

Concealed weapons on university campuses: A critical inquiry

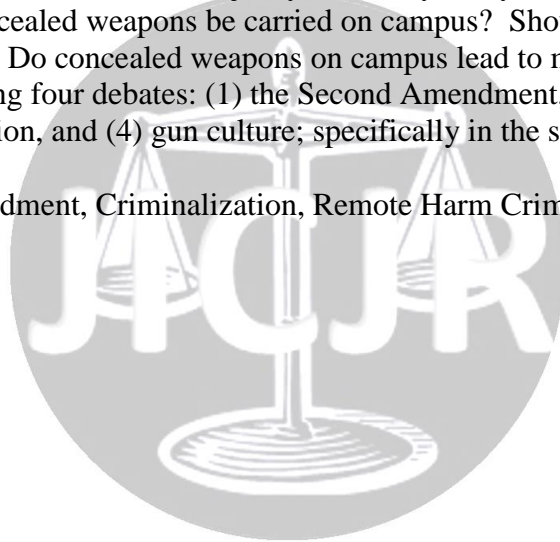
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ABSTRACT

The Second Amendment of the United States Constitution states, “A well regulated Militia, being necessary to the Security of a free State, the right of the people to keep and bear Arms, Shall not be infringed on” (The Constitution of the United States). Interpreting the Second Amendment of the United States Constitution is a difficult task. How can one appropriately apply it to the problems encountered today? This paper will discuss two opposing debates concerning this issue and which side the majority of society today adheres to. It raises a number of questions: Should concealed weapons be carried on campus? Should concealed weapons be carried in the classroom? Do concealed weapons on campus lead to more crime? This inquiry will look into the following four debates: (1) the Second Amendment, (2) Criminalization, (3) remote harm criminalization, and (4) gun culture; specifically in the state of Texas.

Keywords: Second Amendment, Criminalization, Remote Harm Criminalization, Gun Culture



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INTRODUCTION

Recent shootings by legal and illegal gun owners have forced lawmakers to create new legislation in an attempt to prevent future criminal acts from being committed on campus. The Second Amendment of the U.S. Constitution permits us to bear arms within our homes for the protection of self, family and/or property (The Constitution of the United States). In the state of Texas, government officials believe it is necessary to allow guns outside of the home, specifically on college campuses within the classrooms. Debates about gun culture, have two major groups. One group is pro-gun rights and the other is pro-gun control. They both have strong arguments concerning their views on the matter.

In 1995, Texas enacted a concealed handgun law (Texas Department of Public Safety, 1995). The law allowed those 21 and older to carry weapons upon passing a training course and background check (Shannon, 2011). Purchasing handguns and other types of firearms at gun shops and gun shows is fairly easy in the state of Texas. As of December 31, 2010, according to the Department of Public Safety, the State had 102,133 licensed gun holders (Texas Department of Public Safety, 2011). After the law was passed, businesses, schools and churches were allowed to set rules banning guns on their premises. Previously, on university campuses, guns were banned in buildings, dormitories and certain grounds in the surrounding area. Since the passing of the 1995 concealed handgun law, many college campus shootings have taken place and have caused policy makers to feel a need of having guns on university campuses. As of May 9, 2011, the Texas Senate passed the legislation allowing licensed faculty and students to carry their concealed weapons within the classroom (Archive, 2011)

Advocates for concealed handguns on the university campus argue that they would feel safer knowing they have the advantage of being able to protect self, instead of having to wait on law enforcement agencies for help. The Citizens Committee Right to Keep and Bear Arms, Concealed Carry Inc., Firearms Coalition and the National Rifle Association are just a few of the pro-gun rights organizations. Government officials are attempting to prevent another mass school shooting from happening again. Government officials believe implementing this State Bill would be for the overall greater good. Policy makers logic is based on the citizen's rights as spelled out in the Second Amendment of the United States Constitution and argue that self-protection is what justifies the carrying of concealed weapons (The Constitution of the United States of America).

People who support carrying concealed weapons argue it is their constitutional right. The Second Amendment of the Constitution gives individuals the right to keep and bear arms, which is a liberty protected in the Bill of Rights. This is the main defense pro-gun right groups use when debating this issue with pro-control groups. Pro-gun advocates debate that as law abiding citizens they have the right to protect self, family, and property from any potential intruders. The logic behind this argument appears to be driven by their collective right to carry their concealed weapons, which pro-gun advocates argue, in doing so they will be doing a favor to their community by assisting in the deterrence of crime. Thus, protecting the community by allowing licensed gun carriers to have possession of their firearms gives them a sense of freedom and responsibility. Pro-gun groups are certain there would be a decrease and/or deterrence in publicized shootings if more people owned guns (Houston Chronicle, 2009).

Those opposed to the proposal do not want to add any more danger to university campuses. This would also cause confusion amongst law enforcement agencies, whose job is to protect the campus. Campus law enforcement would not be able to decipher the 'good guys'

from those with intentional criminal behavior in mind. Campus police can automatically assume anyone holding a firearm to be a threat, because those carrying a gun in an active shooter situation are unidentified. Police have to act quickly and cautiously to extinguish the hostile situation. John Woods, a Virginia Tech student during the time of the shooting, voiced his opinion on this legislation. He opposed the proposal arguing more guns would have meant more lives taken (Shannon, 2010). The opposition argues that our government is condoning violence by allowing this concealed carry on college campus legislation to pass.

Criminal acts committed utilizing guns still take place today (see Appendix B). As some states (see Table 1; Appendix A) have expanded gun carrying to outside of the home and on university campuses, it is safe to say guns are a part of our collective culture in American society, especially in the South. Our government allowing licensed individuals to carry guns freely appears to frighten those who do not wish for them to be so easily accessed.

Those who do not support carrying concealed weapons argue that firearms symbolize violence and give the notion that we can only be the superior force by having them. Pro gun control advocates fear firearms being allowed in the wrong hands will lead to an increase in suicides and accidental injuries. They also believe if guns are so easily accessible, heated arguments are likely to end in serious injury. Guns, alcohol and the pressures in life are not a healthy blend, especially on college campuses, specifically in the classroom.

As indicated in appendix B, in Texas, as of 2010, there were 1,246 murders total. Out of the 1,246; 581 of them were handgun murders (Rogers, 2010).

HIGHLIGHTS:

Passage of Legislation:

“Texans with a license to carry a concealed handgun could do so on college campuses and in college buildings under a bill approved by the Senate on May 10, 2011. The vehicle for the measure came as an amendment by San Antonio Senator Jeff Wentworth to a public and higher education fiscal matters bill before the Senate in March 22, 2011. Wentworth's stand-alone bill was blocked by opponents, but a lower vote threshold for amendments opened the door for this provision.

Under the amendment, the current ban on carrying concealed weapons inside buildings on public universities would be lifted. Current law requires that an individual be 21 years old and complete a training course before receiving a concealed carry license.” (Texas Senate News, 2011).

Table 1: Gun Crime in States Allowing Concealed Carry on Campus, 2010

State	Total murders	Total firearms 2010	% change 2009-10	Handguns murders	Firearms, % of all murders	Fire murders per 100,00 pop	Firearms robberies per 100,000 pop	Firearms assaults per 100,000 pop
Alabama	199	135	-41	112	67.84	2.85	41.67	44.78
Arizona	352	232	18	152	65.91	3.47	45.57	54.19
Georgia	527	376	-1	315	71.35	3.79	62.49	52.08
Indiana	198	142	-32	83	71.72	2.2	17.41	7.97
Kentucky	180	116	4	76	64.44	2.67	39.54	24.43
Michigan	558	413	-5	239	74.01	4.16	66.61	82.88
Ohio	460	310	0	176	67.39	2.69	56.18	30.45
South Carolina	280	207	5	136	73.93	4.5	57.78	114.73
Tennessee	356	219	-26	146	61.52	3.46	73.87	129.87
Virginia	369	250	9	137	67.75	3.14	37.16	23.54
Washington	151	93	-8	73	61.59	1.38	21.43	24.87

(Rogers, 2011)

KEY CONCEPTS CONCERNING THIS DEBATE

Second Amendment

The debate concerning the Second Amendment is whether it grants an individual the right to gun ownership or a collective right to state militias. Individualists strongly defend the right belongs to “the people” as individual beings. On the contrary, the other side of this debate argues the collective approach when it comes to “militias”. The operative and prefatory clause brings about confusion concerning this debate. The operative clause is as follows: “the right of the people to keep and bear arms shall not be infringed”. The individualists define “the people” as a collective body made up of American citizens not under the United States government. They argued they were free to make their own decisions when it comes to gun ownership and the Second Amendment protects that right. Each side finds it easier to debate when they support their arguments with these clauses spelled out in the Second Amendment.

The prefatory clause states, “A well regulated Militia, being necessary to the Security of a free state”. The Supreme Court defined Militias as, ‘all males physically capable of acting in concert for the common defense’ who were enrolled for military discipline.”

Criminalization

An action becomes criminalized when it becomes prohibited or permitted by law. The institutionalization of the action makes it criminalized. Criminalization is a mechanism used to prevent future harm from occurring. Baker writes, “Once there is a proper prima facie case for criminalization, then consent could be sufficient to provide a defense in certain circumstances. Conduct can only be criminalized when there are found objective justifications for doing so” (Baker, 2009). There is a process that takes place before an act can be labeled “criminalized”.

Criminalization must be morally justifiable; John Stuart Mill's ensures morality through his concept of Harm Principle. "It is always a good reason in support of penal legislation that it would probably be effective in preventing (eliminating, reducing) harm to persons other than the actor (the one prohibited from acting) and there is probably no other means that is equally effective at no greater cost to others" (Baker cited from Feinberg, 2009). Criminalization of an act is done with the overall good of society in mind. The reduction of harm, being the ultimate goal, is attempting to be reached. The fairness of criminalization is difficult to measure because those in favor of the act, in this case concealed weapons on college campuses are left unsatisfied.

One must be able to provide objective reasons for inviting criminal law to take over in a potentially harmful act. The author writes, "Criminalization is fair and just when it is deserved; and when deservedness is determined by referring to objective moral reasons such as harmdoing and culpability. Conduct should not be criminalized merely because the majority dislikes it" (Baker, 2009). Some people may not have personally experienced a potential harmful act, but take a strong stance on it due to what they have seen in the media, newspaper articles and/or by word of mouth. Thus, the emotions of the people are not enough to criminalize an act.

Remote Harm Criminalization

Government official's implementation of remote harm criminalization is done for preventive measures of potential harm. Guns can become dangerous both intentionally and unintentionally. Remote harm criminalization, when it comes to concealed carry, is an effort to increase safety in one's community. Baker writes, "The welfare of members of a community is dependent on each member of that community exercising a certain amount of restraint and precaution when pursuing his or her legitimate aims" (Baker, 2008). Criminalization of concealed carry is not a selfish act done so by our government officials, but a valid response to the majority's concerns on this issue. The community's concerns impact the decisions made by our government officials. Remote harm criminalization can satisfy both sides of the gun debate depending on the majority's rule.

Government officials can implement a policy banning guns in certain places or allowing them, this is due to the potential risks that may occur. For example, a classroom full of students and a professor are subject to potential harm when concealed weapons are allowed in the class. If a shooting takes place and a licensed gun carrier pulls their gun out in an attempt to protect their peers, and fires their weapon towards the active shooter. Their intentions were to shoot the active shooter, but they instead miss the active shooter and end up shooting their peer they were attempting to protect. This is what is meant by potential harm of an action. Baker writes, "Harm does not have to be serious in an individualized sense to warrant a criminal law response rather than a private law response" (Baker, 2008). The ultimate goal is to avoid the harm from happening early on.

On the contrary, government officials may argue allowing licensed gun carriers to be equipped with guns may benefit the majority in an active shooter situation on campus. Licensed gun carriers having the ability to protect themselves and others may decrease the lives taken in an active shooter situation. This becomes criminalized when the government makes laws giving those licensed the option of carrying their concealed weapons.

Gun Culture

Dating back to the 1780's, guns were used by the military as a means of defense for this country. This right was clearly spelled out in the United States Constitution and supported by many. "Historian Richard Hofstadter (1970) noted that the experience Americans had with firearms during the Revolutionary War initiated a solid attachment to guns" (Utter & True, 2000). The war played a role in the Americans interest to keep guns around. Guns gave them a sense of power. This was undoubtedly prevalent in the South, because leaders believed military forces could be used as a control mechanism if the slaves made an attempt to revolt.

The federal government encouraged as well as supported the pro-gun culture and it's organizations at the time. As pointed out,

"Despite the general lack of interest in firearms ownership and use, Congress attempted to arm individuals and state militias...Samuel Colt and Eliphalet Remington established firearms manufacturing companies, the federal government "provided capital, patent protection, technological expertise, and the largest market for guns" (Utter & True, 2000).

The federal government tried to give the perception of not wanting firearms around, but their actions proved otherwise

The "Wild West" Era was also influential on pro-gun culture. During these times, there were cowboys walking around or riding on their horses with guns in their holsters. Cowboys carried guns for their own safety and protection. The murder rate and violent acts soared causing individuals to feel a lack of safety. Due to the increase in crime, ordinances prohibiting people from carrying concealed weapons out in the open were passed.

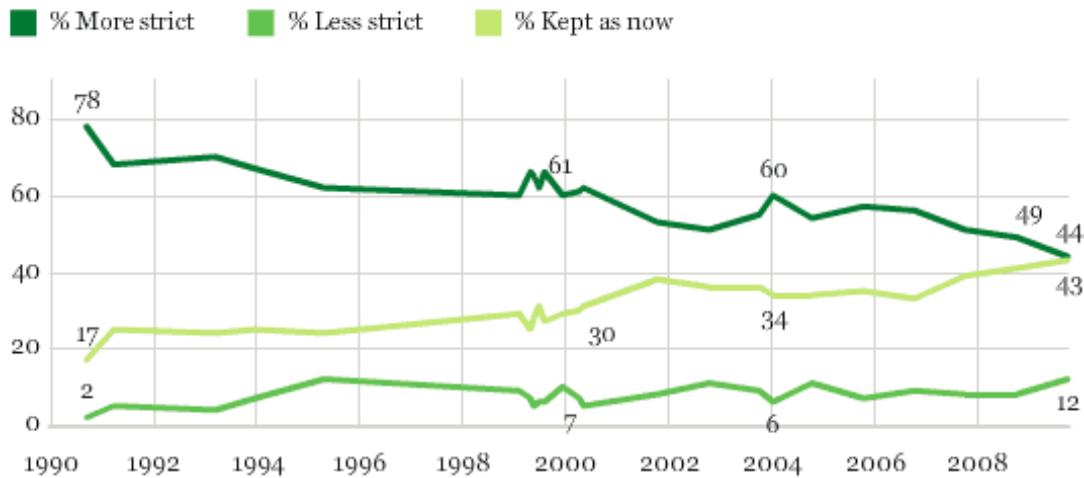
A brief historical overview, in the nineteenth century, there were massive movements of people to the west due to better job opportunities. The newly migrated people had not been brought up where it was of the norm to carry concealed firearms, so they had a pro-control belief. They argued guns were not necessary to maintain order and could prove it by the life they lead. Although pro-control groups were fighting against guns, the western lifestyle was being glamorized on television through popular culture such as television shows like: Buffalo Bill Cody's Wild West, Bonanza and Gunsmoke which promoted the carrying of concealed firearms and helped recruit more pro-gun fans.

Those originally in support of concealed carry have now made a drastic shift to side with individuals against personal firearm ownership. Moving into the twentieth century, a new breed of gun carriers emerged causing a change of feeling on who should be allowed to carry firearms. The author writes, "The rise of the infamous gangsters of the 1930's, armed with advanced firearms of the time, including the Thompson machine gun and the sawed-off shotgun, led to legislative proposals at the national and state levels to limit ownership of these weapons" (Utter & True, 2000). This led to the passing of the 1934 National Firearms Act and the 1938 Federal Firearms Act. These acts put restrictions on the selling of weapons that were commonly used in criminal acts. This was the government's attempt to weed out those groups who were misusing their weapons.

When it comes to the selling of guns, Texas leads the nation in the number of gun shows and dealers. "Texas, the nation's second most populous state, ranked No. 1 in each of the five categories measured: Highest number of gun shows (472) Licensed firearms retailers(6,492) Machine guns (18,919) Machine gun dealers (190) Firearms manufacturers (26)" (CNN U.S.,2000). According to the Gallup report, as of 2009, forty-four percent of Americans favor

stricter laws on firearm sales. The article reads, “Gallup finds a new low of 44% of Americans saying the laws covering firearm sales should be made more strict. That is down 5 points in the last year and 34 points from the high of 78% recorded the first time the question was asked, in 1990” (Jones, 2009)

In general, do you feel that the laws covering the sale of firearms should be made more strict, less strict, or kept as they are now?



GALLUP POLL

Figure 2: Firearm Sales Opinion Poll (Gallup, 2009)

As indicated in Figure 3 (Appendix C), Jones concluded, in his study of the Gallup Poll in 2009, that “each demographic or attitudinal subgroup has shown a shift toward a more pro-guns stance on the question about whether gun laws should be more strict or less strict” (Jones, 2009). See Gallup Poll in appendix D, many Americans are leaning towards the acceptance of gun ownership and are no longer disputing the easy access to obtaining them. The goal is to decrease the amount of handgun crimes that take place, but having easy access to guns may intensify the problem.

CONCLUSION

It is safe to say that guns are a part of our collective culture in American society, especially in the South. Differing interpretations of the Second Amendment of the United States Constitution allows for policy that permits the carrying of concealed weapons, which also creates apprehension for those who do not wish for guns to be as readily accessible. Now that policy has expanded gun carrying to outside of the home and potentially on university campuses, the possibility of gun crime in the classroom and other sensitive areas is likely to increase. There are many other issues that arise from the introduction of guns to schools; such including inadequate training, persons not suitable to carry and the escalation of an altercation. One must take into consideration that many neglect to interact with those outside of their beliefs and see “outsiders” as a threat. This can potentially add to criminal acts, specifically for the individual carrying the gun. Policy that will permit concealed weapon carrying on college campuses may produce the opposite result than intended.

APPENDICES

Appendix A

Table 1: Gun Crime in States Allowing Concealed Carry on Campus, 2010

State	Total murders	Total firearms 2010	% change 2009-10	Handguns murders	Firearms , % of all murders	Fire murders per 100,00 pop	Firearms robberies per 100,000 pop	Firearms assaults per 100,000 pop
Alabama	199	135	-41	112	67.84	2.85	41.67	44.78
Arizona	352	232	18	152	65.91	3.47	45.57	54.19
Georgia	527	376	-1	315	71.35	3.79	62.49	52.08
Indiana	198	142	-32	83	71.72	2.2	17.41	7.97
Kentucky	180	116	4	76	64.44	2.67	39.54	24.43
Michigan	558	413	-5	239	74.01	4.16	66.61	82.88
Ohio	460	310	0	176	67.39	2.69	56.18	30.45
South Carolina	280	207	5	136	73.93	4.5	57.78	114.73
Tennessee	356	219	-26	146	61.52	3.46	73.87	129.87
Virginia	369	250	9	137	67.75	3.14	37.16	23.54
Washington	151	93	-8	73	61.59	1.38	21.43	24.87

Gun crime in the US, 2010

Appendix B

State	Total murders	Total firearms, 2010	% change, 2009-10	Handguns murders	Firearms, % of all murders	Firearms murders per 100,000 pop	Firearms robberies per 100,000 pop	Firearms assaults per 100,000 pop
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- Florida figures not provided
- Total number of murders for which supplemental homicide data were received.
- Limited supplemental homicide data were received from Illinois
- Rates for robbery and assault are FBI official rates, others are calculated by the Datablog

SOURCE: [FBI](#)

UNITED STATES	12,996	8,775	-4	6,009	67.52	2.84	41.67	44.78
Alabama	199	135	-41	112	67.84	2.85	17.27	32.33
Alaska	31	19	46	3	61.29	2.68	21.58	76.6
Arizona	352	232	18	152	65.91	3.47	45.47	54.19
Arkansas	130	93	-13	49	71.54	3.2	36.66	87.55
California	1,811	1,257	-8	953	69.41	3.37	48.44	45.45
Colorado	117	65	-31	34	55.56	1.28	21.96	38
Connecticut	131	97	39	72	74.05	2.75	33	22.46
Delaware	48	38	23	25	79.17	4.26	94.11	92.43
District of Columbia	131	99	-12	32	75.57	16	255.98	99.25
Florida							59.45	71.18
Georgia	527	376	-1	315	71.35	3.79	62.49	52.08
Hawaii	24	7	-13	6	29.17	0.54	7.46	13.08
Idaho	21	12	140	12	57.14	0.77	3.91	23.14
Illinois	453	364	-6	355	80.35	2.81	1.85	6.22
Indiana	198	142	-32	83	71.72	2.2	17.41	7.97
Iowa	38	21	91	9	55.26	0.69	9.06	18.72
Kansas	100	63	-26	30	63	2.22	24.46	70.96
Kentucky	180	116	4	76	64.44	2.67	39.54	24.43
Louisiana	437	351	-13	263	80.32	7.75	46.83	77.29
Maine	24	11	0	4	45.83	0.84	5.71	3.66
Maryland	424	293	-4	272	69.1	5.11	56.93	30.69
Massachusetts	209	118	27	52	56.46	1.78	24.52	30.81
Michigan	558	413	-5	239	74.01	4.16	55.61	82.88
Minnesota	91	53	39	43	58.24	1	19.11	20
Mississippi	165	120	14	98	72.73	4.05	48.03	30
Missouri	419	321	16	189	76.61	5.34	52.9	89.29
Montana	21	12	-37	6	57.14	1.22	2.04	28.36
Nebraska	51	32	39	29	62.75	1.77	24.24	29.32
Nevada	158	84	-8	57	53.16	3.16	64.86	58.54
New Hampshire	13	5	25	2	38.46	0.38	7.1	15.26
New Jersey	363	246	12	216	67.77	2.82	45.16	24.06

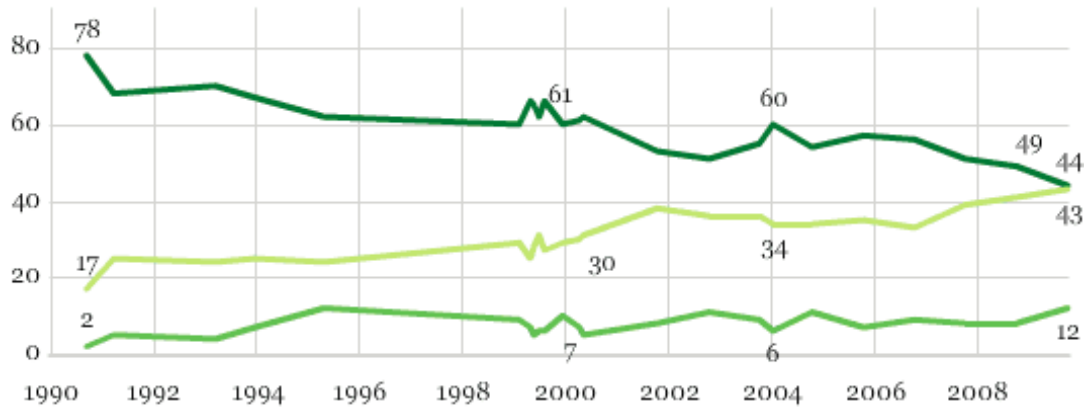
State	Total murders	Total firearms, 2010	% change, 2009-10	Handguns murders	Firearms, % of all murders	Firearms murders per 100,000 pop	Firearms robberies per 100,000 pop	Firearms assaults per 100,000 pop
New Mexico	118	67	-14	36	56.78	3.29	30.78	82.06
New York	860	517	7	135	60.12	2.64	12.97	11.8
North Carolina	445	286	-15	188	64.27	3.02	46.72	60.02
North Dakota	9	4	33	3	44.44	0.61	1.84	3.21
Ohio	460	310	0	176	67.39	2.69	56.18	30.45
Oklahoma	188	111	-11	86	59.04	2.98	40.35	63.02
Oregon	78	36	-12	20	46.15	0.93	15.04	15.93
Pennsylvania	646	457	-2	367	70.74	3.62	52.04	39.45
Rhode Island	29	16	-11	2	55.17	1.51	18.73	28.57
South Carolina	280	207	5	136	73.93	4.5	57.78	114.73
South Dakota	14	8	100	3	57.14	0.98	2.19	17.56
Tennessee	356	219	-26	146	61.52	3.46	73.87	129.87
Texas	1,246	805	-7	581	64.61	3.19	64.57	61.65
Utah	52	22	-12	16	42.31	0.78	12.33	21.3
Vermont	7	2		1	28.57	0.32	2.09	7.87
Virginia	369	250	9	137	67.75	3.14	37.16	23.54
Washington	151	93	-8	73	61.59	1.38	21.43	24.87
West Virginia	55	27	-29	16	49.09	1.48	3.62	18.57
Wisconsin	151	97	2	63	64.24	1.71	41.35	31.12
Wyoming	8	5	-38	0	62.5	0.91	4.57	14.43

(Rogers, 2011)

Appendix C

In general, do you feel that the laws covering the sale of firearms should be made more strict, less strict, or kept as they are now?

■ % More strict ■ % Less strict ■ % Kept as now



GALLUP POLL



Appendix D

Percentage Believing Gun Laws Should Be More Strict, by Subgroup,
2000 and 2009 Gallup Polls

	2000	2009	Change
All U.S. adults	62	44	-18
Men	52	33	-19
Women	72	55	-17
White	61	42	-19
Nonwhite	74	51	-23
18 - 29 years old	69	48	-21
30 - 49 years old	64	44	-20
50 - 64 years old	49	44	-5
65+ years old	64	45	-19
East	76	59	-17
Midwest	59	42	-17
South	59	42	-17
West	57	37	-20
Postgraduate education	68	55	-13
College graduate only	67	44	-23
Some college	59	44	-15
High school graduate or less	62	40	-22
Conservative	48	30	-18
Moderate	67	48	-19
Liberal	78	67	-11
Republican	44	28	-16
Independent	61	38	-23
Democrat	81	66	-15
Gun Owner	40	20	-20
Gun non-owner	76	57	-19

GALLUP POLL

(Gallup Poll, 2009)

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