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THE EXCHANGE

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A MARKETPLACE OF STUDENT IDEAS



 SCHOLASTIC

“Can government
prohibit citizens
from owning
handguns?”

Can government prohibit citizens from owning handguns?

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

- Second Amendment to the Constitution

The debate about the Second Amendment is once again in the national spotlight, as the Supreme Court considers whether the Second Amendment right to keep and bear arms applies to the states as well as to the federal government. The question presented to the Court is whether the Second Amendment right to keep and bear arms is incorporated against the states by the Fourteenth Amendment's "Due Process Clause."

In 2008, in *District of Columbia v. Heller*, the Supreme Court declared that the Second Amendment protects an individual's right to possess a firearm, unconnected to service in a militia, and protects the right to use that firearm for lawful purposes such as



self-defense within the home. The Court specifically held that the Second Amendment protects a personal right to bear arms in federal territories. Therefore, according to the Court, Congress is powerless to ban handguns in all areas over which it has direct administrative authority, such as Washington, D.C., and national parks.

Now in *McDonald v. Chicago*, the Court is being asked to decide whether the Second Amendment extends this right beyond federal

territories to the states and whether it is applicable to handgun possession outside the home. At issue is whether the individual right to bear arms must be honored by the states and how broadly this right should be construed.

Now it's your turn to answer the question:

Can government prohibit citizens from owning handguns?

YES

- Even fundamental rights like the right to vote and the right to free speech can be restricted in certain cases. The right to possess firearms can also be limited by city, state or federal governments.
- Government has an intrinsic duty to protect its citizenry by banning weapon types it deems dangerous to the public safety.
- The Second Amendment was written in a different time, and its authors could not foresee the changes that have taken place in society. Widespread handgun ownership is now more a danger to, than a guarantee of, public safety.

NO

- Though some regulation on gun ownership may be reasonable, no government can prohibit the basic right of an individual to own a gun for self-defense.
- Citizens should have the ability to defend their lives, liberty, and property.
- The Founders knew what they were doing when they wrote the Second Amendment. Gun ownership today—including handgun ownership—remains as fundamental to the preservation of liberty as it was in the eighteenth century.

INTRODUCTION

Grades:

High School

Classroom Time:

45 minutes

Constitution Connections:

- Second Amendment
- Fourteenth Amendment's Due Process Clauses

Materials:

- Student Handout 1
- Student Handout 2
- Student Handout 3
- Student Worksheet

NCSS Standards:

- II
Time, Continuity and Change
- VI
Power, Authority and Governance
- X
Civic Ideals and Practices

National Standards for Civics and Government:

- NSS-C.9-12.1
Civic Life, Politics and Government
- NSS-C.9-12.2
Foundations of the Political System
- NSS-C.9-12.3
Principles of Democracy
- NSS-C.9-12.5
Roles of the Citizen

National Standards for History:

- NSS-US.5-12.10
Contemporary United States

Author:

Jason E. Allen, National Student Programs Manager, National Constitution Center

Scholarly Advisor:

Joyce Lee Malcolm. Ph D., Professor of Law at George Mason University School of Law

About this lesson

This research and deliberation activity encourages students to look at the issue of gun control from different points of view. Then, through deliberation, they will find political measures to address this issue. In any deliberation activity, compromise and listening will play a key role in finding common ground. This lesson is designed to promote an atmosphere of mutual respect for differing points of view on controversial issues.

Objectives

Students will be able to evaluate multiple points of view on the issue of gun control and determine what can be done to find common ground between those who have differing views on whether or not government can prohibit citizens from owning handguns.

What is deliberation?

The framers of the Constitution envisioned deliberation among a diverse citizenry who disagreed on issues because they felt that, through compromise, Americans could find ways to promote the common good.

Deliberation is often confused with debate, but the two are different. Debate creates a dichotomy while deliberation allows for careful consideration of many points of view, so the best choice can be made. Essentially, debate is competitive, focusing on who is right and who is wrong, while deliberation allows for compromise and consensus.

Deliberation is focused around an issue, generally laws or policy, though it can also include public behavior and cultural practices. The Town Hall Wall deliberation method offers multiple points of view and then encourages a conversation around the pros and cons of each perspective in an atmosphere of mutual respect.

Call to Action

Encourage your students to contact their elected representatives and local media about their opinions on this issue at www.constitutioncenter.org/exchange.

Resources

Links to the documents used in this lesson and extension readings for this lesson are available at the National Constitution Center's website at: www.constitutioncenter.org/exchange.

OPENING: TOWN HALL WALL

1. Display the **Town Hall Wall** poster so all of your students can see it. Next, have them read the description of the issue and the question. Give each student a sticky note and instruct them to write **Yes** or **No** to answer the question, and place it on the Town Hall Wall poster in the appropriate column.

Q: Can government prohibit citizens from owning handguns?

Students answer **Yes** or **No**.

VALUES: CONSTITUTION AND QUOTES

2. Pass out **Student Handout 1** and have students read it. As a class, review the guidelines for deliberation and discuss the idea of using values in deliberations.
3. Distribute **Student Handout 2**. Have students read the handout and circle or write in the margins words that reflect the values expressed in the **Second** and the **Fourteenth Amendments** to the Constitution and the Quotes to Consider.
4. Ask your students to share with the class the values they found that were reflected in **Student Handout 2**. Record their answers for the class to see. If the same values are given more than once, then mark them with a star to determine the values with which the majority of the class agrees. These values will be used in Step 7.

POINTS OF VIEW

5. Pass out **Student Handout 3**. Have students read each of the four **Points of View** and circle which they support (students may choose more than one or write their own Point of View on the issue).
6. Provide each student with the **Student Worksheet** and instruct them to complete it.

DELIBERATION

7. Ask your students the following questions. Record their answers for the class to see.

A. What values are evident in each Point of View?

Have students refer to values that were discussed with **Student Handout 2** and categorize these values under the applicable Point of View. Some values will apply to more than one Point of View. If the same values are given more than once, mark them with a star to determine the values with which the majority of the class agrees.

B. In your opinion, what is the most serious potential consequence of each Point of View?

Students should cite consequences from **Student Handout 3** or share any other potential consequences they have thought of.

C. What values do the Points of View have in common?

Use values that have previously been listed to help students find common ground.

D. What tensions or conflicts exist between the Points of View?

Ask your students to compare the lists of values to identify the tensions and conflicts.

E. What, if any, compromises are supporters of each of the Points of View willing to make?

Ask students to use evidence and values that were previously listed to support their answers.

F. Can government prohibit citizens from owning handguns? Explain your answer.

Students should use evidence and values that were previously listed to support their answers.

DEBRIEFING: POINTS OF VIEW AND CALL TO ACTION

Encourage your students to express their own Point of View on the question posed at the start of this lesson, “Can government prohibit citizens from owning handguns?” Students should consider opposing viewpoints expressed during the deliberation and ask themselves whether their opinion on the issue has changed at all.

Every student should be encouraged to create their own Point of View on the question, “Can government prohibit citizens from owning handguns?” Students can then go to <http://capwiz.com/constitutioncenter/home> and send their Point of View to their elected representatives and local media.

Your class can continue the conversation by taking our interactive **Web Poll** at <http://constitutioncenter.org/exchange-survey> and see how other students around the country voted on the issues as part of our ongoing conversation at **The Exchange**.

MODIFICATION

To find primary source research documents about this issue, go to www.constitutioncenter.org/exchange, click on the link for “Can government prohibit citizens from owning handguns?” and download the Research Documents.

STUDENT HANDOUT 1

ADVICE TO STUDENTS FOR CONSTITUTIONAL DELIBERATION

The National Constitution Center is located in Philadelphia, just a few hundred yards from Independence Hall, where the Constitution of the United States was written and signed during the summer of 1787. The men who came to Philadelphia that summer did so because they knew the direction of the country they loved needed to change. They deliberated for nearly four months and created a document that none thought was perfect. But they put forward a challenge to future generations: keep working towards the creation of a “more perfect Union.” The Center was created to support this challenge and encourages students to walk in the steps of the founders and deliberate the issues that will shape the future of our country.

The guidelines presented below have been created to provide you with advice and ideas on how to both present your arguments and hear those of others. The advice below was inspired by the rules adopted by the Constitutional Convention, as presented by George Wythe of Virginia on May 28, 1787.

- Think through your idea before presenting it to the group; you may wish to make a few notes on paper to ensure your idea is clear.
- Listen carefully to other ideas and consider how to incorporate them into your own.
- When you are not speaking, do not have other side conversations, read a book or document, or distract the speaker in another way.
- When challenging an idea, focus on the idea, not the person you are challenging.
- Use the Constitution as support for your ideas; refer to the text and use it as a tool to support your argument.
- Do not dominate the conversation, and do not speak more than twice before allowing everyone else the opportunity to be heard.
- Present your ideas directly to the facilitator or group leader.
- When developing your argument, consider the position of the other side, and use these ideas to support or build compromise into your position.
- Wait to be acknowledged by the facilitator before speaking.

VALUES

The U.S. Constitution is one of our nation’s founding documents. We look to it to understand the supreme law of the land. But we can also read it to discover the values of our democracy, such as limited government, equality, freedom, individual rights, justice, and the rule of law.

While constitutional values bind us as Americans, their application to particular issues is frequently subject to sharp debate. Moreover, values are sometimes in competition. Competing values should be considered in your deliberation—even if they create tension.

In a deliberation, it is important to consider the basic values that should be upheld by everyone. By considering a variety of values, we can understand one another better in the search for common ground. As your class discusses the perspectives, you may find yourself agreeing with more than one of them. Feel free to combine perspectives, and to describe new points of view.

STUDENT HANDOUT 2

The Constitution

Second Amendment	A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms shall not be infringed.
Fourteenth Amendment's Due Process Clause	Nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

To learn more, visit the National Constitution Center's Interactive Constitution at:
<http://constitutioncenter.org/constitution>

QUOTES TO CONSIDER

This municipal government (of the City of Chicago) regulates who may possess a firearm within the City limits of Chicago....It is well within the purview of this Council to further regulate the possession and registration of firearms in our City...

No registration certificate shall be issued for any of the following types of firearms: Handguns, except those validly registered to a current owner in the City of Chicago prior to the effective date of this chapter, and those which contain...the following: A safety mechanism to hinder the use of the handgun by unauthorized users....

Failure to comply with the requirement for renewal of registration of a firearm shall cause that firearm to become unregistrable.

—Chicago Municipal Code sections: 8-20-030; 8-20-050(c); and 8-20-200(c) (1982)

Retrieved from www.chicagofop.org/Updates/2008/_/retiree_firearms_ordinance.pdf

The very text of the Second Amendment implicitly recognizes the pre-existence of the right and declares only that it "shall not be infringed." As we said in *United States v. Cruikshank* (1876), "[t]his is not a right granted by the Constitution. Neither is it in any manner dependent upon that instrument for its existence...." By the time of the founding, the right to have arms had become fundamental for English subjects.

A constitutional guarantee subject to future judges' assessments of its usefulness is no constitutional guarantee at all. Constitutional rights are enshrined with the scope they were understood to have when the people adopted them, whether or not future legislatures or (yes) even future judges think that scope too broad.

—Supreme Court Justice Antonin Scalia's majority opinion in *District of Columbia v. Heller* (2008)

Retrieved from www.supremecourtus.gov/opinions/07pdf/07-290.pdf

The Second Amendment was adopted to protect the right of the people of each of the several States to maintain a well-regulated militia. It was a response to concerns raised during the ratification of the Constitution that the power of Congress to disarm the state militias and create a national standing army posed an intolerable threat to the sovereignty of the several States....There is no indication that the Framers of the Amendment intended to enshrine the common-law right of self-defense in the Constitution.

—Supreme Court Justice John Paul Stevens' dissenting opinion in *District of Columbia v. Heller* (2008)

Retrieved from www.supremecourtus.gov/opinions/07pdf/07-290.pdf

The [D.C.] law concerns handguns, which are specially linked to urban gun deaths and injuries, and which are the overwhelmingly favorite weapon of armed criminals; and at the same time, the law imposes a burden upon gun owners that seems proportionately no greater than restrictions in existence at the time the Second Amendment was adopted. In these circumstances, the District's law falls within the zone that the Second Amendment leaves open to regulation by legislatures.

The Amendment protects an "individual" right—i.e., one that is separately possessed, and may be separately enforced, by each person on whom it is conferred....The right protected by the Second Amendment is not absolute, but instead is subject to government regulation.

—Supreme Court Justice Stephen Breyer's dissenting opinion in *District of Columbia v. Heller* (2008)

Retrieved from www.supremecourtus.gov/opinions/07pdf/07-290.pdf

STUDENT HANDOUT 3

Point of View 1

Government should have the power to ban handguns because the right of law-abiding, responsible citizens to use arms for self-defense is not a fundamental constitutional right. Limiting gun violence is a legitimate government purpose.

Potential Negative Consequences

Possibly allows the government to violate a constitutionally protected fundamental right.

Reduces the options citizens have to protect their lives, liberty, and property.

Point of View 2

Government should not be able to ban handguns, but should be able to regulate handgun possession as strictly as it deems necessary. Handguns are the weapon of choice for criminals in the commission of crimes and have contributed to criminal activity, especially in our nation's cities. The level of violent crime within some communities necessitates severe regulation of handguns. State and local governments that decide to implement strict handgun laws that severely limit handgun ownership, like Chicago, are doing so as the elected representatives of the people.

Potential Negative Consequences

Possibly allows the government to restrict a constitutionally protected fundamental right.

Reduces the options citizens have to protect their lives, liberty, and property.

Point of View 3

Government should not be able to prohibit handgun ownership because the right to bear arms is a fundamental, individual right protected by the Constitution from federal, state and local government infringement. This right is unconnected to militia service and is vital to the preservation of liberty. Giving the government the power to ban handgun ownership is the beginning of a slippery slope toward government control of all gun ownership.

Potential Negative Consequences

Government would no longer have the authority to balance the right to bear arms against requirements of public safety.

May cause a rise in crime.

STUDENT WORKSHEET

Name:

Date:

QUESTIONS TO CONSIDER:

1. Has the issue of handguns affected you or someone you know? If so, explain how.
Think about how your experience has affected your values regarding hand guns.

2. List at least one value that is evident in each of the Points of View.

Point of View 1

Point of View 2

Point of View 3

3. In your opinion, what is the most serious potential consequence of each Point of View?

Point of View 1

Point of View 2

Point of View 3

4. What values do the Points of View have in common?

WE THE PEOPLE

Our country faces enormous challenges both foreign and domestic. We need citizens who believe that democracy demands more than voting. A sustainable democracy needs citizens who believe in taking part in our nation's political, social and economic discourse. The responsibility for maintaining a democracy that protects the freedoms enshrined in our Constitution is in the hands of the people.

That is why Benjamin Franklin's words at the close of the Constitutional Convention of 1787 still ring true today:

“A Republic, if you can keep it...”

BE HEARD

Now your students can experience an innovative way to deliberate current constitutional issues with other high school students across the nation that is free of charge.

The Exchange is a dynamic way for high school students to discover how their peers in their classroom and other parts of the country view important issues facing the nation. Past topics include: *Is the Constitution Color-Blind?; Should a clean and healthy environment be a constitutional right?; Should the U.S. reduce immigration?; Should the government make sure that every American has affordable health insurance?; Should same-sex couples have the right to marry?; Should a year of national service be required for all Americans?*

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- Interest in constitutional issues
- Internet connectivity

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