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The Second Amendment in the 21st Century: An In-Depth Examination of Firearm Freedoms and their Relationship with Public Safety and Interests

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THE SECOND AMENDMENT IN THE 21ST CENTURY: AN IN-DEPTH
EXAMINATION OF FIREARM FREEDOMS AND THEIR RELATIONSHIP
WITH PUBLIC SAFETY AND INTERESTS

by

MATHEW E. KLEIN

A thesis submitted in partial fulfillment of the requirements
for the Honors in the Major Program in Legal Studies
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ABSTRACT

One of the most hotly contested topics in the world today revolves around an object. An object that has caused debate among all members of society both in the United States, and all across the globe. But how could an object, something that on its own does nothing, spur such heated argument? This object is the evolution of invention and the product of fighting amongst each other. This object changes the way people think and how they act. This object can be used for both good and bad. This object is a gun.

This research project will explore the Second Amendment of the United States Constitution in the 21st century, providing an in depth examination of firearm freedoms and their relationship with public safety and interests. This research is integral to our society, both politically and publically. Firearms are a significant aspect of our country, a longstanding right that many people view as one of the most essential rights of a United States citizen. The research presented will examine vital aspects of the debate regarding firearm rights, and analyze the relationship between firearm freedoms and public safety.

This thesis will examine the benefits and detriments regarding firearm freedoms and their relationship with public safety. This thesis will first establish the necessary background information, including general information, legislation, and statistics, in order to analyze the aforementioned relationship. The next step in the analysis is to examine the benefits of firearm freedoms, as well as the problems with having unlimited firearm freedoms. This thesis will also examine other essential areas regarding this debate, including political impact, public opinion,

and global comparisons. The thesis will conclude with possible alternatives for legislation regarding firearms, and an analysis of the likely proper path upon which to proceed.

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BACKGROUND INFORMATION

Terminology Foundation

Prior to establishing the necessary background information to begin this thesis with, it is first important to clarify the specifics of this topic, especially in regard to terminology. The firearm debate has multiple aspects and angles that must be examined, so it is necessary to specify what areas of the debate this thesis is specifically focusing on. This thesis research is focusing on the possibility of increasing firearm restrictions, which translates to actually restricting access to firearms via such possible ways as a handgun ban or assault weapon ban. Therefore, such phrases as “increasing firearm restrictions” or “decreasing firearm freedoms” will typically refer to this type of action. The thesis will discuss alternatives to increasing firearm restrictions by other means, such as increasing background checks, first this thesis will address decreasing firearm freedoms by tightening restrictions on access to firearms.

Firearm Ownership Information

Before analyzing the relationship between firearm freedoms and public safety, background information must be established to lay the proper foundation for the contentions. The first aspect of this background information revolves around basic firearm definitions. The definition of a firearm is a “portable weapon designed to launch a metal projective propelled at

high speeds via an explosion through a metal tube.” There are generally three types of firearms: handguns, rifles, and shotguns. Some of the most typical uses for firearms are hunting, target shooting, and self-defense. One of the most common type of firearms owned by the public is a handgun, especially a semi-automatic handgun, which fires a bullet (metal projectile encased with gunpowder) each time the trigger is pulled.

Ownership information for firearms is an important aspect in establishing the background for this research. “The estimated total number of guns held by civilians in the United States is 270,000,000 to 310,000,000...[with] 114,000,000 handguns in civilian possession.” (Alpers, et al) These figures demonstrate that firearms are common in today’s society, with a staggeringly high ownership rate. Furthermore, the “top 20% of firearm owners had 10 a piece, accounting for 55% of all firearms [and] owners with just one accounted for 25% of all owners.” (Cook, Gross, 6) These figures demonstrate that many firearms are held in the possession of owners with multiple firearms, indicating that there are many more firearms available to the public than the number of actual owners. While it is true that many firearm owners have a multitude of firearms, the vast number of owners is especially shocking when considering that there around roughly the same number of firearms owned by citizens in the United States as its number of total people. It is currently estimated that “40% of all US homes have guns.” (“Background on Gun Control”) This figure is vital to demonstrating how the public likely views firearms, as such a large ownership ratio could indicate that many Americans side with less restrictive firearm regulations. Additional support to this assertion can be derived from a separate statistic that also demonstrates the vast number of firearm owners in the United States: “in a comparison of the number of privately owned guns in 178 countries, the United States ranked at number one.” (Alpers, et al)

The aforementioned facts regarding firearm ownership amounts could be predictive of how the public may view a change in firearm regulations and restrictions.

The purpose of firearm ownership is also vital to understanding the reasons behind such a vast number of total firearm owners. In 2013, 48% of owners cite protection as the primary purpose of ownership, and 39% report hunting or target shooting as their primary purpose for ownership. (Cook, Gross, 5) This figure demonstrates a shift from the 1999 report in which only 29% cited protection as the main reason for ownership. The change from 1999 to 2013 could be because parental ownership could lead to ownership by their children when they grow older, and they may cite protection because of the public controversy over guns. The shift between 1999 and 2013 could not likely be attributed to an increase in crime rate, as figures show that there has actually been a decrease in the crime rate over that time.

Furthermore, another vital statistic to establish before examining the issues at hand revolves around owners' information. "37% of men as compared to 12% of women [own firearms and] ...middle-aged folks are more likely than those under 30 to have a gun, and whites are twice as likely as blacks." (Cook, Gross, 4) Establishing this ownership information is integral to analyzing the firearm debate, as one must determine those most likely to be effected by such legislation. These figures demonstrate that white middle-aged males are the largest demographic of firearm owners. Another factor to consider when analyzing firearm ownership trends is the fact that many firearm owners possess more than one firearm. While it is essential to examine the total number of firearm owners, it is also necessary to account for the owners that have multiple firearms in order to properly analyze the true number of firearms in the United States. Additionally, the states with the highest ownership of firearms include West Virginia,

Alabama, Mississippi, Wyoming, and Louisiana, while the states with the lowest ownership rates are Hawaii, Rhode Island, Massachusetts, New Jersey, and New York. (Cook, Gross, 5) As with the figures established previously, this information on state owner information is essential to establishing the most likely effected areas for firearm legislation, as well as proper application for firearm crime rates. This is reinforced by the fact that in Phoenix and Dallas-Fort Worth, two cities with some of the greatest concentration of urban gun ownership, more than half of suicides are with guns, while New York only has a 12% rate of suicides with guns. (Cook, Gross, 5) This figure assists in identifying another issue surrounding firearms, as the presence of firearms in highly concentrated areas may have a correlation to firearm-assisted suicides.

Another important purpose for firearm ownership that is important to establish prior to the thesis argument revolves around shooting sports. Shooting sports may include a multitude of firearm relate activities, which may include hunting, shooting competitions, target practice, and skeet/trap shooting. While many firearm owners assert that their purpose for firearm ownership is for self-defense, participation in these activities may also be a separate reason for owning firearms. Today, 13 million adults hunt in any given year, or roughly 6% of the population who are over the age of 16. (Cook, Gross, 9) With such a large number of people participating in just one of the many firearm related sports/activities, it is an important factor to consider when examining firearm regulations. However, while many Americans do participate in shooting sports, there has also been a shift in participation in recent history. Over the past twenty years, the percentage of adults who hunted for food or sport decreased by 1.4%, and the average age of the hunting population has increased since 1991. (Cook, Gross, 9) These facts could signify that while there are a vast number of Americans that participate in shooting sports, many younger

Americans have chosen not to participate in these activities. This shift may denote a shifting view on firearms in the eyes of the younger American public, which could translate to support for an increase in firearm legislation.

Before beginning the thesis analysis, it is also essential to review recent firearm ownership trends in today's society. In 1980, approximately half of American households owned a firearm, while in 2010 only 35% of houses own firearms. Over the same period, the percent of people who own a firearm also declined. (Cook, Gross, 7) This figure demonstrates that over the past 30 years, firearm ownership has steadily declined in America, which may hint at the public opinion on firearms. In addition, if a person grew up in a home that had a firearm, they are three times more likely to own a gun than adults that did not. This may be because the presence of a firearm when at a young age allows individuals to enjoy gun sports and be comfortable with them in the home. (Cook, Gross, 6) This shows that past traditions of firearm ownership do have an effect on future trends in American society, signifying the need to examine firearm ownership trends. On another note, "domestic shipments of new firearms doubled between 2003 and 2011 to a record of 9.5 million." (Cook, Gross, 7) It is also possible that the average number of firearms per owner is increasing because the inflow is beyond the population growth, while the number of total owners has not increased. The influx of firearms into the United States demonstrates that recent events have led to a larger firearm industry, with more and more firearms available to the public every day.

Relevant Legislation

The most influential provision regarding firearm rights is the Second Amendment of the United States Constitution. The Second Amendment states: “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.” This Amendment is a primary source of the right to firearms for United States citizens, and therefore is the first piece of legislation that must be examined for this thesis. Since the creation of the Constitution, the interpretation and meaning of the Second Amendment has morphed via court cases and legislation. The original interpretation of the Second Amendment only applied to state militias, which was changed by the Supreme Court in 2008 to apply to an individual’s right to own a firearm. Before 2008, the courts derived the right to own a firearm from the fundamental human rights to protect one’s life, liberty, and property. The application and interpretations of the Second Amendment in later legislation and court cases will be essential in examining the current firearm policies in the United States, and the possible future path for additional legislation.

In addition to the Second Amendment, other federal laws and regulations which control the right to own a firearm in the United States. The major federal laws that govern firearm rights are the National Firearms Act of 1934, Gun Control Act of 1968, and Brady Handgun Violence Prevention Act of 1993. According to the Law Center to Prevent Gun Violence:

“The National Firearms Act imposes an excise tax and registration requirements on narrow categories of firearms... The [Gun Control Act] enacted prohibitions on the importation of firearms “with no sporting purpose.” ... establish[ed] minimum ages for firearms purchasers, the requirement that all firearms (domestic and imported) be affixed with a serial number, and the expansion of the categories of prohibited persons.... The

Brady Handgun Violence Prevention Act of 1993 effected amendments to the GCA, originally imposing a five-day waiting period... before a licensed dealer was entitled to complete the sale of a handgun to that person.” (Key Federal Acts)

The above detailed federal legislation clearly placed a multitude of regulations on firearms in the United States, and altered the types of firearms that are available to the public today. The Nation Firearms Act of 1934, Gun Control Act of 1968, and Brady Handgun Violence Prevention Act of 1993 are of the utmost importance to this thesis, as they directly altered the firearms available to the public.

District of Columbia v. Heller

In addition to Federal Legislation, firearm rights have also been impacted by Supreme Court rulings, specifically in two major cases, the first of which is District of Columbia v. Heller. The case of *Heller* revolved around a District of Columbia law that banned handgun possession in the home and implemented a safe storage requirement for legal firearms kept in a person’s home. The court in *Heller* held that the Second Amendment “guarantees an individual right to possess a firearm in the home for self-defense, and struck down the handgun possession ban as well as the safe storage law.” (Understanding DC) This holding by the Supreme Court vastly influences the right to firearms, as it declared a Washington, D.C. law that banned handguns illegal, thus recognizing an individual’s right to bear arms under the Second Amendment. The concurring opinions in *Heller* also establish important legal precedent for the future, and therefore must also be examined. “Like most rights, the right secured by the Second Amendment

is not unlimited.... The right was not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose.... Nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms.”

(District of Columbia v. Heller, 554 U.S. 570 (2008)) This portion of the opinion in *Heller* is one of the most significant statements to examine from the case, as it established that the right to a firearm can be limited. The statement also details possible legal limitations on firearm possession, including reasons for not allowing possession such as mental illness and felony convictions. Another important statement to analyze from the *Heller* opinion regards the establishment of where the right to own a firearm is derived. “There seems to us no doubt, on the basis of both text and history, that the Second Amendment conferred an individual right to keep and bear arms. Of course the right was not unlimited, just as the First Amendment's right of free speech was not.” (District of Columbia v. Heller, 554 U.S. 570 (2008)) This statement from the opinion is important for two reasons. First, it established that the source of the right to firearms is derived from the Second Amendment, and confirmed that limitations on firearm rights are permissible. Because *Heller* established that the Second Amendment is the source of the right to firearms, it makes any legislation that completely infringes upon this right unconstitutional. An additional statement from the *Heller* opinion that is of the utmost importance focuses on the safe storage requirement that the District of Columbia legislation established. “We must also address the District's requirement (as applied to respondent's handgun) that firearms in the home be rendered and kept inoperable at all times. This makes it impossible for citizens to use them for

the core lawful purpose of self-defense and is hence unconstitutional.” (District of Columbia v. Heller, 554 U.S. 570 (2008)) Thus, this portion of the opinion from *Heller* asserted that a requirement to have all firearms in a home inoperable is, for self-defense purposes, unconstitutional because it prevents the owner from using the firearm to protect oneself when it becomes necessary. The safety precautions cannot be so onerous as to prevent the owner from protecting himself and his family. This finding in *Heller* is important for current possible changes to firearm freedoms, as one possible alternative to increasing firearm restrictions is to require safety precautions for firearms to prevent accidental shootings.

As a result of the handgun ban in Washington, D.C. before the *Heller* ruling, important statistical information can also be examined to measure the effect of a firearm ban on public safety. “During the years in which the D.C. handgun ban and trigger lock law was in effect, the Washington, D.C. murder rate averaged 73% higher than it was at the outset of the law, while the U.S. murder rate averaged 11% lower.” (Agresti, Smith) This information suggests that restricting the use of firearms may have actually caused an increase in the murder rate in Washington. This statistical information is of great significance to the basis of this thesis, demonstrating the possible negative effect on public safety when unreasonable restrictions are placed on firearms in a United States city.

McDonald v. City of Chicago

The additional Supreme Court case that must be examined is that of *McDonald v. City of Chicago*. In *McDonald*, ordinances in Chicago essentially banned handgun possession by private

citizens. Because of the ruling in *Heller* technically only applied to a federal enclave, states contested that they still maintained the right to ban firearms. The court held that the “Second Amendment applies to state and local governments in addition to the federal government.” (Understanding McDonald) Thus, the Supreme Court confirmed its ruling in *Heller*, as it had involved Washington, D.C., which is technically a federal enclave and not a state. The court that the liberty component of the Fourteenth Amendment makes the right to keep and bear arms established in the Second Amendment apply to the states. This statement is supported by a portion of the opinion in *McDonald*, which states that “It is clear that the Framers and ratifiers of the Fourteenth Amendment counted the right to keep and bear arms among those fundamental rights necessary to our system of ordered liberty.” (McDonald v. Chicago, 561 U.S. 742 (2010)) As such, because the right to bear arms established in the Second Amendment is a fundamental right, then the Fourteenth Amendment requires that this right must be followed by the states. In *McDonald* the Supreme Court did make sure to clarify that the right to own a firearm does not equate to the ability to own any type of firearm, and the government does have the ability to restrict certain types of firearms. One integral portion of the *McDonald* opinion to examine regards discussion of the findings in *Heller*. “Self-defense is a basic right, recognized by many legal systems from ancient times to the present, and the *Heller* Court held that individual self-defense is ‘the central component’ of the Second Amendment right.... The Court found that this right applies to handguns because they are ‘the most preferred firearm in the nation to ‘keep’ and use for protection of one’s home and family,’ It thus concluded that citizens must be permitted ‘to use [handguns] for the core lawful purpose of self-defense.” (McDonald v. Chicago, 561 U.S. 742 (2010)) This statement from the *McDonald* opinion is of vast importance, as it confirms the

findings in *Heller* regarding the Second Amendment as the source for the right to bear arms, and confirms that a ban on handguns would be considered unconstitutional. The *McDonald* case is integral to the firearm freedoms discussion, and will impact any legislation proposed in this thesis.

As a result of firearm restrictions before the *McDonald* ruling, fundamental statistical information can be gathered, similarly as that gathered prior to *Heller*. “Since the outset of the Chicago handgun ban, the percentage of Chicago murders committed with handguns has averaged about 40% higher than it was before the law took effect.” (Agresti, Smith) This statistical information is vitally important to this thesis, as it establishes the fact that the handgun restrictions in a major United States city actually resulted in more murders committed with handguns. To clarify this assertion, in Chicago during the years that the handgun ban was active, the percentage of murders committed with a handgun rose 40% more than the amount prior to the ban’s enactment. Because firearm restrictions in modern America was so uncommon, the effects of the ban in Chicago on crime cast an important view into the possible path of crime if firearms are restricted. Knowing the impact of increased firearm restrictions could predict the results if a larger restriction was placed across the United States, and whether such a restriction will improve public safety or possibly cause more harm.

Firearm Incident Information

In order to determine the proper relationship between the firearm freedoms and the need to protect public safety, firearm incident statistics must be examined. Firearms are deadly

weapons that have an all too common usage by criminals. “Roughly 5.9 million violent crimes were committed in the United States during 2014... Of these, about 600,000 or 10% were committed by offenders visibly armed with a gun.” (Truman, 2014; Agresti, 2016) This statistic provides a definitive figure to demonstrate the number of firearm related crimes. While all crimes are clearly a threat to public safety, the use of a firearm by someone committing a crime increases the chance of major bodily harm exponentially. Because of the vast number of crimes committed with a firearm present, this statistic proves that firearms do threaten public safety and the possible reduction of firearm freedoms could better protect the public. In order to properly determine the meaning of the previous statistic regarding violent crimes with a firearm, one must compare this figure to other factors that are effected by firearm freedoms. In the United States as per 2004, there was a reported “2.5 million annual defense gun uses.” (Gun Control Fact Sheet, 2004) Thus, this may suggest that the presence of firearms in the United States could actually be the source of a lower amount of violent crimes. The two previously mentioned statistics demonstrate a vital aspect when analyzing firearm freedoms and public safety: firearm freedoms may result in the protection of public safety or in creating public hazards, but the proper relationship between public safety and firearm freedoms must be found in order to decrease public dangers and increase safety.

Another important aspect to examine regarding firearm incidents revolves around deaths resulting from the use of a firearm. Protecting the safety of the public should be a high priority for the United States, and the prevalence of deaths due to firearms is far too common. The annual number of deaths reported in the United States in 2014 that occurred as a result of firearms are 33,599, which has risen from 28,663 in 2000. (Alpers, et al.) This is an alarming statistic that

demonstrates the dangers of firearms in society, as not only are there a vast number of deaths that are caused by firearms, but this number of deaths has steadily increased over time. Thus, firearm use is a major hazard to the safety of the public and this may demonstrate that restrictions on firearm freedoms may increase public safety. However, this statement could be contested by the fact that the total population in the United States has increased over the 14-year time period. Regardless, this statistic reveals that deaths that occur at the hands of a firearm are increasing, while the goal should be having the number be decreasing in order to protect the public. In order to further examine firearm related deaths, it is important to establish the types of incidents that this number is comprised of. In 2014 in the United States, the annual firearm homicides totaled 10,495 people, and the annual firearm suicides total 21,334 people. (Alpers, et al.) These statistics are truly frightening and alone can provide some of the strongest contentions for increased restrictions on firearms. The frequent presence of firearms in the number of deaths allows one to contend that the dangers of firearms outweigh the possible benefits, simply because the much larger number of intentional deaths that they cause. This is an extremely important factor to consider when reviewing possible firearm legislation, as an increase in restrictions could lead to a lower number of firearms and therefore the possible decrease in firearm related deaths. While intentional deaths caused by firearms are of the utmost threat to public safety, accidental firearm incidents are also a major concern to the safety of the public and therefore must also be considered. In the United States for 2013, the number of non-fatal firearm injuries was 84,258, and the number of unintentional shooting deaths in 2014 was 586. (Alpers, et al.) This statistic demonstrates the dangers that firearms may present to the public, even if the intended use of the firearm was of a lawful nature. The dangers of a deadly weapon, whether or

not intentional, may be just cause to restrict firearm freedoms in order to protect public safety. However, while the dangers of firearms do present great risk to the safety of the public, the use of firearms for self-defense is an aspect of firearm freedoms that must also be examined. According to the Federal Bureau of Investigation's Uniform Crime Reporting program, in 2013, 223 justifiable homicides were committed by private citizens who killed a felon that was currently committing a felony. (Homicide Data Table) Thus, this statement establishes the possibility that firearms, while they may present a great danger to the safety of the public, also assist in allowing the public to protect themselves. In order to determine the proper relationship between firearm freedoms and the protection of the public, it is integral to examine the possible positive and negative aspects of firearm regulations in preventing death, and injuries.

THESIS INTRODUCTION

Significance of the Research

In order to protect the well-being of the United States and its citizens, it is necessary to properly examine the issues regarding firearm freedoms and their effect on public safety. The purpose of this thesis is to properly assess the appropriate level of restrictions on firearm possession in order to best protect the safety of the public while still permitting the public to properly protect themselves. The sheer amount of firearm related incidents in the United States forces society to examine current firearm freedoms and determine the best possible compromise to protect public safety. This does not necessarily mean that firearm restrictions must be increased, as it is possible that an increase in firearm restrictions will cause an increase in firearm related crimes. Because the purpose of this research is to ultimately protect public safety, an examination of the results of both an increase and decrease in firearm restrictions must be conducted in order to properly predict the best path for the future.

The research conducted for this thesis is of the utmost importance to society today, as issues regarding firearm rights have moved to the forefront of political and social debate, and the highest goal of the government should be to protect the safety of the public. Firearm related incidents have become more and more commonplace in today's society, which should not be the case. As the United States evolves as a country and moves toward future progress, the safety of the public must remain the highest priority. However, as firearms are directly related to incidents that may compromise public safety, it has become necessary to closely examine these firearm rights in order to protect the public. By conducting this thesis and the research necessary to

properly examine this debate, the intended result is to assist in educating the public in deciding on the best possible path for future firearm legislation.

BENEFITS OF FIREARM FREEDOMS

Self-Defense Purposes

The right to bear arms is one of the longest standing rights of United States citizens, and provides a multitude of benefits to the public. One of the most essential benefits gained by the public through firearm freedoms is self-defense. The ability for any person to protect oneself or others from deadly harm is a fundamental human right, and the freedom to use firearms for self-defense is an integral aspect to account for when examining the benefits of firearms. The right to defend oneself from harm is one of the longest standing rights established for the American people, and stems from the Declaration of Independence. This document established that every person has unalienable rights, including life, liberty, and the pursuit of happiness. While the right to life detailed in the Declaration is not part of any legal legislation, it is integral in establishing the right to self-defense in society today. The Supreme Court cases of *Heller* and *McDonald* established the legal foundation of the right to firearms, as they established that this right is protected under the Second and Fourteenth Amendments. As per the majority opinion in *McDonald*, “Self-defense is a basic right, recognized by many legal systems from ancient times to the present, and the *Heller* Court held that individual self-defense is ‘the central component’ of the Second Amendment right.” The right to defend oneself from imminent harm with a firearm is one of the only ways to ensure that all citizens have the opportunity to protect their right to life. Self-defense via the usage of a firearm is integral to allowing all citizens to protect themselves, as it provides all who may be in jeopardy of losing their lives with the ability to meet deadly force with deadly force. While the loss of life is tragic and should always be a last resort,

the necessity to allow citizens to defend themselves is a fundamental right that cannot be unnecessarily restricted.

Every year, there are thousands of documented cases of innocent victims of crimes, which involve the threat of great bodily harm, utilizing firearms to protect themselves. In fact, as previously stated, according to the Gun Owners Foundation, “Guns are used 2.5 million times a year in self-defense.” (Gun Control Fact Sheet, 2004) This figure demonstrates the importance of firearms when used for self-defense purposes by the average citizen, and provides a strong justification for the necessity of firearm freedoms. That being said, it is also necessary to determine the effectiveness of firearm related self-defense situations, an important aspect of later analysis in this thesis.

The right to protect oneself is a requirement in today’s society, and firearms may assist in protecting that right. Without the ability to use firearms in self-defense, many citizens, such as women and the elderly, will lose the ability to defend themselves as they may not be able to protect themselves from deadly force any other way. While many citizens may be able to defend themselves from certain types of danger, the use of a firearm for self-defense is only justified if someone is threatened with death or great bodily harm. This is when the most important justification for the necessity of firearms comes into play, as firearms allow citizens to meet a threat of great bodily harm with an equal reaction. The ability for citizens to meet deadly force with deadly force is essential in society today. If citizens do not have access to firearms for self-defense, it will provide those seeking to commit great bodily harm to another person the ability to do so. The threat of defending oneself with a firearm is a strong deterrent in stopping criminals from committing firearm crimes, especially armed robberies and homicides. If a criminal is

aware that a citizen may have a firearm, the criminal may be deterred from threatening others with deadly force. The fact that citizens have the ability to use firearms for self-defense against others who threaten them with deadly force acts as a one of the strongest deterrents for criminals not to use dangerous weapons.

When examining the importance of firearms in relation to self-defense, it is necessary to also examine the reasoning behind why it is fundamental to have firearms available for self-protection. As stated above, it is important for all citizens to be able to meet any threat of deadly force with equal force, and only a firearm allows each and every citizen to do so. In relation to this, each citizen must also be able to use such force to protect themselves in situations in which his or her life may be in danger, and there is no choice but to use a firearm. For example, if the police are called by a homeowner who hears unknown assailants in his or her home, it should not be necessary for the homeowner to wait for the police. Because the police cannot be immediately available to respond to every threat against a person's life, it is necessary to allow every citizen the opportunity to defend against such a threat. Each citizen is entitled to life, and the only way to ensure that this is possible is through the availability of firearms for self-defense.

Areas Benefiting from Firearms

Additionally, there exists other important benefits of firearm freedoms which must be examined, including shooting sports and the firearm industry itself. In today's society, firearms are prevalent in many activities in which a large number of the American public participate. Such firearm related activities include hunting and shooting events, such as shooting ranges and

shooting competitions. In many rural areas, firearms are an important part of life and culture for ordinary citizens, and are an essential tool that many people rely upon. Hunting for food is an important part of life for many Americans, and stripping away firearm freedoms for these citizens may significantly alter the way that many live. In rural areas, firearms are twice as common as other areas in the United States, and 60% of farmers and farmworkers are current gun owners. (Cook, Gross, 4) Firearms have had a large influence on American society since the 1800s, and continue to have a strong influence to this day. If firearm restrictions are increased, it will critically alter the way that rural Americans live and provide for their families. In these areas, hunting for food by using a firearm is essential, and altering firearm legislation that prevents Americans from legally providing for their families is a cultural issue that must be carefully considered. While these activities by no means are more important than the requirement to protect the public, they are common in today's society and are factors that should be included when examining the possible changes to firearm freedoms.

Moreover, the firearm industry itself must be taken into account when determining the possible future of firearm regulations. The firearm industry in America today accounts for a vast amount of economic activity, providing a multibillion dollar industry, a significant amount of employment, and abundant revenue from manufacturing and marketing. According to the National Shooting Sports Foundation, in the United States, the Sporting Arms and Ammunition Industry provides a total of 287,986 jobs, and in 2015 was "responsible for as much as \$49.29 billion in total economic activity." (Firearms Economic Impact) This figure demonstrates the importance of the firearm industry to the economic success of the United States, and a decrease in firearm availability could result in a weakened American economy and an increase in the

unemployment rate. Firearms impact various aspects of American society, and all of these aspects must be considered in order to make the best possible decision for the future of this country. While there obviously exists many other factors to properly determine all of the benefits of firearm freedoms, the above mentioned benefits provide for a solid foundation to support the most of the firearm freedoms that exist in the United States today.

Other Negative Impacts of Increasing Firearm Restrictions

While there are certainly many benefits to preventing an increase in firearm restrictions, there also exists negative consequences that may occur if there is an increase in firearm regulation. One possible consequence of increasing firearm restrictions regards the illegal firearm market. If firearms become more difficult for the public to attain, and the total number of firearms moved into the United States therefore decreases, it could cause citizens to turn to the illegal market for firearms. Today, the illegal firearm market is already a major cause for concern, as it allows those who should not be allowed to legally obtain a firearm to do so. If firearm restrictions are increased, it could push others to turn to this market. If this occurs, the expansion of the illegal firearm market could become one of the biggest issues in American society. At the present time, because firearms are readily available, average citizens have no reason to purchase illegal weapons. However, if this became more difficult or impossible, and these individuals turn to the illegal market, it could cause a massive expansion of the illegal firearm market. An expansion of this market will likely lead to more firearm related issues, as the government will no longer be able to regulate citizens and firearm ownership. An increase in

illegal firearms could spark massive crime waves and greatly endanger public safety. At the present time, the registration of legal firearms allows the government to have some control over firearm incidents. If firearm restrictions were to increase and the illegal market expand, it could lead to a vast increase in unmanageable firearm incidents.

Past Ineffectiveness of Firearm Restrictions

While there are many benefits to firearm freedoms, one major argument against increasing firearm restrictions is the past ineffectiveness of firearm restrictions. The best example of the ineffectiveness of increased firearm restrictions stems from the aforementioned court case *McDonald*. As stated above, during the time in which the Chicago handgun ban was in place the number of handgun related homicides increased a significant amount from prior to the law's enactment. While there has never been a countrywide handgun ban, the ban in Chicago represents an important look into the possible results of a large-scale firearm restriction. Chicago is a large American city, and the results of the handgun ban demonstrate the possibility that a firearm restriction will only result in an increase in firearm issues. This can likely be attributed to the fact that firearm restrictions will probably only remove weapons from those who only mean to use them for self-defense or shooting sports, and allow criminals who obtain handguns to use them without resistance. As established in the background information, the results of the Chicago handgun ban help to support this assertion, as the decrease in citizens having firearms led to more firearm related homicides. Because firearm restrictions will typically only be followed by those who follow the law, the legislation would only be taking away firearms from those who do

not intend to harm others. By restricting the public from the availability of firearms, criminals may be inadvertently be given more power over ordinary citizens.

ISSUES WITH FIREARM FREEDOMS

Harm Caused by Firearms

While there are certainly benefits of firearm freedoms, there also exists a plethora of liabilities that revolve around firearms in society today that must be scrutinized. The vast majority of firearm liabilities stem from the harm that firearms can cause. Public safety is one of the most prominent concerns when discussing the negative aspect of firearm freedoms. Major firearm incidents have increased in frequency in the United States, and have become a major concern that has risen to the forefront of public debate. The presence of firearms in America brings about certain inherent risks to the safety of the public, including crimes that may involve the usage of a firearm such as armed robbery, homicides, mass shootings, suicides, and even accidental shootings. Not only do firearms present the ability for a person to inflict great bodily harm to another, they may also cause other types of crimes to elevate the level of danger for the victims. The use of firearms in crimes that are not intended to result in deaths, such as robbery or burglary, is another important aspect of a danger to public safety that may be a direct result of firearm freedoms.

In the United States over recent decades, major firearm incidents have become a part of society. There have been multiple mass casualty incidents that are the results of citizens using firearms to inflict as much harm as possible against others. The most prominent of these incidents include the shootings at Columbine High School in Colorado and at the Pulse Nightclub Shooting in Orlando. In incidents such as these, the negatives of the availability of

firearms to most of the public is truly magnified. Because there are not strong restrictions on the citizens that can obtain firearms, and what kind of firearms that they can obtain, major firearm incidents occur and change the way that ordinary citizens live. The main priority of a government is to ensure the protection of its citizens, and the frequency of major firearm incidents have demonstrated that without increased firearm restrictions, the public may not be safe. “Of the 30 deadliest shootings in the U.S. dating back to 1949, 16 have occurred in the last 10 years.” (Willingham) Major firearm incidents are becoming all too common of an occurrence in today’s society, and measures must be taken to prevent them from continuing. Major firearm incidents alter the way in which Americans believe they must live their lives, and the constant threat of a major firearm incident alters how many choose to live. In order to properly protect the public, the opportunity for those intending to cause great harm to many people via firearms must be limited. By increasing restrictions on firearms, many who intend to cause major firearm incidents may be unable to do so. Therefore, because public safety is a high priority, an increase in firearm restrictions must be considered.

In addition to major firearm incidents, when examining the harm caused by firearms, it is essential to also examine their impact on crimes. Because firearms provide criminals with the ability to threaten victims with great bodily harm and death, they have become a tool for criminal behavior. Many incidents today occur with the use of a firearm, including homicides, armed robberies, and accidental shootings. Suicides by firearm are also an important factor to consider when exploring the harm that is caused by firearms. The prevalence of firearms in crimes against other persons, such as homicides and armed robbery, brings about the contention that an increase in firearm restrictions may limit the availability of firearms to criminals. A 1997 survey of prison

inmates found that “inmates who had been sentenced for violent crimes used firearms more often than other prisoners.... An estimated 30% of violent offenders in State prisons and 35% in Federal prisons had a firearm at the time of the offense.” (Harlow) If criminals do not have easy access to firearms, it is possible that these criminals may choose not to commit such acts, or may at the very least chose to commit crimes that do not involve the threat of death. Increasing firearm restrictions may lead to a reduction in the amount of violent crimes, or at the very least reduce the common threat of deadly force that is present during these crimes. As such, it is imperative that the increase of firearm restrictions must be considered in order to better protect the public from violent crimes. Moreover, another important factor to consider when reviewing firearm related deaths and injuries are those not intended to hurt others, mainly suicides and accidental shootings. As discussed previously, firearm assisted suicides are a major issue in society today, and must be addressed. If a citizen who is looking to take his or her own life by a firearm is no longer able to access them, it may cause a reduction in the number of suicides. The earlier established statistic regarding firearm-assisted suicides stated that over 20,000 deaths per year can be attributed to suicides by firearm. By increasing restrictions on firearm access, this number of suicides may be reduced because those who chose to take their lives with a firearm will no longer have the ability to do so. Because a major role of the government is protecting citizens, as many suicides as possible must be prevented. If increasing firearm restrictions could save even half of the lives of potential suicide victims, it must be considered a strong argument for such restrictions. Another contention that weighs in favor of firearm restrictions is accidental shootings, which cause great harm or even death to innocent people. As established previously, there were over 80,000 people in the United States injured unintentionally by firearms in 2013,

and hundreds of people killed due to accidental shootings. Similar to the reasoning behind preventing suicides by firearm, increased restrictions on firearms may prevent accidental shootings by removing firearms from the hands of some citizens. By reducing the number of firearms or making firearms harder to attain, it is possible that accidental shootings will decrease simply because they do not have the opportunity to occur in the first place. In order to protect as much of the public as possible, it may be necessary to consider restricting access to firearms in certain situations and for certain people.

Harmful Impact of Firearm Freedoms

In addition to increased possibility of death or great bodily harm that the presence of firearms can produce, other areas to examine regarding firearms include the costs of gun violence, and the impact of firearm freedoms on criminal activity. As reviewed in the background information, firearms are one of the leading causes of great bodily harm and death in the United States, and the costs of gun violence arguably outweigh possible advantages of firearm freedoms. The vast number of firearm related incidents may be justification enough for increased firearm regulations in order to protect the public. There also exists a criminal activity impact that results from firearm freedoms, as current or increased firearm freedoms provide criminals with an allegedly easy access to firearms, and may expand the illegal firearm market as the number of firearms available to the public continues to increase. As established previously, there are millions of firearms flooding the United States market every year, and with an increase in total firearms comes an increase in illegal firearms. While there are certain restrictions for

citizens who legally wish to obtain firearms, such as a background checks and mandatory waiting period, criminals who purchase firearms illegally go unchecked. If firearm restrictions were increased across the United States, the total number of firearms available to the public will likely be reduced. Because of the reduction in total firearms, a decrease in the number of firearms that fall into illegal markets may occur. If it is possible to remove firearms from the hands of criminals who intend to threaten lives, then restricting access to firearms must be considered. While the firearm issues discussed above certainly do not cover all necessary areas to properly determine the correct path for future firearm regulations, they provide a starting point for a strategy to balance the right to self-protections and the need for public safety.

ADDITIONAL FACTORS FOR CONSIDERATION

While the areas addressed previously are central to determining the proper relationship between firearm freedoms and protecting the safety of the public, there are additional areas needed to be examined to reach the proper conclusion. One such an area for future analysis is the political impact of firearm regulations, including Constitutional Second Amendment rights issues, and even the right to privacy that may be infringed upon if a new restrictions on firearms, such as background checks, are implemented. Additionally, public opinion must be considered before deciding the future path for firearm legislation, and an examination of the results of various firearm policies in other nations may assist in predicting the outcome of similar practices in the United States.

Political Issues regarding Firearm Restrictions

One additional factor that is important to consider when discussing the increase of firearm restrictions is the political opposition that would occur. Firearms have become one of the leading issues debated in the United States today, so it is necessary to review the political implications of increasing restrictions. To begin with, access to firearms has been a freedom that existed in this country since its inception, and any strong restriction on such access to firearms may be viewed as a violation of constitutional rights. Before *Heller*, the right to have a firearm to protect oneself can trace its roots back to the Declaration of Independence. Because of this, the right to a firearm has long been considered a fundamental right, as all citizens must be able to

fully protect their right to life, and firearms allow all citizens to do so. Restricting access to firearms may violate fundamental rights established by the founders of the United States, and a strong argument could be made that increasing firearm restrictions is therefore a violation of such rights. Because most recent firearm restrictions have not been adopted at the national level, the right to own a firearm has not been a major issue at the Congressional level. However, if significant restrictions to firearm access are proposed, it will cause a strong political division between those who believe that the right to a firearm is an absolute right and those who believe that reasonable restrictions are permissible. Since *Heller*, the Second Amendment has been used by the Supreme Court to establish the constitutional right to possess a firearm. “There seems to us no doubt, on the basis of both text and history, that the Second Amendment conferred an individual right to keep and bear arms. Of course the right was not unlimited, just as the First Amendment's right of free speech was not.” (District of Columbia v. Heller, 554 U.S. 570 (2008)) This application of the Second Amendment in *Heller* also has vast political impacts, as opponents to decreasing access to firearms can argue that such legislation is unconstitutional. *Heller* established that the right to own a firearm stems from the Second Amendment. Unreasonably restricting access to firearms (via such actions as a handgun ban) would contradict the holdings by the Supreme Court in *Heller* and *McDonald*. Such legislation would violate the Second Amendment and therefore be likely considered unconstitutional. Because of this, a vast amount of political conflict will arise over the legality of legislation that unreasonably restricts access to firearms. However, in both decisions the Supreme Court clearly stated that the right to bear arms is not absolute, and the Court will clearly approve of reasonable restrictions. The

political impact that would arise from establishing additional firearm restrictions is an essential factor to consider when reviewing the best possible resolution to firearm issues.

Another important area to consider when discussing the political impact of firearm restrictions is in the most widespread regulation: background checks. Today, in order to legally purchase a firearm in all states, a criminal background check must be performed prior to final transfer of the firearm by a dealer to a citizen. Because it is necessary to prevent as many criminals who intend to use firearms from doing so, performance of a criminal background check is not considered a violation of privacy. However, a vast number of proponents for increased firearm regulations have argued that increasing the depth of background checks could be an effective way of keeping firearms out of the hands of those who intend to hurt the public. “The most comprehensive screening and background check processes, where potential gun purchasers apply in person for permits to purchase handguns, are associated with lower homicide and suicide rates.” (Webster) Thus, it is possible that if stronger background checks are required, the safety of the public could be improved without further restricting legal firearm owners from access to purchasing firearms. The proponents of stronger background checks have argued that mental health history and related issues should be included in background checks. Because many major firearm incidents have been found to be the result of individuals with mental disorders that wish to harm the public, a background check into mental health may help to reduce the number of dangerous individuals who could use firearms to endanger the public. However, those who oppose background checks into mental health history argue that this would likely be considered a violation of the right to privacy. While criminal background is a matter of public record, mental health information is intended to be confidential. Contrary to this argument, the Supreme Court

in *Heller* established that it would be permissible to limit access to firearms for those who are mentally ill. “Nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill.” This statement in the opinion by the court details that a requirement for background checks to include mental health would be permissible. Because background checks are handled by the federal government, any mental health issues addressed would still be prevented from becoming public knowledge, thus protecting each citizen’s right to privacy. Prior to requiring background checks to include mental health issues, it would be necessary to determine the new factors that may prevent a person from obtaining access to a firearm. First, the legislation must establish the actual mental health disorders that would prevent a person from obtaining a firearm. At the very least, it ought to be decided that any determination that a person is a danger to themselves or others should prevent firearm ownership, especially if that person was involuntarily hospitalized. Additionally, it must also be made possible for those who have been effectively treated for the mental illness to prove that they should be allowed to have a firearm. One possible method to accomplish this could be to allow those who are found to be mentally ill to receive confirmation of mental health evaluations from at least two mental health professionals, and then request a hearing to determine his or her present condition. If a person were found to be in good mental health, the her or she would be allowed to have a firearm. They could also be required to have insurance for firearm ownership. By requiring insurance, it would assist in monitoring the firearm owner for any mental illness that could recur, and could also protect the public by providing remedies if a person with a former mental illness uses a firearm to injure another person. Increasing

background checks to include mental illness is allowed under *Heller*, and could vastly improve public safety by keeping firearms out of the hands of those who may use them to harm others.

Public Opinion

When determining the best possible solutions to firearm issues, it is essential to also examine public opinion. The strongest tool for change that the people of the United States have is their vote. One of the most important factors to consider regarding firearm restrictions is public opinion. If public opinion is not supportive of increasing firearm restrictions, then it is likely that any attempt at doing so will not succeed. As established above, unreasonable firearm restrictions may likely be considered unconstitutional because of the holdings in *McDonald* and *Heller*. As such, significant amount of public support for increasing firearm restrictions would be required to even consider it a possibility. There are multiple ways to determine public opinion regarding firearm legislation, including polls, elected officials voting history, and past passed/failed legislation. While it is common knowledge that there exists many staunch advocates for increased firearm restrictions, there are also many who strongly oppose regulations and even wish to decrease restrictions. As such, it is of vital importance to determine how the majority of the public view the possible increase in firearm legislation. Because of the recent major firearm incidents, public opinion has begun to shift toward trying to reduce firearm violence. This shift can be shown through recent polling. As an October of 2015 poll stated that “55% of Americans said they supported stricter gun control laws.” (Newport) This recent public support for increasing firearm restrictions should mean that attempted legislation could be more

successful than past legislation which may have failed because of a lack of public support. Because many citizens now have opinions on what the government should do regarding firearms, it is necessary to use predictions on how the public would view an increase in firearm restrictions in order to properly justify an attempt at reform. If public support for increasing firearm restrictions is found to be an opinion that a majority of Americans share, then it is likely that an attempt at reforming firearm regulations could prove successful. However, if it is found that public support for increasing firearm restrictions is not an opinion held by a majority of Americans, then it may be necessary to implement small changes to attempt to fix the problems until public opinion sways toward increased restrictions.

Global Comparisons

One of the most essential topics to discuss for this thesis is global firearm comparisons, as different policies and their results in other countries could show what policies could have the best results in the United States. In the United States, “homicide rates were 7.0 times higher than in other high-income countries, driven by a gun homicide rate that was 25.2 times higher.” (Grinshteyn, Hemenway) This statistic demonstrates the drastic need to review firearm policies in the United States, as it is clearly alarming that the United States homicide rate is vastly higher than the rest of the world. By examining the firearm policies of other countries that are similar to the United States and then analyzing the results of those other countries firearm regulations, it should show the possible effects of similar policies in the United States. Throughout the world, every country has differing firearm regulations, and examining the results of these policies could

predict possible outcomes if similar laws are enacted in the United States. Major countries to examine in relation to firearm laws include Australia, the United Kingdom, and Japan. All of these countries are very similar to the United States, so analyzing the effects of their firearm regulations could predict possible results in the United States. However, it is important to point out that all of these countries do not have a Second Amendment equivalent, so it is likely that enacting similarly strong firearm restrictions would not be possible in the United States.

In order to combat major firearm incidents, Australia enacted the “National Agreement on Firearms [which] all but prohibited automatic and semiautomatic assault rifles, stiffened licensing and ownership rules, and instituted a temporary gun buyback program that took some 650,000 assault weapons out of public circulation.” (Masters) The firearm restrictions enacted in Australia had a profound effect on firearm incidents in the country, as Australia has not had a mass firearm shooting since 1996. “The Australian murder rate has fallen to close to one per 100,000 while the U.S. rate...is still roughly at 4.5 per 100,000.” (Donohue) Thus, the tightening of firearm regulations in Australia led to a decrease in firearm homicides, which may similarly happen in the United States. The results from the firearm policy reform in Australia demonstrate the possible positive effectiveness that increasing firearm restrictions in the United States could have. The results from Australia provide the possibility that adopting reasonable firearm regulations in the United States could prove to be effective in increasing the safety of the public.

Another major international country where firearm policy is important to analyze is the United Kingdom. After a number of major firearm incidents in the UK, starting in 1988 the country banned most private citizens from owning a handgun. However, unlike the results of the increased firearm regulations in Australia, the results in the UK were not as clear. “Crime

statistics in the years after the ban was introduced appear to support the theory that it had little impact. Gun crime rose sharply, to peak at 24,094 offenses in 2003/4. After that, the number of crimes in which a firearm was involved fell consistently, to 4,779 offences in 2013. In the year ending September 2015 there was a small rise of 4% to 4,994 offences.” (Jowitz, et al.) The results of the increased regulations in the UK show the possible negative consequences that similar firearm restrictions could have in the United States. Because the results of the firearm restrictions in the UK did not yield visible improvements to public safety, it is difficult to justify enacting similar policies in the United States. If strong restrictions on firearm freedoms occurred in the United States and the results were similar to those in the UK, the public opinion of such regulations would quickly shift to the negative. By examining the results of the ban in the UK, it may demonstrate flaws in potential firearm restrictions, and predict the best course for similar firearm regulations in the United States.

Finally, one of the most important countries to examine when discussing global firearm comparisons to the United States would be the country of Japan. Japan has one of the world’s most strict gun policies, as handguns are banned, and one of the only types of firearms available to the public are shotguns. However, obtaining legal possession of a shotgun in Japan involves a lengthy process that includes psychological evaluation, extensive background checks, and training. Because of these extremely strict firearm policies, Japan has one of the lowest ownership rates of firearms in the world. By analyzing the results of such a ban, it could shed light on the impact of a vast ban on firearms. “There were six reported gun deaths in Japan in 2014, according to the National Police Agency. In 2006 just two people were killed in gun attacks; when the number rose to 22 in 2007.” (Jowitz, et al.) Thus, because of the strict firearm policies in

Japan, there exists a vast difference between the United States and Japan in the amount of citizens who are injured by firearms. The results of the firearm policies in Japan could mean that strong limitations on firearm access in the United States could vastly reduce firearm related deaths.

Alternatives to Increasing Firearm Restrictions

When examining the possibility of increasing firearm restrictions, alternatives to stricter firearm policies must also be considered, including such possibilities as background checks, firearm training and safety courses, mandatory safety features/devices, and civil/criminal liability. As established in *Heller*, “like most rights, the right secured by the Second Amendment is not unlimited.... The right was not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose.” (*District of Columbia v. Heller*, 554 U.S. 570 (2008)) Thus, instead of increasing firearm restrictions that may prevent access to firearms for certain individuals, it is possible to use certain alternatives that can assist in protecting the public via placing certain limitations on firearm freedoms. There exists both positives and negatives with regards to these alternatives to increasing firearm restrictions.

As discussed previously, increasing background checks has benefits and drawbacks. Expanding background checks to include mental health to prevent those with mental illnesses from obtaining firearms could be vastly beneficial to improving public safety, and would not likely violate any current firearm freedoms or the right to privacy. Recent polling indicates that “86% of Americans favored ‘a law which would require universal background checks for all gun

purchases in the U.S. using a centralized database across all 50 states.” (Newport) This data demonstrates that the American public is strongly in favor of increasing background checks, so it would be wise to attempt to utilize this widely supported opportunity to better protect the public. Another possible expansion of background checks could be introduced into the area of private firearm sales. Currently, it is only necessary for firearm retailers to do background checks on individuals who are purchasing firearms. However, if a firearm is privately sold between two citizens, no background check is required. A possible alternative to increasing firearm restrictions could be to mandate that private sellers transfer firearms through retailers who would perform a criminal background check. This could limit the sale of private firearms to those who are not permitted to have them, such as convicted felons or the mentally ill. Establishing a requirement that all firearm transfers take place through a licensed dealer ensures that all firearms are accounted for, and that only proper citizens who should have firearms are able to do so.

Another possible alternative to increasing firearm restrictions could be through the implementation of mandatory firearm training and safety courses before purchasing a weapon. Currently, in most states, a citizen is only required to take a firearm safety course if he or she wishes to obtain a concealed carry permit. If a similar requirement is established for all those who purchase a firearm, it could limit many firearm injuries, including accidental shootings. Additionally, it would be wise to at least require training based on the weapon being purchased or used. For example, mandatory training may not be deemed necessary for a handgun, but could be required if a person is attempting to purchase a semi-automatic rifle. As established previously, *Heller* would support the concept of requiring mandatory safety courses, as the

opinion states that the right to firearm access is not unlimited. Proper firearm training could benefit firearm owners by requiring them having the correct knowledge on how to use a firearm, which may help protect the public if such persons decide to use a firearm in a self-defense situation. Requiring firearm purchasers to partake in a firearm safety course is a potential solution to decreasing the number of accidental firearm deaths and may help protect public safety in the future.

One additional alternative to increasing firearm restrictions that could assist in increasing public safety is the requirement for firearms to have safety mechanisms and features, including possibilities like firearm safeties, trigger locks, and loaded chamber indicators. Requiring safety items such as these could assist in preventing many accidental shootings, especially in cases when minors find firearms and accidentally discharge the weapon. “Safety devices could have prevented about 31 percent of accidental deaths caused by firearms...[a] childproof safety device could have prevented 8 percent of 107 accidental firearms-related fatalities, and the loading indicator could have prevented 23 percent of the cases involving injuries or deaths.” (Chelimsky, York) This data demonstrates the possible positive effectiveness that safety devices could have if they are mandated. By requiring safety mechanisms, the amount of accidental discharges of firearms will likely decrease, thus better improving public safety by reducing the possibility of accidental shootings. Safety mechanisms can prevent various causes of accidental shootings, including minors mishandling weapons they may have found, or even accidental discharges when unloading weapons. Those who oppose implementing safety requirements may choose to cite *Heller* as a counterargument, as it stated that the “requirement that firearms in the home be rendered and kept inoperable at all times... makes it impossible for citizens to use them for the

core lawful purpose of self-defense and is hence unconstitutional.” However, this statement from *Heller* would not apply because the law in *Heller* required that firearms in the home be kept inoperable. On the other hand, the requirement of safety devices discussed above would not prevent the weapons from being used in self-defense situations. These safety devices would only keep firearms from causing accidental shootings by preventing the unwanted discharge of the firearm. If mandating certain safety mechanisms can improve public safety and put many innocent victims out of harm’s way, it is a necessity to consider these measures when discussing changing firearm regulations.

Finally, establishing civil and criminal liability for accidental shootings that are shown to have possibly been prevented had proper precautions been used could assist in decreasing firearm injuries. In many incidents of accidental shootings, precautions could have been taken by firearm owners that would likely have led to the shooting not taking place. As such, one possible way to decrease possible shootings is to establish civil liability for firearm owners whose weapons are used in accidental shootings if they are shown to not have taken proper precautions. Additionally, establishing criminal liability for such shootings could also be greatly beneficial, as the threat of criminal punishment could force citizens to better secure their firearms to prevent accidental shootings. Some States, including Florida, have already enacted such legislation, which punishes criminally persons who have allowed accidental shootings to occur by not taking proper safety precautions (See Florida Statute §784.05 – Culpable Negligence). This preventative measure would first require the implementation of mandatory safety precautions in situations in which accidental shootings have a greater chance of taking place. For example, in a home with children where a firearm is present, the owner must prevent the firearm from being

accessed by the child via either a safe or safety lock on the firearm. If it is found that the owner was negligent enough to allow easy access to the weapon by a child, they could be found liable for the shooting and punished accordingly. By implementing this policy, it will force firearm owners in situations in which accidental shootings have a higher chance of occurring to take stronger measures to prevent it from happening. Thus, accidental shootings could decrease because firearm owners would be required to keep firearms out of the hands of those who should not have the weapon in the first place.

CONCLUSION

By examining the previously mentioned topics and other important issues to the relationship between firearm freedoms and public safety, this thesis has provided the necessary information to find the possible paths for the future of firearm legislation, and examined how these paths may best protect the safety of the public. Because firearm freedoms impact so many aspects of our society, as much information as possible must be gathered in order to make the best potential decision for the future of this country. The firearm debate is one of the most important issues in American today, and must be approached with great concern to find the best possible solution.

In order to properly examine the relationship between firearm freedoms and public safety, the correct methodology of research and the proper organization of that information has been utilized. To reach the best possible compromise between firearm freedoms and the necessity to protect the public, essential information regarding the positives and negatives of firearms has been examined. Initially, the most important information necessary to conduct the proper analysis was background information, which includes vital statistics and information such as ownership information, firearm related incidents, and current legislation. After establishing the information necessary to create the proper foundation for firearm freedom analysis, the thesis has examined vital details of the firearm debate, including topics such as firearm benefits, issues caused by firearms, political impact, public opinion, and global firearm statistical comparisons. After examining these central areas to the firearm debate, the subsequent step was to examine possible alternatives to firearm restrictions. The final step in the thesis was to evaluate the

potential compromises between firearm freedoms and public safety in order to reach the best possible conclusion for this issue.

The intent of this thesis is to provide as much accurate and detailed information regarding both sides of the firearm debate. After examining all of the information detailed in this thesis, the best possible decisions can be made regarding the best path for the relationship between firearm freedoms and protecting the public. This future path of firearm policies will shape American society in the future, and is one of the most important issues that society faces today. In order to determine the best balance for the country, all of the factors mentioned above regarding this conflict must be examined and weighed. Increasing firearm restrictions will cause a multitude of results that cannot be completely known, and maintaining the current firearm restrictions will also have a profound effect on future events in the United States. While there is no one path that will guarantee every right and protect the entire public, there are many possible changes that could help to improve the safety of this country. It is clear that in order to protect the public, some changes regarding firearm regulations must be made. One possible path for the future could be by first implementing the alternatives to firearm control as mentioned above, and then examining the effect that this has on public safety. Prior to increasing firearm restrictions, attempts to increase public safety must first be attempted via: mandating background checks for all firearm sales, requiring background checks for mental illness, mandating safety devices and features for firearms, requiring firearm training and safety courses, and establishing civil and criminal liability for some accidental shootings. By reviewing the results of such changes, the best possible path regarding the relationship between firearm freedoms and public safety could

be shown. The firearm debate is one of the most important issues in American today, and must be approached with great concern to find the best possible solution.

REFERENCES

Agresti, James D. & Smith, Reid K. "Gun Control Facts." *Just Facts*. 22 August 2016. Web. 22 July 2016. <www.justfacts.com/guncontrol.asp>.

Alpers, Philip, Amélie Rossetti, and Daniel Salinas. "United States — Gun Facts, Figures and the Law." *Guns in the United States*. Sydney School of Public Health, The University of Sydney, 7 Nov. 2016. Web. 22 July 2016.

"Background on Gun Control." *Background on Gun Control*. On The Issues, n.d. Web. 22 July 2016. <http://www.ontheissues.org/Background_Gun_Control.htm>.

Chelimsky, Eleanor, and Robert York. "Accidental Shootings: Many Deaths and Injuries Caused by Firearms Could Be Prevented." *PEMD-91-9 Accidental Shootings: Many Deaths and Injuries Caused by Firearms Could Be Prevented*(1991): n.p. United States General Accounting Office. Mar. 1991. Web. 5 Nov. 2016.

Cook, Phillip J. and Kristin A. Goss. *The gun debate: What everyone needs to know*. Oxford: Oxford University Press, 2014. Print.

District of Columbia v. Heller, 554 U.S. 570 (2008)

Donohue, John. "How US Gun Control Compares to the Rest of the World." *How US Gun Control Compares to the Rest of the World*. The Conversation, 24 June 2015. Web. 01 Dec. 2016.

"Expanded Homicide Data Table 15." *Crime in the United States in 2013*. Federal Bureau of Investigations, n.d. Web. 22 July 2016.

"Firearms and Ammunition Industry Economic Impact Report 2016." *Firearms and Ammunition Industry Economic Impact Report 2016*. National Shooting Sports Foundation, 2016. Web. 22 July 2016.

Grinshteyn, Erin, and David Hemenway. "Violent Death Rates: The US Compared with Other High-income OECD Countries, 2010." *The American Journal of Medicine* 129.3 (2016): 266-73. Web.

"Gun Control Fact-Sheet 2004." *Gun Owners of America*. Gun Owners Foundation, 19 Sept. 2008. Web. 22 July 2016.

Harlow, Caroline Wolf. "Crime Data: Firearm Use by Offenders." (n.d.): n.p. *Bureau of Justice Statistics*. U.S. Department of Justice, Nov. 2001. Web. 5 Nov. 2016.

Jowit, Juliette, Sandra Lavielle, Calla Wahlquist, Philip Oltermann, Justin McCurry, and Lois Beckett. "So, America, This Is How Other Countries Do Gun Control." *The Guardian*. Guardian News and Media, 14 Mar. 2016. Web. 05 Nov. 2016.

"Key Federal Acts Regulating Firearms." *Law Center to Prevent Gun Violence*. SmartGunLaws.org, 2016. Web. 22 July 2016.

Masters, Jonathan. "U.S. Gun Policy: Global Comparisons." *Council on Foreign Relations*. Council on Foreign Relations, 12 Jan. 2016. Web. 05 Nov. 2016.

McDonald v. Chicago, 561 U.S. 742 (2010)

Newport, Frank. "American Public Opinion and Guns." *Gallup*. N.p., 04 Dec. 2015. Web. 05 Nov. 2016.

Truman, Jennifer L., and Lynn Langton. "Criminal Victimization, 2014." *U.S. Department of Justice* (2015): 1-20. 29 Sept. 2015. Web. 1 Dec. 2016.

"Understanding DC vs. Heller." *Law Center to Prevent Gun Violence*. SmartGunLaws.org, 2016.

Web. 22 July 2016.

"Understanding McDonald vs. Chicago." Law Center to Prevent Gun Violence.

SmartGunLaws.org, 2016. Web. 22 July 2016.

Webster, Daniel. "Guns Kill People. And If We Had Universal Background Checks, They

Wouldn't Kill So Many." *New Republic*. New Republic, 25 June 2014. Web. 05 Nov.

2016.

Willingham, AJ. "A Visual Guide: Mass Shootings in America." *CNN*. Cable News Network, 21

June 2016. Web. 05 Nov. 2016.