United States 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.

Supreme Court of the United States (SCOTUS):

There are four SCOTUS cases that define the 2nd Amendment to the US Constitution. Summaries are listed below. The cases listed in descending order from 2022, 2010, 2008 and 1939. The most recent three cases build from the 1939 Miller vs US case. This case sets the term "in common use at the time" which appears in all three subsequent cases.

NEW YORK STATE RIFLE & PISTOL ASSOCIATION, INC., ET AL. v. BRUEN, SUPERINTENDENT OF NEW YORK STATE POLICE, ET AL-

https://www.supremecourt.gov/opinions/21pdf/20-843_new_m648.pdf (final opinión)
https://www.supremecourt.gov/oral_arguments/audio/2021/20-843 (oral arguments)

Case: The State of New York makes it a crime to possess a firearm without a license, whether inside or outside the home. An individual who wants to carry a firearm outside his home may obtain an unrestricted license to "have and carry" a concealed "pistol or revolver" if he can prove that "proper cause exists" for doing so. N. Y. Penal Law Ann. §400.00(2)(f).An applicant satisfies the "proper cause" requirement only if he can "demonstrate a special need for self-protection distinguishable from that of the general community." E.g., In re Klenosky, 75 App. Div. 2d 793, 428 N. Y. S. 2d 256, 257.

HELD:

1. New York's proper-cause requirement violates the Fourteenth Amendment by preventing law-abiding citizens with ordinary self-defense needs from exercising their Second Amendment right to keep and bear arms in public for self-defense. Pp. 8–63..
2. (1) Since Heller and McDonald, the Courts of Appeals have developed a "two-step" framework for analyzing Second Amendment challenges that combines history with means-end scrutiny. The Court rejects that two-part approach as having one step too many. Step one is broadly consistent with Heller, which demands a test rooted in the Second Amendment's text, as informed by history. But Heller and McDonald do not support a second step that applies means-end scrutiny in the Second Amendment context. Heller's methodology centered on constitutional text and history. It did not invoke any means-end test such as strict or intermediate scrutiny, and it expressly rejected any interest-balancing inquiry akin to intermediate scrutiny. Pp. 9–15. *(This paragraph is the lead of five paragraphs that addresses the test to be applied by lower courts when assessing the constitutionality of firearms statutes. This restructures the judicial boundaries to ONLY consider the text of the constitution and the typical firearms regulations in affect at the time of the constitution's ratification in 1791 and the ratification of the 14th Amendment in 1868).*

Summary Opinion (last two paragraphs of Syllabus):

The constitutional right to bear arms in public for self-defense is not "a second-class right, subject to an entirely different body of rules than the other Bill of Rights guarantees." McDonald, 561 U. S., at 780 (plurality opinion). We know of no other constitutional right that an individual may exercise only after demonstrating to government officers some special need. That is not how the First Amendment works when it comes to unpopular speech or the free exercise of religion. It is not how the Sixth Amendment works when it comes to a defendant's right to confront the witnesses against him. And it is not how the Second Amendment works when it comes to public carry for self-defense.

New York's proper-cause requirement violates the Fourteenth Amendment in that it prevents law-abiding citizens with ordinary self-defense needs from exercising their right to keep and bear arms. We therefore reverse the judgment of the Court of Appeals and remand the case for further proceedings consistent with this opinion.

Total decision consists of 83 pages. Dissenting opinion consists of 52 pages.

Majority (6) – THOMAS (opinion) with JUSTICE ALITO, concurring; JUSTICE KAVANAUGH, with whom THE CHIEF JUSTICE ROBERTS joins, concurring; JUSTICE BARRETT, concurring.

Dissenting (3) - JUSTICE BREYER, with whom JUSTICE SOTOMAYOR and JUSTICE KAGAN join, dissenting.

This decision makes clear that the bearing of arms outside the home for self-defense is a constitutionally protected act. It further makes clear that all assessments of constitutionality must be against the clear wording of the constitution and their meaning in affect at the time of ratification of the Bill of Rights and 14th Amendment.

MCDONALD ET AL. v. CITY OF CHICAGO, ILLINOIS, ET AL. (Decided 28 June 2010)
https://www.supremecourt.gov/opinions/09pdf/08-1521.pdf

Case Summary: …. Chicago (hereinafter City) and the village of Oak Park, a Chicago suburb, have laws effectively banning handgun possession by almost all private citizens… Rejecting petitioners' argument that the ordinances are un-constitutional, the court noted that the Seventh Circuit previously had upheld the constitutionality of a handgun ban, that Heller had explicitly refrained from opining on whether the Second Amendment applied to the States, and that the court had a duty to follow established Circuit precedent. The Seventh Circuit affirmed….

HELD: In Heller, we held that the Second Amendment protects the right to possess a handgun in the home for the purpose of self-defense. Unless considerations of stare decisis counsel otherwise, a provision of the Bill of Rights that protects a right that is fundamental from an American perspective applies equally to the Federal Government and the States. We therefore hold that the Due Process Clause of the Fourteenth Amendment incorporates the Second Amendment right recognized in Heller. The judgment of the Court of Appeals is reversed, and the case is remanded for further proceedings.

KEY – Incorporates the 2nd Amendment Right as applicable to the States.

Majority (5) - ALITO, J., announced the judgment of the Court and delivered the opinion of the Court with respect to Parts I, II–A, II–B, II–D, III–A, andIII–B, in which ROBERTS, C. J., and SCALIA, KENNEDY, and THOMAS, JJ., joined, and an opinion with respect to Parts II–C, IV, and V, in which ROBERTS, C. J., and SCALIA and KENNEDY, JJ., join. SCALIA, J., filed a concurring opinion. THOMAS, J., filed an opinion concurring in part and concurring in the judgment.

Justice THOMAS's concurring opinion is important to read – it is a "tour de force" on the 14th Amend, concludes the right is incorporated to the states via "privileges and immunities" of citizenship, not "due process".

Dissenting (4) - STEVENS, J., filed a dissenting opinion. BREYER, J., filed a dissenting opinion, in which GINSBURG and SOTOMAYOR, JJ., joined.

District of Columbia, et al. vs Heller (Decided 26 June 2008)
https://www.supremecourt.gov/opinions/07pdf/07-290.pdf

Case Summary: District of Columbia law bans handgun possession by making it a crime to carry an unregistered firearm and prohibiting the registration of handguns; provides separately that no person may carry an unlicensed handgun….Respondent Heller, a D. C. special policeman, applied to register a handgun he wished to keep at home, but the District refused… The District Court dismissed the suit, but the D. C. Circuit reversed, holding that the Second Amendment protects an individual's right to possess firearms and that the city's total ban on handguns, as well as its requirement that firearms in the home be kept nonfunctional even when necessary for self-defense, violated that right.

HELD:

1. The Second Amendment protects an individual right to possess a firearm unconnected with service in a militia, and to use that arm for traditionally lawful purposes, such as self-defense within the home.
2. Like most rights, the Second Amendment right is not unlimited. It is not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose: ….. ***Miller's*** holding that the sorts of weapons protected are those "in common use at the time" finds support in the historical tradition of prohibiting the carrying of dangerous and unusual weapons.
3. The handgun ban and the trigger-lock requirement (as applied to self-defense) violate the Second Amendment. …

Majority (5) – Scalia (opinion) with Roberts, Kennedy, Thomas and Alito joined.
Dissenting (4) - opinion by Stevens (with Souter, Ginsberg and Breyer joined) and opinion by Breyer which Stevens, Souter and Ginsburg joined.

United States vs. Miller, et al (1939)-
http://cdn.loc.gov/service/ll/usrep/usrep307/usrep307174/usrep307174.pdf

Case: The National Firearms Act, as applied to one indicted for transporting in interstate commerce a 12-gauge shotgun with a barrel less than 18 inches long, without having registered it and without having in his possession a stamp-affixed written order for it, as required **by** the Act,

HELD:
1. Not unconstitutional as an invasion of the reserved powers of the States. Citing *Sonzinsky* v. *United States,* 300 U. **S.** 506, and Narcotic Act cases. P. 177.
2. Not violative of the Second Amendment of the Federal Constitution. P. 178.

The Court can not take judicial notice that a shotgun having a barrel less than 18 inches long has today any reasonable relation to the preservation or efficiency of a well-regulated militia; and therefore can not say that the Second Amendment guarantees to the citizen the right to keep and bear such a weapon.

Total decision consists of 10 pages. Page five cites:

In the absence of any evidence tending to show that possession or use of a "shotgun having a barrel of less than eighteen inches in length" at this time has some reasonable relationship to the preservation or efficiency of a well-regulated militia, we cannot say that the Second Amendment guarantees the right to keep and bear such an instrument. Certainly it is not within judicial notice that this weapon is any part of the ordinary military equipment or that its use could contribute to the common defense.

Remaining pages outline the requirement of citizens to provide their own arms for militia service and local laws typically specified the type of arm to be carried. These were state of the art weapons suitable for military service.

The Federalist - https://www.congress.gov/resources/display/content/The+Federalist+Papers

Federalist #46 focuses on The Influence of the State and Federal Governments Compared. It addresses (1) the ability of the militia to defend against a rogue standing army or otherwise despotic government; (2) the advantage that Americans are armed and thus able to make this concept a reality.

Federalist #46 states in part:

Extravagant as the supposition is, let it however be made. Let a regular army, fully equal to the resources of the country, be formed; and let it be entirely at the devotion of the federal government; still it would not be going too far to say, that the State governments, with the people on their side, would be able to repel the danger.

The highest number to which, according to the best computation, a standing army can be carried in any country, does not exceed one hundredth part of the whole number of souls; or one twenty-fifth part of the number able to bear arms. This proportion would not yield, in the United States, an army of more than twenty-five or thirty thousand men. To these would be opposed a militia amounting to near half a million of citizens with arms in their hands, officered by men chosen from among themselves, fighting for their common liberties, and united and conducted by governments possessing their affections and confidence. It may well be doubted, whether a militia thus circumstanced could ever be conquered by such a proportion of regular troops. Those who are best acquainted with the last successful resistance of this country against the British arms, will be most inclined to deny the possibility of it.

"*Besides the advantage of being armed, which the Americans possess over the people of almost every other nation, the existence of subordinate governments, to which the people are attached, and by which the militia officers are appointed, forms a barrier against the enterprises of ambition, more insurmountable than any which a simple government of any form can admit of. … in the several kingdoms of Europe … the governments are afraid to trust the people with arms.*"

Federalist #29 (Concerning the Militia) uses the word "trust" regarding the trust of our citizens as a foundational concept. Federalist #29 includes "*Where in the name of common-sense, are our fears to end if we may not trust our sons, our brothers, our neighbors, our fellow-citizens? What shadow of danger can there be from men who are daily mingling with the rest of their countrymen and who participate with them in the same feelings, sentiments, habits and interests*?"

The US Military has approximately 2 million members and there are about 3 million law enforcement personnel. There are almost 500 million privately owned firearms in America, half of which are semi-automatic, owned by about 120 million citizens. Armed civilians outnumber the military by about 25 to 1.

The Virginia Pro-2nd Amendment Rally on 20 January 2020 at the state capital in Richmond had well over 22,000 protestors, with up to 16,000 being armed, many with two guns. That is at least 30,000 firearms contained in a six block area and held by private citizens. This is the equivalent of over four Infantry Brigades and eight times the size of the combat force of those brigades. At the end of the rally the protestors picked up the trash and left the six block area cleaner than when they arrived. This is the intent of Federalist #46 with regard to serving as a check on a despotic government.
https://www.nbcnews.com/news/us-news/tense-virginia-rally-gun-rights-supporters-chant-we-will-not-n1118811?cid=sm_npd_nn_fb_ma&sfns=mo

PA Constitution, Article 1 Declaration of Rights, Section 21 –

The right of the citizens to bear arms in defense of themselves and the State shall not be questioned.

https://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=00&div=0&chpt=1

Key Quotes on the structure of the militia:

Our founders further believed all citizens eligible for militia service should privately possess arms. Richard Henry Lee wrote in The Pennsylvania Gazette on 20 February 1788 that *"Whereas, to preserve liberty, it is essential that the whole body of the people always possess arms, and be taught alike, especially when young, how to use them."*

Patrick Henry is quoted in 3 Elliot, Debates in the Several State Conventions 45, 2nd Edition, Philadelphia, 1836 that *"The great object is, that every man be armed … Every one who is able may have a gun."*

Tench Coxe, Pennsylvania Delegate to the Continental Congress, written 1788
"*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 shall have no power to disarm the militia. Their swords, and every other terrible implement of the soldier, are the birth-right of an American ... The 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*." (https://web.archive.org/web/20200629211553/http://constitution.org/mil/cs_milit.htm)

George Mason, in Debates in Virginia Convention on Ratification of the Constitution, Elliot, Vol. 3, June 16, 1788, (https://web.archive.org/web/20200629211553/http://constitution.org/mil/cs_milit.htm)
"*I ask, sir, what is the militia? It is the whole people, except for a few public officials*."

Our founders further intended Militia officers to be locally selected. Today's National Guard officers are approved by the federal government and their units possess only a small amount of training ammunition stored at distant locations. All combat ammunition is controlled by the Federal Government on Active Army installations. This is not the militia our founders envisioned in the role of a check on government abuses.

Chief Justice Joseph Story wrote in 1833 "*…The militia is the natural defence of a free country against sudden foreign invasions, domestic insurrections, and domestic usurpations of power by rulers…..The right of the citizens to keep and bear arms has justly been considered, as the palladium of the liberties of a republic; since it offers a strong moral check against the usurpation and arbitrary power of rulers; and will generally, even if these are successful in the first instance, enable the people to resist and triumph over them….There is certainly no small danger, that indifference may lead to disgust, and disgust to contempt; and thus gradually undermine all the protection intended by this clause of our national bill of rights.*"

Justice Story makes the intent clear – to protect against tyranny both external and internal. However, he voiced strong concern that our citizenry would tire of the responsibility of arms.

Laws bypassing our constitution inflict grave harm to the fundamental fabric of our governing structure. The protections embedded in our constitution evaporate and the document becomes whatever you want it to say – in essence it becomes meaningless.

Key components of Right as understood by the founders:

A) Enables capacity to form the Militia to deter/fight an <u>external threat</u>.
B) Enables capacity to form the Militia as a check on <u>despotic government</u>.
C) Enshrines the <u>right of self-defense</u> independent of militia service.
D) Weapons protected are those in "<u>common use at the time</u>".
E) The militia was formed locally with officers chosen by the state (technically no longer true).
F) The most significant aspect of the right to keep and bear arms is the assumption of "trust" in the citizens of the United States that they are by and large trustworthy and of good judgement (see Federalist #29).

Chief Justice Joseph Story stated in 1833 "*The importance of this article will scarcely be doubted by any persons, who have duly reflected upon the subject. The militia is the natural defence of a free country against sudden foreign invasions, domestic insurrections, and domestic usurpations of power by rulers. It is against sound policy for a free people to keep up large military establishments and standing armies in time of peace, both from the enormous expenses, with which they are attended, and the facile means, which they afford to ambitious and unprincipled rulers, to subvert the government, or trample upon the rights of the people. The right of the citizens to keep and bear arms has justly been considered, as the palladium of the liberties of a republic; since it offers a strong moral check against the usurpation and arbitrary power of rulers; and will generally, even if these are successful in the first instance, enable the people to resist and triumph over them. And yet, though this truth would seem so clear, and the importance of a well regulated militia would seem so undeniable, it cannot be disguised, that among the American people there is a growing indifference to any system of militia discipline, and a strong disposition, from a sense of its burthens, to be rid of all regulations. How it is practicable to keep the people duly armed without some organization, it is difficult to see. There is certainly no small danger, that indifference may lead to disgust, and disgust to contempt; and thus gradually undermine all the protection intended by this clause of our national bill of rights.*" http://press-pubs.uchicago.edu/founders/documents/amendIIs10.html

Title 10, US Code defines the Militia as follows (https://www.law.cornell.edu/uscode/text/10/246):

(A) The militia of the United States consists of all able-bodied males at least 17 years of age and, except as provided in section 313 of title 32, under 45 years of age who are, or who have made a declaration of intention to become, citizens of the United States and of female citizens of the United States who are members of the National Guard.

(B) The classes of the militia are—

(1) the organized militia, which consists of the National Guard and the Naval Militia; and

(2) the unorganized militia, which consists of the members of the militia who are not members of the National Guard or the Naval Militia.

Every Communist must grasp the truth, "Political power grows out of the barrel of a gun."

"Problems of War and Strategy" (November 6, 1938), *Selected Works of Chairman Mao Tse-Tung,* Vol. II, p. 224. (http://www.art-bin.com/art/omao5.html)

"The most foolish mistake we could possibly make would be to allow the subject races to possess arms. History shows that all conquerors who have allowed their subject races to carry arms have prepared their own downfall by so doing."

– Adolph Hitler, Hitler's Secret Conversations 403 (Norman Cameron and R.H. Stevens trans., 1961) https://walterewilliams.com/quotations/arms/

2nd Amendment Information

Definitions:

There are approximately 20 million concealed carry license holders throughout the United States. Approximately 250 million citizens are legally allowed to possess a firearm (excluding criminals and children). Approximately 15% of eligible adults in the USA are licensed to carry a concealed firearm. The estimates in the link below are over a year old so an increase of carry permit holders by an additional million is very likely. https://crimeresearch.org/2019/10/new-concealed-carry-report-for-2019-18-66-million-permit-holders-despite-16-constitutional-carry-states-over-1-4-million-more-than-last-year/

Carry Conceal License – available in approximately 45 states.

- **May Issue** – discretionary issue states restrict licenses to those who demonstrate a "need" to an official with discretion to deny an application based upon a "needs" test. In most cases, it was nearly impossible to get a permit. These discretionary systems were found unconstitutional with the June 2022 SCOTUS Decision NYSRPA vs Bruen decision cited on the first page of this paper. During consideration of NYSRPA vs Bruen, there were eight "may issue" states - NJ, NY, MA, MD, CA, CT, DE and HI.
- **Must issue** – Mandatory issue of permit if individual meets basic requirements to possess firearms. PA is a Must Issue state. As of June 2022, 40 states, PR and DC had mandatory issue requirements. Some states require a specific level of training or demonstrated proficiency. Military or law enforcement training often satisfies this requirement. After the NYSRPA vs Bruen decision, all states must now operate as "must issue" jurisdictions.
- **Reciprocity** – legal term for recognition of an out of state license. PA has reciprocity with 32 states. The PA Attorney General's office manages reciprocity and information can be found at https://www.attorneygeneral.gov/resources/concealed-carry-reciprocity/

https://www.usconcealedcarry.com/resources/terminology/types-of-concealed-carry-licensurepermitting-policies/shall-issue/

Constitutional Carry – Allows citizens who are not otherwise prohibited from gun ownership to carry a concealed weapon without the requirement for a license. 29 states are constitutional carry (AK, AL, AZ, AR, FL, GA, IA, ID, IN, KS, KY, LA, ME, MO, MS, MT, NE, NH, ND, OH, OK, SC, SD, TN, TX, UT, VT, WV, WY). Additional states are considering legislation.

Preemption – State laws that retain authority for firearms regulation at the state level. Preemption laws maintain a consistent standard across the state and prevent a "patchwork of laws". PA has statewide preemption. VA and CO have repealed preemption. This reduces the value of the Carry Permit via the patchwork of local laws prohibiting carry of a firearm under selected circumstances that differ by jurisdiction.

Red Flag Laws – (Extreme Risk Protection Orders)

Intent: Use legal system to remove firearms from those deemed a danger to themselves or others quickly using a court order.

Implementation: Petitioner submits affidavit to local judge who then evaluates the petition usually using "preponderance of the evidence" (lowest standard) and issues a temporary confiscation order. A hearing is then conducted, usually within two weeks of firearms seizure, to review the order at either "beyond a reasonable doubt" or "clear and convincing" evidence standard. If at

the higher level of evidence, it is determined the defendant is a risk, the order remains in force for at least a year and sometimes is permanent. Most states have no provision to address false accusations.

Constitutional Issues – The defendant finds out about a "red flag" order when law enforcement shows up on their doorstep to confiscate their firearms. This is the exact opposite of due process as guaranteed in the 5th and 14th Amendments.

General Issues –

A) No actual law broken – confiscation based on "possibility" of future illegal conduct.
B) Defendant pays all legal costs – storage of firearms, defense attorney and any other costs
C) Generally, no counter-suit ability.
D) Ripe for misuse and abuse (see MD, FL, NY and NJ)
E) High risk for law enforcement and defendant during service for confiscation.

Spouse Protection Orders – Many states including PA have laws similar to "Red Flag Laws" that are only actionable between spouses. The defendant finds out about the order when law enforcement serves the order and confiscates the firearms. Red Flag Orders broaden the scope of those eligible to file the petition from only the spouse to others outside the family to include teachers and law enforcement.

National Firearms Act of 1934: Possession of Fully-Automatic weapons and short barreled rifles and shotguns (barrels 18-inchs long or less) require registration with the Bureau of Alcohol, Tobacco and Firearms (ATF) and the payment of a tax stamp. Amended in 1986 that machineguns manufactured after 1986 may NOT be registered to a private citizen under this act. Only government entities or licensed automatic weapons dealers may possess fully automatic firearms *manufactured* after 1986.

Fully-automatic: A firearm that fires continuously when the trigger is depressed until the ammunition supply is exhausted or the trigger is released. These weapons are commonly known as "machine guns". The first significant commercial sales of fully-automatic weapons to the American public began around 1919. Commercial sale after 1934 requires compliance with the National Firearms Act of 1934.

Semi-automatic: A weapon that fires one cartridge for each pull of the trigger.

"Selective Fire" – firearms with both automatic and semi-automatic fire capabilities. The change is normally activated by a switch on the side of the frame of the weapon. The standard combat rifle of the 2020 time period is a selective fire weapon (such as the M16A2 rifle and M4A1 carbine). Possession by citizens of elective fire weapons require registration under the NFA.

Semi-automatic rifles: The first commercial semi-automatic rifle was the Winchester Models 1903 and 1905. They were followed by the Remington Model 8 which was first sold in 1906. The US Army's first general issue of the semi-automatic M1 Garand rifle was in 1940. This rifle did not fully replace the bolt action M1903 until after World War Two.

Standard Capacity magazines: Magazines that hold from 7 to 30 rounds of ammunition and have typically been sold with their associated firearms to the general public for decades.

High Capacity magazines: Magazines that hold over 30 rounds of ammunition and are normally sold separately from the intended firearm as an "upgrade" or "accessory".

AR-15 – AR stands for "Armalite Rifle" (not "automatic rifle"). These have been available for public sale since the mid-1960s. Approximately 26 million ARs are in the hands of American citizens.

Common Use: From the 1700s until the late-1950s (with introduction of the selective fire M-14 rifle), the general public had access to weapons that were markedly better (especially before 1903) or equal to the average soldier's individual weapon(s). The generic overview is below.

Years	Civilian	Military
1700s to 1850s	Rifled muzzle loading arms (longer range and better accuracy)	Smooth bore muzzle loading arms (faster reloading but poor accuracy and shorter range)
1860s to 1892	Magazine feed lever action cartridge rifles (much greater rapidity of fire but smaller cartridges with shorter range).	Single shot muzzle loaders and beginning in 1870s single shot breach loaders (larger cartridges with longer range)
1892 to 1906	Lever Action magazine fed rifles (larger magazine capacity)	Bolt Action magazine fed rifles (smaller magazine capacity but with faster reloading capability beginning in 1903)
1906 to 1945	Semi-Automatic Magazine fed rifles (greater rate of fire with a slightly smaller cartridge and shorter range) such as Remington Model 6	Bolt action magazine fed rifles (smaller magazines with larger cartridges and longer range) with semi-automatic weapons becoming more prevalent after 1940.
1921 to 1934	Full-Automatic submachineguns were available over-the-counter until the passage of the 1934 National Firearms Act which established a permit requirement for fully-automatic arms and destructive devices.	Bolt action magazine fed rifles (smaller magazines with larger cartridges and longer range).
1945 to 1958	Semi-Automatic magazine fed rifles	Semi-Automatic magazine fed rifles
1958 to 1990	Semi-Automatic magazine fed rifles	Selective Fire (semi-automatic and full-automatic) magazine fed rifles.
1990 to 2010	Semi-Automatic magazine fed rifles	Semi-Automatic and "3 round burst" capability most commonly issued.
2010 to present	Semi-Automatic magazine fed rifles	Selective Fire (semi-automatic and full-automatic) magazine fed rifles.

The two categories above (civilian and military) represent the *highest technology firearm* available on the civilian market compared to the *standard rifle* issued to the *average* combat infantry soldier. The "average soldier's weapon" does not include the selective-fire M2 Carbine or the M3, M1 and M1928 submachineguns which were limited issue for specific duties. While this comparison is weighted to the top end of the civilian market (no permits required), it demonstrates the lack of government infringement upon the individual right to keep and bear arms prior to 1934.

As a general rule, citizens had access to individual weapons generally equal or better than their military counterparts from the 1700s until the mid-1950s (about 180 years).

After 1958, the average ground infantry soldier was issued the selective-fire M-14 rifle, were as the average civilian is prohibited from owning a selective fire or fully-automatic weapon unless they purchase one in compliance with federal licensing and taxing requirements. Civilians are further prohibited from owning fully-automatic weapons manufactured after 1986. The civilian inventory of selective fire/fully-automatic weapons is constricted to pre-1986 levels (about 740,000 eligible weapons – see https://www.atf.gov/firearms/docs/report/2021-firearms-commerce-report/download - page 16).

This generally comparable level of capability between the military and the civilian members of society was consistent with the intent of the founders. This is the basis for the findings in *Miller vs US* and *Heller vs Washington DC* that held weapons in common use at the time are constitutionally protected.