

The Effects of State-Level Firearm Restrictions on Homicide

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**ABSTRACT**

From Cain and Able with rocks in a field, to automatic weapons and nuclear warheads-- man employs weaponry to safeguard not just individual freedom, but national security. As America was formed, principles from England were incorporated and improved upon. This resulted in a unique culmination of philosophy and political thought, which birthed the Second Amendment. Whether one is for or against the right to bear arms, there is much history and debate concerning this topic. Currently, the United States heavily considers Supreme Court cases, as well as results of policy, to shape firearm legislation. This thesis will build a historical context of the Second Amendment, discuss debates and court cases, and finally examine state-level firearm restrictions to assess their effectiveness.

*Keywords:* Second Amendment, William Blackstone, James Madison, Alexander Hamilton, Liberty University, Firearms, Gun Control, Concealed Carry.

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Lord, thank you for the support system you have blessed me with. Proverbs 18:22 says: "He who finds a wife finds what is good and favor from the Lord." My favor has resulted in my best friend, Johana, who has blessed me with two loving boys. Johana-- thank you for all of the late-night talks, considerations, and support. JJ and AJ-- thank you for your love and inspiration.

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**Table of Contents**

Abstract.....iii

Acknowledgements.....iv

CHAPTER 1: PRESENTATION.....1

Overview.....1

Research Question and Significance.....2

Description of Terms.....4

Process to Accomplish.....8

CHAPTER 2: LITERATURE REVIEW.....9

Historical Value of the Second Amendment.....9

Supreme Court Cases and the Second Amendment.....14

Contemporary Debate.....18

CHAPTER 3: METHODOLOGY.....32

Methodology Used.....32

Understanding Differences between States.....35

Meta-Analysis of Available Literature.....36

State Demographic Comparisons.....37

CHAPTER 4: CONCLUSION.....43

Findings.....43

Findings: Demographically Similar Sample.....44

Findings: All 50 States.....45

Conclusions.....48

Implications.....50

The Effects of State-Level Firearm Restrictions on Homicide

Recommendations.....53

Limitations of the Study.....55

Final Conclusion.....56

REFERENCES.....58

APPENDIX.....63

**List of Tables**

Table 1.....	39
Table 2.....	40
Table 3.....	42
Table 4.....	63
Table 5.....	68

**List of Figures**

Figure 1.....44

Figure 2.....45

Figure 3.....55



## **The Effects of State-Level Firearm Restrictions on Homicide**

### **Chapter 1: Presentation**

#### **Overview**

Gun violence, homicide, and protecting oneself are all important issues that both sides of the argument consider. However, the key is to find balance among these issues. How do we maximize the ability to protect ourselves while also making sure criminals cannot harm us? One approach is to add certain caveats to the law that exclude those with violent backgrounds from obtaining firearms, or outright banning certain configurations in an attempt to solve an issue. Understanding the difference in criminal behavior is also vital to understanding the extent of firearm laws. This is because "a substantial number of homicide incidents are an extension, and in many respects a culmination, of a life involvement in drug and gang activity, and firearm carrying" (Pizarro et al., 2019, p. 624). For example, in 2016, the CDC reports there were 19,362 homicides with 14,415 of those being from firearms (Xu et al., 2018, p. 35).

When considering firearm legislation, it is also equally vital to consider how prior laws came to be. Current literature typically only focuses on the history and interpretations of the Second Amendment, or the statistical values of certain laws or policies. Combining several of these aspects allows a comprehensive review of the entire issue: the history, prevalent arguments, and how these items shape policy--resulting in measureable data. First, this thesis will begin with the history of the Second Amendment, providing a foundational overview of the concept of the individual right to bear arms. Secondly, we will review more recent milestone Supreme Court cases that have guided Constitutional thought and the implementation of firearm laws. Third, we will evaluate

## The Effects of State-Level Firearm Restrictions on Homicide

the history of the Second Amendment and the recent milestone Supreme Court cases in regard to a contemporary debate on the matter. Fourth, we will perform a case study of state-level firearm restrictions and their relationship to homicide. Fifth, we will evaluate the results and provide areas of future study. And finally, sixth, we will conclude the thesis and offer a comprehensive analysis of the items reviewed. The underlying research question of this thesis focuses on how legislation affects these homicide numbers. The research question is "what impact, if any, do state-level firearm restrictions have on homicide rates?" To answer this question, the effects of state-level firearm restrictions on homicide are evaluated to determine the relationship between the two variables.

### **Research Question and Significance**

The point of this thesis is to examine different types of laws, primarily at the state level, to understand what effects state-level firearm restrictions have on homicide. My research question is "what impact, if any, do state-level firearm restrictions have on homicide rates?" My hypothesis is that there is a positive relation between state-level firearm restrictions and homicide. I propose that these laws cut too much into defensive capability and contribute to more homicide. Part of my hypothesis takes into account the findings of the 1994 Assault Weapons Ban, one of which is that "state and local bans on handguns have been found to be ineffective in other research" (Roth & Koper, 1999, p. 2). My null hypothesis is that there is no relationship between restrictive gun laws and homicide.

Being objective and relying on good data is important when applying solutions to problems. Otherwise, we bite too much into self-defense and leave a pregnant woman vulnerable, or we are too lax and allow criminals an extra avenue to source tools for

## The Effects of State-Level Firearm Restrictions on Homicide

crime. This means that less-restrictive "laws afford relatively greater protection to minorities and women," with minorities and women being "precisely those that are disproportionately victimized by violent crimes" (Moorhouse & Wanner, 2006, p. 109). This is a primary concern of firearm restrictions. The other viewpoint would argue that these restrictions actually bring more safety. Therefore, the significance of this thesis is that it addresses the justification of firearm restrictions, and if firearm restrictions are justified on statistical value alone. Many lawmakers that support firearm restrictions argue that these restrictions are justified by reductions in homicide. This thesis addresses that specific argument, and considers the unintended consequences of such policy. There are plenty example of these laws being circumvented and allowing criminals to complete their actions, though there were already laws in effect.

With police being relied upon when certain laws are in place, their effectiveness can come into question. Nikolas Cruz, the Marjory Stoneman Douglas High School Shooter, had been reported to the FBI through an anonymous tip that officials failed to act upon (Berman & Zapotosky, 2018). Additionally, there were many red flags in Cruz's life that officials did not follow up on (Berman & Zapotosky, 2018). With law enforcement allowing questionable individuals to fall through the cracks only to commit eventual murder(s), it remains a valid question of why restrictions are being increased when law enforcement has the potential to be a very weak link. Some research supports increasing civilian response, since they may already be on scene as opposed to waiting several minutes for police to arrive. During active shooter scenarios, the FBI has concluded that citizen responses to active shooters successfully ended the shooting in eight of ten incidents, and that their selfless actions likely saved numerous lives (FBI,

2018a, p. 9). Additionally, Simonetti et al. conclude that with older veterans, intervention via family is key in helping those who may be having irrational thoughts, like consideration of suicide (Simonetti et al., 2020, p. 15). In these examples there is support for intervention and additional care for those who are suffering and showing concerning trends, as opposed to blanket and restrictive legislation.

In this regard, we look at the United States and laws that have been passed regarding firearms. These laws can range from restrictions such as type-bans, accessory bans, and restricting purchases without background checks and/or licensing/registration. Other laws can be simple adjustments such as securing weapons out of reach of children, or in a gun safe. Finally, permissive laws such as concealed carry can provide some data on how these laws affect crime and homicide.

### **Description of Terms**

Pertaining to the statistical aspect of this thesis, there is some nomenclature to clarify.

Note: These terms were compiled.

1. Age restrictions - "Age restrictions" are restrictions based on the purchase, use, or possession of firearm, however only if these restrictions are stricter than Federal limits (ATF, 2015).
2. Ammunition Background Check – An "Ammunition Background Check" is not a common requirement, but the more restrictive states have active legislation that requires a person pass a background check before buying ammunition.

Traditionally there are rules that prohibited persons should not possess ammunition, however this method goes further. Ammunition is defined as an item that can be discharged from a firearm (Markham, 2015, p. 2).

## The Effects of State-Level Firearm Restrictions on Homicide

3. Arbitrary Ban - The term "Arbitrary Ban" references Assault Weapon Bans, Caliber bans, and model bans (Pfau, 2020, p. 6).
4. Concealed Carry - "Concealed Carry" reflects the concealing of a handgun, typically involving licensing and fees, or other restrictions for carrying, such as training (NRA, n.d.).
5. Limited Selection/Approval Roster - The term "Limited Selection/Approval Roster" is based on any limitation of approved firearms or extra requirements. Some states require the police to approve firearms for purchase and place them on a list. Civilians are not allowed to deviate from this list (California Attorney General, n.d.).
6. Magazine Ban - A magazine is "a spring-loaded box or tube that holds cartridges ready for loading into the chamber of a repeating or self-loading gun. It may be removable or an integral (fixed) part of the firearm" (Markham, 2015, p. 10). Any legislation or policy that restricts legal magazine capacity is defined as a "Magazine Ban."
7. Open Carry Restriction - Finally, an "Open Carry Restriction" is any ban or restriction on the open carry of a firearm (Spitzer, 2015, p. 115).
8. Permit to Purchase - "Permit to Purchase" is exactly what it sounds like--a required permit to purchase a firearm, typically for pistols (Spitzer, 2015, p. xiv).
9. Private Sale Regulation - "Private Sale Regulation" is also known as a Universal background check. This means that anyone wishing to sell a firearm to a private party will face some regulation like a background check, or verification of a

## The Effects of State-Level Firearm Restrictions on Homicide

permit to purchase. Less restrictive states typically only require that a person not knowingly sell to a felon (Spitzer, 2015, p. 168).

10. Purchase Limit - A "Purchase Limit" is limiting the purchase of firearms to an arbitrary number within a certain timeframe; this is most likely seen as one handgun per 30 days (Spitzer, 2015, p. 117).
11. Registration - "Registration" is a requirement to register a firearm, whether actively by submission or passively by purchase (Giffords Law Center, n.d.).
12. Transport Law - A "Transport Law" is any law, regarding transport that requires specific compliance such as unloading, securing, separation of components, etc. (NRA, 2015).
13. Waiting Period - A "Waiting Period" is any amount of time a firearm purchaser is mandated to wait before they can complete the process, not including federal background checks (NRA, 2019).

These areas were chosen as they represent a continuation of Moorhouse & Wanner's index characteristics, and also how firearm restrictions are applied at the state level.

Moorhouse & Wanner's (pp. 104-105) categories consisted of:

1. Registration of firearms including purchase permits and gun registration of handguns and long guns (rifles and shotguns).
2. Safety training required before purchase.
3. Regulation of firearm sales including background checks, minimum age requirements for purchasing a firearm, a waiting period before a sale can be complete, one-gun-a-month limitation of purchases, all applied to long guns,

## The Effects of State-Level Firearm Restrictions on Homicide

and/or handguns, plus a ban on “Saturday night specials,” junk guns, and assault weapons.

4. Safe storage laws including child access prevention laws.
5. Owner licensing for possession of handguns and/or long guns and minimum age restrictions for gun possession.
6. The presence of more restrictive municipal and county ordinances.

Reviewing each state, it is apparent that there are recurring categories of legislation. These categories represent a common point of overlap for both this study and Moorhouse & Wanner’s categories. These categories, in both cases, can be boiled down to four main areas: the purchasing of a firearm, the type and feature of a firearm, the possession of a firearm and ammunition, and the carrying or transport of a firearm.

In regards to this study’s thirteen categories, this is the overlap with the corresponding four main areas: the purchasing of a firearm (8, 9, 5, and 10), the type and feature of a firearm (3 and 6), the possession of a firearm and ammunition (2, 11, 13, and 1), and the carrying or transporting of a firearm (4, 12, and 13). These four main areas are similar to the Open Society’s six categories that Moorhouse & Wanner utilized, and this is the overlap between the Moorhouse & Wanner categories and the four main areas: the purchasing of a firearm (1 and 3), the type and feature of a firearm (5), the possession of a firearm and ammunition (4 and 5), and the carrying or transporting of a firearm (5). As a note, we did not use category 6 because the study was limited to state-level laws. The thirteen categories used in this study present a more detailed expansion on Moorhouse & Wanner’s utilization of the Open Society’s

## The Effects of State-Level Firearm Restrictions on Homicide

index. This expansion shows a more specific approach to measuring the different categories, allowing for more specific measurements of law while also verifying there was a grounded framework that stemmed from the Moorhouse & Wanner's categories.

### **Process to Accomplish**

To answer the research question, two things will be done. First, FBI statistics regarding state homicides and state populations will be calculated to give three values: firearm homicide rate, non-firearm homicide rate, and total homicide rate. These values are all based on a per capita of 100,000. Second, a thirteen point scoring system, based on state firearm restriction laws, will be compiled. Next, these homicide rates and restriction scores will be processed through SPSS software to determine if there is a relationship, and if this relationship is either positive or negative.

The reason for using a thirteen point matrix to compare to homicide data, is that it provides a measurement for firearm restrictions, otherwise, it is impossible to know what level of restrictions are present in each state (Moorhouse & Wanner, 2006, p. 104). Moorhouse & Wanner used thirty criteria to measure levels of restriction, but within six general categories. Though this is a great mechanism, the data was derived from 1998 (Moorhouse & Wanner, 2006, p. 104). However, the categories are relevant as they provide a basis to analyze more current data. Our model provides a more focused area of thirteen categories, with data referencing real-time gun laws and the latest homicide reports from the FBI.

To recap, our research question is "what impact, if any, do state-level firearm restrictions have on homicide rates?" The significance of this study is that it addresses the



## The Effects of State-Level Firearm Restrictions on Homicide

justification of firearm restrictions, and investigates if firearm restrictions are justified on statistical value alone. This study also, in return, questions if present (and future) firearm restrictions actually stand on their merits. We've also covered the overall layout of this thesis, key definitions/criteria, and the process to accomplish the measurement of these criteria. This has all been an overview--next we will cover the first section of the thesis which examines the historical value of the Second Amendment, Supreme Court Cases, and contemporary debate on this matter.

### **Chapter 2: Literature Review**

#### **Historical Value of the Second Amendment**

To evaluate law regarding the Second Amendment, we must understand 1) the text of the amendment itself, and 2) the intent of those who wrote it. Both of these items make up the two major sections within this chapter. Therefore, understanding them allows a basis for what thoughts and forces shaped America, as well as why those forces may be valid. With this information in mind we can begin to see the divergence of interpretation between two schools of thought. We can also see if definitions might have drifted through lexicon and if present laws reflect this drifting or not.

The text of the Second Amendment says: "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" (U.S. Const. amend. II). It is important to remember what had just happened when the Constitution was formed. The United States had just fought a war with England and wanted to make sure the tyrannies experienced prior to the Revolutionary War had specific checks and balances. This balance focused on the power between the federal government and the state governments.

## The Effects of State-Level Firearm Restrictions on Homicide

The Federalist Papers also serve as a guide for understanding the spirit of the Constitution and the prevalent intent behind the chosen text. These papers were written by various Founding Fathers to provide special insight and elaboration regarding items that citizens might have questions about, such as Constitutional Amendments. Federalist Papers 29 and 46 share detailed information regarding the Second Amendment. Federalist 29 speaks about training and having the *possibility* (note: not required) of a well-trained body to serve as defense. It specifically says “it will be possible to have an excellent body of well-trained militia, ready to take the field whenever the defense of the State shall require it” (Hamilton, 1788). In present day, some may argue that the militia is actually the federal military, or even the National Guard. However, Federalist 29 is very clear about this:

This will not only lessen the call for military establishments, but if circumstances should at any time oblige the government to form an army of any magnitude that army can never be formidable to the liberties of the people while there is a large body of citizens, little, if at all, inferior to them in discipline and the use of arms, who stand ready to defend their own rights and those of their fellow-citizens (Hamilton, 1788).

Thus, it is clear to see that the intent of the militia was to provide a check against all governmental power. Article II of the U.S. Constitution also specifically outlines the creation of the Army as well as the Navy, providing a clear distinction from any potential confusion (U.S. Const. art. II, § 2). Tenche Coxe, another voice from the Founding Era, elaborated on this matter as well:

## The Effects of State-Level Firearm Restrictions on Homicide

Who are the militia? are they not ourselves. Is it feared, then, that we shall turn our arms each man against his own bosom. Congress have no power to disarm the militia. Their swords, and every other terrible implement of the soldier, are the birthright of an American. What clause in the state or [federal] constitution hath given away that important right .... [T]he unlimited power of the sword is not in the hands of either the federal or state governments, but where I trust in God it will ever remain, in the hands of the people (Halbrook & Kopel, 1999, p. 363).

Finally, much of American law and the Constitution were derived from British common law. This is a natural byproduct of being a British colony and then becoming an independent nation. William Blackstone is credited with scribing British common law and facilitating these standards for reference. In his commentaries, he mentions arms twice. The first mention is:

The fifth and last auxiliary right of the subject, that I shall at present mention, is that of having arms for their defense, suitable to their condition and degree, and such as are allowed by law. Which is also declared by the same statute 1 W. & M. ft. 2. c. 2. and is indeed a public allowance, under due restrictions, of the natural right of resistance and self-preservation, when the sanctions of society and laws are found insufficient to restrain the violence of oppression (Blackstone, 1765, p. 139).

There is some contention as to what importance an auxiliary right exhibits. Those arguing for gun restrictions might annotate this as a subordinate right, or one that is not as strong as others. Those that look to historical examples for supporting the Second Amendment

## The Effects of State-Level Firearm Restrictions on Homicide

will explain an auxiliary right is merely a right that protects other rights, sort of like the lock on a strong chain, if you will. Blackstone's second mention of arms is:

In these several articles consist the rights, or, as they are frequently termed, the liberties of Englishmen: liberties more generally talked of, than thoroughly understood; and yet highly necessary to be perfectly known and considered by every man of rank or property, lest his ignorance of the points whereon it is founded should hurry him into faction and licentiousness on the one hand, or a pusillanimous indifference and criminal submission on the other. And we have seen that these rights consist, primarily, in the free enjoyment of personal security, of personal liberty, and of private property. So long as these remain inviolate, the subject is perfectly free; for every species of compulsive tyranny and oppression must act in opposition to one or other of these rights, having no other object upon which it can possibly be employed. To preserve these from violation, it is necessary that the constitution of parliaments be supported in it's full vigor; and limits certainly known, be set to the royal prerogative. And, lastly, to vindicate these rights, when actually violated or attacked, the subjects of England are entitled, in the first place, to the regular administration and free course of justice in the courts of law; next to the right of petitioning the king and parliament for redress of grievances; and lastly to the right of having and using arms for self-preservation and defense. And all these rights and liberties it is our birthright to enjoy entire; unless where the laws of our country have laid them under necessary restraints. Restraints in themselves so gentle and moderate, 23 will appear upon farther enquiry, that no man of sense or probity would wish to

## The Effects of State-Level Firearm Restrictions on Homicide

see them slackened. For all of us have it in our choice to do everything that a good man would desire to do; and are restrained from nothing, but what would be pernicious either to ourselves or our fellow citizens (Blackstone, 1765, p. 140).

There is a lot to unpack here, however the main points suggest that ownership of individual arms is found in Blackstone's use of "self-preservation and defense" and that these rights are "our birthright to enjoy entire." However, Blackstone does place a reasonable amount of regulation on arms, under the laws of the country. As long as these restrictions are "gentle and moderate" then they are acceptable. He places a final caveat that emphasizes anyone of reason would have no recourse to oppose these restrictions. Here we have a starting point for the individual right to bear arms, though it has not been perfected, yet.

Why is all of this important? Well, if one is carrying out the arduous task of crafting firearm legislation, they need to be aware of the full scope of possibilities, not just the immediate. This thesis assesses the culmination of firearm history and legislation in the relationship of homicide, however this topic is multi-faceted. There are indeed a vast number of scenarios that legislation needs to account for, such as tyrannical government, irresponsible members of society, responsible members of society, and those vulnerable in a society.

Now, imagine for a minute that the Second Amendment read: "A well-regulated individual, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." Would we now argue that there is no room for armed individuals within an organization? There is no call for collective interpretation, does that implicitly deny it? Or, would it be reasonable to assume that individuals can

## The Effects of State-Level Firearm Restrictions on Homicide

make up groups and retain the same justifications depending on the scale of adversity being faced? If so, then this is a near-identical argument to the originalist interpretations we see today. The Second Amendment appears to be written in the context of a sliding scale, with the utmost necessity being emphasized to reflect the sentiments of a people who just gained their independence. Thus, it is hard to imagine that a provision of defense against the titanic powers of state would be powerless to the more common powers of the criminal. However, there are some contemporary scholars who present these foundational points in an excellent manner, and make poignant arguments for both sides of the debate. We will expand on the history we have just reviewed, and add their arguments to understand the best method for incorporating history in American firearm legislation.

### **Supreme Court Cases and the Second Amendment**

Supreme Court cases are extremely relevant and important to the Second Amendment because they have the power to issue new verdicts and guidelines for firearm restrictions. What has been in place for years can be overturned and rendered unconstitutional. Two Supreme Court cases that have done this, in recent years, are *District of Columbia v. Heller*, and *McDonald v. Chicago*. Both of these cases expanded firearm rights and limited the amount of restrictions that the government could place on those rights. Additionally, the Supreme Court is another location where there is a battle for the interpretation of the Second Amendment, as we will see in the O'Shea vs. Bogus debate.

*District of Columbia v. Heller* saw Justice Scalia argue for the elevation of the individual right to bear arms, versus Justice Ginsburg who argued the right was collective

## The Effects of State-Level Firearm Restrictions on Homicide

and reflected military service (Teitelbaum & Spector, 2009, p. 759). This fundamental difference is often reflected in firearm restriction legislation, and generally represents the different schools of thought. Associating firearms with militia service does serve a historical capacity, however this train of logic seems to relegate firearms solely for use in, and relation of, militias. Since *United States v. Miller*, the decisions of federal courts have typically considered this notion. The Supreme Court ruled that firearms must demonstrate some use in preserving a well-maintained militia, and in *Miller*, a sawed-off shotgun did not (U.S. Library of Congress, 2008). Yet the other school of thought facilitates the overarching “right to keep and bear arms” without limiting the “how” to just a “well-regulated militia,” because doing so would exclude those who are simply private citizens or want to defend their homes. *District of Columbia v. Heller* took all of these arguments, court rulings, and interpretations into consideration before issuing a decision. "In its June 26 decision, a 5-4 majority of the Supreme Court ruled that the Second Amendment confers an individual right to keep and bear arms, and that the D.C. provisions banning handguns and requiring firearms in the home disassembled or locked violate this right" (U.S. Library of Congress, 2008). Most advocates for less firearm legislation see these laws as they very encroachment they worry about. John McNamara explains this concern well.

Controversy surrounding this amendment is ongoing and individual political standpoints on this issue tend to denote the broad political allegiance of individuals as well as local and municipal districts. The Second Amendment and the enmity that it arouses has seen it endure only limited testing in the Supreme Court. Challenges to this amendment are seen in some quarters as a challenge to

## The Effects of State-Level Firearm Restrictions on Homicide

cherished individual freedom itself and as a consequence invoke a great deal of public indignation. Quite apart from the practical need to possess firearms in the nouveau frontier nation that was eighteenth century America, the essence of this right rests on the view that an armed populace could not and would not be subjugated. It existed (and exists) as a final bulwark against the spectre of tyranny. It ensured that the individual citizen could always keep an unjust regime or civil threat at bay through that citizen's feasible potential to resort to violent dissent on their very threshold. All efforts to dilute this right are perceived in many quarters as a direct attack on the sovereignty of the individual and an effort to subjugate or neutralise the masses. (McNamara, 2016, p. 1)

After *Heller* was decided, law suits were filed in Chicago against their gun bans. The city had effectively banned handguns from citizens. The argument here was that if the Second Amendment was applicable at the federal level, it should be applicable to the states as well. This argument also held that via the Fourteenth Amendment, the Second Amendment did indeed apply to the states. In a 5-4 decision, the Chicago handgun ban was struck down. The Court stated that:

Our decision in *Heller* points unmistakably to the answer. Self-defense is a basic right, recognized by many legal systems from ancient times to the present day, and in *Heller*, we held that individual self-defense is “the central component” of the Second Amendment right (McDonald v. Chicago, 2010)

More recent events also show that the issue of firearm legislation remains on-going. *New York State Rifle & Pistol Association v. New York City*, or more commonly known as NYSRPA, demonstrates law makers skirting the law to ensure they make



## The Effects of State-Level Firearm Restrictions on Homicide

stringent regulations where possible, while avoiding the Supreme Court. This is done to prevent overturning and removing restrictions in place for other areas, or to prevent a ruling unfavorable to those who favor more firearm restrictions. In *NYSRPA*, after the case was granted certiorari before the Supreme Court, New York City changed a law that would have made it impossible for an individual to transport a firearm out of the city. This was because all approved shooting ranges were in New York City, restricting individuals from transporting their firearms to ranges and competitions outside of the city (*New York State Rifle & Pistol Association v. New York City*, 2020). The majority opinion rendered the case moot after reviewing the changes New York made to the law, thus changing New York City's law as well. Justice Alito addressed the concerns in his dissent:

We are told that the mode of review in this case is representative of the way *Heller* has been treated in the lower courts. If that is true, there is cause for concern. This case is not moot. The City violated petitioners' Second Amendment right, and we should so hold. I would reverse the judgment of the Court of Appeals and remand the case to the District Court to provide appropriate relief. I therefore respectfully dissent (*New York State Rifle & Pistol Association v. New York City*, 2020)

In short, the last ten years have seen the advancement of individual firearm ownership. Decisions from both *Heller* and *McDonald* expanded one's right to keep and bear arms as a *private individual*. This issue isn't so much displaced by time, as it is unfolding right in front of us. Currently, the Supreme Court has developed a more neutral standpoint with the loss of Justice Scalia in 2016. As evidenced by the outcome of

## The Effects of State-Level Firearm Restrictions on Homicide

*NYSRPA* and the other pending Second Amendment cases being dismissed, the Supreme Court has been reluctant to take up new Second Amendment cases (Bernfeld, 2020).

Some speculate the more conservative justices cannot count on Justice Roberts to side with them, so they are playing safe. With the passing of Justice Ginsburg, there may be cases heard next term, however, lower courts may not be reined in for a while—as these cases were submitted for a reason.

### **Contemporary Debate**

Constitutional scholars have contributed to the debate of the Second Amendment to shed light on its true meaning and how to apply that meaning to everyday life. These scholars utilize historical relevance from America's founding to present, applicable court cases (including Supreme Court cases), and differentiation of ideas to clarify their positions. As we move to understand both the text and intent of the Second Amendment, we encounter fantastic lectures and debates that present the dominant sides of interpretation. One such debate is from the National Constitution Center over the motion: "The Second Amendment protects the individual's right to own and carry a gun." Professor Michael O'Shea argues that this motion is true, while Professor Carl Bogus argues that the motion is not true. This debate is critical to the contemporary setting of the Second Amendment as it displays the split in thought over the matter. It offers a "cradle to grave" approach through the years. The recent Supreme Court cases also reflect this split, so, diving into the debate, we can see why each side argues for more or less restrictions, and how that shapes firearm restrictions based on history and precedent. In this section we will thoroughly analyze this debate for combining the text and intent of the Second Amendment.

## The Effects of State-Level Firearm Restrictions on Homicide

In his opening remarks, Professor O'Shea highlights the deliberate wording of the Second Amendment, citing James Madison. During the drafting process, the Second Amendment had several iterations, ranging from "the right to keep and bear arms *for the common defense*", as well as "A well-regulated militia, *trained to arms*". However, both of these iterations that provided additional qualifications for bearing arms were rejected by the Federalist controlled Congress (National Constitution Center, 2015). O'Shea also references the game laws in England, citing the hunting regulations and penalties as a form of disarming British citizens. This is corroborated by David Kopel's examination of these laws as well.

St. George Tucker, author of the American version of Blackstone's Commentaries and the legal commentator most often cited by the U.S. Supreme Court for a quarter of a century, claimed that "[w]hoever examines the forest, and game laws in the British code, will readily perceive that the right of keeping arms is effectually taken away from the people of England." Moreover, claimed Tucker, "not one man in five hundred can keep a gun in his house without being subject to a penalty." (Kopel, 1995, p. 1333)

In the rest of St. George Tucker's explanation, he explains that the right of self-defense is the first law of nature and the "true palladium of liberty" (National Constitution Center, 2015).

O'Shea also offers his own review of case law, citing *Nunn v. Georgia* from 1846 in which a law that banned carrying and possessing handguns was struck down. The opinion from this court case was:

## The Effects of State-Level Firearm Restrictions on Homicide

The right of the whole people, old and young, men, women and boys, and not militia only, to keep and bear arms of every description, not such merely as are used by the militia, shall not be infringed, curtailed, or broken in upon, in the smallest degree; and all this for the important end to be attained: the rearing up and qualifying a well-regulated militia, so vitally necessary to the security of a free State. Our opinion is, that any law, State or Federal, is repugnant to the Constitution, and void, which contravenes this right, originally belonging to our forefathers, trampled under foot by Charles I. and his two wicked sons and successors, reestablished by the revolution of 1688, conveyed to this land of liberty by the colonists, and finally incorporated conspicuously in our own Magna Charta! (Nunn v. State, 1846)

Further considering this private right to arms, O'Shea also references Thomas Cooley in 1880. Cooley states that the militias of the founding era derived their arms via members, who possessed these arms as private citizens. O'Shea explains that it is fully applicable during this time that individuals could retain their arms and use them for legitimate purposes (National Constitution Center, 2015). This is why in Federalist 46; James Madison conceptualizes the militia as both assisting the Federal government when called upon, but also acting as a counterweight to federal tyranny.

O'Shea does concede that there is history of regulation regarding the mode or manner one bears arms. He explains that 19th century courts provided mechanisms to ban the carrying of arms, typically as concealed, but upheld open carrying of arms because it was socially more acceptable at the time to openly display a weapon. It is also important to remember that concealing a weapon was seen as criminal, whereas today concealed

## The Effects of State-Level Firearm Restrictions on Homicide

carry is acceptable and used to minimize attention being drawn under lawful circumstances. O'Shea's point is to say that it was (and is) acceptable to limit one of the two methods of carrying, but not both because that creates an implicit ban of carrying arms (National Constitution Center, 2015). Thus, the relationship between the two clauses of the Second Amendment indicates private ownership that in return, protects the assembly and formation of militias--should they be needed. To forget these historical points is akin to ignoring the Second Amendment literature of the 19th century, which is what O'Shea claims that Justice Breyer's opinion does in *Heller*.

O'Shea then offers contemporary Constitutional insight into the whole ordeal regarding the Second Amendment. He cites *Obergefell v. Hodges* as evidence that historical capacity is not always a consideration. Within *Obergefell*, it is acknowledged that there is no historical context of same-sex marriage, yet this became a constitutionally-protected right. Keeping in mind recent developments while foregoing historical evidence to drive this claim home; O'Shea points to the massive increase in states recognizing the private ownership of firearms. Over twelve state constitutions have revised their Second Amendments to reflect and move the understanding of bearing arms towards the individual sense of private ownership of firearms. Over 40 states (which would be considered a supermajority) recognize a general right to bear arms via shall-issue carry permits, or even constitutional or permit-less carry (National Constitution Center, 2015). This represents over 10 million citizens with concealed carry permits, which would be a much higher number if one takes into account the number from states that don't require a permit to carry. In all, concealed carry and its various methods of execution reflect the 21st century's right to bear arms, offering a contemporary context if

## The Effects of State-Level Firearm Restrictions on Homicide

the rules are changing to disregard historical matters. O'Shea claims that concealed carry is "one of the most successful regulatory programs of the last 30 years" (National Constitution Center, 2015).

Professor Carl Bogus rebuts these points and claims that the Second Amendment was used primarily as a justification for militias to keep slavery intact. Bogus also argues that Congress, via Article I, section 8 of the Constitution, would define what the militia would be. He further claims that the Founding Fathers were not impressed with the militia in the least bit and therefore a professional army rendered the militia obsolete.

Bogus explains that state militias were also hesitant to be used to quell insurrections as this would mean they would leave their state open to slave revolt. This is because slaves made up a large part of the population. Bogus claims the driving consideration for a state like Virginia was that 44% of their population was slaves and that "everyone lived in constant fear of slave revolt" (National Constitution Center, 2015). Bogus highlights this concern over slavery as the reason the Constitution was almost rejected due to a lack of state ratification. With eight states ratifying, Virginia was the most likely to be the ninth and final state, if slavery concerns did not stop them.

With this in mind, Bogus elaborates that the northern states were opposed to slavery. Because of this, these remaining states wanted to ensure the federal government could not control their militias and that there was a tacit slave compromise within the Constitution. He then claims that George Mason and Patrick Henry were concerned that Congress could undermine the practice of slavery because of the powers of Article I, section 8. Bogus also quotes George Mason's concerns of Congress disarming the militia and rendering them useless. It's unclear the direction that Professor Bogus is trying to

## The Effects of State-Level Firearm Restrictions on Homicide

take this argument, however the most likely position is that he is claiming the Second Amendment and militias were used to keep slavery continuing. After this, Bogus discusses how James Madison as a Federalist came to back the Bill of Rights that George Mason was concerned with. However, he did not want to implement anything that refuted the Constitution. At this point, Bogus acknowledges that while the Constitution allows for Congress to provide arms for the militia, that state statutes required individuals to bring their own weapons to militia duty (National Constitution Center, 2015).

Professor O'Shea returns to the argument, clarifying two main points 1) the right to bear arms is applicable to private citizens, and 2) slavery was not a focus of militias--in fact many abolitionists were utmost supporters of the Second Amendment. For the first point, O'Shea references Sam Adams' call for "the right of the peaceable citizens to keep their own arms" (National Constitution Center, 2015). Furthermore, during the ratification debates, the state constitutions of both Pennsylvania and Vermont explicitly affirmed the right of the people to bear arms for their defense. On the second point, O'Shea once again references St. George Tucker, explaining the before his 1803 Commentaries on Blackstone, he had written a treatise, in Virginia, in the year 1796, calling for abolition. Thomas Cooley is also referenced a second time, this time mentioning that he was a member of the Free State Party and that this was an abolition party who also called for an armed populace (National Constitution Center, 2015). A third reference that furthers this argument is the Federal Farmer, a pseudonym for who scholar believe to be Melancton Smith. Smith was an abolitionist from New York. In their writings, the Federal Farmer rejected select and narrow militias, arguing that they

## The Effects of State-Level Firearm Restrictions on Homicide

did not represent the whole people and could contribute to oppression (National Constitution Center, 2015).

O'Shea also gives a timeline of the view that was skeptical of the role of private self-defense. He claims it was the minority view in the first half of the 19th century and became more prominent in the second half. This view generally lasted until a little after the turn of the century. O'Shea then joins this thought with the train of logic that is similar to the dissent found in *Heller*, paraphrasing the perspective to "the Second Amendment is for resistance of government and not private citizens" however, even courts that *upheld* this view still affirmed the right to own guns for *private citizens* (National Constitution Center, 2015). In addition to this view, O'Shea provides a very unique outlook from the Tennessee Supreme Court in 1840 which says:

As the object for which the right to keep and bear arms is secured is of general and public nature, to be exercised by the people in a body, for their common defence, so the arms the right to keep which is secured are such as are usually employed military equipment (Aymette v. State, 1840)

With that, it becomes evident that several strains of logic exist-- ranging from the most extreme restrictive: supporting the abolition of private ownership and reserving this ownership exclusively for militias, to a moderate view that supports private ownership and does not require militia service, to the more extreme permissive which covers *all* ordinary military equipment to be procured by the private citizen.

As the debate continues, Bogus pivots to the English Bill of Rights. The usual argument here is that the right to bear arms is an auxiliary right; however Bogus does not argue this. Instead, he seems to defer to regulation again and states that Parliament



## The Effects of State-Level Firearm Restrictions on Homicide

reserved the authority on who was allowed to have guns, in accordance with law. He then explains that having arms was typically reserved for those who owned land (National Constitution Center, 2015). It does remain a discrepancy that if this is really a point of argument, this strain of logic would conclude that only those who own land should vote, or have other rights compared to those who do not own land.

O'Shea takes issue with the reservation of rights for only a select few, and quotes Tenche Coxe's 1789 article in the Federal Gazette, which was articulated just a few days after the Second Amendment came to be.

As civil rulers, not having their duty to the people, duly before them, may attempt to tyrannize, and as the military forces which shall be occasionally raised to defend our country, might pervert their power to the injury of their fellow-citizens, the people are confirmed by the next article in their right to keep and bear their private arms (Halbrook & Kopel, 1999, p. 367).

The Freedmen's Bureau Act of 1866 also explicitly removed the qualifications of bearing arms from a select few, allowing a more equal measure to be implemented. This act punished those who violated these provisions where:

The ordinary course of judicial proceedings has been interrupted by the rebellion, [whenever] in consequence of any State or local law, ordinance, police or other regulation, custom, or prejudice, any of the civil rights or immunities belonging to white persons, including the right to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold and convey real and personal property, and to have full and equal benefit of all laws and proceedings for the security of person and estate, including the constitutional right

## The Effects of State-Level Firearm Restrictions on Homicide

of bearing arms, are refused or denied to negroes, mulattoes, freedmen, refugees, or any other persons, on account of race, color, or any previous condition of slavery or involuntary servitude, or wherein they or any of them are subjected to any other or different punishment, pains, or penalties, for the commission of any act or offence, than are prescribed for white persons committing like acts or offences (Graber, 2016, p. 1368).

At this point, Professor Bogus begins to focus on ideology. He claims that the Supreme Court is bound up in voting along ideological lines. This specific instance of argument seems to demonstrate that justices are not taking historical context into account, and are voting on how they see fit. He explains this by saying:

Ideology is driving their decisions, and if that's the case, they ought to step out of it and say: 'We're going to let the democratic process take over. We are not going to start declaring and legislating [that] there is this right we have never recognized before.' You have a right to have a handgun in a home--where's that in the Second Amendment? (National Constitution Center, 2015).

This represents a retreat to one's *own* ideology when they cannot acknowledge the historical context that weaves the spirit of the Second Amendment. Interestingly enough, this retreat is nothing more than a revelation of one's own ideological anchor that has been present the entire time. At this point, this is where Hamlet's mother would say: "The lady doth protest too much, methinks."

O'Shea reiterates the acceptable restrictions regarding the Second Amendment, that the mode of carry may be controlled. Again, in the past, this was used to restrict concealed carry--which at the time was done by criminals attempting to hide an ulterior

## The Effects of State-Level Firearm Restrictions on Homicide

motive, leaving open carry to be practiced as it was deemed more appropriate. O'Shea hammers home that the law must reflect a restriction of *only* one method, should there be a restriction at all. He continues that in *Heller*, a common use test was incorporated. This allowed the Supreme Court to create a standard by which to test which arms were protected. The standard provided that the Second Amendment does indeed apply to "small arms to hand carried weapons of defense" (National Constitution Center, 2015). In 1980, the Oregon Supreme Court also confirmed this:

Our historical analysis of Article I, section 27, indicates that the drafters intended "arms" to include the hand-carried weapons commonly used by individuals for personal defense. The club is an effective, hand-carried weapon which cannot logically be excluded from this term. We hold that the defendant's possession of a billy club in his home is protected by Article I, section 27, of the Oregon Constitution (State v. Kessler, 1980)

Here, O'Shea makes another interesting argument about machine guns. He explains the concept of "common use," and references how machine guns are not protected by the Second Amendment due to their uncommon use. In all fairness, this seems like a bit of an unreasonable assessment due to the current legislation of machine guns. In 1934, the National Firearms Act was enacted which required registration of machine guns, suppressors, and short-barreled rifles/shotguns (ATF, 2020). After 1986, the machine gun registries were closed so that no further machine guns could be registered, rendering them illegal for civilian possession (ATF, 2020). So, the "common use" test here seems inherently flawed as it pertains to machine guns. This would be akin to suddenly requiring all cell phones to be registered. Then, about 50 years later, shutting

## The Effects of State-Level Firearm Restrictions on Homicide

the registry and only allowing pre-registered cell phones to be possessed. Over time, this would have the desired effect of making cell phones an item that did *not* fall under "common use." This is a little off topic, but the point does stand that it is an unfair assessment. Lastly, O'Shea also adds that *Heller* gives the government authority to restrict carrying in certain areas that are deemed "prohibited" or "sensitive."

Professor Bogus field a question that asks if there are any regulations that would be considered "unconstitutional." This seems to be a question aimed at asking if he has any regulation he does not support, or alternatively, if he supports all of them. He responds by saying: "There's no coherent answer to this." His position reflects that civilians only have a right to an armed militia, and that the Supreme Court "makes this stuff up now." He references a hypothetical example of a domestic abuser possessing a weapon, asking if it would be against the Second Amendment to prohibit this violent individual. He references legislating from the bench and also calls out how judges vote; based on if they were appointed by a Democrat or Republican president.

Professor O'Shea then fields a question about how liberals ignore the long tradition of individual gun rights, and that conservatives ignore the long tradition of serious gun regulations. Professor O'Shea again uses the reference of the Fourteenth Amendment, saying "no nation legalized same sex marriage prior to 2000" (National Constitution Center, 2015). He does this because his argument thus far has proven a case for individual gun rights, based on founding documents, elaborations by founders, and court cases. Throwing this out in an attempt to disregard history and precedence is indicative of more recent actions by the liberal side of the aisle. For example, if only one side is allowed to use this approach, then the court(s) will more so act as a ratchet in one

## The Effects of State-Level Firearm Restrictions on Homicide

direction when it comes to not just divisive social issues, but divisive issues in general (National Constitution Center, 2015). To respect more recent, living Constitution arguments from only *one* side is very dishonest and supremely bias. O'Shea also refutes Bogus' claim that courts are just making things up and demonstrates that if this is the case, the more liberal side of the arguments need to come to terms with lack of historical context. Professor O'Shea also speaks to the felon prohibitions in *Heller*, and agrees that these prohibitions are presumptively constitutional.

Bogus receives a question on the Fourteenth Amendment and how it allowed "slaves to protect their rights, families, and property being terrorized in places where there was little to no law enforcement--and, what right to keep and bear arms did ex-slaves possess after the Civil War, and what laws were written to disarm them?"

Professor Bogus admits he is not an expert in matters of the Reconstruction Era. He then takes a jab at O'Shea and says "you have to go to the Fourteenth Amendment because you're losing on the Second [Amendment]" (National Constitution Center, 2015).

Professor Bogus also replies to a question that asks how the Second Amendment does not protect individual ownership of guns when a militia would require this individual ownership. He responds that states were essentially cheap and wanted individuals to purchase their own. However, the Constitution does not give the individual right to people. He makes the claim that Congress gets to define the militia, which is now the National Guard system, today (National Constitution Center, 2015).

For closing comments, Professor O'Shea mentions that the English right to arms provided a model for the Second Amendment, but also a point of contrast. He also comments on Madison's notes on the Bill of Rights--where Madison says these rights

## The Effects of State-Level Firearm Restrictions on Homicide

relate firstly to private rights. O'Shea also claims Madison's notes suggest that he was concerned the British right to arms was too limited (National Constitution Center, 2015). The contrast is that this was unlike the Second Amendment, as the Second Amendment went further to secure the right to arms. Finally, Professor O'Shea invokes St. George Tucker again concerning the right to carry arms for self-defense. In the treason laws for England, there could not be a gathering with several, armed men as it could be presumed this was motivated by treason against the king. In America, this presumption would not be acceptable because of the right to bear arms being recognized and safeguarded in the Constitution. He also cited how it's normal for one in the United States to leave their house with a rifle or musket, much as how a European carries a sword. These are not concerns as they are normal customs and personal use. Professor O'Shea reiterates how there is a huge and contemporary push regarding states redefining their Constitutions to personal use of arms and passing liberal (permissive) carrying laws to create a trend that is applicable to today and should not be ignored.

In closing, Professor Bogus criticizes the right side of the aisle for disrespecting what the Founding Fathers meant. He asks if this misinterpretation is textualism, though the point must be addressed that Professor O'Shea would fall under the originalist category, embracing the spirit of the founding in addition to the text, rather than disregarding this holistic approach. Bogus focuses on Judge Harvey Wilkinson's commentary regarding the decision from *Heller*. Judge Wilkinson stated "Conservatives across the nation are celebrating...I am unable to join the jubilation" (National Constitution Center, 2015). Professor Bogus stakes his claim here as this is a conservative judge who disagrees with the ruling. He reiterates the concern of legislating

## The Effects of State-Level Firearm Restrictions on Homicide

from the bench, and clarifies that this is a departure from conservative and judicial methodology and bypasses the ballot (National Constitution Center, 2015). Judge Wilkins' quotation highlights four major areas of concern for Professor Bogus: "An absence of a commitment to textualism; a willingness to embark on a complex endeavor that will require fine-tuning over many years of litigation; a failure to respect legislative judgments; and a rejection of the principles of federalism" (National Constitution Center, 2015).

This debate provides profound insight into the contemporary struggle to not only establish laws that create safety, but also laws that respect inherent rights and enable protection as well. Professor O'Shea demonstrated a comprehensive, cradle-to-grave approach to how the individual right to bear arms has been upheld, and the concern for bias in recent events that suggest invalidating a well-established respect for this right. Professor Bogus mentions different methods of regulation and context for possessing arms--in a militia. However, it seems that Professor Bogus' claims fall short when considering the entire spectrum of historical documents.

In Chapter 2, we reviewed the text of the Second Amendment itself; with this text we then reviewed the historical value of the amendment and the contemporary thought--which explains the intent of the right to bear arms. From this intent, we see disagreement and a divergence into two schools of thought: originalism, which advocates for the established and historical intent of the Second Amendment, ie: individual rights, and the more arbitrary school of thought which posits the Second Amendment as more of a collective right. Examples of this dichotomy were given regarding past Supreme Court cases and jurisprudence; ie: Justices Scalia and Ginsburg. This dichotomy persists today,

## The Effects of State-Level Firearm Restrictions on Homicide

in contemporary debate, such as the debate between Professors O'Shea and Bogus. At this point, we have a logical flow of the history of the Second Amendment, the text and original intent, the debate over this information, and the evolution of firearm laws as a result. With this concept explained using historical references, case precedence, and contemporary argument, the only thing left is to see if the numbers speak for themselves.

As time drifts on, firearm restrictions change, presenting a gap in the available literature. We will close that gap, at least for the time being, by creating a modern patchwork of gun restrictions to compare to homicide. This will provide statistical analysis of the firearm restrictions and clarify any relationship between firearm restrictions and homicide.

### **Chapter 3: Methodology**

#### **Methodology Used**

In this chapter, we will transition to modern data and provide an updated assessment of state firearm laws and state homicide rates to evaluate any potential relationships between the two variables. We will also conduct a meta-analysis of available literature to understand the methodology and findings of past studies, and how this information may relate or provide foundational data. To provide additional evaluation, the homicide rates will be broken up into categories of firearm homicides, non-firearm homicides, and the total homicide-- which combines both categories. These numbers will then be input into SPSS statistical software for data analysis and relationship determination. As mentioned earlier, an index was developed using thirteen categories of firearm restrictions. These categories, defined in Chapter 1, consist of:

1. Arbitrary Ban (Assault Weapon Bans, Caliber bans, model bans)



## The Effects of State-Level Firearm Restrictions on Homicide

2. Age restrictions (if more strict than Federal)
3. Ammunition Background Check
4. Concealed Carry (Licensing and fees/restrictions for concealed carry)
5. Limited Selection/Approval Roster (Limitation of approved firearms or extra requirements)
6. Magazine Ban (limitations on magazine capacity)
7. Open Carry Restriction (Bans/restrictions on open carry of a firearm)
8. Permit to Purchase
9. Private Sale Regulation (Universal background check, permits, etc)
10. Purchase Limit (One handgun per 30 days, etc)
11. Registration (Requirement to register a firearm)
12. Transport Law (Laws regarding transport that require compliance, unloading, securing, etc)
13. Waiting Period

States that have a demonstrable restriction for the specific category will receive one point for that category. Of course, the challenge to this was differentiating a demonstrable restriction, such as requiring an individual to procure a license or permit to purchase a firearm, versus state law indicating one should not conduct a private sale of a firearm with a felon or suspected criminal. With this in mind, discretion was used to score restrictions that demonstrated a level of burden versus those that did not, as explained in the private purchase example. Hence, one can reasonably expect some level of prevention or burden. This is similar and based on the downstream vs. upstream property (Moorhouse & Wanner, 2006, p. 105). Additionally, there were some unique

## The Effects of State-Level Firearm Restrictions on Homicide

circumstances where laws regarding open carry seemed to fuse between state and local level. This case was Virginia where locality bans are written into state legislation. A Virginia resident may not open carry firearms in certain cities such as Fairfax, Arlington, Hampton, etc. This was considered worthy of one point of Combined Restrictive Score because it was written as a state law. This poses an additional factor when evaluating firearm laws and their effects. Some states have additional restrictions levied via local or county law that may not be reflected in state-level evaluations. New York City, for example, had additional restrictions on magazine capacity. A further research opportunity exists for county-level restrictions and how they might shape homicide statistics for both the state and local levels.

In short, a spreadsheet was created based on the thirteen categories, answering yes or no if the state had a restriction for that category. The Combined Restrictive Score was then indexed for each state. After this, state homicide statistics were utilized from the FBI's website, and three categories were created, firearm homicides, non-firearm homicides, and total homicide. The FBI breaks this information down so it was as simple as plugging the data into a spreadsheet. After this was completed, the state population was used to find the homicide rates for each category. The homicide rate was then broken into three variables: Firearm Homicide Rate per 100k, Non-Firearm Homicide Rate per 100k and Total Homicide Rate per 100k. These latter variables were calculated per 100k to create relatable and working numbers that were whole, and not just decimal. The homicide variables were also broken up to detect any relationship between state-level firearm restrictions and specific types of homicide. After this, using SPSS software, the variables were input into rows, and then ran as a bivariate to see if there was a correlation

## The Effects of State-Level Firearm Restrictions on Homicide

and/or statistical significance between the variables—Figure 1 shows the data after this calculation. This was first done for five demographically similar states, and then all 50 states.

### **Understanding Differences between States**

California boasts some of the strongest gun control in the United States, generally considered the most restrictive state. California has an "Assault Weapons Ban", magazine capacity restrictions, background checks on ammunition, waiting periods, background checks on firearm purchases from private sellers, licenses for purchasing, safety roster approval (which restricts which firearm models can be purchased), and required registration for certain firearms. Texas, though with some restrictions, has much less. In this manner, Texas is also similar to Arizona, Nevada, and New Mexico. It is also worth mentioning that federal law requires all states to enforce background checks for firearms purchased from an FFL (Federal Firearms License).

There is little concern for threats to internal validity concerning history events, maturation, testing, statistical regression, experimental mortality, or design contamination as recorded data from governmental agency websites is being used. The homicide statistics will be derived from the FBI. For example, Texas had 956 firearm homicides in 2018 (FBI, 2018b). Selection methods could allow for potential bias due to the states not being perfect copies. Instrumentation also poses a threat to internal validity as each state may report their avenues of homicide with potentially different criteria, if a subject is shot and stabbed which category does the homicide fall under? This was a notable problem with Alabama, the FBI had only reported few homicides, however a search of Alabama State Police records yielded there were 396 homicides. The issue with this data

## The Effects of State-Level Firearm Restrictions on Homicide

was that it did not break down homicide by weapon type, like the FBI's reporting system does. Additionally, Florida suffered from the same lack of FBI information. The calculations do not include Florida and Alabama for this reason. Additionally, the FBI only received supplemental homicide data from Illinois and Alabama, and limited data for Iowa. However, these items pose minimal concern as they do not appear to severely impact the validity of the data. For external validity, the setting for the experiment, similarly to selection bias, could have an impact on the study due to the chosen states for comparison.

### **Meta-Analysis of Available Literature**

Meta-analysis of related studies provides insight to this research proposal by contributing information for the research question. California's license to purchase and addition of background checks for ammunition and private firearm purchases are done to prevent those with criminal records from obtaining firearms and thus contributing to homicide and other crimes. Concerning criminal attainment of firearms, Chesnut et al. provides a qualitative study in which prison inmates are interviewed to determine how they obtain firearms. This study concluded that 76% of the prisoners received their firearms through social channels such as fellow gang members, friends, and previously-unknown acquaintances (Chesnut et al., 2017, p. 226). This information questions the effects of firearm restrictions since they are already ignored by criminals, therefore there is concern that such restrictions compromise safety for lawful individuals rather than providing it. Regarding "Assault Weapon Bans," Mark Gius provides a qualitative analysis on the effects of state-level bans on "Assault Weapons", as well as the impacts of state-level concealed carry on murder rates. His findings were: "States with more

## The Effects of State-Level Firearm Restrictions on Homicide

restrictive CCW laws had gun-related murder rates that were 10% higher. In addition, the Federal assault weapons ban is significant and positive, indicating that murder rates were 19.3% higher when the Federal ban was in effect" (Gius, 2014, p. 267). Finally, the book *Priorities for research to reduce the threat of firearm-related violence* provides an understanding on how defensive gun uses may dissuade crime and homicide, citing such defensive uses at "about 500,000 to more than 3 million" in 2008 (Leshner et al., 2013, p. 15). The number of defensive gun uses allows for an understanding of how laws that restrict this capability may increase homicide.

Several studies provide great models for assessing firearm restrictions by assigning each firearm restriction law a value and calculating an index to use for state comparisons. One such study that does this is Moorhouse and Wanner who used Open Society Institute's thirty facets for a comprehensive index and concluded: "The findings of this study that gun control is ineffective in reducing crime rates are consistent with the vast majority of other studies that use state data" (Moorhouse & Wanner, 2006, p. 121). Within the same vein of methodology, we will calculate an index by assigning a dummy value of one point for every restrictive firearm law a state has, which is determined from a set of thirteen restrictions in Table 2. As mentioned, this will be known as the "Combined Restrictive Score or "CRS" for short.

### **State Demographic Comparisons**

Choosing similar states is difficult due to the various demographic considerations. The states are considered, in the table below, in terms of population, racial makeup, per capita income, poverty rate percentage, and education. One of the hardest items to reflect was population. Additionally, due to the lack of comparability from original selection of

## The Effects of State-Level Firearm Restrictions on Homicide

just Texas and California, three additional states were added that were in close proximity and relatively similar demographics: Arizona, Nevada, and New Mexico. This was done to create a control before expanding the study to all 50 states. The United States is incredibly diverse, and it is quite possible that other demographic factors may bias the relationship between firearm restrictions and homicide.

For this study, the bias is minimized by later expanding the study to all 50 states. By incorporating confirmed, available information that is obtained from a professional and impartial organization, such as the Federal Bureau of Investigation, there is a reduction in the potential for bias. In addition, the selection of homicide statistics also addresses internal validity by encompassing the entire population, rather than favoring only a certain segment of the population. Furthermore, by incorporating a state-level examination between demographically similar states and additional data regarding all 50 states, there is an application of external validity that investigates the relationship between firearm restrictions and homicides in an unbiased manner. The combined restrictive score also demonstrates reliability as it holds the same standard in a scalable manner--whether measuring the results of five states or 50. If a state has a law that meets the index for a point, the state receives a point, and this standard is held across the board. This reliability is consistent in that each state is treated equally and no state receives a restrictive point while another state with the same law does not-- both states are scored identically unless they have different laws.

The Effects of State-Level Firearm Restrictions on Homicide

**Table 1**

*State Demographics*

Category	California	Texas	Arizona	Nevada	New Mex.
Population	39,512,223	28,995,881	7,278,717	3,080,156	2,096,829
Racial makeup					
White:	71.9%	78.7%	82.6%	73.9%	81.9%
Black:	6.5%	12.9%	5.2%	10.3%	2.6%
American Indian/Alaskan:	1.6%	1.0%	5.3%	1.7%	11.0%
Asian:	15.5%	5.2%	3.7%	8.7%	1.8%
Native Hawaiian/Pacific					
Islander:	0.5%	0.1%	0.3%	0.8%	0.2%
2+ Races:	4.0%	2.1%	2.9%	4.6%	2.6%
Hispanic/Latino:	39.4%	39.7%	31.7%	29.2%	49.3%
White/non-Hispanic/Latino:	36.5%	41.2%	54.1%	48.2%	36.8%
Per capita income	\$35,021	\$30,143	\$29,265	\$29,961	\$26,085
Poverty rate	12.8%	14.9%	14.0%	12.9%	19.5%
Education: est. 2014-2018					
H.S. grad/higher- age 25+	82.9%	83.2%	86.8%	86.3%	85.3%
Bach. Deg/higher- age 25+	33.3%	29.3%	28.9%	24.2%	27.1%

*Note.* Adapted from United States Census, 2019.

## The Effects of State-Level Firearm Restrictions on Homicide

To reiterate, the independent variable measured is the amount of firearm restrictions. The dependent variable is homicide rate. Being similar states with vastly different applications of firearm restrictions, we can begin to examine what effects these laws have on homicide. Firearm restriction laws are selected with consideration of active law as well as political relevance. For example, as we will see, Texas has a much lower CRS than California. These factors of course could be represented in a lengthier manner; however this gives a quick overview of the vast differences in legislation. Keeping with the same states, the next table will go into the current firearm laws, as well as the CRS, so that we may begin to evaluate the relationship between firearm restrictions and homicide.

**Table 2**

*Firearm Laws by State*

Restriction	California	Texas	Arizona	Nevada	New Mex.
Arbitrary Ban	Yes.	No.	No.	No.	No.
Concealed Carry	Yes.	Yes.	No.	Yes.	Yes.
Permit to Purchase	Yes.	No.	No.	No.	No.
Ammunition Background Check	Yes.	No.	No.	No.	No.
Magazine Ban	Yes.	No.	No.	No.	No.
Private Sale Regulation	Yes.	No.	No.	Yes.	Yes.



The Effects of State-Level Firearm Restrictions on Homicide

Registration	Yes.	No.	No.	No.	No.
Limited	Yes.	No.	No.	No.	No.
Selection/Approval roster					
Waiting Period	Yes.	No.	No.	No.	No.
Age restriction	Yes.	No.	No.	No.	No.
Transport Law	Yes.	Yes.	Yes.	Yes.	Yes.
Purchase limit	Yes.	No.	No.	No.	No.
Open Carry	Yes.	No.	No.	No.	No.
Restriction					
*Combined	13.	2.	1.	3.	3.
Restrictive Score					

*Note.* Data for California from California Attorney General (2020), for Texas from Texas State Law Library (2020), for Utah from Utah Criminal Code (2009), for multiple states from Giffords Law Center (2019), for multiple states from Guns To Carry (2020).

With all of this information being presented, we can now review the meat of the matter: homicide and the effects of firearm restrictions. Texas' combined restrictive score is two, while California's is thirteen. Arizona's is one, Nevada's three, and New Mexico's three.

**Table 3**

*State Statistics*

State	Total murders	Total firearms	Total non-firearm	Firearm per 100k	Non-firearm per 100k	Total per 100k
Cali.	1,739	1,177	562	2.97	1.42	4.39
Texas	1,301	956	345	3.29	1.18	4.47
Arizona	339	203	136	2.78	1.86	4.64
Nevada	201	134	67	4.35	2.17	6.52
New Mex.	137	87	50	4.14	2.38	6.52

*Note.* Adapted from "Crime in the United States: Murder by state, types of weapons, 2018", by FBI, (2018b). Retrieved from <https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/topic-pages/tables/table-20>

To summarize, in Chapter 3 we covered our methodology and the thirteen categories to measure state-level firearm restrictions. We also conducted a meta-analysis of available literature pertaining to these measurements, as well as discussed the need to understand differences between states regarding demographics and other factors, as well as the data presented on California, Texas, Arizona, Nevada, and New Mexico.

In the next section we can review the information presented on the five similar states and run correlations to determine the relationship between state-level firearm restrictions and homicide, relative to those particular states. Doing this lays the scaffolding for the study to expand to a larger pool of data-- the entire United States. Using the exact same methodology and terminology, we can compile the same

## The Effects of State-Level Firearm Restrictions on Homicide

information for all 50 states (including Washington DC), with firearm law restrictions and homicide data, only we won't worry about demographic comparison so much as that is not the point of this study. First we will finish the correlations for the five states. After that, we will move to completing the tables of data for all 50 states so we can run those correlations, as well, using SPSS.

### **Chapter 4: Conclusion**

Now that all of the data has been compiled, we can evaluate its meaningfulness and cite any findings. In this chapter, we will evaluate six findings. These findings cover both the demographically similar states, and all 50 states, highlighting the interesting points of these findings within these categories. We will also conclude the study with three conclusions that reflect a holistic approach of all items considered—from history, to court cases, to specific data that was processed. Finally, there will be a presentation of additional research opportunities should an individual or organization want to build upon this thesis and the information there within.

#### **Findings**

As mentioned, there were numerous findings to cover. In this section we will review the two findings for the demographically similar states and all 50 states. We will also discuss one finding concerning the low homicide rates of the six most northeastern states: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. After that, we will review the finding regarding Iowa and South Dakota and their own, low homicide rates, as well as the finding of high homicide rates regarding DC, Louisiana, and Missouri. Finally, we will explore an interesting finding regarding the balance of homicide rates in Montana. This is a total of six findings, specifically.

**Findings: Demographically Similar Sample**

**Figure 1**

*Correlations for five states*

		<b>Correlations</b>			
		Firearm_Hom icide_Rate_1 00k	Combined_R estrictive_Sco re	NonFirearm_ Homicide_Ra te_100k	Total_Homici de_Rate_100 k
Firearm_Homicide_Rate_100k	Pearson Correlation	1	-.269	.691	.945*
	Sig. (2-tailed)		.661	.196	.015
	N	5	5	5	5
Combined_Restrictive_Score	Pearson Correlation	-.269	1	-.339	-.323
	Sig. (2-tailed)	.661		.577	.596
	N	5	5	5	5
NonFirearm_Homicide_Rate_100k	Pearson Correlation	.691	-.339	1	.889*
	Sig. (2-tailed)	.196	.577		.044
	N	5	5	5	5
Total_Homicide_Rate_100k	Pearson Correlation	.945*	-.323	.889*	1
	Sig. (2-tailed)	.015	.596	.044	
	N	5	5	5	5

\*. Correlation is significant at the 0.05 level (2-tailed).

The first finding is that there are negative relationships between the combined restrictive score and all categories of homicide, regarding the five demographically similar states. This is represented in Figure 1 above, where the values from Tables 2 and 3 were input into SPSS and analyzed for a correlation. However, due to the small correlation numbers, it is safe to say that there is a weak relationship between firearm homicide and firearm restrictions, and a moderate relationship between firearm restrictions and total homicide. With the significance being above the .05 level for the 2-tailed test, there is no significance with these findings. A larger pool of states with calculated combined restrictive scores might aid in clarifying the relationship with homicide rates. Luckily, this is covered in the next section.

The Effects of State-Level Firearm Restrictions on Homicide

**Findings: All 50 States**

**Figure 2**

*Correlations for all 50 States*

		<b>Correlations</b>			
		Combined_R restrictive_Sco re	Firearm_Hom icide_Rate_1 00k	NonFirearm_ Homicide_Ra te_100k	Total_Homici de_Rate_100 k
Combined_Restrictive_S core	Pearson Correlation	1	.139	.158	.148
	Sig. (2-tailed)		.340	.279	.312
	N	51	49	49	49
Firearm_Homicide_Rate _100k	Pearson Correlation	.139	1	.781**	.993**
	Sig. (2-tailed)	.340		.000	.000
	N	49	49	49	49
NonFirearm_Homicide_ Rate_100k	Pearson Correlation	.158	.781**	1	.851**
	Sig. (2-tailed)	.279	.000		.000
	N	49	49	49	49
Total_Homicide_Rate_10 0k	Pearson Correlation	.148	.993**	.851**	1
	Sig. (2-tailed)	.312	.000	.000	
	N	49	49	49	49

\*\* . Correlation is significant at the 0.01 level (2-tailed).

*Note.* Data for California from California Attorney General (2020), for North Dakota from Stenehjem, W. (2017), for South Dakota from U.S. Concealed Carry Association (2020), for Texas from Texas State Law Library (2020), for Utah from Utah Criminal Code (2009), for Washington from Revised Code of Washington (1994), for West Virginia from West Virginia Attorney General (2019), for multiple states from Giffords Law Center (2019), for multiple states from Guns To Carry (2020).

The second finding is that there is a positive, but weak/low relationship between combined restrictive scores and homicide, regarding all 50 states. Figure 2, represents the final and most accurate data, at least currently, for evaluating the relationship between state-level firearm restrictions and homicide. Since the data is expanded from five to 50 states, an interesting shift occurs, the relationship between combined restrictive scores

## The Effects of State-Level Firearm Restrictions on Homicide

and homicide has become positive. Comparatively, the five demographically similar states trended on the negative side of a relationship. Additionally, since significance  $> .01$ , there are no significant findings. The conclusion reflects that of the null hypothesis: There is no relationship between state-level firearm restrictions and homicide.

Looking at the data from different angles such as comparisons among Southwestern states and comparing current combined firearm restrictions with up-to-date homicide data (2019 has not been finalized yet), we can see that firearm restrictions do not pose a strong relationship with homicide. Besides having no benefit, the history and legal context of the Second Amendment is commonly disregarded which leaves these restrictions with all squeeze and no juice. Yet, there are many potential ways this research could be conducted to firmly rule out whether there is a relationship among other variables.

The third finding is that the six most northeastern states had relatively low homicide rates overall, with varying combined restrictive scores. The six most northeastern states, for this study, are Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. The total homicide rate per 100k was at most 2.32 for Connecticut, and at the lowest, 1.5 with Rhode Island. In fact, the majority of these states were close to the 1.5 mark with New Hampshire being 1.54, Vermont being 1.6, and Maine being 1.7. Massachusetts was closer to Connecticut at 1.96. This represents a segment of the United States that is statistically similar, and it would be interesting to understand what causes this. However, this finding is not statistically significant.

## The Effects of State-Level Firearm Restrictions on Homicide

The fourth finding is that Iowa and South Dakota also had low homicide rates with differing combined restrictive scores. These two states were similar to the six most northeastern states and had even less of a total homicide rate. Iowa had 0.63 per 100k firearm homicides, 0.72 per 100k non-firearm homicides, and a total homicide rate of 1.35 per 100k. South Dakota had 0.9 per 100k firearm homicides, 0.56 per 100k non-firearm homicides, and a total homicide rate of 1.46 per 100k. Again, it is interesting that these states have such different firearm laws from the northeastern states, yet similar homicide rates. This finding is also not significant.

The fifth finding is that DC had a staggering 17.0 per 100k firearm homicide rate, and a 4.39 per 100k non-firearm homicide rate, giving a total homicide rate of 21.39 per 100k. The two states closest to this were Louisiana and Missouri. Louisiana was at 9.37 per 100k firearm homicides, and 1.82 per 100k non-firearm homicides for a total homicide rate per 100k of 11.19. Missouri had 7.7 per 100k firearm homicides and 1.33 per 100k non-firearm homicides, for a total homicide rate of 9.03 per 100k. One could guess that the commonality between these two states and DC is that they are all somewhat southern states, however this is a loose connection as DC is more of a federal neighborhood, while Missouri is located in what some would consider the Midwest. This finding, however, is not significant.

Finally, the sixth finding is that Montana, a state with some of the most lax firearm restrictions, had achieved equilibrium between firearm homicide and non-firearm homicide at a lower rate of 1.59. This gave the state a total homicide rate of 3.18 per 100k. This is an interesting finding because no other state had equal outcomes in terms of firearm and non-firearm homicide rates. This finding is not significant.

## The Effects of State-Level Firearm Restrictions on Homicide

Therefore, there were six, unique findings regarding the relationship between firearm restrictions and homicide. More specifically, four of these findings, three through six, referenced similarities in areas that are both geographically similar, and dissimilar. The first two findings, one and two, demonstrated a lack of statistical significance for the demographically similar states, and all 50 states. Findings three through six, by proxy of the information in finding two, also lacked statistical significance.

### **Conclusions**

There are a hefty amount of historical contexts and values that signify the Second Amendment is to be exercised at the individual level. From the Supreme Court cases of yesteryear, to the most recent cases regarding the Second Amendment, this notion is still upheld. The final option is to evaluate the results of policy that restricts the individual, and to see if its saving grace is the creation of public safety. The statistical calculations involving state-level firearm restrictions and homicide, both times, demonstrate a weak relationship between the two variables at the 50-state level, and a weak-moderate relationship in the demographically similar states. The five states showed more data for a negative relationship between firearm restrictions and homicide; however the data for all 50 states showed a positive relationship between firearm restrictions and homicide. Both instances lacked significance in terms of findings. This is significant, however, in that law makers would be historically and scientifically correct in honoring these analyses. In this section, we will cover the three final conclusions based on the findings and data derived from this thesis. After that, we will discuss the implications of such conclusions, and the recommendations for future research opportunities.



## The Effects of State-Level Firearm Restrictions on Homicide

The first conclusion is that certain similar states have very similar homicide rates. In reference to the six most northeastern states, there was a scale, of total homicide per 100k, of 2.32 to 1.5. The combined restrictive scores for these states all varied greatly, Massachusetts was 12, Connecticut was nine, Rhode Island was six, Vermont was five, Maine was two, and New Hampshire was one. Though these findings were insignificant, they did show a positive but low relationship between state-level firearm restrictions and homicide rates. This is similar to Gius' conclusion: "Laws may be ineffective due to loopholes and exemptions. The most violent states may also have the toughest gun control measures" (Gius, 2013, p. 267). However, Gius did have significant findings when measuring effects of the Federal Assault Weapon Ban. "In addition, the Federal assault weapons ban is significant and positive, indicating that murder rates were 19.3% higher when the Federal ban was in effect" (Gius, 2013, p. 267).

The second conclusion is that there was a weak relationship between firearm restrictions and firearm homicide rates, but a moderate relationship between firearm restrictions and total homicide rates. This conclusion is based on the sample of five demographically similar states. However, both of these findings were insignificant and the relationships were negative. This is different from what Gius found: "States with more restrictive CCW laws had gun-related murder rates that were 10% higher" (Gius, 2013, p. 267). Of course, this is just one aspect of both studies, but it does make an interesting comparison.

The third conclusion is that state-level firearm restrictions have a low relationship with homicide. The moderate and negative relationship, evidenced above, is demonstrated in the sample of the five demographically similar states, yet the relationship

## The Effects of State-Level Firearm Restrictions on Homicide

decreases to low while changing to positive once the setting is expanded to all 50 states. In both instances these findings were not statistically significant. Therefore we can conclude that there is no statistical justification for increasing firearm restrictions that affect the 50 states. This conclusion is consistent with the Moorhouse & Wanner study findings: “The findings of this study that gun control is ineffective in reducing crime rates are consistent with the vast majority of other studies that use state data” (Moorhouse & Wanner, 2006, p. 121). Chesnut et al. also provides consistency with this conclusion. This is because criminals usually obtain their firearms via social interaction and a circumvention of the law, anyhow (Chesnut et al. 2017, 230).

In this section we covered the six major findings of the thesis. We also covered the three major conclusions which tied together both the data from the study, and the previous literature that exists on the subject. Overall, there is little variation from the available literature, but it provides a more current and relevant setting for the speculation of firearm restrictions, IE: The information has been updated to recent numbers and still holds similar consistency. The most significant aspect of the conclusions is that there is no statistical significance involving the relationship between firearm restrictions and homicide rates. Next, we will discuss the implications of the findings and conclusions, as well as discuss the recommendations for further study and action.

### **Implications**

There are four implications associated with this thesis. The first implication is the establishment of the individual right to bear arms. Based on historical context, Supreme Court precedent, contemporary debate, and newly minted statistical data, we can see that there is an individual right to firearm ownership. The third conclusion also supports this

## The Effects of State-Level Firearm Restrictions on Homicide

implication by demonstrating that even in a modern setting, concerns over safety are not enough to trump the historical evidence and literature presented in Chapter 2: William Blackstone, the Founding Fathers, Tenche Coxe, and the deliberations on the Second Amendment itself, lay out a right to individual ownership of firearms. This guidance is upheld by years of opinions and decisions from both the Supreme Court as well as lower courts. Although, to be fair, there are those with differing perspectives that would cite the dissents in these cases—no matter how inconsistent they might be with the other aspects within this holistic approach. Therefore, justifying extreme firearm restrictions, that seek to collectivize the right or to disarm those who would otherwise benefit from protection, is not substantially defensible from a historical, contemporary, or statistical standpoint. O’Shea does lay out permissible regulations that fall within a certain, pre-defined scope such as the mode of carry, but explains that these are very limited restrictions.

The second implication is that firearm restrictions are too harsh. The third conclusion demonstrated that the relationship between firearm restrictions and homicide rates is not significant, nor strong enough, to warrant severe correction. Furthermore, if these restrictions embrace an extremism that denies historical and contemporary value, there is the implication that events such as the Marjory Stoneman Douglas High School shooting may draw parallels to home invasions and other horrifying situations. Though schools may be a sensitive place for weapons and the arming of teachers is controversial, it is not difficult to imagine someone being unable to defend themselves due to the delays of permits to purchase, concealed carry applications and approvals, and once that is all done, the available stock that is virtually non-existent during scenarios such as a pandemic.

## The Effects of State-Level Firearm Restrictions on Homicide

The new surge had quickly cleaned out his inventory, and caught many firearms manufacturers and distributors flatfooted, unable to fulfill orders. What might have spurred a roaring recovery instead caused supply shortages that have left the industry struggling... (Barton, 2020).

Matters could be even worse in times of riots and civil unrest. In both the high school shooting and the home invasion we can draw parallels to the lack of weapons, the inefficiency of police responding to the threat, and the unsettling truth that there will be loss of life if someone cannot defend themselves (Berman & Zapotosky, 2018).

The third implication is that one size does not fit all. Different laws are tailored uniquely to the state and setting in which they apply. The first and second conclusions demonstrate that different areas face different issues, and these issues may not be based on firearms but other demographic factors. DC had a total homicide per 100k rate of 21.39, Iowa's was 1.35. Obviously blanket firearm policy for both areas would be needless as they face different issues. In the recommendations section, this will be a suggested area of study.

The fourth and final implication is the potential for positive policy changes. The third conclusion shows that lawmakers would do well to address other concerns that do not inhibit law-abiding citizens, but reduce homicides. One positive policy is intervention via family and mental health programs. Creating incentives and opportunities for individuals to address their concerns in a safe environment has shown positive results like in Simonetti et al.:

When recommending lethal means safety behaviors (e.g., storing firearms locked and unloaded), clinicians must be prepared to discuss balancing the benefits of

## The Effects of State-Level Firearm Restrictions on Homicide

such behaviors in reducing suicide risk against perceived increases in vulnerability to others (Simonetti et al., 2020, 13).

However, it is important that these avenues not devolve into abuse by providers who believe different ideologically, or become the source of coercive Red Flag Law legislation. Another avenue is writing legislation that offers tax cuts to purchase firearm safes, as well as funding firearm safety training as opposed to funding police costs for the potential jailing over arbitrary changes in firearm legislation. In 2020, the Virginia Senator Dick Saslaw set aside \$50,000 for a criminal sentencing commission regarding his “Assault” Weapon ban legislation (S.B. 16, 2020).

### **Recommendations**

The first recommendation is to expand the number of independent variables. Due to this being such a complex issue, this would be done to recognize any relationship between factors such as poverty rate, education, and median household income, with homicide rates. This idea stems from the similarities and demographic considerations of the first and second conclusions. In addition, Chesnut et al. investigates some of these factors in regards to firearm obtainment, to include race, age, and education (Chesnut et al., 2017, p. 228). Gius also considered per capita median income, unemployment rate, population with a college degree, and other factors (Gius, 2014, p. 267). This question would be "What is the relationship between different levels of socio-economic factors and the state homicide rate?" These levels would have grouping variables of the demographic categories. As mentioned, states that are in vastly different regions of the United States, such as those in the Midwest and those in the northeast, have similar homicide rates while having varying degrees of firearm restrictions. Studying these different states to include demographics and other variables may provide more insight into the underlying

## The Effects of State-Level Firearm Restrictions on Homicide

causes for homicide. As it stands, the firearm restrictions don't seem to pose a huge factor in how homicide occurs within these states.

The second recommendation is to include local laws as a variable. This is related to the third conclusion. With the issues we saw concerning state legislation reflecting city and county restrictions, such as in Virginia, a second research opportunity would be to study county-level firearm restrictions on homicide. This would involve using federal and state restrictions as a baseline and determining if county-level firearm laws were more restrictive than the baseline. This approach would represent an incredibly thorough framework of restrictions to compare to county homicide rates. However, the potential research issues involve demographic bias as the population size becomes smaller, as well as potential lack of data at the county-level for homicides. With proper controls, one could determine if states with cities and/or counties that *differ* from state law, experience higher crime rates. Moorhouse & Wanner conducted their study with consideration of 40 states have state-preemption laws that nullified firearm restrictions at the local level, however this is likely not the case anymore as laws change over time and as evidenced by the example with Virginia (Moorhouse & Wanner, 2006, 104). Another indicator would be if these cities and/or counties have higher crime rates than the rest of the state. As a side note, when reviewing FBI homicide statistics in FBI's Table 16, it did appear that homicide rates seemed to be a product of more populated areas (FBI, 2018c).

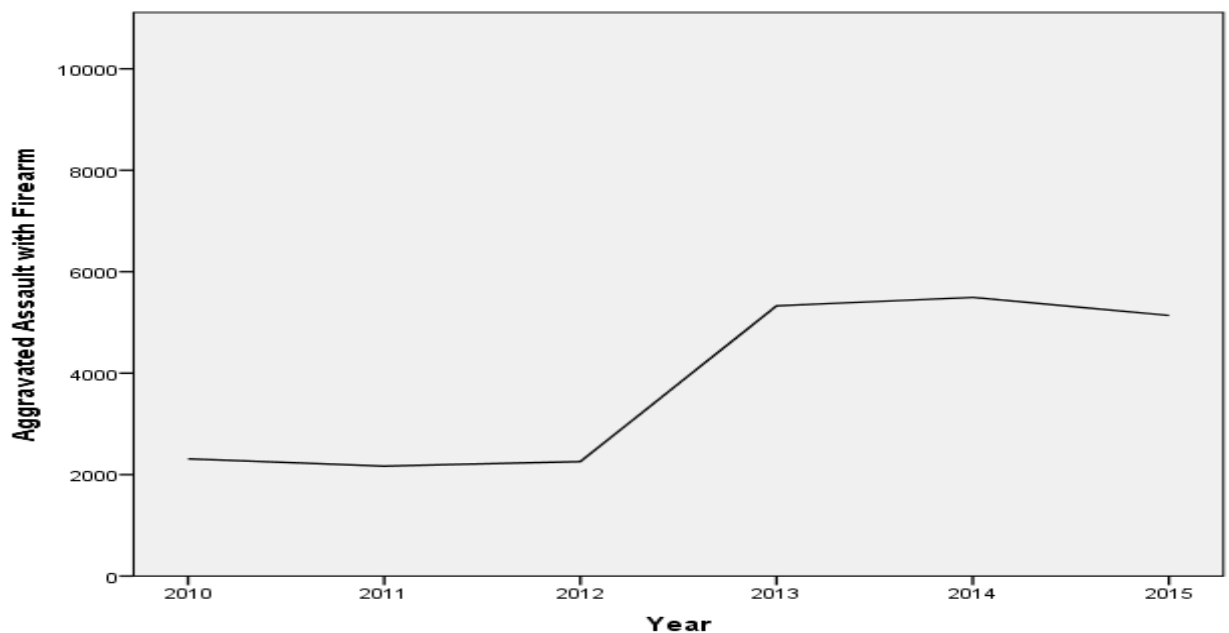
Finally, the third recommendation is to study the effects of New York's SAFE Act on crime. There is a major opportunity for research with New York, based on the third conclusion and examining data for all 50 states. In January of 2013, New York passed their SAFE Act, which combined different aspects of firearm legislation, such as an Assault Weapons Ban, magazine bans, and other restrictive policies (Walshe, 2013). This provides a starting point to analyze data due to how data is typically incorporated per year. If a change is

## The Effects of State-Level Firearm Restrictions on Homicide

implemented halfway through a year, it is difficult to pinpoint and sync up the numbers to the policy. However, because the SAFE Act began in January of 2013, a relationship between the SAFE Act and aggravated assaults with a firearm can be hypothesized over a five year period in Figure 3.

### Figure 3

*New York Aggravated Assaults with Firearm (2010-2015)*



*Note.* Data adapted "Crime in the United States: Aggravated assaults with firearms," by FBI, (2020). Retrieved from <http://data.sagepub.com.ezproxy.liberty.edu/sagestats/369>

### Limitations of the Study

Gun laws are constantly changing. By the time a researcher can compile a listing of laws and cross-reference them for statistical value, these laws could very well have changed several times. This is because studying all 50 states encompasses a large political area, which increases the potential for constant change, representing a limitation

## The Effects of State-Level Firearm Restrictions on Homicide

of the study. The aforementioned recommendations also provide additional limitations of this study, such as the scope of crime measured. Though it is an opportunity for future study, we did not explore the effects of firearm laws on other crimes such as robbery, home invasion, or sexual assault. Only New York's SAFE Act was cross-referenced with aggravated assault with a firearm. This study is also limited in that it did not take local or county laws into consideration for the combined restrictive score. There could very well be a more accurate approach with this data. Socioeconomic variables also played a role in limitation, such as type of family unit and other factors. In addition, authoritative laws were not considered, such as how severe a state's laws are for certain crimes. This could also play into the homicide rate, and presents a potentially worthy relationship to consider.

### **Final Conclusion**

The entire understanding of the Second Amendment has been argued as both an individual right and a collective right. From the data gathered on the relationship between homicide and state firearm restrictions, there is not a major justification to increase firearm restrictions. The most significant finding of the thesis is that there is no statistical significance regarding the relationship between firearm restrictions and homicide rates. Each state faces different issues that require additional considerations, some of which are laid out in the recommendations section. Such recommendations suggest increasing the scope of the study to include local firearm restrictions, as well as studying different demographic variables-- due to the difference in state homicide rates. Another overarching point evinced by the thesis is that there are safety implications, regarding firearm ownership, for those who support the individual right to bear arms (safe storage,



## The Effects of State-Level Firearm Restrictions on Homicide

training, familial approaches). Additionally, there are policy implications for those that favor the collective approach for the right to bear arms (more restrictions, punishments, felonies). Finally, with the lack of justification for additional firearm restrictions, lawmakers who oppose such measures would not only be consistent with the findings of this study, they would also be consistent with the historical intent of the Second Amendment, an array of jurisprudence, and the culmination of the logical consistency presented in modern debate.

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**APPENDIX**

**Table 4**

*State Homicide Statistics*

State	AL	AK	AZ	AR	CA	CO	CT	DE	DC	FL
Pop.	4,903,185	731,545	7,278,717	3,017,804	39,512,223	5,758,736	3,565,287	973,764	705,749	21,477,737
Tot. Fire Hom.		31	203	156	1,177	147	54	40	120	
Total Non-Fire Hom.		16	136	62	562	60	29	8	31	
Total Hom.		47	339	218	1,739	207	83	48	151	
Fire Hom. Rate		4.23	2.78	5.16	2.97	2.55	1.51	4.1	17	
Non-fire Hom. Rate		2.18	1.86	2.05	1.42	1.04	0.81	0.82	4.39	
Total Hom. Rate		6.41	4.64	7.21	4.39	3.59	2.32	4.92	21.39	
State	GA	HI	ID	IL	IN	IA	KS	KY	LA	ME
Pop.	10,617,423	1,415,872	1,787,065	12,671,821	6,732,219	3,155,070	2,913,314	4,467,673	4,648,794	1,344,212
Tot. Fire Hom.	460	11	19	708	294	20	78	179	436	11

The Effects of State-Level Firearm Restrictions on Homicide

Total Non- Fire Hom.	108	22	13	156	77	23	32	58	85	12
Total Hom.	568	33	32	864	371	43	110	237	521	23
Fire Hom. Rate	4.33	0.77	1.06	5.58	4.36	0.63	2.67	4	9.37	0.81
Non- fire Hom. Rate	1.01	1.55	0.72	1.23	1.14	0.72	1.09	1.29	1.82	0.89
Total Hom. Rate	5.34	2.32	1.78	6.81	5.5	1.35	3.76	5.29	11.19	1.7
State	MD	MA	MI	MN	MS	MO	MT	NE	NV	NH
Pop.	6,045,680	6,892,503	9,986,857	5,639,632	2,976,149	6,137,428	1,068,778	1,934,408	3,080,156	1,359,711
Tot. Fire Hom.	388	93	394	49	118	473	17	26	134	12
Total Non- Fire Hom.	82	43	156	55	24	82	17	17	67	9
Total Hom.	470	136	550	104	142	555	34	43	201	21
Fire Hom. Rate	6.41	1.34	3.94	0.86	3.96	7.7	1.59	1.34	4.35	0.88
Non- fire	1.35	0.62	1.56	0.97	0.8	1.33	1.59	0.87	2.17	0.66



The Effects of State-Level Firearm Restrictions on Homicide

Hom. Rate										
Total Hom. Rate	7.76	1.96	5.5	1.83	4.76	9.03	3.18	2.21	6.52	1.54
State	NJ	NM	NY	NC	ND	OH	OK	OR	PA	RI
Pop.	8,882,190	2,096,829	19,453,561	10,488,084	762,062	11,689,100	3,956,971	4,217,737	12,801,989	1,059,361
Tot. Fire Hom.	202	87	313	346	9	383	134	48	580	12
Total Non-Fire Hom.	84	50	233	133	7	163	68	33	207	4
Total Hom.	286	137	546	479	16	546	202	81	787	16
Fire Hom. Rate	2.27	4.14	1.6	3.29	1.18	3.27	3.38	1.13	4.53	1.13
Non-fire Hom. Rate	0.94	2.38	1.19	1.26	0.91	1.39	1.71	0.78	1.61	0.37
Total Hom. Rate	3.21	6.52	2.79	4.55	2.09	4.66	5.09	1.91	6.14	1.5
State	SC	SD	TN	TX	UT	VT	VA	WA	WV	WI
Pop.	5,148,714	884,659	6,829,174	28,995,881	3,205,958	623,989	8,535,519	7,614,893	1,792,147	5,822,434
Tot. Fire Hom.	296	8	397	956	28	3	297	138	34	136

The Effects of State-Level Firearm Restrictions on Homicide

Total Non- Fire Hom.	90	5	99	345	31	7	94	94	23	42
Total Hom.	386	13	496	1,301	59	10	391	232	57	178
Fire Hom. Rate	5.74	0.9	5.81	3.29	0.87	0.48	3.47	1.81	1.89	2.33
Non- fire Hom. Rate	1.74	0.56	1.44	1.18	0.96	1.12	1.1	1.23	1.28	0.72
Total Hom. Rate	7.48	1.46	7.25	4.47	1.83	1.6	4.57	3.04	3.17	3.05
State	WY									
Pop.	578,759									
Tot. Fire Hom.	8									
Total Non- Fire Hom.	4									
Total Hom.	12									
Fire Hom. Rate	1.38									

## The Effects of State-Level Firearm Restrictions on Homicide

Non- fire Hom. Rate	0.69
<hr/>	
Total Hom. Rate	2.07
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*Note.* Alabama and Florida are missing data since it did not meet FBI requirements. Iowa and Illinois have limited data as well. Montana had an interesting and complete split in homicide numbers. Adapted from "Crime in the United States: Murder by state, types of weapons, 2018", by FBI, (2018b). Retrieved from <https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/topic-pages/tables/table-20>, for population from United States Census, 2019.

The Effects of State-Level Firearm Restrictions on Homicide

**Table 5**

*State-level Firearm Restrictions Index*

Restriction	AL	AK	AZ	AR	CA	CO	CT	DE	DC	FL
Arbitrary Ban	No.	No.	No.	No.	Yes.	No.	Yes.	No.	Yes.	No.
Concealed Carry	Yes.	Yes.	No.	No.	Yes.	Yes.	Yes.	Yes.	Yes.	Yes.
Permit to Purchase	No.	No.	No.	No.	Yes.	No.	Yes.	No.	Yes.	No.
Ammunition Background Check	No.	No.	No.	No.	Yes.	No.	Yes.	No.	Yes.	No.
Magazine Ban	No.	No.	No.	No.	Yes.	Yes.	Yes.	No.	Yes.	No.
Private Sale Regulation	No.	No.	No.	No.	Yes.	Yes.	Yes.	Yes.	Yes.	No.
Registration	No.	No.	No.	No.	Yes.	No.	Yes.	No.	Yes.	No.
Limited Selection/Approval roster	No.	No.	No.	No.	Yes.	No.	No.	No.	Yes.	No.
Waiting Period	No.	No.	No.	No.	Yes.	No.	No.	No.	Yes.	Yes.
Age restriction	No.	No.	No.	No.	Yes.	No.	No.	No.	Yes.	Yes.
Transport Law	Yes.	Yes.	Yes.	Yes.	Yes.	Yes.	Yes.	Yes.	Yes.	Yes.
Purchase limit	No.	No.	No.	No.	Yes.	No.	No.	No.	No.	No.
Open Carry Restriction	No.	No.	No.	No.	Yes.	No.	Yes.	No.	Yes.	Yes.
*Combined Restrictive Score	2	2	1	1	13	4	9	3	12	5
Restriction	GA	HI	ID	IL	IN	IA	KS	KY	LA	ME
Arbitrary Ban	No.	Yes.	No.	No.	No.	No.	No.	No.	No.	No.
Concealed Carry	Yes.	Yes.	Yes.	Yes.	Yes.	Yes.	No.	Yes.	Yes.	Yes.
Permit to Purchase	No.	Yes.	No.	Yes.	No.	Yes.	No.	No.	No.	No.

The Effects of State-Level Firearm Restrictions on Homicide

Ammunition Background Check	No.	No.	No.	Yes.	No.	No.	No.	No.	No.	No.
Magazine Ban	No.	Yes.	No.	No.	No.	No.	No.	No.	No.	No.
Private Sale Regulation	No.	Yes.	No.	Yes.	No.	Yes.	No.	No.	No.	No.
Registration	No.	Yes.	No.	No.	No.	No.	No.	No.	No.	No.
Limited Selection/Approval roster	No.	Yes.	No.	Yes.	No.	No.	No.	No.	No.	No.
Waiting Period	No.	Yes.	No.	Yes.	No.	Yes.	No.	No.	No.	No.
Age restriction	No.	Yes.	No.	Yes.	No.	No.	No.	No.	No.	No.
Transport Law	No.	Yes.	No.	Yes.	Yes.	Yes.	No.	No.	Yes.	Yes.
Purchase limit	No.	No.	No.	No.	No.	No.	No.	No.	No.	No.
Open Carry Restriction	Yes.	Yes.	No.	Yes.	Yes.	Yes.	No.	No.	No.	No.
<i>*Combined Restrictive Score</i>	2	11	1	9	3	6	0	1	2	2
Restriction	MD	MA	MI	MN	MS	MO	MT	NE	NV	NH
Arbitrary Ban	Yes.	Yes.	No.	No.	No.	No.	No.	No.	No.	No.
Concealed Carry	Yes.	Yes.	Yes.	Yes.	No.	No.	Yes.	Yes.	Yes.	No.
Permit to Purchase	Yes.	Yes.	Yes.	Yes.	No.	No.	No.	Yes.	No.	No.
Ammunition Background Check	No.	Yes.	No.	No.	No.	No.	No.	No.	No.	No.
Magazine Ban	Yes.	Yes.	No.	No.	No.	No.	No.	No.	No.	No.
Private Sale Regulation	Yes.	Yes.	Yes.	No.	No.	No.	No.	Yes.	Yes.	No.
Registration	Yes.	Yes.	Yes.	No.	No.	No.	No.	No.	No.	No.
Limited Selection/Approval roster	Yes.	Yes.	No.	Yes.	No.	No.	No.	No.	No.	No.
Waiting Period	Yes.	Yes.	No.	Yes.	No.	No.	No.	Yes.	No.	No.

The Effects of State-Level Firearm Restrictions on Homicide

Age restriction	Yes.	Yes.	No.	No.	No.	No.	No.	No.	No.	No.
Transport Law	Yes.	Yes.	Yes.	Yes.	No.	No.	No.	Yes.	Yes.	Yes.
Purchase limit	Yes.	No.	No.	No.	No.	No.	No.	No.	No.	No.
Open Carry Restriction	Yes.	Yes.	No.	Yes.	No.	No.	No.	No.	No.	No.
*Combined Restrictive Score	12	12	5	6	0	0	1	5	3	1
Restriction	NJ	NM	NY	NC	ND	OH	OK	OR	PA	RI
Arbitrary Ban	Yes.	No.	Yes.	No.	No.	No.	No.	No.	No.	No.
Concealed Carry	Yes.	Yes.	Yes.	Yes.	No.	Yes.	No.	Yes.	Yes.	Yes.
Permit to Purchase	Yes.	No.	Yes.	Yes.	No.	No.	No.	No.	No.	Yes.
Ammunition Background Check	Yes.	No.	Yes.	No.	No.	No.	No.	No.	No.	No.
Magazine Ban	Yes.	No.	Yes.	No.	No.	No.	No.	No.	No.	No.
Private Sale Regulation	Yes.	Yes.	Yes.	Yes.	No.	No.	No.	Yes.	Yes.	Yes.
Registration	Yes.	No.	Yes.	No.	No.	No.	No.	No.	Yes.	No.
Limited Selection/Approval roster	No.	No.	No.	No.	No.	No.	No.	No.	No.	No.
Waiting Period	Yes.	No.	Yes.	Yes.	No.	No.	No.	No.	No.	Yes.
Age restriction	No.	No.	No.	No.	No.	No.	No.	No.	No.	No.
Transport Law	Yes.	Yes.	Yes.	Yes.	No.	Yes.	Yes.	Yes.	Yes.	Yes.
Purchase limit	Yes.	No.	No.	No.	No.	No.	No.	No.	No.	No.
Open Carry Restriction	Yes.	No.	Yes.	No.	Yes.	Yes.	No.	No.	No.	Yes.
*Combined Restrictive Score	11	3	10	5	1	3	1	3	4	6
Restriction	SC	SD	TN	TX	UT	VT	VA	WA	WV	WI

The Effects of State-Level Firearm Restrictions on Homicide

Arbitrary Ban	No.	No.	No.	No.	No.	No.	No.	Yes.	No.	No.
Concealed Carry	Yes.	No.	Yes.	Yes.	Yes.	No.	Yes.	Yes.	No.	Yes.
Permit to Purchase	No.	No.	No.	No.	No.	Yes.	No.	Yes.	No.	No.
Ammunition Background Check	No.	No.	No.	No.	No.	No.	No.	No.	No.	No.
Magazine Ban	No.	No.	No.	No.	No.	Yes.	No.	No.	No.	No.
Private Sale Regulation	No.	No.	No.	No.	No.	Yes.	Yes.	Yes.	No.	No.
Registration	No.	No.	No.	No.	No.	No.	No.	Yes.	No.	No.
Limited Selection/Approval roster	No.	No.	No.	No.	No.	No.	No.	No.	No.	No.
Waiting Period	No.	No.	No.	No.	No.	No.	No.	Yes.	No.	No.
Age restriction	No.	No.	No.	No.	No.	Yes.	No.	Yes.	No.	No.
Transport Law	Yes.	No.	Yes.	Yes.	Yes.	Yes.	Yes.	Yes.	Yes.	Yes.
Purchase limit	No.	No.	No.	No.	No.	No.	Yes.	No.	No.	No.
Open Carry Restriction	Yes.	No.	Yes.	No.	Yes.	No.	Yes.	No.	No.	No.
*Combined Restrictive Score	3	0	3	2	3	5	5	8	1	2
Restriction	WY									
Arbitrary Ban	No.									
Concealed Carry	No.									
Permit to Purchase	No.									
Ammunition Background Check	No.									
Magazine Ban	No.									
Private Sale Regulation	No.									

The Effects of State-Level Firearm Restrictions on Homicide

Registration	No.
Limited Selection/Approval roster	No.
Waiting Period	No.
Age restriction	No.
Transport Law	No.
Purchase limit	No.
Open Carry Restriction	No.
<hr/>	
*Combined Restrictive Score	0
<hr/>	