, Erica Lafferty, whose mother was the principal at Sandy Hook Elementary School, confronted Senator Ayotte. "You had mentioned that day the burden on owners of gun stores that the expanded background checks would harm," Lafferty said. "I am just wondering why the burden of my mother being gunned down in the halls of her elementary school isn't more important than that."

A Washington Post-ABC News poll released in April 2013 revealed that nine in 10 Americans support expanding background checks. So why, when as many as 90 percent of Americans favor expanding background checks, did it fail to pass in Congress?

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One Gun a Month for New Jerseyans

New Jersey has always had strict gun control laws. In order to carry a handgun in the Garden State, a person must fill out an application and be approved for a permit by the chief police officer or superintendent of police in one's place of residence. Fingerprints and three references are required, and according to New Jersey law, the applicant must be "thoroughly familiar with the safe handling and use of handguns, and...have a justifiable need to carry a handgun."

New Jersey, along with California and Maryland, also has a One-Gun-A-Month Law. Police officials may determine exemptions to this law for collectors and competitive shooters. This portion of the law was aimed at weapons dealers (known as traffickers) who purchase guns in large quantities and then resell them to criminals individually in other states.

An affiliate organization of the NRA brought a lawsuit against New Jersey's One-Gun-A-Month Law. A federal district judge dismissed the suit and the U.S. Court of Appeals upheld that ruling.

Another lawsuit challenged the constitutionality of the requirement to show a "justifiable need to carry a weapon in public." According to New Jersey law, in order

to meet the "justifiable need" standard, the applicant must demonstrate the "urgent necessity for self-protection, as evidenced by specific threats or previous attacks which demonstrate a special danger to the applicant's life that cannot be avoided by means other than by issuance of a permit to carry a handgun." Those who brought the lawsuit believed that carrying guns in public is a fundamental right of Americans and no justification should be necessary.

In a 2-1 decision, the Appeals Court found that "the law is a 'presumptively lawful,' longstanding regulation and therefore does not burden conduct within the scope of the Second Amendment." Appeals Court Judge Ruggero Aldisert wrote in the majority opinion, "We reject Appellants' contention that a historical analysis leads inevitably to the conclusion that the Second Amendment confers upon individuals a right to carry handguns in public for self-defense." Judge Aldisert also wrote, "It remains unsettled whether the individual right to bear arms for the purpose of self-defense extends beyond the home."

—Phyllis Raybin Emert

Lobbying not just for the NRA

Gun rights groups, most notably the NRA, have a strong **lobbying** presence in Washington, DC.

According to a *PBS Frontline* article gun rights groups outspent gun control advocates in lobbying by almost \$10 million. Their research also revealed that since the shooting at Sandy Hook Elementary School, “27 states have passed 93 laws expanding gun rights, including measures allowing people to carry concealed weapons in churches, public parks and schools.”

The NRA, which was formed in 1871 by former Union officers as a sports club to promote marksmanship, is currently five million members strong. The organization formed its Institute for Legislative Action in 1975, which is when it became involved in lobbying.

In an interview with National Public Radio (NPR), Professor Spitzer, who is an NRA member, said, “In the 1970s, you see the Second Amendment rhetoric escalate dramatically as an argument against stronger gun laws and to identify gun ownership with American values and historical values.” The escalation of this rhetoric nationally, according to Professor Spitzer, coincided with the NRA’s increasing power.

A current brochure on the NRA’s website states simply: “When lawmakers target our freedoms, we target their careers...When restrictive legislation is proposed at any level of government, we marshal our grassroots supporters to make their voices heard.”

“That kind of alarmist rhetoric is very important because that’s how you mobilize your base,” Professor Spitzer told NPR.

While the NRA may be the most famous of the gun rights lobbying groups, it is not the only one. Two other gun rights groups—the National Association for Gun Rights (NAGR) and Gun Owners of America (GOA)—are gaining attention.

According to *Frontline*, “NAGR, which considers itself to be the right of the powerful NRA, spent nearly \$6 million in lobbying this year through September 2013—more than double what the NRA paid out and far more than any other group on either side of the debate.”

After the president’s gun control legislation was defeated, former Congresswoman Gabriele Giffords of Arizona wrote in a *New York Times* editorial, “These senators made their decision based on political fear and on cold calculations about the money of special interests like the National Rifle Association... The senators who voted against background checks for online and gun-show sales, and those who voted against checks to screen out would-be gun buyers with mental illness, failed to do their job. They looked at these most benign and practical of solutions, offered by moderates from each party, and then they looked over their shoulder at the powerful, shadowy gun lobby—and brought shame on themselves and our government itself by choosing to do nothing.”

Giffords is still recovering from being shot in 2011, after a gunman opened fire outside a local grocery store where the congresswoman was holding a constituent meeting. Six people were killed that day and 17 others were wounded.

Moving forward

So, it’s been a year since the massacre at Sandy Hook Elementary School and what has changed? The answer is very little. Recent polls have shown that Americans’ support for stricter gun control laws in general is starting to fade; however, the support for universal background checks remains the same. President Obama and other gun control groups will try again to pass some sort of gun control legislation, though the prospects are uncertain.

In an article for *The Huffington Post*, a reporter asked the same question to several members of Congress—both Republican and

Democrat. The question was: It’s been a year since Newtown. How has your view of gun violence in America changed since then? What the article revealed is that the tragedy, much like other horrific mass shootings over the years, didn’t change any lawmaker’s opinion, only strengthened their pre-existing beliefs on the subject.

Congressman Rob Andrews, a Democrat from New Jersey, told *The Huffington Post*, “My views haven’t changed, but one has been completely reaffirmed: If there is not a permanent grassroots movement in favor of gun safety that is competitive with the NRA, nothing is ever going to change.”

In fact, three gun control groups have been formed recently. They are Americans for Responsible Solutions, Moms Demand Action and Mayors Against Illegal Guns, which is backed by former New York City Mayor Michael Bloomberg. Only time will tell whether these groups have the money or power to fight the powerful gun rights lobby and effect change. 🪄



decriminalize — to refrain from applying criminal penalties; regard as non-punishable.

espionage — the practice of spying.

filibuster — an attempt to block legislation or a judicial appointment by prolonged speaking.

lobbying — process of influencing elected officials to pass certain laws and/or implement certain policies.

presumptive — probable; reasonable grounds for belief.

punitive — inflicting punishment.

