

Gun Control

Law 697 – Fall 2018

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This seminar will focus on the right to keep and bear arms and the laws regulating guns. In one form or another, the right to arms is among the oldest rights in America. Despite controversy over the meaning of the Second Amendment to the Constitution of the United States, the right of individuals to have firearms is well established in state constitutional law; forty-three states have constitutional provisions guaranteeing individuals the right to possess firearms. In 2008, the Supreme Court held that the Second Amendment also protected an individual right to have guns, sparking renewed interest—and, of course, litigation—in the right. The topic is thus both old and new, and the future of the right to keep and bear arms and of the permissibility of various forms of legal regulation of guns remains up for grabs.

Grades will be based on two factors: a paper sufficient to satisfy the law school's Substantial Analytical Writing requirement and class participation. Please read all assignments prior to class and come prepared to discuss the relevant material. Readings are either easily available online or posted to the course webpage. Please have your paper topic approved by me no later than October 17. The final deadline for submission of the paper, which should be 12-15 pages single spaced and sent to me via email, is December 14. Class meets on Tuesdays from 10:35 am – 12:35 pm in Law 2483. My office hours are Tuesdays from 1:30 pm – 3:00 pm, or by appointment, in Law 3252.

- 8/21: The Second Amendment
District of Columbia v. Heller, 554 U.S. 570 (2008)
J. Harvie Wilkinson III, Of Guns, Abortion, and the Unraveling Rule of Law, 95 Va. L. Rev. 253 (2009)
- 8/28: The Costs and Benefits of Firearms Ownership
The Costs and Benefits of Gun Ownership (posted on the course webpage)
- 9/4: Incorporation
McDonald v. City of Chicago, 561 U.S. 742 (2010)
Incorporation Reading (posted on the course webpage)
- 9/11: The Right to Bear Arms under State Constitutions
Adam Winkler, Scrutinizing the Second Amendment, 105 Mich. L. Rev. 683 (2007)
State v. Robinson (posted on the course webpage)
State v. Clay, 481 S.W.3d 531 (Mo. S.Ct. 2016) (en banc)
- 9/18: No Class
- 9/25: The Emerging Standard of Review under the Second Amendment
United States v. Chovan, 735 F. 3d 1127 (9th Cir. 2013)
Binderup v. Attorney General, 836 F.3d 336 (3d Cir. 2016)
Eugene Volokh, Implementing the Right to Keep and Bear Arms for Self-Defense: An Analytical Framework and a Research Agenda, 56 UCLA L. Rev. 1443 (2009)

- 10/2: Which “Arms”? Assault Weapons & High-Capacity Magazines
 Friedman v. City of Highland Park, 784 F.3d 406 (7th Cir. 2015)
 Duncan v. Becerra, __F. Supp. 3d __, 2017 WL 2813727 (S.D. Ca. 2017)
 David B. Kopel, Rational Basis Analysis of “Assault Weapon” Prohibition,
 20 J. Contemp. L. 381 (1994)
- 10/9: Public Carry of Firearms
 Moore v. Madigan, 702 F.3d 933 (7th Cir. 2012)
 Kachalsky v. County of Westchester, 701 F.3d 81 (2d Cir. 2012)
 Concealed Carry Reading (posted on the course webpage)
- 10/16: Sensitive Places
 Bonidy v. United States Postal Service, 790 F.3d 1121 (10th Cir. 2015)
 GeorgiaCarry.org, Inc. v. Georgia, 687 F.3d 1244 (11th Cir. 2012)
 David B. Kopel, Pretend “Gun-Free” School Zones: A Deadly Legal Fiction,
 42 Conn. L. Rev. 515, 536-564 (2009)
- 10/23: Federalism & Gun Regulation
 United States v. Lopez, 514 U.S. 549 (1995)
 Montana Shooting Sports Association v. Holder, 727 F.3d 975 (9th Cir. 2013)
 Wilson v. Lynch, 835 F.3d 1083 (9th Cir. 2016)
- 10/30: Tort Liability
 Ileo v. Glock, Inc. 565 F.3d 1126 (9th Cir. 2009)
 Timothy Lytton, An Overview of Lawsuits Against the Gun Industry (2006), available at
<https://www.press.umich.edu/pdf/0472115103-intro.pdf>
 Wade Tyler Millward, MGM Resorts’ Insurance May Be Tested By Las Vegas Shooting
 Lawsuits, Las Vegas-Review Journal, Nov. 14, 2017
 Eli Rosenberg & Kristin Hussey, Judge Dismisses Suit Against Gun Maker by Newtown
 Victims’ Families, N.Y. Times, Oct. 14, 2016
 Erik Eckholm, Two Officers Were Shot; Wisconsin Store Liable for Gun Sale, N.Y.
 Times, Oct. 13, 2015
- 11/6: No Class (Election Day)
- 11/13: No Class (Monday Schedule)
- 11/20: Police, Guns, & the Use of Force: Class Visit to the LAPD Training Center
 Graham v. Connor, 490 U.S. 386 (1989)
 Hayes v. County of San Diego, 638 F.3d 688 (9th Cir. 2011)
 9:45 am – 12 pm at the Edward M. Davis Training Facility, 12001 Blucher Ave.