



The Gun Thing

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The art is most of the album cover for "Our Children's Children's Children", The Moody Blues (1969)

This document neither recounts nor explains the positions in the current "gun control debate". It also does not cover the numbers and demographics of those killed or wounded related to firearms use. Rather, this is a brief look at some of the historical, anthropological and economic context of the controversy.

History

"For better or worse, interpreting legal texts is a mushy business. Lawyers who support a particular result on policy grounds can often come up with an interpretation that reaches this result, and even persuade themselves that it's the best interpretation."

The Commonplace Second Amendment, Prof. Eugene Volokh, UCLA Law School (73 NYU L. Rev. 793 (1998))
<http://www2.law.ucla.edu/volokh/common.htm>

In 1787 the Constitution was created. It would include the following second amendment passed in 1791:

"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."

From the Wikipedia article on the Second Amendment (sources checked)

http://en.wikiquote.org/wiki/Second_Amendment_to_the_United_States_Constitution :

Drafts of Amendment 2 at the convention:

"And that the said Constitution be never construed to authorize Congress to infringe the just liberty of the press, or the rights of conscience; or to prevent the people of the United States, who are peaceable citizens, from keeping their own arms."

Samuel Adams, (February 6, 1788), reported in Charles Hale, Debates and Proceedings in the Convention of the Commonwealth of Massachusetts (1856), p. 86.

"The right of the people to keep and bear arms shall not be infringed; a well armed and well regulated militia being the best security of a free country; but no person religiously scrupulous of bearing arms shall be compelled to render military service in person." Original text of what was to become the Second Amendment, as brought to the floor to the first session of the first congress of the U.S. House of Representatives.

"A well regulated militia, composed of the body of the people, being the best security of a free State, the right of the people to keep and bear arms shall not be infringed, but no person religiously scrupulous shall be compelled to bear arms.
Reworded version of the Second Amendment by the select committee on the Bill of Rights, July 28th 1789.

"A well regulated militia, composed of the body of the people, being the best security of a free state, the right of the people to keep and bear arms shall not be infringed; but no one religiously scrupulous of bearing arms shall be compelled to render military service in person."
Draft version of the Second Amendment sent by the House of Representatives to the United States Senate, on August 24th, 1789.

"A well regulated militia, being the best security of a free state, the right of the people to keep and bear arms, shall not be infringed"
Revision voted on in the U.S. Senate, September 4th, 1789.

"A well regulated militia being the security of a free state, the right of the people to keep and bear arms shall not be infringed."
Final version passed by the U.S. Senate; the phrase "necessary to" was added when the proposed Amendment was entered into the U.S. House journal.

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The Commonplace Second Amendment, Prof. Eugene Volokh, UCLA Law School (73 NYU L. Rev. 793 (1998)) <http://www2.law.ucla.edu/volokh/common.htm>

The conflict in interpretation between legal scholars has been between the earlier "collective right" view (the first half conditions the second half) and the later "individual right" view (the first half does not condition the second half).

The following is from the site [globalsecurity.org](http://www.globalsecurity.org) . It is a non-profit with strong ties to the arms industry and national security sectors, but it does a pretty good job at ideological neutrality.

A Well Regulated Militia

From: <http://www.globalsecurity.org/military/agency/army/militia-organized.htm>

"The Massachusetts Bay Colony was founded in 1630. Over 5,000 men, women, and children made the two-month voyage to the New World, leaving the relative comfort and safety of England behind in an effort to break free of religious intolerance, and to manage their communities the way they saw fit. In doing so, their actions tread new ground in the country that would become the United States of America. On 13 December 1636, the Massachusetts General Court in Salem, for the first time in the history of the North American continent, established that all able-bodied men between the ages of 16 and 60 were required to join the militia. The North, South, and East Regiments were established with this order. The decree excluded ministers and judges. Simply stated, citizen-soldiers who mustered for military training could be and would be called upon to fight when needed.

Self-sufficiency proved instrumental. In a new land, hiring mercenary fighters in the European tradition to ward off Indian attacks would be impossible. For one thing, the colonists had no money. Other foreign interests in the New World such as the French or Spanish, even if they were available for defensive purposes, did not share English views on religion and political matters. They would have seriously undermined the stability of the Massachusetts Bay Colony. Governing and policing the settlement would have to be left to the colonists themselves. Therefore, the militia system of self-defense brought from England had the best chance of succeeding for the colonists. ...

During the Revolution the Continental Congress recognized the importance of having a body of men to reinforce the Continental, or Regular, Army and on July 18, 1775, recommended "that all able-bodied, effective men, between 16 and 50 years of age be formed into companies of militia." They could be called out only with the consent of the State legislatures.

The Constitutional Convention open on 25 May 1787, at a time when informed opinion identified three threats to national security: civil insurrections like the one that had occurred in western Massachusetts during the previous year, Indian attacks aided and abetted by the British on the frontier, and, more remotely, invasion by European powers. The delegates in Philadelphia set about providing the new national government with means to face these three possible threats. The delegates had to consider two different approaches to the development of military forces. One, reflecting the experiences of the Continental Army, held that the nation needed a trained, full-time military force capable of defeating an organized enemy on the battlefield; the other emphasized the traditional role of the citizen-soldier militiaman defending his home and region during short-lived emergencies. Seeking as broad a consensus as possible, the Convention chose to employ elements of both. Even Elbridge Gerry, probably the most extreme anticentralist in attendance, did not object to the premise that the central government could establish a small peacetime military force. On 18 August 1787 the discussion shifted to the "Militia Clause" a much more emotional issue. In its totality, the Convention arrived at a very important set of decisions concerning military matters with relatively little disagreement. While the national government might employ the militia for the common defense, that authority was checked by the states, which retained authority to appoint their militia officers and to supervise the peacetime training of citizen-soldiers.

Article I, Section 8 of the U.S. Constitution contains a series of "militia clauses," vesting distinct authority and responsibilities in the federal government and the state governments. Article I, Section 8; Clause 15 provides that the Congress has three constitutional grounds for calling up the militia -- "to execute the laws of the Union, suppress insurrection and repel invasions." All three standards appear to be applicable only to the Territory of the United States. Article I, Section 8; Clause 16 gives Congress the power "to provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States." That same clause specifically reserves to the States the authority to establish a state-based militia, to appoint the officers and to train the militia according to the discipline prescribed by the Congress. As written, the clause seeks to limit federal power over State militias during peacetime.

A majority decided on 28 September 1787 to forward it to the states for ratification. The opponents, who came to be called the Antifederalists, tended to be inherently suspicious of any concentration of power. They feared a stronger national government because it was further removed from the people than the state governments and because of the potential they saw for abuse of power. Following the same logic, the Antifederalists also opposed the creation of a peacetime army and sought to limit the nation's military to the existing state-controlled militias.

Article I, Section 10 provides that no state, without the consent of the Congress, shall keep troops or ships of war in time of peace, or engage in war unless actually invaded.

The first 10 Amendments were ratified December 15, 1791, and form what is known as the Bill of Rights. The Second Amendment qualified Article I, Section 10 by ensuring that the federal government could not disarm the state militias. One part of the Bill of Rights, insisted on by the anti-federalists, 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."

The Second Amendment reference was quite specific: "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." Eighteenth-century Americans understood the precise meaning of those few words and tied them directly to the basic militia clause in Article I of the Constitution. Creating a "well regulated" militia - that is, one with adequate organization, weapons, and training, uniform across the nation - ensured that, when mobilized, the militiamen could effectively carry out combat functions. This point had been fully articulated during the drafting of Article I. Mason and other advocates of the Second Amendment knew that during the last years of the Revolution many militia units had virtually disintegrated because they lacked sufficient arms. The amendment reinforced the original militia clause by stating this fact explicitly.

The Militia Act of 08 May 1792 expanded federal policy and clarified the role of the militia. It required all able bodied men aged 18 to 45 to serve, to be armed, to be equipped at their own expense and to participate in annual musters. The 1792 act established the idea of organizing these militia forces into standard divisions, brigades, regiments, battalions and companies, as directed by the State legislatures. In those earlier days reliance for national

defense was placed on the citizen soldier but without adequate provision being made for his training or equipment.

The Militia Act of 1792 attempted to give additional clarification to the requirements and expectations of the militia: *"to enroll ...every freeable-bodied white male citizen ... and also those who shall, from time to time, arrive at the age of 18 years, or being at the age of 18 years, and under the age of 45 years (except as before excepted) shall come to reside within his bounds; and shall without delay notify such citizen of the said enrollment, by the proper non-commissioned Officer of the company, by whom such notice may be proved. That every citizen, so enrolled and notified, shall, within six months thereafter, provide himself with a good musket or firelock, a sufficient bayonet and belt, two spare flints, and a knapsack, a pouch, with a box therein, to contain not less than twenty four cartridges, suited to the bore of his musket or firelock, each cartridge to contain a proper quantity of powder and ball; or with a good rifle, knapsack, shot-pouch, and powder-horn, twenty balls suited to the bore of his rifle, and a quarter of a pound of powder; and shall appear so armed, accoutred and provided, when called out to exercise or into service, except, that when called out on company days to exercise only, he may appear without a knapsack..."*

Elbridge Gerry's fear of militia neglect came to fruition within a generation at the outset of the War of 1812 when the various state militias performed in a manner ranging from ill-disciplined and near mutinous to well organized and heroic. Andrew Jackson's victory over the British at New Orleans on January 8, 1815 confirmed what Americans wanted to believe, namely, that the nation could draw together a fighting force at the moment of need, not before, without elaborate and expensive pre-planning of a regular army and dependent upon the citizen soldier.

For the 111 years that the Militia Act of 1792 remained in effect, it defined the position of the militia in relation to the federal government. Concern over the militia's new domestic role also led the States to reexamine their need for a well-equipped and trained militia, and between 1881 and 1892, every state revised the military code to provide for an organized force. Most changed the name of their militias to the National Guard, following New York's example. The Dick Act of 1903 replaced the 1792 Militia Act and affirmed the National Guard as the Army's primary organized reserve. The Dick Act, 1903 affirmed the National Guard as the primary organized reserve force. Between 1903 and the 1920's, legislation was enacted that strengthened the Army National Guard as a component of the national defense force."

What are "arms" in 1791?

The federal Government did not have a standing army. It had a school for training army officers, Fort West Point. There were armories around the country. In the armories rifles, cannon, mortars and ammunition supplies were stored.

"Gun"

In the predominately rural country, many homes and young males had single shot rifles.

Few people had pistols (single shot at the time). Most pistols were owned by army or marine officers, and the more well to do that engaged in dueling.

The militia was a state militia, under control of each state's governor. The President had the authority to request the calling up of the militia, to serve under the federally trained officers.

Multi-Shot Weapons

A firearm did not exist yet in 1791 that could fire multiple times through the same barrel without reloading. The "fowling piece" (the ancestor of the shot gun) did exist.

The closest analogy to the modern "automatic" weapon may be the cannon, when used as a giant shotgun.

Canister Shot



Late 18th century canister round.

Artillery was not kept by individuals (due to its destructive capability, not to mention the comparative expense of fabrication). In addition to solid shot, a cannon would be used at "short range" against approaching infantry or Cavalry by firing "canister". As described in Wikipedia:

"Canister shot consists of a closed cylindrical metal typically filled with round lead or iron balls, normally packed with sawdust to add more solidity to the mass and to prevent the balls from crowding each other when the round was fired. At times when the supply of balls was limited, nails, scrap iron or lead, wire, and other similar metal objects were included. The canister itself was usually made of tin, often dipped in a lacquer of beeswax diluted with turpentine to prevent corrosion of the metal. Iron was substituted for tin for larger-caliber guns. The ends of the canister were closed with wooden or metal disks. Attached to the back of the metal canister was a cloth cartridge bag, which contained the round's gunpowder charge which was used to fire the canister from the gun barrel.

When fired, the canister disintegrates and its shards and projectiles spread out in a conical formation, causing a wide swath of destruction."

Some Anthropological Aspects (U.S.A.)

Masculinity

Little comment necessary on this aspect, as it is well documented and a staple feature of popular culture. In American culture there has traditionally been a strong link between firearms and masculine identity models. This is still true. An example being Bushmaster's 2012 "Man Card" advertising campaign, ("In a world of rapidly depleting testosterone, the Bushmaster Man Card declares and confirms that you are a man's man." T). Bushmaster® manufactures firearms including the ACR, AR 15, etc.

Rising gun usage by females

Recently, gun use and ownership by American women has been rising. This has been accompanied by a large increase of gun related advertising directed at women.

<http://www.nytimes.com/2013/02/11/us/rising-voice-of-gun-ownership-is-female.html?pagewanted=all&r=0> ,

Urban violence

The illegal drug market is, due to its illegal status is unregulated in its operation. There is no recourse for contract and marketing disputes other than self help. This has resulted in reliance on firearms in the illegal drugs sector. Since penalties have increased and such measures as "three strikes your out", and stronger enforcement have increased the risk of doing business, prices are steadily rising for the products, which already have huge profit margins. This has increased the spread and intensity of gun violence, primarily in urban areas.

Other violence

"Felony murder" refers to the illegal killing of another during the commission of another crime. Robbing a store at gun point is an example of this. Generally, through time and across cultures, as economic disparity increases, the number of crimes wherein weapons are present increases.

Virtual Violence

Violence involving conspecific¹ fighting is a major part of entertainment media products.

Being omnivores, society also incorporates violence on an industrial scale involving domesticated animal species and wild aquatic species.

Hunting

Hunting has a long history in humans². Hunting using firearms is a major recreational killing activity. This has deep cultural roots in our culture. The ability to go out on a piece of land and kill a wild animal when you wanted to was significant for most early European immigrants, and especially for those from Britain. In Europe the open lands were controlled

¹ Conspecifics: Members of the same specie

² Though some debate the "man the hunter" vs "man/woman the gatherer", our dental structure clearing says, omnivore. The teeth, stomach chemistry and paleontological evidence indicate a omnivore with a probable trajectory of gather/scavenger to hunter-gatherer to agriculturalist. The gatherer-hunter lifestyle is shared by our nearest genetic relative also.

by the aristocracy/monarchy. They are the only ones that could hunt on them for food without permission, and the only ones who could engage in recreational killing of wild animals. This was compounded for early British Americans. The majority of the early ones had come to North America via the court judgment of "transport", meaning being sent to the colonies instead of being hung or imprisoned for a serious criminal offense. Here, the males of this under-class had the right to the main recreational activity of the upper class where they had been sent from.

This is associated with a tendency to associate "hunting", firearms, and "freedom".

For a comprehensive, very readable look at the cultural history of hunting (that manages not to offend either hunters or animal rights folks J)I recommend:

A View to a Death in the Morning: Hunting and Nature Through History, Matt Cartmill (1996)

Origins Mythos

In the shared cultural story of the origin of our nation among Euro-Americans, guns play an important role. The man and family alone in a wilderness, the citizen soldier, the "wild west", etc.

Recreational consumption of alcohol

There is a statistically significant co-occurrence of alcohol intoxication and "crime of passion" firearms use.

Mental Health

Generally, the individual is prohibited by their government/religion/culture from shooting a conspecific. It is common for the perpetrator of gun violence (not in the course of another illegal act) to have had in retrospect one or more mental illnesses. As shown in countries with health care systems, these problems tend to be noted, tracked and treated more efficiently than in the operation of the United State's health care market. This may be a factor in why countries with health care systems have lower gun violence figures than we do, even when they have hunting and target shooting sub-cultures that use guns.

Legacy behaviors

Generally, the use of a firearm to kill or wound a conspecific is an issue when that use is not sanctioned by the actor's government(s).

To understand gun violence, it may be necessary to understand human violence and killing, both legal and illegal varieties.

Much of this appears to be tied to legacy behavior. For example, Male offspring tend to physically move towards occurrences of male to male conspecific aggression and violence, while female offspring tend to do the opposite, (studies of humans, gorillas, and the common chimpanzees). Learning normally governs the exact expressions of a biologically based behavioral tendency. Never the less, it is a rule in ethology that a behavior shared in all cultures of a specie is in its simplest sense, biologically based, not learned.

Some of the relevant human "cultural universals" are:

Males being more physical aggressive

Homicide

Rape

Limiting taboos on the previous two

Anger/rage

Weapons making and use

For more information in this area, 2 good introductory sources include:

The Evolution of Childhood, Melvin Konner (2010) and *Sex and War*, Malcom Potts and Thomas Hayden (2008).

Gun control advocacy

The advocacy for stronger regulation of the possession and use of firearms in the United States does not seem to appear until the 20th century, and is mostly incident driven. It does not appear to be attached to a single or small coherent group of support organizations, nor does it have associated market support.

Urbanization has led to fewer practitioners of legal firearm use (subsistence hunting and recreational hunting). Increased education in areas such as ecology have also altered the aesthetics of some³. Increasing residential density in exurban areas also contributes to multiuse friction.

The first incident to fuel gun control action was in response to the gangland killing known as the Saint Valentine's Massacre in 1929. Since then, the illegal killing with guns of more than a handful of people in a public space or the shooting of a famous person appears to result in "gun control" issues, and on occasion, legislation.

The gun in symbolic thinking

A firearm has, outside of the limited sport and recreational use in target shooting, an exclusive design for use. That is to propel over distance one or more metal or hybrid objects at high velocity at and through, living flesh. The mechanical purpose is to produce shock, trauma injury and fluid loss in flesh and the phenotype of which it is a part.

Consequently, the gun is highly useful in the provoking of emotional reactions about such subjects as safety, responsibility, empathy and fear associations with a multitude of other subjects.

Some Economic Factors

Firearms Manufacturing and sale

The manufacturers of firearms including those for recreation, self defense and military sales are a major manufacturing subsector in the United States and overseas. The expansion of "military" designs into the civilian market is now a major revenue source for the sector in some countries, including failed states, the developing world and the United States. It is an important source of funds, and a creator of many firearms related organizations classified as educational or charitable. These organizations also usually have members from gun using categories. These organizations will lobby on political issues that are related to access to and sale of guns and ammunition. The sector and its organizations are also active in contribution of money for and against political candidates.

³ Hunting with projectile weapons by humans does little to address prey fitness. Other top predators, like our earliest ancestors, selected prey for its weakness (injury, illness, slowness ,inattentiveness, etc.), in accord with the energetics "rule" in predation; to seek the greatest return for the least expenditure of energy. Given the short period of time of human projectile weapon use, its selection pressure characteristics are not clear. But it is clear that that selection is not ecologically efficient, in a systemic sense.

The most well known organization of this type in the United States, is the NRA (National Rifle Association). Its lobbying history began by supporting passage of National Firearms Act of 1934. It has consistently opposed regulation of firearms use and manufacture since the late 1960's.⁴

Recreational hunting consumers

The regulated recreational killing of wild animals is an important part of rural tourism in most of the United States. It is part of the retail, hotel, bar and restaurant sub-sectors, in addition to retail directly related to the sales and servicing of firearms and ammunition. In rural areas seasonal spending by "hunters" is seen as a major "bump" in sales.

The personal safety market

A smaller but growing consumer group is comprised of individuals reacting to threats. Among those are:

Violence between conspecifics witnessed first hand or vicariously through friends and neighbors

Perception of an increased threat of violence against the consumer or their family, from the news, advertising and other media sources

Fear of the federal government exercising military power against its own citizens

Revenue from regulation (Wisconsin)

The Wisconsin DNR obtains revenues from some activities being licensed, that it can use in discretionary way. Among these are hunting licensing, mostly for methods using firearms. This apparently may result favoring hunter related interest groups, and land use regulation favoring licensed game availability, rather than interest groups promoting environmental and ecological concerns.

Tourism/Land Use/Forestry (Wisconsin)

A recreational hunting economic aspect is its role via tourism and retail in an unintentional but systems dynamics sense, relationship with a wide variety of the physical-social landscape. The primary ungulate for recreational killing (white tail deer) and some legally killed bird species have preferred habitat that matches a mix of types reflected the agricultural model used in industrial forestry and some other aspects of human disturbance. I

⁴ Interestingly enough, the NRA was not just a effort by arms manufacturers. It started in the state of New York in 1871 to promote better training for shooters. This was prompted by reports that the Union Army had fired 1000 shots for every Confederate soldier hit.