

The Second Amendment

The Bill of Rights -



TASK: Debate Prep

- Format:

- Opening Arguments

- A coin flip will decide who opens

- Minimum of **THREE** Deliberate Topics

- Minimum of **ONE** Extemporaneous Topics



Questions for Consideration:

- What did the framers originally intend?
 - Could they foresee a automatic that shoots 450 meters at 925 m/s with 1100 rpm?
- Should Americans compare gun use and gun restrictions to other countries or are the cultures too different?
- What is considered “sporting” when it comes to gun ownership?
- What plausible solutions exist for increasing gun safety or restrictions?
 - Should gun safety be a mandated course in school?



FAMAS - well known to children thanks to popular games such as *CALL OF DUTY*.
Are American children desensitized to gun violence?



Amendment II

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.



Perspectives

- **Individual Rights**

- United States Constitution restricts legislative bodies from prohibiting firearm possession
- It would be unconstitutional to restrict or regulate

- **Collective Rights**

- Intended only to restrict Congress from legislating away a state's right to self-defense
- Individual citizens do not have an individual right to possess guns
- Local, state, and federal legislative bodies therefore possess the authority to regulate firearms



National Firearms Act of 1934

- Response to St. Valentine's Day massacre of 1929 and attempted assassination of FDR in 1933
 - Organized crime - Irish v. Italians in Chicago (Al Capone)
 - FDR proposed a "New Deal for Crime"
- NFA Registry created to target guns used in organized crime
- Gun registration and tax required
 - \$200 tax in 1920 for manufacturing or sales of guns
 - Equivalent to \$3,538 in 2015
- Guns moved across state lines must be reported to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF or BATFE)



Definition

"firearm" means a shotgun or rifle having a barrel of less than eighteen inches in length, or any other weapon, except a pistol or revolver, from which a shot is discharged by an explosive if such weapon is capable of being concealed on the person, or a machine gun, and includes a muffler or silencer for any firearm whether or not such firearm is included within the foregoing definition.

Now, you say that it is easy for criminals to get weapons. I know it, but I want to make it easy to convict them when they have the weapons. That is the point of it. I do not expect criminals to comply with this law; I do not expect the underworld to be going around giving their fingerprints and getting permits to carry these weapons, but I want them to be in a position, when I find such a person, to convict him because he has not complied.



Haynes v. United States - 1934

- **Background:**

- Miles Edward Haynes was a convicted criminal
- He was arrested for having an unregistered firearm (a short barreled shotgun) - Illegal under NFA of 1934

- **Appeal:**

- He could not legally possess a firearm.
- Further argued that for a convicted felon to register a gun they were effectively announcing to the government that they are breaking the law.

- **Issues:**

- Not registering is illegal
- Registering as a convicted criminal announces guilt
- Second Amendment is unclear who can have a firearm



Haynes v. United States - 1934

- **Decision:**

- 7-1 decision in favor of Haynes
- Cited Fifth Amendment protection clause
- To eliminate the defects revealed by Haynes, Congress amended the Act so that only a possessor who lawfully makes, manufactures, or imports firearms can and must register them
- In plain words - There is really no need to ever register a gun, *especially* for a **non-law abiding** citizen.



United States v. Miller - 1939

- **Background:**

- Jack Miller and Frank Layton (bank robbers/moonshiners) carried sawed off shotguns across state lines.
- Arrested under NFA

- **Appeal:**

- Judge Ragon of the US District Courts had them plea not guilty under violation of their rights under the Second Amendment.

- **Issues:**

- Is a sawed off shotgun a firearm that is generally considered necessary to keep a militia?
- The Supreme Court never heard Miller's "side" - he was mysteriously murdered before the trial.



United States v. Miller - 1939

- **Decision:**

- The anti-gun lobby can say that it permits reasonable regulation of firearms.
- Gun rights advocates can say that it supports the right to own military style weapons.
 - The court essentially said if a weapon *is* used for the military, they are usable by individuals who can be part of the militia.

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.



District of Columbia v. Heller (2008)

- **Background:**

- Backed by the Cato Institute - a Libertarian group - and funded by Robert Levy.
- A lawsuit is created and the District Court of the District of Columbia rules.
 - Case was dismissed at district level
- Court of appeals says the Amendment only applies to *states*.

- **Appeal:**

- A petition is filed for a *writ of certiorari*

- **Issues:**

- “Whether the following provisions, D.C. Code §§ 7-2502.02(a)(4), 22-4504(a), and 7-2507.02, violate the Second Amendment rights of individuals who are not affiliated with any state-regulated militia, but who wish to keep handguns and other firearms for private use in their homes?”



District of Columbia v. Heller (2008)

- **Decision:**

- 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.
- 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: For example, concealed weapons prohibitions have been upheld under the Amendment or state analogues. The Court's opinion should not be taken to cast doubt on longstanding **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. 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**.
- Three total parts with nine total items were provided in the decision.



McDonald v. City of Chicago

- **Background:**

- Otis McDonald (age 76) wanted to buy a handgun to protect his home in rundown Chicago.
- City-wide ban on handguns since 1982 prevented legal ownership of “new” guns

- **Appeal:**

- The aim was to clear up questions left by *Heller*

- **Issues:**

- Decision of whether or not states individually fall under the Second Amendment



McDonald v. City of Chicago

- **Decision:**

- 5-4 decision
- The Second Amendment **does** apply to the states under the due process clause in the Fourteenth Amendment.
- “Individual self-defense is ‘the central component’ of the Second Amendment right”
- “Self-defense is a basic right, recognized by many legal systems from ancient times to the present day”

“All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; 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.”

-XIV Amendment



FACTS:

- Mass shootings happen 19.5 times more often in the United States than other highly industrialized nations.



95 +

school shootings have
occurred since Sandy
Hook Elementary in
Newtown, CT - 2012



Stop and Think:

- About 1.4 million firearms were stolen during household burglaries and other property crimes over the six-year period from 2005 through 2010
- This number represents an estimated average of 232,400 firearms stolen each year
- An estimated 90% of stolen firearms are actually reported

Please share with everyone you know ...be on the look out...



2,110 Views

Jon Doe

1 hr · 🌐

OK I need everybody to pull together in the Greenfield & middle grove area!!! HELP us find these people!!

Our vehicles were robbed of a few things, including two rifle's one of which is very important passed down from 3 generations... His grandfather's gun!.. This is what were mainly looking to get back(There is a cash REWARD) It means a lot to him, seeing how is grandfather just passed away only a few months ago!! This makes me sick to my stomach knowing that somebody came to our property took guns and now are walking around the streets with rifles... It's unsettling!!! Please share the shit out of this video.. We have Contacted the police and they are doing their part! They also stole them from numerous vehicle's in the area!! Maybe a few house's?! I don't know about you but if you live in this area we should pull together and get these people in jail where they belong..... Scumbags Happy Holidays!!

Any information please feel free to pm me all information will be discreet... If you are the PEOPLE who stole from us will set up something... As long as his Grandfather's gun is returned no police will be contacted!!

👍 Like

💬 Comment

➦ Share

View 1 more comment



Tim Brower Don't leave it in your car!!! That's what the Law is gonna tell you. I've been robbed years ago!!!

Like · Reply · 🌐 1 · 14 mins

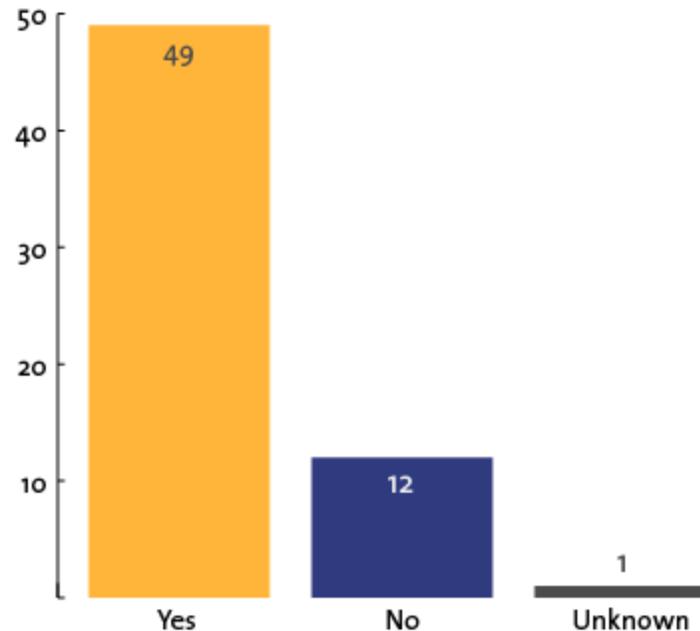


Straw Activity

- Straw Purchase: A person who may *not* legally obtain a gun has someone who *can* do it for them.
- Federal Firearms Licensees (FFL's) - 124,000 licensed makers/sellers of guns in America
 - Roughly 8% are considered “corrupt”
 - Knowingly participate in straw sales
 - Simpler background checks
- Nearly 28% of guns sold at small FFL's were traced to a crime within two years of sale

Killer Obtained Weapons Legally?

Mass shootings in US, 1982-2012



Mother Jones

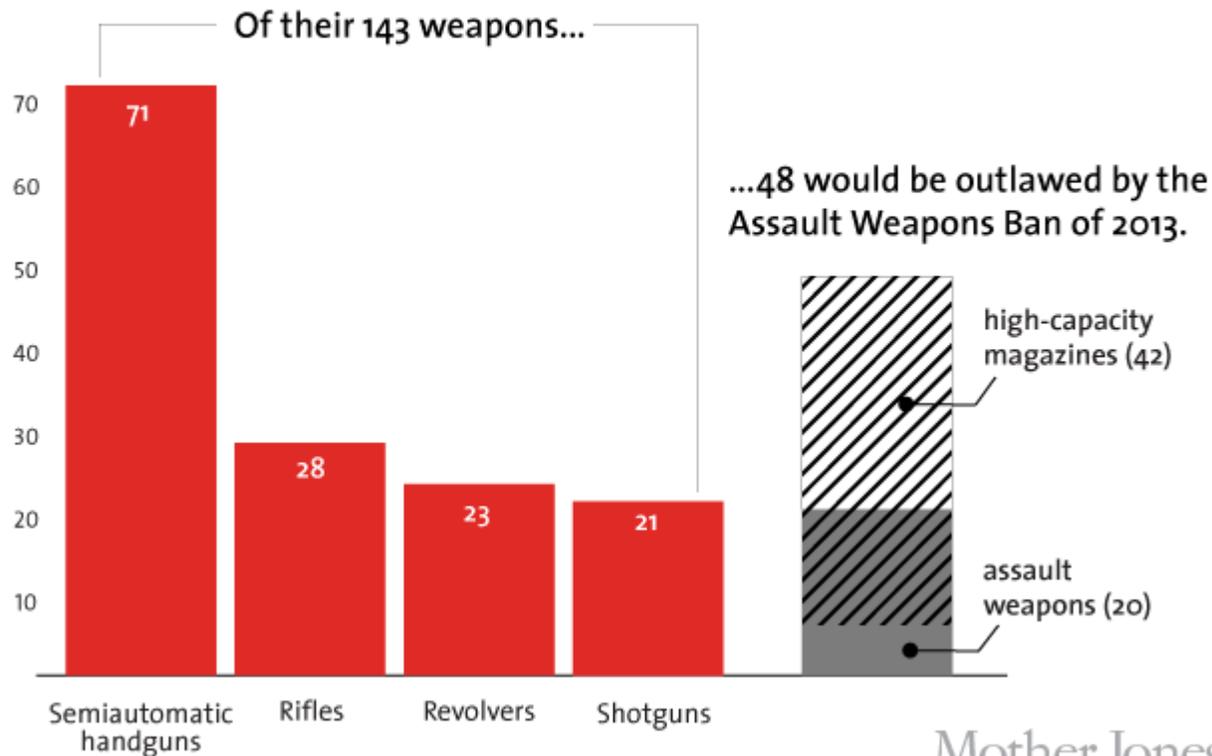
In 62 of the most recent mass shootings, the guns were obtained *legally* in 49 instances



Straw Activity

Mass Shooters' Weapons, 1982-2012

More than half of all mass shooters possessed high-capacity magazines, assault weapons, or both.



Mother Jones

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Gun Show Loophole

- Federal Law
 - "[a]ny person may sell a firearm to an unlicensed resident of the State where he resides as long as he does not know or have reasonable cause to believe the person is prohibited from receiving or possessing firearms"
- Retailers and registered sellers must record sales and usually must perform a background check.
- Less than 20% of states have state laws that required private party background checks.
- Critics cite sales over online meetings via Craigslist and/or Facebook as the same idea



What Criminals Say:

50%

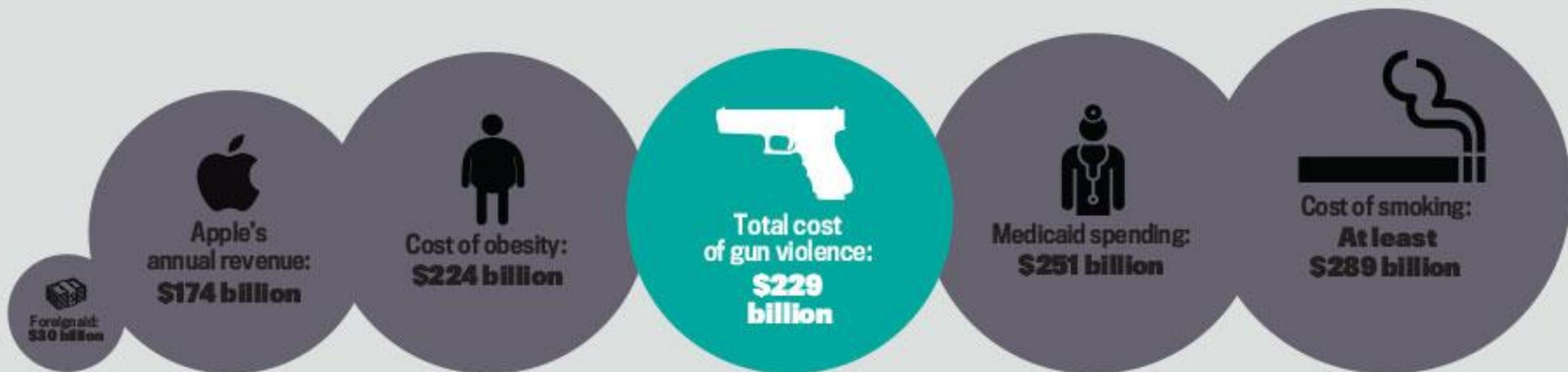
Of criminals surveyed said they actually stole the gun used in their activities

“...less concerned about getting caught by the cops than being put in the position of not having a gun to defend themselves and then getting shot.”

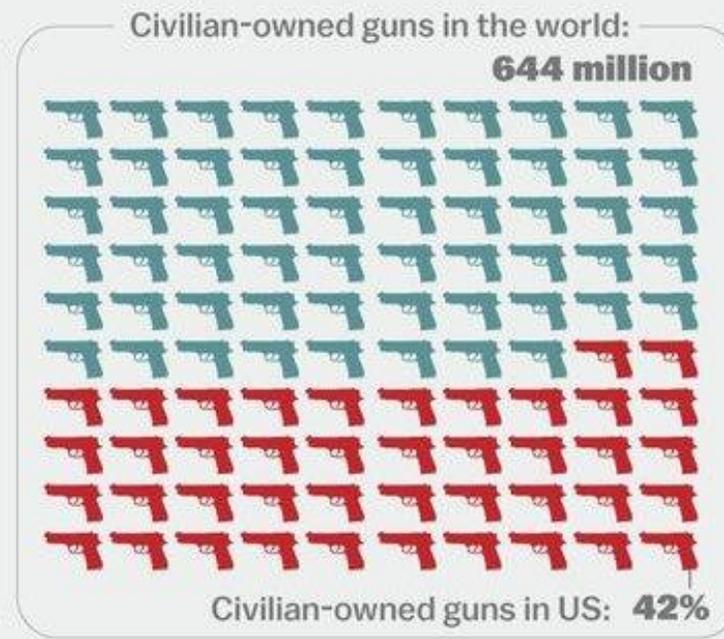
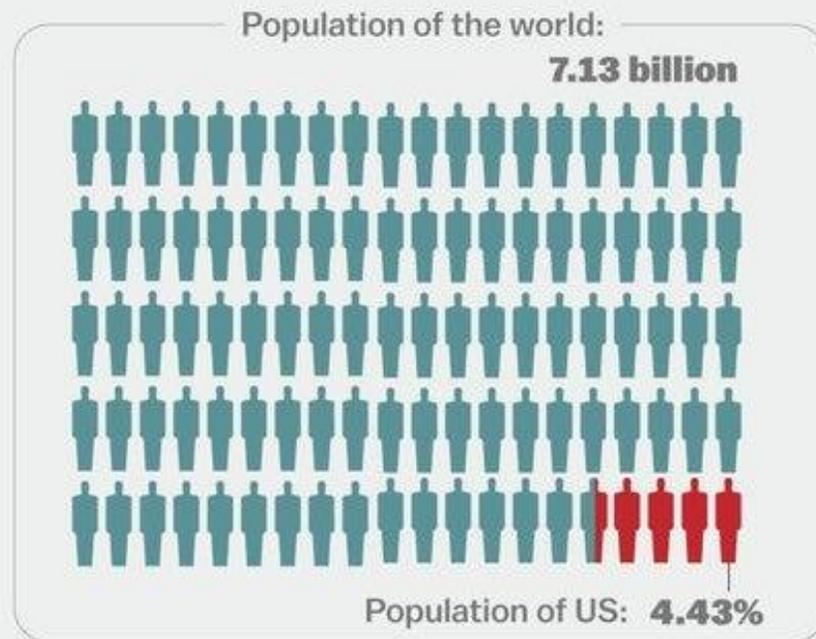
- 56% said they paid cash
- 15% said it was a gift
- 10% said they borrowed it
- 8% said they traded for it
- 5% only said that they stole it.



Gun violence costs more than \$700 per American a year. We spend more on it than on obesity, and almost as much as we spend on Medicaid.



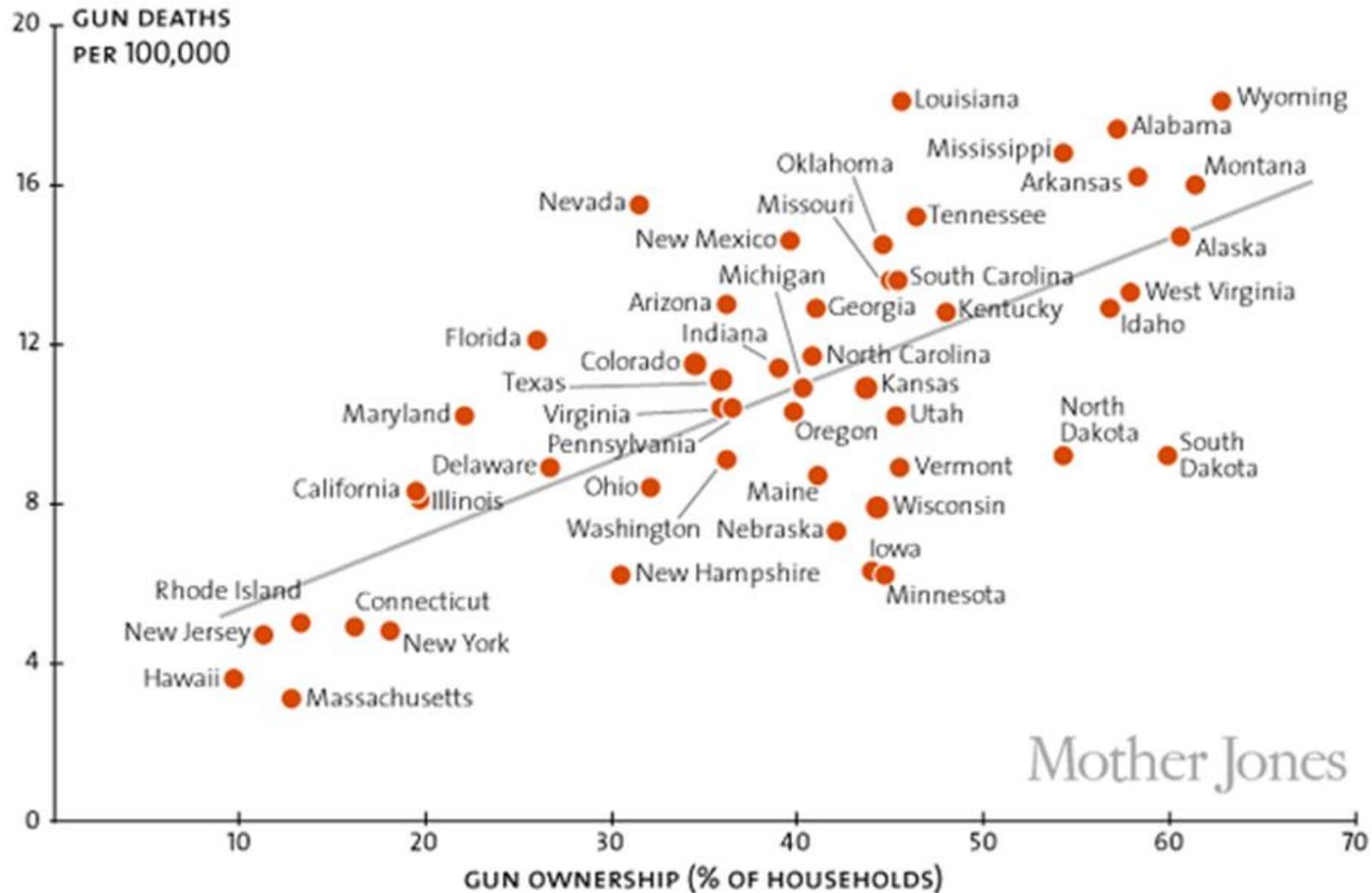
Americans own a ridiculous number of guns



SOURCE: UNODC, Small Arms Survey, via The Guardian.

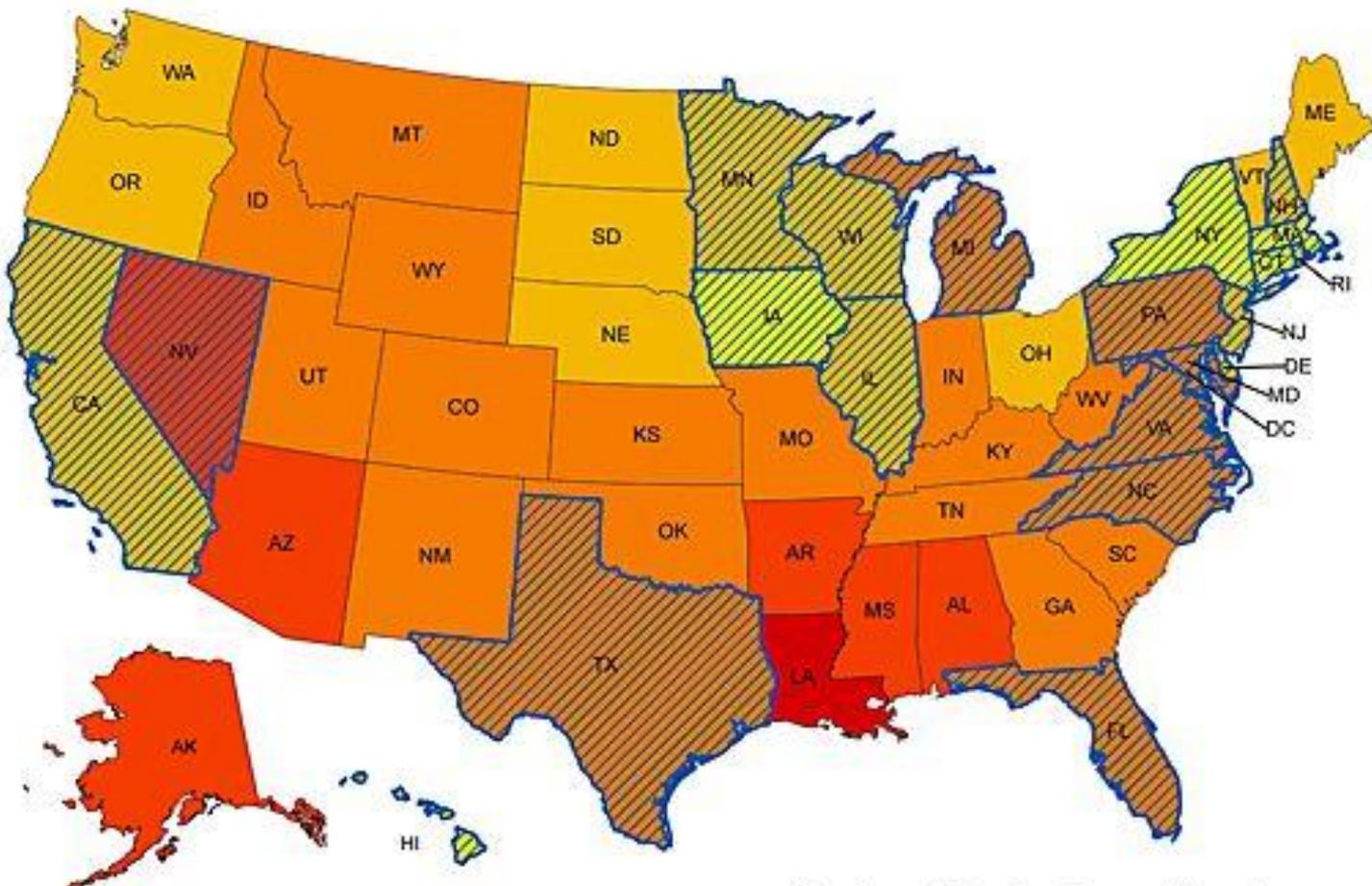
Vox

Gun ownership vs. gun deaths, by state



Mother Jones





 States with at least 1 Firearm Law Designed to Protect Children in Place

Number of Deaths Due to Injury by Firearms per 100,000 Population, 2007



Map by Zara Matheson, Martin Prosperity Institute
 Data Source: statehealthfacts.org



**APPROXIMATELY
2.5 MILLION**
PEOPLE DIE EVERY YEAR IN THE U.S.

1%
GUN HOMICIDES



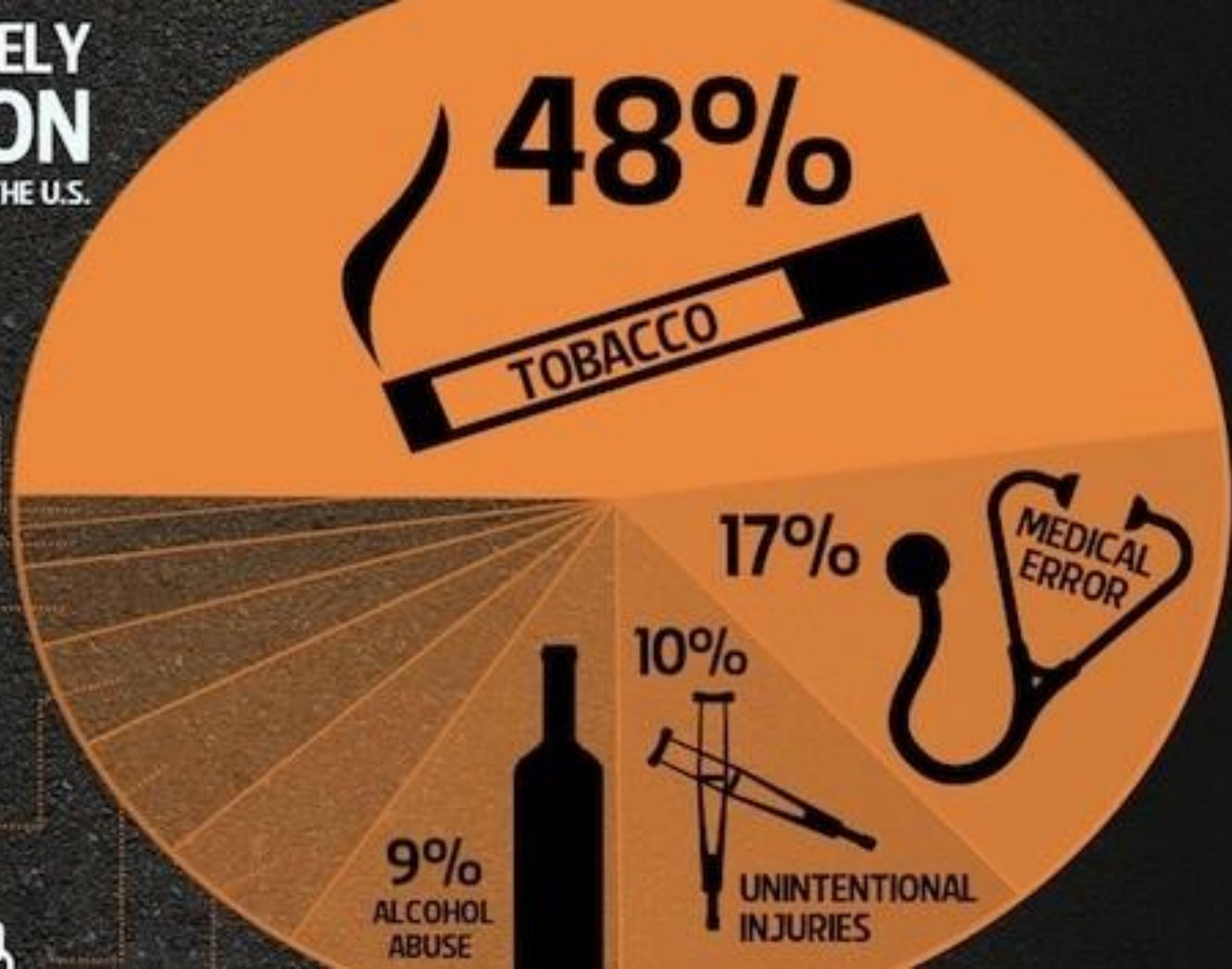
1.5%
NON-GUN
HOMICIDES



2%
UNINTENTIONAL
FALLS



2%
DRUG ABUSE



71%

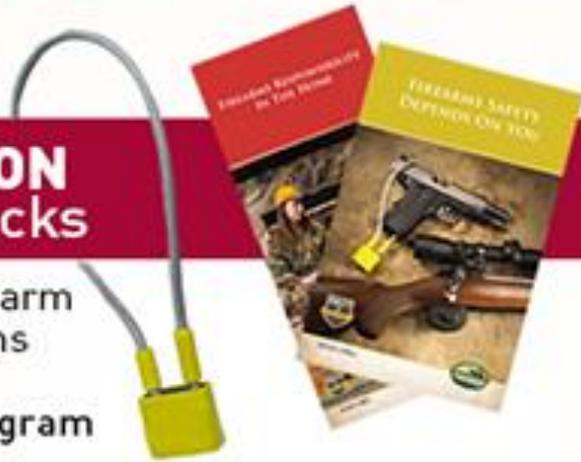
of women who report being domestically abused have had a gun used against them.
Women are 300% more likely to survive a violent relationship when a gun is not present in the household.



WHAT REAL GUN SAFETY LOOKS LIKE...

100 MILLION gun locks

distributed by the firearm industry with new guns sold and through its Project Childsafe program



3.6 MILLION pieces of

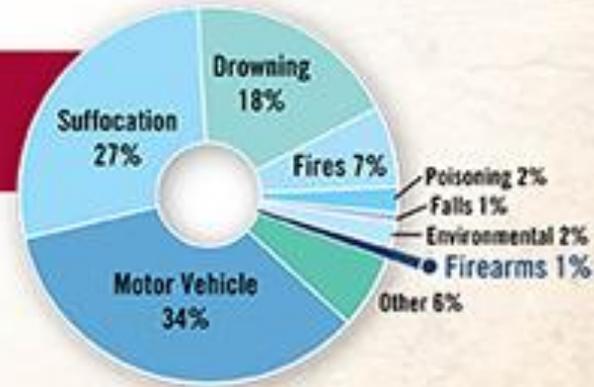
SAFETY MATERIALS distributed by NSSF in 2013 alone.



Brought to you by the firearms industry

LESS THAN 1.5%

of accidental fatalities among children 14 and under involve firearms, according to CDC.



NSSF.ORG/SAFETY



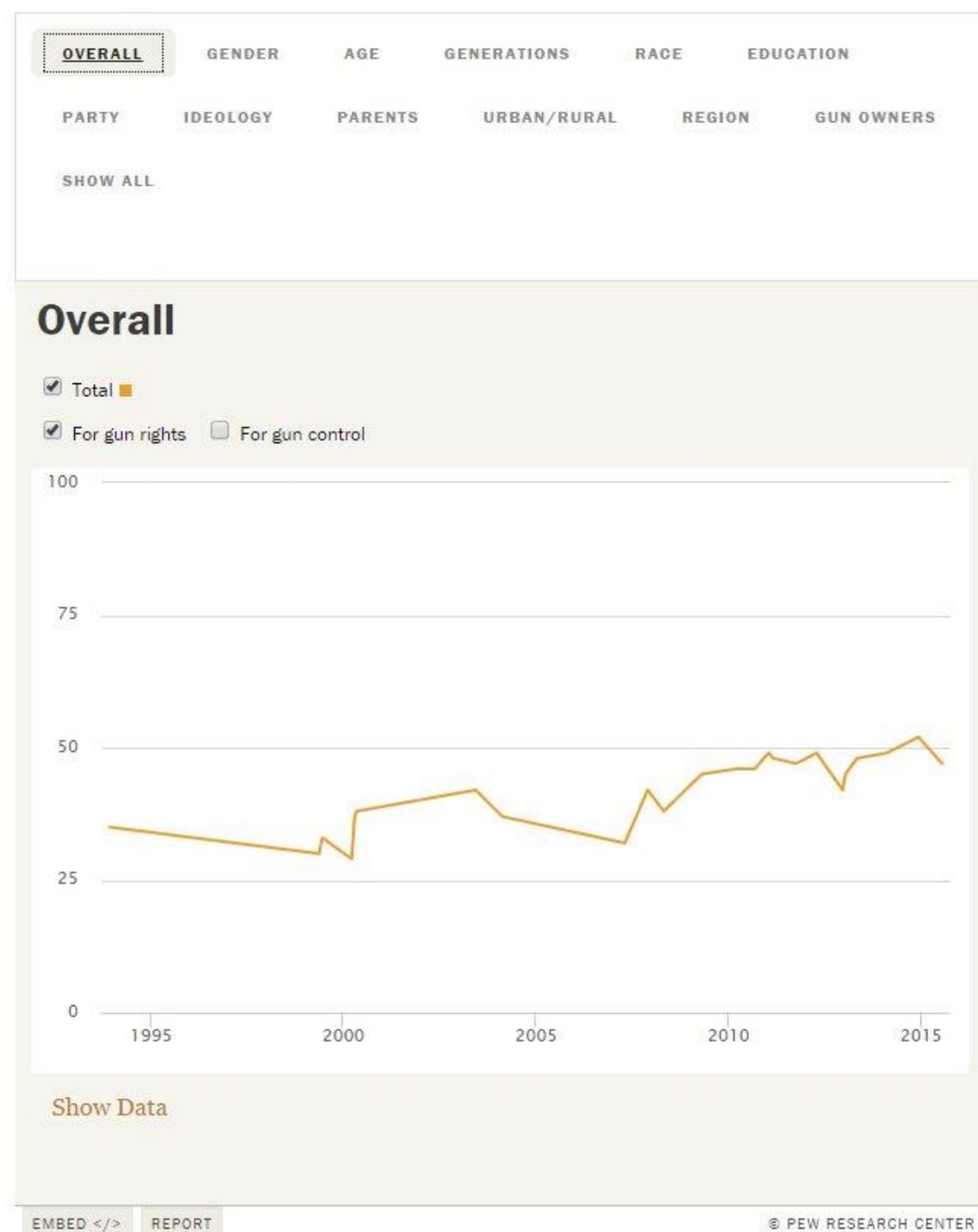
BEHIND THE BLOODSHED

THE UNTOLD STORY OF AMERICA'S MASS KILLINGS

Current Views

PEW Research determined Americans feel differently based on age, gender, race, political ideology, and several other characteristics.

- <http://www.people-press.org/2015/08/13/gun-rights-vs-gun-control/#education>



GUNS in AMERICA

4^{OUT} OF 10

STATES WITH

MOST PER CAPITA GUN DEATHS

HAVE THE

WEAKEST GUN LAWS.

- | | |
|--------------------|-----------------|
| (1) LOUISIANA | (1) ARIZONA |
| (2) MISSISSIPPI | (2) IDAHO |
| (3) ALASKA | (3) VERMONT |
| (4) ALABAMA | (4) MISSISSIPPI |
| (5) NEVADA | (5) KENTUCKY |
| (6) ARKANSAS | (6) NEW MEXICO |
| (7) ARIZONA | (7) ARKANSAS |
| (8) NEW MEXICO | (8) WYOMING |
| (9) TENNESSEE | (9) MAINE |
| (10) WEST VIRGINIA | (10) MONTANA |



6^{OUT} OF 10

STATES WITH

FEWEST PER CAPITA GUN DEATHS

HAVE THE

STRONGEST GUN LAWS.

- | | |
|-------------------|-------------------|
| HAWAII (1) | CALIFORNIA (1) |
| RHODE ISLAND (2) | NEW JERSEY (2) |
| MASSACHUSETTS (3) | MASSACHUSETTS (3) |
| CONNECTICUT (4) | HAWAII (4) |
| NEW YORK (5) | CONNECTICUT (5) |
| NEW JERSEY (6) | ILLINOIS (6) |
| IOWA (7) | MARYLAND (7) |
| NEW HAMPSHIRE (8) | NEW YORK (8) |
| SOUTH DAKOTA (9) | RHODE ISLAND (9) |
| MINNESOTA (10) | FLORIDA (10) |

ZERO: NUMBER OF THE TOP 10 STATES WITH THE HIGHEST PER CAPITA GUN DEATHS THAT ARE ALSO AMONG THE TOP 10 WITH THE STRONGEST GUN LAWS.

Resources:

- https://www.law.cornell.edu/wex/second_amendment
- <http://projects.oregonlive.com/ucc-shooting/mass-shootings-nationally>
- <http://codes.lp.findlaw.com/nycode/PEN/THREE/P/265/265.00>
- <http://www.bjs.gov/content/pub/press/fshbopc0510pr.cfm>
- <https://www.law.cornell.edu/supct/html/07-290.ZS.html>
- <http://www.pbs.org/wgbh/pages/frontline/shows/guns/procon/guns.html>
- <http://www.motherjones.com/politics/2015/04/true-cost-of-gun-violence-in-america>
- <http://www.motherjones.com/politics/2012/07/mass-shootings-map>

