

# To Keep & Bear Arms: An Individual or Collective Right?

## A Second Amendment Symposium

***A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.***  
- Second Amendment to the United States Constitution

### Critical Engagement Question:

Is the right to keep and bear arms in the United States an individual or a collective right?

### Overview:

The Second Amendment states that the “right of the people to keep and bear Arms shall not be infringed.” This seemingly unequivocal declaration, however, is rendered ambiguous by the reference to a “well regulated Militia” which precedes it. The confusing construction of this amendment has spawned an enduring debate over whether the Second Amendment guarantees an individual or a collective right. In June 2008, the U.S. Supreme Court considered this issue in *District of Columbia v. Heller*. The decision landed decisively on the side of individual rights, and opened the door for further legal challenges to state and local laws that regulate gun ownership and possession.

### Objectives:

- To teach historic arguments that have been made in support of the individual and collective rights interpretations of the Second Amendment.
- To promote an understanding of the contemporary gun control debate by analyzing a synopsis of a landmark Supreme Court decision and key points from the majority and dissenting opinions.
- To explore the balance between individual and collective rights by examining gun control policies across the nation.
- To enable students to craft their own opinion of gun control policies that demonstrates comprehension of the Second Amendment, as well as the debates surrounding its interpretation.

### Standards:

NCHS: Era 3, Standard 3B; Era 10, Standard 2E

NCSS: Strands 2, 6 and 10

Illinois: Goal 14, Learning Standards A, B, D and F; Goal 16, Learning Standards A, B and D

### Student Materials:

Item A: *Second Amendment Concept Formation Worksheet*

Item B: *Symposium Worksheet*

Item C: *DC v. Heller (2008): Summary & Key Points from Majority Opinion*

Item D: *DC v. Heller (2008): Summary & Key Points from Dissenting Opinion*

Item E: *Bumper Sticker Assignment*

### Teacher Materials:

*Gun Control Policies by State Poster*

*Additional resources, including background information for this lesson, links to several helpful and relevant Web sites, and downloadable worksheets can be accessed at [FreedomMuseum.US/Lessons/ToKeepAndBearArms](http://FreedomMuseum.US/Lessons/ToKeepAndBearArms).*

### Time and Grade Level:

Two to three 40-minute middle school class periods with post-activity homework. Two more 40-minute periods for the Extension Assignment.

### Warm-Up:

1. Distribute copies of Item A. Ask students to complete these individually or work in groups.
2. Lead a discussion of student responses. In the process, distinguish between the collective and individual rights interpretations of the Second Amendment. The collective rights interpretation views gun ownership as a constitutional right only insofar as it facilitates participation in a state militia. State and federal restrictions on gun ownership are therefore permissible, and perhaps even advisable. The individual rights interpretation is more expansive in scope, allowing for individual gun ownership for purposes of self-defense in addition to militia duties. It calls for strict scrutiny of any local, state and federal laws affecting gun ownership.

3. Provide an overview of the lesson that follows, referencing the Second Amendment and the Supreme Court case *District of Columbia v. Heller*. Discuss how this landmark case relates to the contemporary debate.
4. If Internet access is available, introduce students to the *Heller* case and the Supreme Court’s ruling by viewing and discussing the television news coverage available at [msnbc.msn.com/id/22425001/vp/25392658](http://msnbc.msn.com/id/22425001/vp/25392658).

### Activity:

1. Distribute one copy of the *Symposium Worksheet* (Item B) to each student. This worksheet will facilitate the balance of the lesson.
2. Divide the class into study groups of four. Two students in each group, who will work as partners, should receive copies of Item C. The other two partners should be given copies of Item D. (Both items have the case summary in common; Item C includes key points from the majority opinion, while Item D features key points from the dissenting opinion.)
4. Ask students to first work independently in reviewing their assigned document. They should then work with their partners to complete the appropriate section of the graphic organizer included in the *Symposium Worksheet*. Students should then share findings with their study group so that each member of the group completes the graphic organizer in its entirety.
5. Next, instruct students to work as a team in evaluating the opinions and determining which one is the stronger of the two. A graphic organizer is included in the *Symposium Worksheet* for this purpose.
6. Finally, ask groups to speculate on how the majority opinion in *District of Columbia v. Heller* will impact state and local gun laws. Reference the *Gun Control Policies by State* poster, and highlight variances by state and region. Discuss how the *Heller* decision may impact state and local gun laws through legal challenges and lawmaking, therefore changing the complexion of this map. According to the map, which states may be most affected by the *Heller* decision and why?

### Homework:

As a culminating activity, students are to create a bumper sticker (Item E) with a slogan that reflects their opinion on the gun control debate. They should use their completed *Second Amendment Concept Formation Worksheets* (Item A), what was learned from the video they viewed, and their discussion of the *Heller* decision (Items B, C and D) to write a three to five sentence explanation of how they decided upon their slogan. A suggested rubric for this assignment can be found at [FreedomMuseum.US/Lessons/ToKeepAndBearArms](http://FreedomMuseum.US/Lessons/ToKeepAndBearArms). As an alternate assignment, ask students to create a protest sign that expresses their views.

### Extensions:

1. **Class Presentation:** Encourage students to explore the root causes of gun violence and present their findings to the class. Variables to consider include gun control policies, unemployment, poverty, school quality, neighborhood policing and, on a broader level, civic health. Students may be directed to seek information from two of the most prominent sources on both sides of the issue: the Brady Campaign to Prevent Gun Violence ([BradyCampaign.org](http://BradyCampaign.org)) and the National Rifle Association ([NRA.org/home.aspx](http://NRA.org/home.aspx)).
2. **Letter Writing Campaign:** Instruct students to exercise their influence with public officials who shape gun-related policies through a coordinated letter writing campaign. Letters-to-the-editor, articles in student newspapers and blog entries are alternate vehicles for communicating beyond the classroom.

# Second Amendment Concept Formation Worksheet

Name

## Introduction:

On September 25, 1789, Congress approved twelve amendments to the U.S. Constitution for state approval. A little more than two years later, on December 15, 1791, the requisite number of states ratified ten of the twelve amendments. Renumbered one through ten, they collectively came to be known as the Bill of Rights. The Second Amendment, the focus of this lesson, reads as follows: "A **well regulated Militia**, being necessary to the security of a **free State**, the right of **the people to keep and bear Arms**, shall not be infringed."

## Directions:

In order to better understand the meaning and significance of the Second Amendment, we will analyze its key terms. Please answer each of the questions that follow.

1. What does it mean **to keep and bear Arms**?
2. What does it mean to **infringe** upon a right? What would be an example of a school policy that infringes upon your right to wear whatever you want to school? How could the right to keep and bear arms be infringed?
3. Who are **the people** that have this Second Amendment right? Does this refer to all people in the United States or just certain groups of people?
4. What is a **Militia**? What is the definition of a **well regulated Militia**?
5. Do militias exist in the U.S. today? If so, provide an example.
6. Does a **free State** mean an individual state, such as Illinois, or the nation as a whole?
7. Why would the framers of the Constitution believe that a well-regulated Militia was necessary to the security of a free State? Think back to that time period and the use of minutemen during the Revolutionary era.
8. In your opinion, does the Second Amendment guarantee the right for members of the general public to own guns, or only for members of a militia? Explain.

# Symposium Worksheet

## To Keep & Bear Arms: An Individual or Collective Right?

Name

### Directions:

1. With your partner, use the graphic organizer below to keep track of how each term was defined in your assigned reading. If one or more of the terms is not specifically addressed, write 'NA' or 'not applicable.'

Terms	<i>D.C. v. Heller</i> (Majority Opinion)	<i>D.C. v. Heller</i> (Dissenting Opinion)
<i>Well regulated</i>		
<i>Militia</i>		
<i>Free State</i>		
<i>the People</i>		
<i>Keep and bear</i>		
<i>Arms</i>		

2. Share your findings with the rest of your study group. As the other members of your group share findings from their assigned reading, take notes in the graphic organizer above. Be prepared to discuss your findings with the entire class.

3. Based on your findings and those of your group partners, use the graphic organizer below to write down what you think is the strongest argument offered by each side.

Strongest Majority Argument		<input type="checkbox"/>
Strongest Dissenting Argument		<input type="checkbox"/>

4. Which side made the strongest case? Place a check mark next to the opinion your group chooses. In the space below, write down the reasons you made this selection.

## Case Summary and Key Points from the Majority Opinion Delivered by Justice Scalia (Individual Right)

### Case Summary

In 1976, the District of Columbia passed one of the nation's strictest gun control laws. The law prohibited handgun ownership by anyone in D.C. who did not own one before the law was passed. Individuals who owned handguns before the law was enacted were allowed to keep them, but only in their homes. Although individuals could still purchase rifles and shotguns, those weapons also had to be kept in the home after the law was enacted. And all weapons, regardless of type, had to be kept disassembled or fitted with trigger locks. (If a weapon is kept disassembled, it must be reassembled before it can be fired. Similarly, weapons with trigger locks cannot be fired until the trigger is unlocked. These requirements prevent weapons from being fired accidentally.)

In 2008, the U.S. Supreme Court handed down its decision in the landmark case, *District of Columbia v. Heller*. The facts of the case were explained in the opinion delivered by Justice Scalia. The case centered around defendant Dick Heller, "a D.C. special police officer authorized to carry a handgun that he wished to keep at home, but the District refused. He thereafter filed a lawsuit in the Federal District Court for the District of Columbia seeking, on Second Amendment grounds, to enjoin (prohibit) the city from enforcing the ban on the registration of handguns, the licensing requirement insofar as it prohibits the carrying of a firearm in the home without a license, and the trigger-lock requirement insofar as it prohibits the use of 'functional firearms' within the home."

In a 5-4 decision, the Supreme Court struck down the D.C. ban on handgun possession, which the majority of Justices interpreted as violation of the Second Amendment. For the first time in the nation's history, the Court decided that the Second Amendment guarantees an individual's right to own a gun for self-defense.

### Key Points from the Majority Opinion

The majority opinion sets forth the Supreme Court's decision and offers an explanation for it. Important terms are in bold italics.

The Second Amendment does not only protect the right of an organized militia to keep and bear arms, but also the right of ***the people***.

The 18th century meaning of ***arms*** "is no different from the meaning today. The term was applied, then as now, to weapons that were not specifically designed for military use and were not employed in a military capacity."

"***Keep arms*** was simply a common way of referring to possessing arms, for militiamen and everyone else."

"At the time of the founding, as now, to ***bear*** meant to 'carry.'"

When the elements listed above are considered together, the Supreme Court found that they "guarantee the right of individuals to possess and carry weapons in case of confrontation."

A ***well regulated militia*** is defined as "all able-bodied men."

"The adjective ***well-regulated*** implies nothing more than the imposition of proper discipline and training."

The phrase 'security of a ***free state***' means the security of a free country, not the security of individual states in the Union.

While the Second Amendment does suggest that it was written to "prevent elimination of the militia," most Americans undoubtedly thought the right to bear arms was even more important for self-defense and hunting. "But the threat that the new Federal Government would destroy the citizens' militia by taking away their arms was the reason that right was [added to] a written Constitution."

"Like most rights, the right secured by the Second Amendment is not unlimited." Felons and the mentally ill can still be prohibited from owning firearms. Laws may still be enacted to prohibit the carrying of firearms in schools and government buildings. Laws can also be passed to impose restrictions on the commercial sale of arms.

The Supreme Court is aware of the problem of handgun violence in this country, and takes seriously the concerns raised by those who believe that prohibiting handgun ownership is a solution. However, the Second Amendment prevents the absolute prohibition of handguns "held and used for self-defense in the home." Some may think this amendment is outdated since the nation has a standing army and well-trained police forces to protect citizens, especially since gun violence is a serious problem. "While that is perhaps debatable, it is not the role of the Supreme Court to pronounce the Second Amendment extinct."

## Case Summary and Key Points from the Dissenting Opinion Delivered by Justice Stevens (Collective Right)

### Case Summary

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In a 5-4 decision, the Supreme Court struck down the D.C. ban on handgun possession, which the majority of Justices interpreted as violation of the Second Amendment. For the first time in the nation's history, the Court decided that the Second Amendment guarantees an individual's right to own a gun for self-defense.

### Key Points from the Dissenting Opinion

The dissenting opinion gives the Justices who disagreed with the majority opinion an opportunity to express their views and reasons for disagreeing. Important terms are in bold italics.

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"Guns are used to hunt, for self-defense, to commit crimes, for sporting activities, and to perform military duties. The Second Amendment plainly does not protect the right to use a gun to rob a bank; it is equally clear that it does encompass the right to use weapons for certain military purposes."

The Second Amendment was adopted to protect the right of the people in each state to maintain a **well regulated militia**. "It was a response to concerns raised during the ratification of the Constitution that the power of Congress to disarm the state militias and create a national standing army posed an intolerable threat to the sovereignty of the several states."

The Second Amendment "explains that the **militia** is necessary to the security of a free State" and that it must be **well regulated**.

"The Framers' single-minded focus in crafting the constitutional guarantee to keep and bear arms was on military uses of firearms, which they viewed in the context of state **militias**."

The Second Amendment protects the right of **the people** who have a "duty to serve in the **militia**."

The ultimate purpose of the Amendment "was to protect the **States'** share of the divided sovereignty created by the Constitution."

To **keep and bear arms** means to possess arms if needed for military purposes and to use them in conjunction with military activities."

"Different language surely would have been used to protect nonmilitary use and possession of weapons from regulation if such an intent had played any role in drafting the Amendment."

# Bumper Sticker Assignment

## To Keep & Bear Arms: An Individual or Collective Right?

Name \_\_\_\_\_

What do you think? Does the Second Amendment protect an individual's right to own guns for the purpose of self-defense? Or, did the framers of the Constitution intend only for a well-regulated militia to keep and bear arms?

After studying the Second Amendment, reading key points from the majority and dissenting Supreme Court opinions on the *Heller* case, and looking at what some consider to be the root causes for gun violence, where do you stand on this issue?

### Assignment:

You have joined an organization that supports one of these sides. One of the least expensive ways to promote your message to others is by creating a bumper sticker that expresses your position.

On a separate sheet of paper, design your bumper sticker. Be sure to feature a slogan (see the pictures below for examples). You may also include pictures to help you communicate your message.

The slogan on your sticker should:

- clearly communicate your stand on the issue—the right to bear arms being an individual or collective right.
- use carefully chosen words.
- include a reason why those who read your bumper sticker should share your position.

On the back of your bumper sticker, include a three-five sentence explanation of why you support the position you chose. Include at least two specific reasons from what you read that convinced you this was the right choice.





# GUN CONTROL POLICIES BY STATE

## Second Amendment:

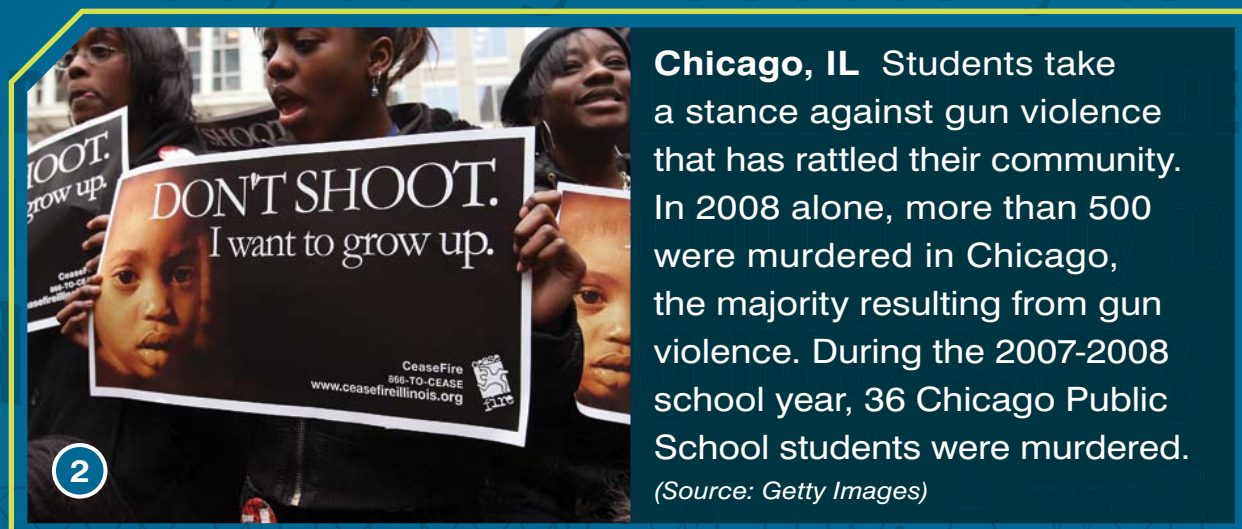
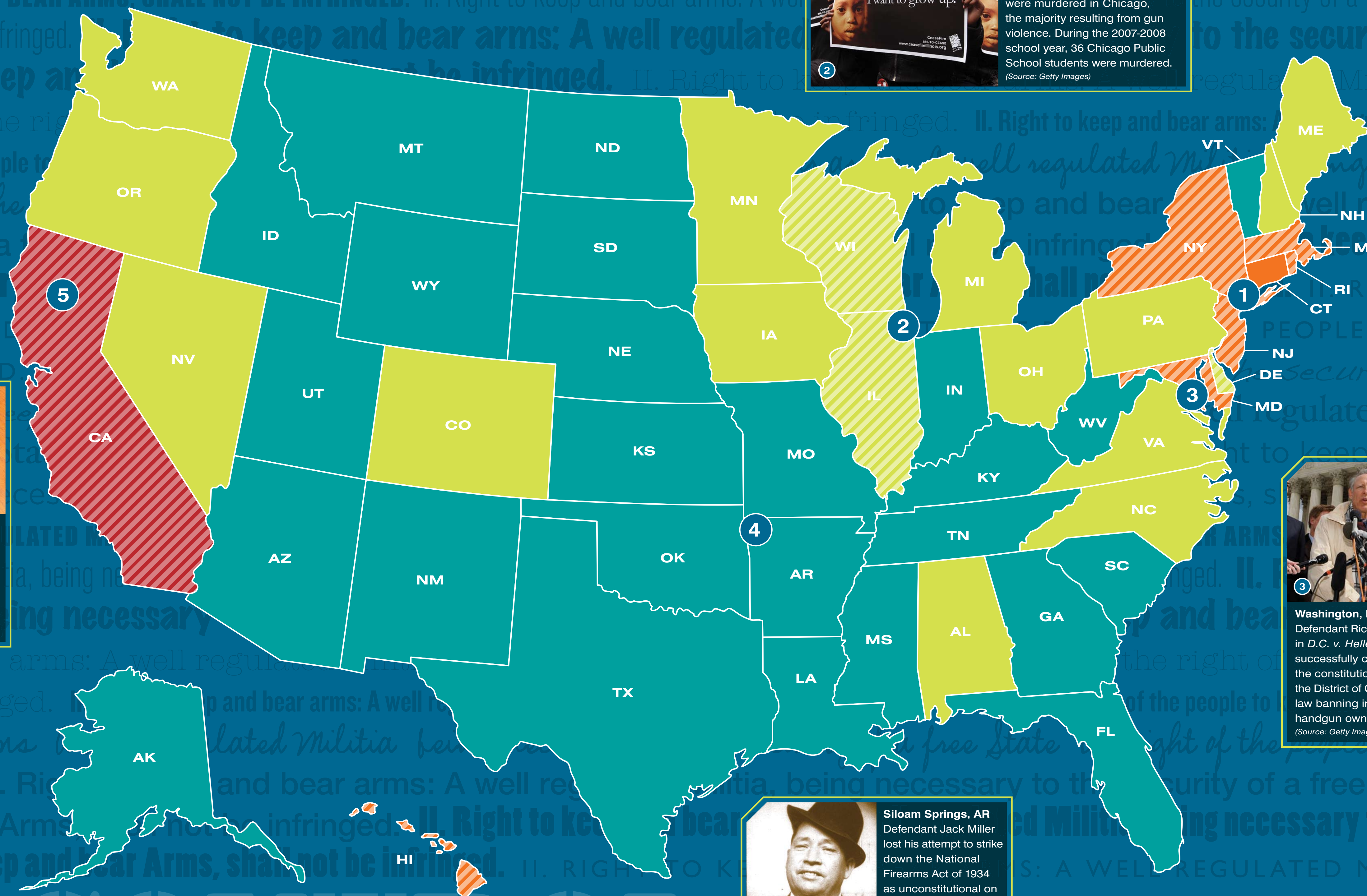
A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

## Restrictiveness of Gun Control Laws\*

\*Brady Campaign to Prevent Gun Violence, 2008 State Scorecard



\*\*National Rifle Association, Institute for Legislative Action, 2008



**Chicago, IL** Students take a stance against gun violence that has rattled their community. In 2008 alone, more than 500 were murdered in Chicago, the majority resulting from gun violence. During the 2007-2008 school year, 36 Chicago Public School students were murdered. (Source: Getty Images)



**New York, NY** Thirty-two female protesters wearing ribbons with the Virginia Tech University colors lie down in Times Square in New York on May 24, 2007 in commemoration of the 32 victims of the Virginia Tech shooting rampage. The women laid on the ground for a few minutes to symbolize the length of time it took for the shooter to obtain a gun in the Commonwealth of Virginia. (Source: Getty Images)



**California** According to the Brady Campaign to Prevent Gun Violence, California is the state with the strongest gun laws. They include limitations on assault weapons ownership, concealed handgun permits and handgun sales to those under 21 years of age.



**Washington, D.C.** Defendant Richard Heller, in *D.C. v. Heller* (2008), successfully challenged the constitutionality of the District of Columbia's law banning individual handgun ownership. (Source: Getty Images)



**Siloam Springs, AR** Defendant Jack Miller lost his attempt to strike down the National Firearms Act of 1934 as unconstitutional on Second Amendment grounds in *U.S. v. Miller* (1939).