

HANDGUN VIOLENCE, PUBLIC HEALTH, and the LAW

Firearms were used to kill 30,143 people in the United States in 2005, the most recent year with complete data from the Centers for Disease Control and Prevention.[1] A total of 17,002 of these were suicides, 12,352 homicides, and 789 accidental firearm deaths. Nearly half of these deaths occurred in people under the age of 35. When we consider that there were also nearly 70,000 nonfatal injuries from firearms, we are left with the staggering fact that 100,000 men, women, and children were killed or wounded by firearms in the span of just one year. This translates into one death from firearms every 17 minutes and one death or nonfatal injury every 5 minutes.

By any standard, this constitutes a serious public health issue that demands a response not only from law enforcement and the courts, but also from the medical community. In this issue of the Journal,[2] Wintemute provides an analysis of the important public health implications of gun violence in America.

On March 18, the U.S. Supreme Court heard oral arguments in *District of Columbia v. Heller*,[3] which questions the constitutionality of the District's 1976 statutes banning or otherwise controlling handguns. A lower federal court struck down the statutes, ruling that the Second Amendment protects an individual right to keep and bear arms. The District of Columbia then appealed to the Supreme Court. The Court's decision in this case is likely to have major impact on handgun-control laws throughout the country. As noted by Wintemute, a court

decision that broadened gun rights “could weaken the framework of ordered liberty.”

The Second Amendment to the U.S. Constitution states that “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.” These 27 words have been the focus of endless analysis. Do they protect an individual right to arms? Or only the collective right of a state militia? Gun-rights advocates staunchly adhere to the first interpretation, and proponents of gun control favor the second. As noted by Tushnet,[4] a distinguished legal scholar, in this issue of the Journal, the language of the Second Amendment can be interpreted to provide substantial support for both points of view.

Whether the right to keep and bear arms is individual or collective, there has been overwhelming agreement for more than two centuries that government has a legitimate interest in regulating the kinds of arms that are protected. As with other fundamental rights guaranteed by the Constitution, such as speech and assembly, government has wide latitude with regard to regulation. Like the right to free speech, which is not unlimited, the right to keep and bear arms has been subjected to close regulation throughout our nation's history. As Justice Breyer pointed out during the oral arguments, “Blackstone [in his Commentaries on the Laws of England, 1765–1769] describes it as a right to keep and bear arms ‘under law.’ And since he uses the words ‘under law,’ he clearly foresees reasonable regulation of that right.”

In deciding on the constitutionality of the District of Columbia statutes, we hope that the justices will consider not only the intricacies and ambiguities of language in the Second Amendment but also the potential public health consequences, as outlined by Hemenway[5] in a Journal audio interview, of a decision to uphold the lower court's ruling. Polls continue to show that a majority of Americans favor the regulation of firearms to prevent injury and death. What would be the consequences to the public welfare of reopening the District of Columbia to handguns? We can only speculate about the human and economic costs. Health care professionals, whose responsibility it is to treat the wounded and the dying, have special reason to be concerned.

Source

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References

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2 Wintemute GJ. Guns, fear, the Constitution, and the public's health. *N Engl J Med* 2008;358:1421-4.

3 District of Columbia v. Heller, No. 07-290 (2007).

4 Tushnet M. Interpreting the right to bear arms — gun regulation and constitutional law. N Engl J Med 2008;358:1424-6.

5 Hemenway D. Gun violence in the United States. N Engl J Med 2008 (Web only). (Available at <http://content.nejm.org/cgi/content/full/NEJMe0802118/DC1>.)

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