Available at: http://who.int/vaccine_safety/topics/thiomersal/questions/en. Accessed July 6, 2010.

29. United States Center for Disease Control. Thimerosal. Available at: http://www.cdc.gov/vaccinesafety/Concerns/thimerosal/index.html. Accessed July 6, 2010.

30. Offit P. Thimerosal and vaccines—a cautionary tale. *N Engl J Med.* 2007; 357(13):1278.

31. *Capizzano v Secretary of Health and Human Services*, No. 05-5049916V (Appeals Fed Cir 2006).

32. *Werderitsh v Secretary of Health and Human Services*, No. 99-319V (USCFC Spec Mstr 2006).

33. *Borrero v Secretary of Health and Human Services*, No. 01-417V (USCFC Spec Mstr 2008).

34. World Health Organization. Global Advisory Committee on Vaccine Safety rejects association between hepatitis B vaccination and multiple sclerosis (MS). Available at: http://www.who.int/vaccine_safety/topics/hepatitisb/ms/en/index.html. Accessed June 4, 2010.

35. *Torday v HHS Office of Special Masters*, No. 07-372 (Filed November 18, 2009).

36. Kirby D. Government concedes vaccine–autism case in federal court—now what? Available at: http://www.huffingtonpost.com/david-kirby/government-concedes-vacci_b_88323.html. Accessed May 3, 2010.

37. Taylor G. Spinning the Hannah Poling case. Available at: http://adventuresinautism.blogspot.com/2008/03/spinning-hannah-poling-case.html. Accessed June 21, 2010.

38. Weissman JR, Kelley RI, Bauman ML, et al. Mitochondrial disease in autism spectrum disorder patients: a cohort analysis. *PLoS One.* 2008;3(11):e3815.

39. Chew K. Experts to hold meeting on mitochondrial disorders. Available at: http://blisstree.com/live/experts-to-hold-meeting-on-mitochondrial-disorders/?utm_source=blisstree&utm_medium=web&utm_campaign=b5hubs_migration. Accessed June 21, 2010.

40. Stewart AM. When vaccine injury claims go to court. *N Engl J Med.* 2009; 360(24):2498.

41. Bulfer KM. Childhood vaccinations and autism: does the National Childhood Vaccine Injury Act leave parents of children with autism out in the cold with nowhere to go? *Campbell Law Rev.* 2004–2005;27:91.

42. Kennerly M. *Bruesewitz v Wyeth*: a preemption prelude to autism litigation? Litigation & Trial [blog]. Available at: http://www.litigationandtrial.com/2010/03/articles/the-law/for-people/bruesewitz-v-wyeth-a-preemption-prelude-to-autism-litigation. Accessed January 17, 2011.

43. Shemin G. Mercury rising: the Omnibus Autism Proceeding and what families should know before rushing out of vaccine court. *Am Univ Law Rev.* 2008–2009;58:459.

44. Wakefield AJ, Murch SH, Anthony A, et al. Ileal-lymphoid-nodular hyperplasia, non-specific colitis, and pervasive developmental disorder in children [retracted in: Lancet. 2010;375(9713):445]. *Lancet.* 1998;351(9103):637–641.

45. Begg N, Ramsay M, White J, Bozoky Z. Media dents confidence in MMR vaccine. *BMJ.* 1998;316(7130):561.

46. Casiday R, Cresswell T, Wilson D, Panter-Brick C. A survey of UK parental attitudes to the MMR vaccine and trust in medical authority. *Vaccine.* 2006;24(2): 177–184.

47. Smith MJ, Ellenberg SS, Bell LM, Rubin DM. Media coverage of the measles-mumps-rubella vaccine and autism controversy and its relationship to MMR immunization rates in the United States. *Pediatrics.* 2008;121(4):e836.

48. Godlee F, Smith J, Marcovitch H. Wakefield's article linking MMR vaccine and autism was fraudulent. *BMJ.* 2011; 342:c7452.

Changing the Constitutional Landscape for Firearms: The US Supreme Court's Recent Second Amendment Decisions

Jon S. Vernick, JD, MPH, Lainie Rutkow, JD, PhD, MPH, Daniel W. Webster, ScD, MPH, and Stephen P. Teret, JD, MPH

In 2 recent cases—with important implications for public health practitioners, courts, and researchers—the US Supreme Court changed the landscape for judging the constitutionality of firearm laws under the Constitution's Second Amendment.

In *District of Columbia v Heller* (2008), the court determined for the first time that the Second Amendment grants individuals a personal right to possess handguns in their home. In *McDonald v City of Chicago* (2010), the court concluded that this right affects the powers of state and local governments.

The court identified broad categories of gun laws—other than handgun bans—that remain presumptively valid but did not provide a standard to judge their constitutionality. We discuss ways that researchers can assist decision makers. (*Am J Public Health.* 2011;101:2021–2026. doi:10.2105/AJPH.2011.300200)

HAVING GONE ALMOST 70 years without deciding a case directly addressing the US Constitution's Second Amendment "right to keep and bear arms," beginning in 2008 the US Supreme Court decided 2 such cases with important implications for the public's health. In *District of Columbia v Heller*[1] (decided June 26, 2008), the Supreme Court concluded for the first time that the Constitution grants individuals a personal right to possess handguns in their home for protection. In its decision, the court struck down a 1976 District of Columbia law that outlawed most handgun ownership.

But the *Heller* decision left several important questions unanswered, particularly whether the Second Amendment affects state or local firearm laws or only limits the power of the federal government. In *McDonald v City of Chicago*[2] (decided June 28, 2010), the Supreme Court determined that the Second Amendment does indeed apply to laws enacted by state and local governments. Nevertheless, the *McDonald* decision also leaves critical issues undecided, issues that lower courts must now address and that may affect the risk of firearm violence for millions of Americans.

Firearms were associated with more than 240 000 deaths from 2000 to 2007, including homicides, suicides, and unintentional deaths. During that same period,

more than 530 000 additional nonfatal firearm injuries were treated in hospital emergency departments.[3] Laws at the federal, state, and local levels seek to address this public health burden.[4] Evaluations of a number of these laws indicate public health and safety benefits; for other laws, the effects remain controversial.[5–8]

We briefly review the history of how the Supreme Court and lower federal courts initially interpreted the Second Amendment and examine how the *Heller* and *McDonald* decisions have changed that interpretation. We also discuss the implications for researchers, policymakers, and the courts.

SECOND AMENDMENT DECISIONS BEFORE *HELLER*

According to the 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."[9] Prior to the *Heller* decision, there was little disagreement among the courts about this language's meaning. In fact, until *Heller* no federal appellate court had ever invalidated any law as a violation of the Second Amendment.

Two primary legal reasons explained this virtual unanimity. The first involves something lawyers call the "incorporation doctrine." When the Constitution was first ratified, most of its provisions specified the extent and limits of federal government authority. Even the familiar protections enumerated in the Bill of Rights—such as the First Amendment's freedom of speech and religion clauses—initially affected only the powers of the federal government, not the state governments.[10] In 1868, however, the 14th Amendment was ratified, explicitly forbidding states to "deprive any person of life, liberty, or property, without due process of law."[11] As a result, the Supreme Court began to decide that most of the Bill of Rights guarantees were included in—or "incorporated" into—the more general language of the 14th Amendment as a limit on state (not just federal) powers. But the court has never accepted the argument that the entire Bill of Rights was incorporated en masse, preferring a case-by-case (right-by-right) approach.[12]

Until the *McDonald* decision, the Second Amendment remained one of the very few parts of the Bill of Rights not so "incorporated." In fact, in a pair of 19th-century cases—*United States v Cruikshank* (1876)[13] and *Presser v Illinois* (1886)[14]—the court found that the Second Amendment limited only the federal government. Numerous state laws affecting gun ownership have been upheld on this basis.[15,16]

The second reason why most courts, before *Heller* and *McDonald*, had little trouble upholding gun laws involves the language of the Second Amendment itself, specifically the "militia" clause preceding the "right to keep and bear arms." In 1939, the Supreme Court decided *United States v Miller*, a case in which 2 individuals challenged their criminal indictment under a federal law restricting sawed-off shotguns.[17] Because *Miller* involved a federal law, the earlier *Cruikshank* and *Presser* decisions were not directly applicable. In *Miller*, the court upheld the indictments, ruling that the Second Amendment did not protect the right to keep and bear a firearm that did not have "some reasonable relationship to the preservation or efficiency of a well regulated militia"[18] (see also *Lewis v United States*[19]). *Miller* was a relatively brief opinion without substantial discussion of the basis for its ruling. Nevertheless, lower courts routinely upheld federal and state firearm laws citing *Miller*.[20,21]

The first crack in this unanimity among the federal courts came in 1999 with *United States v Emerson*.[22] As part of a divorce proceeding, Sacha Emerson received a restraining order forbidding her estranged husband from threatening her or their child. Mr. Emerson had previously purchased a handgun. But under federal law, individuals subject to certain restraining orders relating to intimate partner violence are not permitted to possess firearms.[23]

Emerson challenged the constitutionality of the law in federal district court. District judge Samuel Cummings agreed with Emerson, concluding that, unlike prior federal decisions, the Second Amendment granted individuals a "right to keep and bear arms" regardless of any relationship with militia service. He also determined that the federal law violated that individual Second Amendment right.[24] On appeal, the Fifth Circuit Court of Appeals largely agreed with Judge Cummings' interpretation of the scope of the Second Amendment. But the court nevertheless upheld the federal law in question, concluding that the Second Amendment right could be subject to "limited, narrowly tailored specific exceptions that are reasonable."[25]

DISTRICT OF COLUMBIA v HELLER (2008)

Well before *Emerson*, a lively debate had emerged among scholars regarding the proper interpretation of the Second Amendment.[26] Some generally favored the traditional interpretation endorsed by nearly all courts, arguing that it was justifiable by the Constitution's language and history.[27,28] Others argued that the Second Amendment should be seen as protecting a personal right to own guns unrelated to militia service, a right that might affect the constitutionality of some gun laws. These authors urged the courts—particularly the Supreme Court—to reinterpret the Second Amendment on the basis of its history, analysis of the words in the amendment itself, and early views of its meaning.[29,30] In 2008, with *District of Columbia v Heller*, the court accepted that suggestion.

Since 1976, the District of Columbia had banned the private possession of handguns that were not owned and registered prior to September of that year.[31] Long guns (i.e., rifles and shotguns) could still be possessed in the home. Dick Anthony Heller sought a registration certificate for a handgun he wished to possess in his home, and the District of Columbia refused. Five other individuals, including the original lead plaintiff, Shelly Parker, joined Heller in challenging the District's law. None alleged that he or she was a member of any official militia. The federal district court rejected their arguments, relying

heavily on the Supreme Court's *Miller* decision. The court also noted that all other federal courts had declined to follow the Fifth Circuit Court of Appeals' reasoning in *Emerson*.[32] The plaintiffs appealed and the US Court of Appeals for the District of Columbia reversed, striking down the District's handgun ban.[33] The District then appealed the case to the US Supreme Court.

When the Supreme Court agreed to hear the *Heller* case, this represented the first time since *Miller* in 1939 that the Supreme Court had even considered a case directly addressing the Second Amendment. As a result, stakeholders on both sides of the issue mobilized in an effort to influence the court. More than 30 friend-of-the-court (amicus curiae) briefs were filed with the Supreme Court by groups as diverse as the American Public Health Association, the National Rifle Association (NRA), and the NAACP.[34] These amicus briefs offered legal arguments as well as public health and criminological research about the pros and cons of gun ownership and regulation.

Writing for a 5 to 4 majority of the court, Justice Antonin Scalia agreed with the Court of Appeals that the District of Columbia's handgun ban was unconstitutional. In a lengthy opinion, Scalia reviewed the Second Amendment's text, the history of its ratification, early commentary on its scope, and past cases. He relied on a bevy of historical material as well as some of the recent scholarly writings to affirm that the Second Amendment protects an individual right not limited by service in a militia. To reach this conclusion, Scalia interpreted the *Miller* decision differently than most other federal courts, determining, in part, that *Miller* means

> only that the Second Amendment does not protect those weapons not typically possessed by law-abiding citizens for lawful purposes, such as short-barreled shotguns.[35]

Other weapons, notably handguns, which Scalia described as "the most popular weapon chosen by Americans for self-defense in the home," [36] clearly fall within the protection of the Second Amendment.

However, critically for public health and safety, Scalia also acknowledged that "[l]ike most rights, the right secured by the Second Amendment is not unlimited."[37] In an oft-quoted portion of the opinion, Scalia expanded on some of these limitations:

> [N]othing in our opinion should be taken to cast doubt on long-standing prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms.[38]

Scalia further assured the reader that the court identifies "these presumptively lawful regulatory measures only as examples; our list does not purport to be exhaustive."[39] In fact, elsewhere in the opinion, the court also mentioned prohibitions on the carrying of "dangerous and unusual weapons" and "laws regulating the storage of firearms to prevent accidents."[40]

Despite its length, the *Heller* decision left at least 3 important questions unanswered. Although Justice Scalia listed certain presumptively valid gun laws, some of them—such as "laws imposing conditions and qualifications on the commercial sale of arms"—were described in very general terms. Does this mean that any such conditions on gun purchases are valid? If not, then a second unanswered question is what standard should be applied to judge the constitutionality of gun laws other than handgun bans? As Scalia acknowledged, other constitutional rights are also not absolute. Perhaps the most famous example: despite the First Amendment's freedom of speech protections, the government may still prohibit (falsely) shouting "fire" in public places.[41] For those other constitutional rights, there are generally standards that the court applies to determine whether a law affecting those rights may nevertheless be upheld. Scalia did not supply a specific standard.

In his dissent, Justice Stephen Breyer specifically criticized the majority opinion for this omission. Breyer suggested that the court adopt an "interest-balancing" approach requiring judges to weigh "the interests protected by the Second Amendment on one side and the governmental public-safety concerns on the other."[42] Scalia rejected Breyer's suggestion, believing that standard to be inappropriate, and concluded that the standard should be allowed to develop over time in future cases.

The third major unanswered question from *Heller* is whether the Second Amendment protects an individual "right to keep and bear arms" that cannot be infringed by state or local laws or whether it applies only to federal laws. Because Washington, DC, is a federal enclave, the question never specifically arose in *Heller*. This is precisely the issue raised by *McDonald v City of Chicago*.

SECOND AMENDMENT CASES IMMEDIATELY AFTER *HELLER*

Even before *McDonald* was decided, lower courts were faced with new challenges to gun laws. Overwhelmingly, the courts upheld the constitutionality of these laws. In some cases, the courts simply applied Scalia's language in *Heller* regarding presumptively valid gun laws, as in the challenges brought by criminal defendants against the federal law barring gun ownership by convicted felons.[43] Some courts applied one of the existing standards of review identified by the Supreme Court for other constitutional protections, but there was little consistency in these decisions.

In other cases involving state or local laws, however, some courts relied on the much older *Cruikshank* and *Presser* cases, concluding that the Second Amendment—even after *Heller*—did not limit state or local gun laws. These courts often acknowledged that the Supreme Court, not the lower federal courts, retained the prerogative of overruling or limiting its own prior decisions.[44,45] In *McDonald v City of Chicago*, the court did just that.

McDONALD v CITY OF CHICAGO (2010)

Otis McDonald and several other plaintiffs were Chicago, Illinois residents who wished to keep handguns in their homes for protection, but a Chicago law had essentially banned handguns since 1982. Oak Park, Illinois, had a similar law on its books, and the courts combined challenges brought by Oak Park residents, the NRA, and other groups into one decision. Both the district court and the Court of Appeals upheld the laws in question citing *Cruikshank* and *Presser*.

In a 5 to 4 decision—with the same 5 justices in the majority as in *Heller*—the Supreme Court reversed. Writing for the majority, Justice Samuel Alito began by noting that *Cruikshank* and *Presser* were decided prior to the Supreme Court's more modern "selective incorporation" approach. To determine whether the Second Amendment should be incorporated via the 14th Amendment's due process clause as a limit on state power, Alito wrote that the relevant inquiry was

> whether the right to keep and bear arms is fundamental to our scheme of ordered liberty, or. . . whether this right is 'deeply rooted in this Nation's history and tradition.[46]

For Alito, the court's decision in *Heller* and its review of the history of the Second Amendment made it clear that a right to self-defense in the home with a handgun is indeed deeply rooted in history and tradition and therefore must be incorporated. Alito also concluded that historical evidence both before and "immediately following the ratification of the Fourteenth Amendment only confirms that the right to keep and bear arms was considered fundamental."[47] Among the arguments that Alito rejected was the assertion by Chicago and Oak Park that the Second Amendment should be treated differently, in that it "differs from all of the other provisions of the Bill of Rights because it concerns the right to possess a deadly implement and thus has implications for public safety."[48]

Alito responded that "the right to keep and bear arms, however, is not the only constitutional right that has controversial public safety implications."[48] The municipalities also argued that incorporating the Second Amendment would "stifle experimentation" by states and municipalities to address the specifics of local levels of violence and would simply lead to "extensive and costly litigation." Alito rejected these claims as well.[49]

Importantly, Alito repeated Scalia's reassurance from *Heller* that the Second Amendment right is not absolute and that certain longstanding types of gun laws are presumptively valid. However, once again the court declined to provide a standard for lower courts to apply in judging other gun laws. This prompted a spirited portion of the dissent by Justice Breyer, complaining that "judges do not know the answers to the kinds of empirically based questions that will often determine the need for particular forms of gun regulation."[50]

IMPLICATIONS

The *Heller* and *McDonald* decisions have important implications for the courts, policymakers, and researchers. Also, how these groups respond to the decisions will have important implications for the public.

For the Courts

Immediately following both the *Heller* and *McDonald* decisions, individuals and pro-gun interest groups challenged a host of federal, state, and local gun laws. The courts, therefore, have been forced to apply the general principles of the 2 cases but without guidance from the Supreme Court about a specific standard to govern the constitutionality of a given gun law. At one end of the spectrum, broad handgun bans are clearly impermissible. At the other, certain laws, such as barring felons from having guns, are presumptively valid. But what will be the status of the plethora of laws falling somewhere in between? What about laws banning only specific types of handguns, such as so-called "junk guns"? What about limits on the number of handguns that can be purchased at any given time (known as one-handgun-per-month laws)? Or prohibitions on those convicted of misdemeanor (rather than felony) crimes from owning firearms?

One of the first post-*McDonald* cases involved precisely this type of misdemeanor restriction. In *United States v Skoien*, the federal law barring gun ownership by people convicted of certain domestic violence misdemeanors was at issue. A 3-judge panel of the Seventh Circuit Court of Appeals initially concluded that the law violated the Second Amendment.[51] However, the full Seventh Circuit Court of Appeals then agreed to review the decision and upheld the law.

The full Court of Appeals applied, in part, a standard often called "intermediate scrutiny" (because the burden on the government in defending its law resides somewhere between the other 2 commonly used constitutional standards, the "rational basis" test and "strict scrutiny" standards). Under intermediate scrutiny, the court concluded that the federal law would be valid if the government could show that the law in question was "substantially related to an important government objective."[52] To apply this standard, the court relied heavily on research regarding the relationship between domestic violence and firearms, recidivism among domestic abusers, and the risk of guns in the home generally.

Under almost any standard of review, the courts are likely to consider, among other factors, whether the law in question promotes public health and safety goals. This will necessarily involve examining public health, criminology, or other social science research. Courts must therefore have access to the relevant research and be able to comprehend its meaning, including balancing conflicting claims in the contentious area of guns and violence. The need for judges to have greater facility with scientific evidence has long been recognized.[53,54]

For Policymakers

Probably the safest form of immediate post-*Heller* and post-*McDonald* prediction is for some

uncertainty about which gun laws (other than handgun bans) will be upheld and which judged unconstitutional. In such a climate, there may be a chilling effect for policymakers contemplating new laws intended to reduce firearm violence. Legislators may remember *Heller*'s assertion that many different types of gun laws remain presumptively valid.

In addition, laws that focus upstream (as public health professionals often advocate) on gun makers and sellers, rather than gun buyers and owners, may be less likely to present Second Amendment problems. Laws requiring safer firearm design—for example, devices to prevent accidental discharge or use by a child—can promote public health without interfering with an individual's right to own a gun.[55] Similarly, laws improving oversight of gun dealers and targeting illegal traffickers may not implicate the core Second Amendment right of gun ownership in the home identified by the Supreme Court.[56]

For policymakers proposing new gun laws, establishing an evidence-based legislative record may be especially important. This may mean holding hearings at which researchers and other experts can testify about the scientific basis for new laws and including language in the preamble of the bill itself justifying the law. Courts often rely on such information. The city councils of the District of Columbia and Chicago followed this approach when rewriting their gun laws after the applicable court decisions. Each city enacted new laws—short of a handgun ban—intended to make it difficult for high-risk people to obtain firearms.[57,58] Aspects of the District of Columbia and Chicago laws were immediately challenged. These cases are pending.

Governments defending existing laws may find it helpful to partner with a variety of groups. Some interest groups and law firms offer pro bono legal representation or other assistance. As in both *Heller* and *McDonald*, public health organizations, biomedical groups, and researchers (as warranted by the evidence) can provide friend-of-the-court briefs to aid courts.

For Researchers

Researchers must be prepared to help judges and policymakers. Researchers can work with policymakers to translate scientific findings into sound public policy. They can assist courts directly by serving as expert witnesses at trials helping judges navigate complex (and sometimes conflicting) research.

Researchers can also anticipate the kinds of gun laws most likely to face constitutional challenges and conduct new research to inform decision makers. Many gun laws have never been carefully evaluated. But relevant research need not be limited to direct evaluations of the public health impact of gun laws. Unbiased studies that consider possible risk and protective factors for violence may also be useful for courts and policymakers.

Most gun laws can be divided into one of 3 categories: laws addressing potentially high-risk people, firearms, and uses or contexts.[59] In each of these areas, additional research can assist decision makers. As in the *Skoien* decision, developing a better understanding of which aspects of individuals' prior criminal, mental health, substance abuse, or other history increase their risk for violence will allow courts to assess the potential public safety benefits of new or existing laws. Several states ban or regulate categories of firearms deemed high risk, including assault weapons, poorly made handguns, and handguns without certain safety features.[60] Some of these laws have already been challenged. In *Heller*, Justice Scalia identified laws restricting the carrying of "dangerous and unusual" weapons as presumptively valid. Research can help courts determine whether some guns are "dangerous and unusual" enough to warrant regulating them.

Finally, firearms in some contexts or places may be riskier than in others. Federal law, for example, forbids guns in school zones,[61] and 18 states require guns to be stored safely when not in use.[62] *Heller* emphasizes the right to have a handgun in one's home. Research may assist courts in determining whether or how to extend the right to other, potentially high-risk places.

New research and analysis conducted by legal scholars and historians can also assist courts and policymakers. Research can examine how the language of the Second Amendment was developed, interpreted, and applied to specific types of laws throughout the nation's history. Scholars can also consider and recommend to courts appropriate ways to analyze Second Amendment cases on the basis of existing principles of jurisprudence, including standards of review.

Once a study is completed, researchers should consider publishing findings in forums that are easily accessible to judges and policymakers. In addition to peer-reviewed biomedical or social science journals, researchers might also consider secondary publication in law journals or reviews available in legal databases such as Westlaw or Lexis/Nexis.

CONCLUSIONS

In the pages of this journal in 1993, an article concluded:

> At some time in the future, the Supreme Court may, in fact, overrule *Presser* and *Miller* and grant to the NRA and others the interpretation of the Second Amendment they seek. Until that time, however, public health advocates should understand that the Second Amendment poses no real obstacle to the implementation of even broad gun control legislation.[63(p1776)]

That time has arrived. Public health researchers and advocates must now be prepared to assist courts and policymakers as we have described.

For now, however, the full impact of these 2 cases remains unclear. But if policymakers and others fear acting to protect public health and safety because of the decisions that courts might make in the future, this could have far-reaching implications for the millions of Americans who wish to live free from the threat of firearm violence. ■

About the Authors

Jon S. Vernick, Daniel W. Webster, and Stephen P. Teret are with the Johns Hopkins Bloomberg School of Public Health and the Johns Hopkins Center for Gun Policy and

Research, Baltimore, MD. Lainie Rutkow is with the Johns Hopkins Bloomberg School of Public Health.

Correspondence should be sent to Jon S. Vernick, JD, MPH, 624 N Broadway, Baltimore, MD 21205 (e-mail: jvernick@jhsph.edu). Reprints can be ordered at http://www.ajph.org by clicking the "Reprints/Eprints" link.

This article was accepted January 30, 2011.

Contributors

J.S. Vernick led the research and the writing of the article. L. Rutkow, D.W. Webster, and S.P. Teret made substantive and editorial contributions to the research and the writing of the article.

Human Participant Protection

No protocol approval was needed for this research because no human participants were involved.

References

1. *District of Columbia v Heller*, 128 SCt 2783 (2008).

2. *McDonald v City of Chicago*, 130 SCt 3020 (2010).

3. Centers for Disease Control and Prevention. Web-based Injury Statistics Query and Reporting System (WISQARS). Available at: http://www.cdc.gov/injury/wisqars/index.html. Accessed June 14, 2011.

4. *State Laws and Published Ordinances—Firearms, 2007*. Washington, DC: Bureau of Alcohol, Tobacco, Firearms and Explosives; 2008.

5. Vernick JS, Webster DW, Vittes KA. Law and policy approaches to keeping guns from high risk people. In: Culhane J, ed. *Reconsidering Law and Policy Debates: A Public Health Perspective*. New York, NY: Cambridge University Press; 2011: 153–186.

6. Wintemute GJ. The future of firearm violence prevention: building on success. *JAMA*. 1999;282(5):475–478.

7. Hemenway D. *Private Guns, Public Health*. Ann Arbor, MI: University of Michigan Press; 2004.

8. National Research Council Committee to Improve Research Information and Data on Firearms. *Firearms and Violence: A Critical Review*. Washington, DC: National Academies Press; 2005.

9. US Constitution, Second Amendment. Available at: http://www.archives.gov/exhibits/charters/bill_of_rights_transcript.html. Accessed June 14, 2011.

10. *Barron ex rel Tiernan v Mayor of Baltimore*, 8 L Ed 672 (1833).

11. US Constitution, 14th Amendment. Available at: http://www.archives.gov/exhibits/charters/constitution_amendments_11-27.html. Accessed June 14, 2011.

12. Nowak JE, Rotunda RD. *Constitutional Law*. 8th ed. St. Paul, MN: West Publishing; 2009.

13. *United States v Cruikshank*, 92 US 542 (1876).

14. *Presser v Illinois*, 116 US 252 (1886).

15. *Fresno Rifle and Pistol Club Inc. v Van de Kamp*, 746 F Supp 1415 (ED CA 1990).

16. *Quilici v Village of Morton Grove*, 695 F2d 261 (7th Cir 1982).

17. *United States v Miller*, 307 US 174 (1939).

18. *United States v Miller*, 307 US 174, 178 (1939).

19. *Lewis v United States*, 445 US 55, 65 (1980).

20. *United States v Oakes*, 564 F2d 384 (10th Cir 1977).

21. *Hickman v Block*, 81 F3d 98 (9th Cir 1996).

22. *United States v Emerson*, 46 F Supp 2d 598 (ND TX 1999), aff'd in part, rev'd in part, 270 F3d 203 (5th Cir 2001).

23. 18 USC §922(g)(8) (2010).

24. *United States v Emerson*, 46 F Supp 2d 598, 611 (ND TX. 1999).

25. *United States v Emerson*, 270 F3d 203, 261 (5th Cir 2001).

26. Bogus CT. The history and politics of Second Amendment scholarship: a primer. *Chic Kent Law Rev*. 2000; 76(1):3–25.

27. Dorf MC. What does the Second Amendment mean today? *Chic Kent Law Rev*. 2000;76(1):291–347.

28. Spitzer RJ. Lost and found: re-searching the Second Amendment. *Chic Kent Law Rev*. 2000;76(1):349–401.

29. Levinson S. The embarrassing Second Amendment. *Yale Law J*. 1989; 99(3):637–659.

30. Kates DB. Handgun prohibition and the original meaning of the Second Amendment. *Mich Law Rev*. 1983; 82(2):204–273.

31. DC Code §7–2502.02 (2007).

32. *Parker v District of Columbia*, 311 F Supp 2d 103 (DC 2004).

33. *Parker v District of Columbia*, 478 F3d 370 (DC Cir 2007).

34. SCOTUSblog: *DC v Heller*. Available at: http://www.scotuswiki.com/index.php?title=DC_v._Heller. Accessed June 14, 2011.

35. *District of Columbia v Heller*, 128 SCt 2783, 2815–2816 (2008).

36. *District of Columbia v Heller*, 128 SCt 2783, 2818 (2008).

37. *District of Columbia v Heller*, 128 SCt 2783, 2816 (2008).

38. *District of Columbia v Heller*, 128 SCt 2783, 2816–2817 (2008).

39. *District of Columbia v Heller*, 128 SCt 2783, 2817 (2008).

40. *District of Columbia v Heller*, 128 SCt 2783, 2817–2820 (2008).

41. *Schenck v United States*, 249 US 47 (1919).

42. *District of Columbia v Heller*, 128 SCt 2783, 2852 (2008) (Breyer J, dissenting).

43. *United States v Brunson*, 2008 US App LEXIS 19456 (4th Cir 2008).

44. *Maloney v Cuomo*, 554 F3d 56 (2nd Cir 2009).

45. *National Rifle Association of America Inc. v Chicago*, 567 F3d 856 (7th Cir 2009).

46. *McDonald v City of Chicago*, 130 SCt 3020, 3036 (2010).

47. *McDonald v City of Chicago*, 130 SCt 3020, 3041 (2010).

48. *McDonald v City of Chicago*, 130 SCt 3020, 3045 (2010).

49. *McDonald v City of Chicago*, 130 SCt 3020, 3046–3047 (2010).

50. *McDonald v City of Chicago*, 130 SCt 3020, 3128 (2010). (Breyer J, dissenting).

51. *United States v Skoien*, 587 F3d 803 (7th Cir 2010).

52. *United States v Skoien*, 2010 US App LEXIS (7th Cir. 2010).

53. Reference Manual on Scientific Evidence. Washington, DC: Federal Judicial Center; 1994.

54. Christoffel T, Teret SP. Epidemiology and the law: courts and confidence intervals. *Am J Public Health*. 1991; 81(12):1661–1666.

55. Teret SP, Wintemute GJ. Policies to prevent firearm injuries. *Health Aff*. 1993;12(4):96–108.

56. Vernick JS, Webster DW. Policies to prevent firearm trafficking. *Inj Prev*. 2007;13(2):78–79.

57. DC Code §7-2501.01 et seq (2010).

58. Chicago Responsible Gun Ownership Ordinance. Available at: https://portal.chicagopolice.org/portal/page/portal/ClearPath/About%20CPD/Firearm%20Registration. Accessed June 14, 2011.

59. Zimring FE. Firearms, violence and public policy. *Sci Am*. November1991: 48–54.

60. Vernick JS, Teret SP. A public health approach to regulating firearms as consumer products. *Univ PA Law Rev*. 2000; 148(4):1193–1211.

61. 18 USC §922 (q)(2) (2010).

62. Webster DW, Vernick JS, Zeoli AM, Manganello J. Association between youth-focused firearm laws and youth suicides. *JAMA*. 2004;292(5):594–601.

63. Vernick JS, Teret SP. Firearms and health: the right to be armed with accurate information about the Second Amendment. *Am J Public Health*. 1993; 83(12):1773–1777.