Addressing Gun Violence
A LAW AND PUBLIC HEALTH APPROACH
The ABA Division for Public Education provides national leadership for law-related and civic education efforts in the United States, stimulating public awareness and dialogue on the law and its role in society through our programs and resources, and by fostering partnerships among bar associations, educational institutions, civic organizations, and others. For more information, please visit our Division website at www.americanbar.org/publiced. For more information about gun violence, this resource, and other materials and information available on the topic, please visit this resource’s companion website at www.ambar.org/gunviolence.

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Every year in the United States, over 33,000 people die as a result of gun violence—that’s more than 90 individuals a day. Despite the prevalence of gun violence in our society, the question of how best to mitigate its causes and reduce its impact on communities remains controversial. Some members of our communities are the victims of gun violence, while others view gun owning as an unlimited and undeniable right. Bringing such disparate views to a common understanding is challenging at best and nearly impossible in today’s polarized and highly charged political environment.

In order for communities to resolve contentious issues, there must be “space” for a dialogue among diverse stakeholders (including community members, elected officials, civic leaders, business owners, health professionals, and others), as well as a healthy respect for opposing viewpoints. Addressing gun violence through a public health lens provides a vehicle for a public discussion that focuses on the commonly held value for safe and healthy communities. In addition, this approach is supported by a growing body of scholarly research and several field-tested programs.

The American Bar Association has partnered with more than 40 medical, health, and antiviolence advocacy groups in a call to action against the gun violence epidemic gripping the nation. This Teaching Resource Bulletin, developed by the ABA Division for Public Education, is part of a collaborative effort among several ABA entities addressing gun violence through a focus on public health. Other ABA groups participating in this joint effort are: the Standing Committee on Gun Violence, the Criminal Justice Section, the Section of Health Law, the Government and Public Services Division, the Commission on Youth at Risk, and the Division for Bar Services. We hope you will find it a useful tool in beginning meaningful conversations in your community with school and community groups.

For more on the ABA’s work to reduce the impact of gun violence in communities across the country and for additional resources to supplement those you find in this publication, please visit this publication’s companion website, www.ambar.org/gunviolence.

Harry S. Johnson
Chair, ABA Standing Committee on Public Education
The language of the Second Amendment is an enigma. It says: “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.” Should the focus be on the first half of the amendment, and should it be interpreted to create a right of individuals to have guns solely for militia service? Or should the emphasis be on the latter part of the amendment and on the right of individuals to have guns for their own protection and use?

Not surprisingly, those who favor gun control emphasize the former approach. They see the Amendment as stating its purpose: ensuring that people had the arms necessary for militia service. James Madison, the drafter of the Second Amendment and all of the Bill of Rights, initially included a clause in the Second Amendment that would have excused from military service those who were conscientious objectors. This lends support to the argument that the Second Amendment never was meant to protect an individual’s right to have guns.

But those who favor gun rights stress the second half of the amendment. They point to the Second Amendment being in the Bill of Rights, which is entirely about the rights of individuals. They argue that the original understanding of the amendment was to allow individuals to have weapons for self-defense.

The Second Amendment in the Supreme Court

From 1791, when the Second Amendment was ratified, until 2008, the Supreme Court had never found any law regulating possession of firearms to be unconstitutional. In the handful of cases dealing with the Second Amendment, the Court held that it protected a right of individuals to have firearms for the purpose of militia service. For example, in United States v. Miller, the Supreme Court expressly declared that the Second Amendment was limited to safeguarding possessing of firearms for militia service.¹ The Court upheld a federal law prohibiting possessing sawed-off shotguns by explaining that they were not weapons used in militia service at the time the Bill of Rights was ratified. The Court was clear that it believed that the Second Amendment was about protecting a right to have firearms for militia service. The Court said: “With obvious purpose to assure the continuation and render possible the effectiveness of such forces the declaration and guarantee of the Second Amendment were made. It must be interpreted and applied with that end in view.... The signification attributed to the term Militia appears from the debates in the Convention, the history and legislation of Colonies and States, and the writings of approved commentators.”²

However, in 2008, in District of Columbia v. Heller, the Court for the first time invalidated a law regulating guns and found that the Second Amendment is not limited to protecting a right to have firearms for militia service.³ The case concerned the constitutionality of a 32-year-old District of Columbia ordinance that prohibited possession of handguns and imposed significant restrictions on long guns. The Supreme Court, in a 5-4 decision, invalidated the ordinance as violating the Second Amendment.

Not surprisingly, the Court split along ideological lines with Justice Scalia’s opinion being joined by Chief Justice Roberts and Justices
Kennedy, Thomas, and Alito. Justices Stevens and Breyer wrote dissenting opinions, joined by Justices Souter and Ginsburg.

Justice Scalia began with the text of the Second Amendment and said that it had a prefatory clause, concerning militias, and an operative clause, about the right to bear arms. He said that a prefatory clause cannot negate an operative clause. He wrote: “The Second Amendment is naturally divided into two parts: its prefatory clause and its operative clause. The former does not limit the latter grammatically, but rather announces a purpose.”

Justice Scalia carefully traced the history of gun rights in England and the states prior to the ratification of the Constitution. He said: “We therefore believe that the most likely reading of all four of these pre–Second Amendment state constitutional provisions is that they secured an individual right to bear arms for defensive purposes.”

Justice Scalia then looked at the postratification commentary, the pre–Civil War cases, the post–Civil War legislation and cases, and said that all of these confirm that the Second Amendment was not meant to be limited to a right to have firearms for militia service.

The Court concluded by declaring: “We are aware of the problem of handgun violence in this country, and we take seriously the concerns raised by the many amici who believe that prohibition of handgun ownership is a solution. The Constitution leaves the District of Columbia a variety of tools for combating that problem, including some measures regulating handguns. But the enshrinement of constitutional rights necessarily takes certain policy choices off the table. These include the absolute prohibition of handguns held and used for self-defense in the home. Undoubtedly some think that the Second Amendment is outdated in a society where our standing army is the pride of our Nation, where well-trained police forces provide personal security, and where gun violence is a serious problem. That is perhaps debatable, but what is not debatable is that it is not the role of this Court to pronounce the Second Amendment extinct.”

Justice Stevens wrote a dissent, joined by Justices Souter, Ginsburg, and Breyer, which just as carefully traced the history of the Second Amendment and came to an opposite conclusion: that it creates a right to have firearms for the purpose of militia service.

Justice Stevens, too, focused on the text and accused the majority of ignoring the first half of the Second Amendment and reading it as if it said, “The right of the people to keep and bear arms shall not be infringed.”

Justice Stevens reviewed the same sources as Justice Scalia—English history, the experience in the states, the postratification commentary—and concluded that they led to an opposite conclusion. Justice Stevens gave great weight to precedent and the fact that all prior decisions of the Court concerning the Second Amendment found that it protected only a right to have guns for the purpose of militia service.

Justice Stevens concluded his dissent by stating: “The Court would have us believe that over 200 years ago the Framers made a choice to limit the tools available to elected officials wishing to regulate civilian uses of weapons, and to authorize this Court to use the common-law process of case-by-case judicial lawmaking to define the contours of acceptable gun-control policy. Absent compelling evidence that is nowhere to be found in the Court’s opinion, I could not possibly conclude that the Framers made such a choice.”

Because the District of Columbia is a part of the federal government, the Court had no occasion to consider whether the Second Amendment applies to state and local governments. In the nineteenth century, the Court had ruled that the Second Amendment applies only to the federal government. Immediately following Heller, the National Rifle Association and others filed lawsuits in federal court challenging local gun control laws so as to present the issue to the Supreme Court of whether the Second Amendment applies to state and local governments.

In McDonald v. City of Chicago, the Supreme Court ruled that the Second Amendment applies to state and local governments. Once more, the Court was split exactly along ideological lines. Justice Samuel Alito wrote for the Court and was joined by Chief Justice Roberts and Justices Scalia, Kennedy, and Thomas. Justices Stevens, Ginsburg, Breyer, and Sotomayor dissented.

The case involved ordinances adopted by Chicago and Oak Park, Illinois. Oak Park had an ordinance which makes it “unlawful for any person to possess … any firearm,” a term that includes “pistols, revolvers, guns and small arms … commonly known as handguns.”

The Chicago ordinance provided that “[n]o person shall … possess … any firearm unless such person is the holder of a valid registration certificate for such firearm.”

Chicago law also prohibited registration of
most handguns, thus effectively banning handgun possession by almost all private citizens who reside in the city. The Supreme Court, in its 5-4 ruling held that the Second Amendment applies to state and local governments and that the Chicago ordinance was unconstitutional.

**The Second Amendment is not an absolute right**

In *District of Columbia v. Heller*, the Court was clear that the Second Amendment is not absolute. Justice Scalia wrote: “Like most rights, the right secured by the Second Amendment is not unlimited. From Blackstone through the nineteenth-century cases, commentators and courts routinely explained that the right was not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose…. Although we do not undertake an exhaustive historical analysis today of the full scope of the Second Amendment, nothing in our opinion should 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.”

In *McDonald*, like in *Heller* two years earlier, the Court stressed that the Second Amendment is not absolute. In both *McDonald* and *Heller*, the Court emphasized that it had found a right to have firearms in one’s home for the purpose of personal safety. In *Heller*, the Court stressed “the need for defense of self, family, and property is most acute” in the home, and found a Second Amendment right to possess handguns because they are “the most preferred firearm in the nation to ‘keep’ and use for protection of one’s home and family.” Justice Samuel Alito echoed this view in *McDonald*.

Moreover, in both cases, the Court stressed that the government can regulate firearms, including by keeping them from places such as airports and schools. The Court said that the government also can regulate who may possess firearms, such as in laws denying possession to those with a prior felony conviction or a history of serious mental illness. Thus, the Court in *McDonald* stated: “We repeat those assurances here. Despite municipal respondents’ doomsday proclamations, incorporation does not imperil every law regulating firearms.”

**What types of regulation of guns is permissible?**

The Court has declined review in every Second Amendment case since 2010. This leaves many questions unresolved. The most important of the unanswered questions concerns what level of scrutiny should be used for challenges to government regulations of guns. The Supreme Court does not treat every claim of rights or every type of discrimination the same. If the government is infringing a fundamental right or discriminating based on race, its action is highly suspect and it must meet “strict scrutiny,” and it must prove that its action is necessary to achieve a compelling purpose. By contrast, absent a fundamental right or discrimination against a suspect classification,
the government action need only meet a rational basis test and be rationally related to a legitimate government purpose. In between these two extremes there is “intermediate scrutiny,” where the government action must be substantially related to an important government purpose.

Undoubtedly, the outcome of many Second Amendment challenges will depend on this unresolved question. The federal courts of appeals are split as to whether it should be strict scrutiny, intermediate scrutiny, or some form of “interest balancing” test.17

There are many unresolved issues. First, is the Second Amendment limited to just a right to have guns in the home or does it provide protection for gun rights outside the home? For example, the United States Court of Appeals for the Ninth Circuit in Peruta v. County of San Diego20 held that carrying an operable handgun outside the home for the lawful purpose of self-defense constitutes “bear[ing] Arms” and is protected by the Second Amendment. The Court held that a county’s requirement that a person had to show sufficiently pressing need for self-protection before a permit to carry a concealed weapon would be granted infringed the Second Amendment right to bear arms. The Ninth Circuit has granted review before a larger group of judges and the case is now pending.

Second, what types of government restrictions of guns in the home are permissible? For example, the United States Court of Appeals for the Ninth Circuit upheld a San Francisco ordinance that required a person with a handgun in his or her home to keep it “stored in a locked container or disabled with a trigger lock that has been approved by the California Department of Justice.”19 The Supreme Court denied review.

Third, what types of weapons can the government regulate? For instance, the United States Court of Appeals for the Fourth Circuit struck down a Maryland law that prohibited possession of semi-assault weapons and high-capacity ammunition magazines. It ruled that a ban on the possession of AR-15 style rifles and large capacity magazines by law-abiding citizens substantially burdened the core Second Amendment right to defend oneself and one’s family in the home.20 By contrast, the United States Court of Appeals for the Second Circuit came to the opposite conclusion and held prohibitions on possessing semiautomatic assault rifles with one or more military-style features and high-capacity magazines did not violate the Second Amendment’s right to bear arms.21

Fourth, there is the question of who may be prohibited from having guns. Courts have consistently held that the government may prohibit those with a felony conviction from having guns. But the United States Court of Appeals for the Sixth Circuit declared unconstitutional a Michigan law that prohibited those who had previously been committed to a mental institution from possessing guns.22

Conclusion

I do not know when views on guns became so defined by ideology, with conservatives favoring gun rights and liberals favoring gun control. But given this reality, it is not surprising that the Supreme Court’s two most recent major decisions on gun rights both split 5-4 exactly along ideological lines.

There are many issues concerning the Second Amendment to be resolved by the Supreme Court. But who replaces Justice Scalia likely will make all the difference. A Democratic appointee can be expected to join the other four Democrats and vote to uphold gun laws, and perhaps even to reconsider District of Columbia v. Heller and McDonald v. City of Chicago. But if a Republican appointee replaces Justice Scalia, there likely will be a majority to expand the protection for gun rights in the years ahead. ▲◆▼

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2. Id. at 178.
4. Id. at 577.
5. Id. at 602.
6. Id. at 636.
7. Id. at 636 (Stevens, J., dissenting).
8. Id. at 680.
13. Id. at 626–627.
14. 554 U.S. at 628.
15. Id.
16. 130 S. Ct. at 3048.
17. See, e.g., Tyler v. Hillsdale County Sheriff’s Dept., 775 F.3d 308 (6th Cir. 2014), vacated, en banc review granted (applying strict scrutiny); United States v. Booker, 644 F.3d 12, 25 (1st Cir. 2011) (applying intermediate scrutiny); United States v. Chester (Chester II), 628 F.3d 673, 683 (4th Cir. 2010) (“[W]e conclude that intermediate scrutiny is more appropriate than strict scrutiny for Chester and similarly situated persons.”); NRA v. ATF (NRA I), 700 F.3d 185, 195 (5th Cir. 2012) (“the appropriate level of scrutiny depends on the nature of the conduct being regulated and the degree to which the challenged law burdens the right.”)
18. Id.
19. 746 F.3d 943 (9th Cir. 2014).
21. New York State Rifle and Pistol Ass’n v. Cuomo, 804 F.3d 202 (2d Cir. 2015).
22. Tyler v. Hillsdale County Sheriff’s Dept., 775 F.3d 308 (6th Cir. 2014), vacated, en banc review granted.
Q. What does it mean to take a public health approach to tracking and curbing gun violence? How does this differ from more traditional methods of addressing gun violence deaths?

Public health research is based on tracking evidence of risk factors that lead to violence, specifically looking at what contributes to these risk factors in different levels within communities. Guns are just one of a large number of risk factors that lead to violence. Gun violence is traditionally dealt with from a criminality approach—that of treating engagement in gun violence as a crime. However, the gap between public health and criminality is narrowing. Each field is influenced by the other.

In order to facilitate a more public health-oriented approach, law enforcement needs to start looking at gun violence from the community level and not just the individual level. The difference is that the individual level is based on a person’s upbringing, sentiments, and personal motives, whereas the community level has more to do with the accessibility to guns within a certain community, the surroundings, density of alcohol outlets, job opportunities, and other factors.

Based on various models that track the number of shootings across cities, gun violence acts much like a contagion, like HIV or tuberculosis, which is why it’s important to study this issue from a community level. Public health models show how diseases are spread as well as how they can be mitigated, and there are instances in which these models have been applied to gun violence in effective ways.

Q. What is an example of a public health model that you believe can be successfully applied to curbing gun violence?

Cure Violence is an organization that has successfully implemented the public health model in areas that are at high risk of violence, such as Chicago, New York City, Baltimore, and New Orleans. The model recognizes that the spread of violence must be interrupted the same way the spread of disease must be interrupted in susceptible communities. Cure Violence trains and hires local advocates to help mediate conflicts within...
their communities to discourage the use of violence as a solution to disputes, and also supports other organizations across the country that seek to implement this model.

This method has proven to be highly effective. In Chicago, communities using this approach saw reductions in shootings in the range of 41 percent to 73 percent. In Brooklyn, a known high-risk area saw a whole year without a single shooting. These are just a couple of examples. What these success stories have in common is that they have embraced the public health model and deployed local outreach workers to mediate conflicts before they result in shootings.

Q. What are some examples of state policies that demonstrate a positive impact on curbing gun violence?

Effective policy has two key components. First, we need to look at data for younger individuals and the link between gun, drug, and alcohol use. In many states the legal age to purchase a gun is 18, and data shows that the 18- to 20-year-old age group in high-risk communities are the most susceptible to violence associated with alcohol and drug use. While there is the minimum age of 21 for alcohol consumption, and antidrug campaigns are becoming more and more effective, there is no reasonable minimum age federal law for purchasing guns. The importance of having and enforcing a sensible minimum age law across all states is that it helps take into account the other issues that this age group deals with in their communities, and thus can help curb gun use as a means to settle disputes.

Second, there need to be more appropriate standards for legal guardianship of those young individuals who do purchase or possess guns, as well as stricter accountability measures for the people who sell them. The most effective handgun purchasing requirements are ones that require permits. We found that these requirements reduce the availability of guns and result in lower homicide rates. There are approximately only seven states that require purchasers to first go to a law enforcement agency to obtain a permit. I think a combination of effective laws that help keep guns off streets and a public health model that seeks to mitigate violence would be the ideal way to combat gun violence.

Q. In order to make this approach a reality, who are the key players that need to be supportive of this approach?

Law enforcement needs to play a key role in helping support this approach. Unfortunately there is a perception that all responsibility for addressing gun violence lies with the local police chief. However, the reality is that police precincts are tasked with policing within underserved environments created by bad public policy that they didn’t make. They are policing in inherently unsafe conditions, and thus it’s unrealistic to expect that the police are the only solution.

Law enforcement agencies need partners within these communities. There needs to be more trust between law enforcement and the people they serve. With the public health model, they have to leverage local community organizers for positive outreach. They have to be involved in educating people about alternatives to gun violence and engage in corrective advocacy. Examples of key local stakeholders that should work with law enforcement are community leaders, nonprofits, youth programs, and local politicians.

Q. Why has the gun violence debate become a partisan issue, and are there aspects that both sides can agree on?

What we’ve found in our research of public opinion on issues pertaining to gun policy is that there is little difference in opinion between gun owners and non-gun owners when it comes to who can possess a gun. Both sides actually support policies that prevent certain high-risk individuals from obtaining guns, and we know based on various polls that gun owners are more likely to identify as Republican, while non-gun owners as Democrats. These are policies designed to keep guns from individuals with known mental illnesses or with a history of domestic violence or drug abuse, to name a few examples.

So if both sides support more policies that regulate gun use, why is there a large growing divide? I think this issue has been cast as a cultural issue, and I have to agree that this has been the fuel for the debate. The Second Amendment argument against stricter gun policies has been heavily supported by the gun lobby, and I think their motives are very calculated. Unfortunately, this poses barriers to implementing sensible ways to address gun violence. From a public health and research standpoint, I think the cultural issues are far less important than the policy issues.

Q. What are some common misunderstandings you encounter when you advocate for treating gun violence as a public health issue?

One common misconception is that many people are associating gun control with taking people’s guns away. However, the public health approach is actually more about community-based behavior change and has less
to do with gun policies. There are many other measures that address high-risk communities that do not infringe on people’s rights, the same way that public health intervention doesn’t infringe on someone’s ability to acquire a gun. The public health approach helps us create laws around dangerous behavior, regardless of whether this behavior has to do with how we drive cars or consume food or how guns are used.

Q. Is gun violence something that can ultimately be “cured” or just managed?

I think it has to do with a little of both. If you look at all the predictive analytics, those who are engaged with guns at an early age in high-risk communities are headed on a path to an early grave or life in prison. It is extremely dangerous for young adolescents and young adults to be engaged with crime because, unless there’s an intervention, this is where their lives are headed.

If we can get to these individuals early through public health intervention, then we’ve essentially “cured” someone from an early leaning toward violence. This is key because the public health model finds that violence leads to violence, the same way a contagion is passed on from one person to another or when diseases are passed on by sharing needles. Through intervention and violence interruption we can help contain the threat of violence from spreading, thus we’re stopping an outbreak.

Q. Since gun violence can be a controversial subject, how can educators appropriately teach about gun violence in schools?

The most important lesson that teachers can convey is that this is a preventable problem. I can’t emphasize this enough. We see evidence of gun violence every day and it can seem as though this is a normal way to live, the same way we know that the sun comes up in the east and sets in the west. There’s this hopeless acceptance that people shoot each other in America and there’s nothing we can do about it.

 Teachers should convey that there are things currently being done to prevent gun violence, and there are good policies that can address this issue. Students need to know that there are good stories out there. We always hear about shootings in the news, but we’ll never hear that “so and so was not shot today,” or “a gun seller abided by the law today.” Teachers need to remind students that this is in fact happening every day, and the positive results are backed by science.

People who lose hope say there’s nothing we can do about it. But there is so much research out there that shows we can do something about it, and students need to be able to see this for themselves.
Addressing Gun Violence

Controlling issues discussion is perhaps the most prescribed curricular cure for an ailing democracy. While no singular curricular or instructive practice is a panacea, the benefits students derive from discussing controversial issues are significant: they strengthen democratic commitments, increase political knowledge, prepare adolescents to live in a pluralistic society, and help them discover what they believe.

These are worthy goals. But while controversial issues are frequently prescribed by theorists, professors, civic organizations, and eager educators, it is, nevertheless, a medicine the school system is reluctant to take. There are two major findings from controversial issues research. The first is that even a small amount of exposure is beneficial to students, but the second is that very few teachers expose students to them at all.

Preparing for a controversial issues discussion can be divided into two large categories: the mechanics of the discussion and the environment that teachers hope to create.

The Mechanics
The mechanics are intricate, endless, potentially overwhelming, and infinitely modifiable. Pay attention to the fundamentals: student understanding, desk arrangement, talking transitions, student preparation, and grading.

• Make sure the students understand both sides of the issue. This may require you to supplement, or it may require you to deconstruct a text. It may require the students to ask many questions of the text. It may involve additional research. Do whatever it takes for the students to comprehend the controversy.

• Make sure the students can see each other. Re-arrange the desks as needed. A controversial issues discussion should feel special, and if the classroom looks different, then they know something noteworthy is happening.

• Have some procedure for transitioning between speakers. For example, you can train students to use parliamentary procedure and rotate the chairperson, with the goal of having student-run discussions. If that seems too radical, consider allowing students to decide who speaks next, (like a Socratic seminar). Either way, have a clear procedure in place, and strongly consider allowing the discussion to be student moderated.

• Have a “ticket” required for participation. Students should have some evidence they are ready to actively contribute to the discussion. A ticket can be an annotated text, a list of questions, or some assignment that helps prepare them to think about the issue.

• Develop a grading strategy. Making the choice of whether or not to grade can be tricky. On the one hand, grading provides a moderate incentive to contribute to the discussion. On the other, such forced contributions don’t necessarily encourage quality. You may want to try a hybrid model by letting the first few discussions of the year be non-graded. In this way, you will be able to model what the discussion should look like, provide feedback to students, and prepare them in a low-stress environment for future discussions. If you do decide to grade, be sure to let students know what it is you are grading. Are you using the speaking and listening standards, are you grading behavior, or just quantity? Either way, be clear in articulating your expectations.

The Environment
Students must feel your classroom is a place for them to safely disagree with each other. If they feel judged, or afraid, or worried about saying the wrong thing, then a true discussion won’t be possible. A classroom discussion involves the free exchange of ideas between three or more people. If students don’t feel they can say what’s on their mind, then they’ll say what they think you want them to hear.
How often are adolescents asked what they think? How frequently do students encounter opinions that are significantly different from their own? How often are they encouraged to influence others with their passion and logic? For most, it’s not often, and this is part of the reason that students remember and value the opportunity to discuss issues of controversy in a safe environment.

You need to communicate to students why you are having them discuss this issue. All of them are potential voters. This country works best when its citizens are both informed and participate. This country is also pluralistic, in almost every sense of the word. We have many different ideas about what is best but only one legitimate way to deal with the inevitable conflict that arises from disagreeing, and it’s called politics. Persuading others and being open to listening are key skills in a democracy, and key skills in a discussion. Controversial issues discussions may be the best model schools can offer for how democracy should work.

When you deal with a highly charged issue such as gun violence, some of your students may become emotional. Emotion is not a sign of failure or weakness. It’s a sign of engagement; it’s a sign of passion, and it’s an opportunity to learn.

Ultimately we are a country of shared stories. We are connected to each other in ways that are not always transparent or obvious. If this country is to continue being thought of as a collective society, as opposed to a bunch of people united only by a weather report and a flag, then we need to talk with each other about our disagreements and about how we want to solve our problems. Schools have an important role in helping prepare our citizens to think intelligently and compassionately about the future. There is no better way to do this than controversial issues discussions.

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Students must feel your classroom is a place for them to safely disagree with each other.
ABA Dialogues provide teachers, lawyers, judges, civic leaders, libraries, non-profit organizations, and others the resources they need to engage students and community members in discussions about fundamental legal principles and civic traditions.

The four Dialogues that follow were designed to facilitate a discussion on key issues implicated in a discussion on gun violence in the United States today. Included are modules on understanding Second Amendment rights, balancing individual rights with concerns for public health and safety, and approaching gun violence as a public health issue. Dialogue leaders should tailor their presentations and content to their particular audience. For more resources and content ideas, please visit this resource’s companion website, www.ambar.org/gunviolence.

**Establishing the Ground Rules for a Dialogue**

The following are a few ground rules for Dialogue participants to help ensure your Dialogue is a civil discussion:

- Show respect for the views of others, even if you strongly disagree.
- Be brief in your comments so all who wish to speak have a chance to express their views.
- Direct your comments to the group as a whole rather than to one individual.
- Don’t let disagreements or conflicting views become personal. Name-calling and shouting are not acceptable ways of conversing with others.
- Let others express their views without interruption.
- Remember that a frank exchange of views can be fruitful as long as the rules of civil conversation are observed.
Second Amendment: Words & Rights

In this Dialogue, participants will examine the text of the Second Amendment, think about the Amendment’s words in the context of when they were written, consider issues of balancing collective versus individual rights, and discuss how the U.S. Supreme Court has interpreted the amendment after reading excerpts from the Court’s ruling in U.S. v. Miller (1939) and District of Columbia v. Heller (2008).

**Suggested Pre-Dialogue Activity**
The classroom teacher should ask students to do a research assignment in preparation for the Dialogue. Students should search online to find two different news articles or opinion pieces that refer to the Second Amendment. The following are a few potential questions to ask in a pre-Dialogue discussion with the students:
For what purpose is the Second Amendment raised in the articles? Do the works contain one or multiple viewpoints on the Second Amendment? What information not contained in the works would be helpful to your understanding of the Second Amendment? Teachers may also revisit these interpretations after the Dialogue.

**Share with Participants:**

Today we will be discussing a topic that has been at the forefront of many public debates. How should we interpret the meaning of the Second Amendment? What rights does it protect? We will begin this discussion by looking at the text itself before reviewing how the Supreme Court has ruled in several landmark Second Amendment cases.

**The Language of the Amendment**

**Share the Text of the Second Amendment with Participants:**

“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.”

**Ask Participants:**

- What does the word “militia” mean?

  *Student answers may vary but should focus on notions of a civilian army, a group of nonprofessional soldiers, and local community members charged with ensuring the safety of the community.*

- What role did militias play during the colonial period, the American Revolutionary War, and the time that this amendment was drafted?

  *Guide students to understand that during the colonial period, and in an era before police departments, militias served many roles and were considered vital to the defense of the community. The militias put down rebellions, protected colonists from possible attacks from Indian tribes, and guarded against encroachments by Spanish and French settlers. During the Revolutionary War, from 1775–1783, the militia played an important role in protecting towns from the ravages of war and in fighting against the British. In the aftermath of the war, militia was considered essential in protecting against an oppressive government.*

- Why do you think the Framers included “well regulated” in this text?

  *Students will likely discuss that a militia needed to be organized to function properly.*

**Regulating Militias**

**Share with Participants Examples of Regulations from the Founding Era Pertaining to Arms.**

Some examples include:
- Requirements that armed citizens appear at mandatory gun inspections.
- State government registries of civilian-owned guns appropriate for militia service. (This was sometimes done through door-to-door surveys.)
- Bans on gun possession by people deemed untrustworthy or a potential threat, including slaves and British loyalists.
Addressing Gun Violence

Interpreting the Second Amendment

Ask Participants:
- What was the purpose of these regulations?
  Students will likely have a variety of answers but will likely focus on issues relating to public safety, preparation, response readiness, and promoting effective militias.

- What is the closest equivalent to a militia that we have today? What other agencies serve to protect public safety?
  Inform students that the National Guard serves as a current militia. You can also note that there are local police departments and the United States has a standing army.

- What does it mean to “keep and bear arms”?
  Students should note that these words can include owning, collecting, using, or carrying a variety of weapons and personal arms.

- Is it clear from the text as to what kinds of arms the amendment is referring?
  Students may brainstorm a variety of arms to which the amendment could be referring; make sure they note that at the time of the Founding, many of the technological advances in weaponry we know today could not have been imagined.

- Is it clear from the text as to where the right to keep and bear arms applies?
  Allow students to think through the various places that someone may want to keep or bear arms (private and public).

- Now let’s turn to the last phrase of the amendment; what does “shall not be infringed” mean?
  Students will likely focus on the notion that the people shouldn’t be stopped from keeping and bearing arms.

- Does this mean that there can’t be limitations placed on people’s right to bear arms?
  Depending on their viewpoints, students should likely engage in an interesting discussion on whether the amendment has any limitation or restrictions. Remind students of restrictions regulating colonial militia.

How the Supreme Court Has Interpreted the Amendment

Share with Participants:
Some scholars interpret the Second Amendment as stating the collective rights of people to have well-regulated militia in order to ensure the safety of the public. This perspective argues that the Framers expressed little concern for the individual right to possess and use a firearm outside of militia service. Other scholars and groups interpret that the Second Amendment specifies an individual’s right to keep and use guns outside of service in a militia. These perspectives appear to contradict each other; how might we acknowledge these two sets of rights?

Next we will look at how the U.S. Supreme Court has interpreted this amendment over the last century to help us think about how to maintain public safety while respecting individual rights.

Interpreting the Entire Amendment

Ask Participants:
- In thinking more about this amendment and our discussion today, can you see why people might interpret the meaning of this text differently from one another? What rights do some of the interpretations that you have researched emphasize?

Share with Participants:
How the Supreme Court Has Interpreted the Amendment

Share with Participants:
The U.S. Supreme Court first addressed the meaning of the Second Amendment in U.S. v. Miller (1939).

Facts of the Case: An Arkansas federal district court charged Jack Miller and Frank Layton with violating the National Firearms Act (NFA) when they transported a double-barrel 12-gauge shotgun across state lines. In part, Miller and Layton argued that the NFA violated their Second Amendment right to keep and use guns outside of service in a militia. These perspectives appear to contradict each other; how might we acknowledge these two sets of rights?

Next we will look at how the U.S. Supreme Court has interpreted this amendment over the last century to help us think about how to maintain public safety while respecting individual rights.

Interpreting the Entire Amendment

Ask Participants:
- How do you think the Supreme Court ruled on this case?

Share with Participants:
In a unanimous decision, the Supreme Court ruled that the Second Amendment does not guarantee an individual the right to keep and bear a sawed-off double-barrel shotgun. The Court reasoned that a sawed-off double-barrel shotgun does not have a reasonable relationship to the preservation or efficiency of a well regulated militia. The Second Amendment does not protect the possession of such an instrument.
Ask Participants:
- Is there anything about the Court’s ruling that surprises you?

Share Handout 1-1, Excerpts from the Opinion in U.S. v. Miller (1939), with Participants. Give Participants a Few Minutes to Read Over the Excerpts.

Ask Participants:
- For what purpose does this Court interpret the Second Amendment right to keep and bear arms? for serving in a militia or for the common defense
- What reasons does the Court list to support this argument?
- Why do you think this decision was significant?
  The Supreme Court was upholding federal limitations to the Second Amendment. The right to keep and bear arms was not considered absolute.

Share with Participants:
Eighty years later the Supreme Court made another significant Second Amendment decision in the District of Columbia v. Heller (2008).

Question before the Supreme Court: Do the District of Columbia’s gun control laws—which forbid almost all civilians to possess handguns and that require other firearms to be stored unloaded and mechanically disabled—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 home?

Share Handout 1-2, Excerpts from the Opinion in District of Columbia v. Heller (2008), with Participants. Give Participants a Few Minutes to Read Over the Excerpts.

Ask Participants:
- Is there anything in this opinion that surprises you?
- How does the interpretation of the Second Amendment in this 2008 Court differ from the Court in U.S. v. Miller?
  The Miller Court interpreted the right to bear arms for the purpose of serving in a militia or for the common defense. The Heller Court interpreted the right to bear arms as not being bound by participation in a militia and concludes that individuals have the right to bear arms for self-defense.
- Does the Court consider an individual’s Second Amendment right to own a gun absolute? What right is given greater consideration over an individual’s right to own a gun?
  No, the Second Amendment isn’t absolute, and in certain circumstances the public’s right to safety outweighs an individual’s right to possess a firearm.
- What types of gun control laws are mentioned that wouldn’t violate the Second Amendment? Why do you think this is the case?
  The 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, and laws imposing conditions and qualification on the commercial sale of arms. Participants may respond that such instances present heightened public safety concerns and the restrictions have long been accepted.
- What types of security or safety are mentioned or referred to in the Court’s opinion?
  Self-defense, protection of one’s home and family, and public/community safety (problem of handgun violence).
- Does the Heller Court offer an approach to balancing the interests of public safety and individual rights?
  The Court states that the Constitution leaves the District of Columbia a variety of tools for combating gun violence, including some measures regulating handguns, but it does not give a specific solution.
- In this case the Court is deciding specifically on the right to bear arms for self-defense in what environment?
  the home
- Do you think the Court’s opinion would have been different if the District of Columbia law banned the use of personal firearms in places outside of the home? Does public safety play a role in this scenario?

Suggested Additional Primary Sources for Participants to Read:
Excerpts from
_U.S. v. Miller_ (1939)

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.

The Constitution, as originally adopted, granted to the Congress power—

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions; To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress.

With obvious purpose to assure the continuation and render possible the effectiveness of such forces, the declaration and guarantee of the Second Amendment were made. It must be interpreted and applied with that end in view.

The Militia which the States were expected to maintain and train is set in contrast with Troops which they were forbidden to keep without the consent of Congress. The sentiment of the time strongly disfavored standing armies; the common view was that adequate defense of country and laws could be secured through the Militia—civilians primarily, soldiers on occasion.
Excerpts from

From our review of Founding-era sources, we conclude that this natural meaning was also the meaning that “bear arms” had in the eighteenth century. In numerous instances, “bear arms” was unambiguously used to refer to the carrying of weapons outside of an organized militia . . .

Like most rights, the right secured by the Second Amendment is not unlimited . . . through the nineteenth-century cases, commentators and courts routinely explained that the right was not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose . . . nothing in our opinion should 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 qualification on the commercial sale of arms . . .

We turn finally to the law at issue here. As we have said, the law totally bans handgun possession in the home. It also requires that any lawful firearm in the home be disassembled or bound by a trigger lock at all times, rendering it inoperable . . .

The inherent right of self-defense has been central to the Second Amendment right. The handgun ban amounts to a prohibition of an entire class of “arms” that is overwhelmingly chosen by American society for that lawful purpose. The prohibition extends, moreover, to the home, where the need for defense of self, family, and property is most acute. Under any of the standards of scrutiny that we have applied to enumerated constitutional rights, banning from the home “the most preferred firearm in the nation to ‘keep’ and use for protection of one’s home and family” . . . would fail constitutional muster . . .

In sum, we hold that the District’s ban on handgun possession in the home violates the Second Amendment, as does its prohibition against rendering any lawful firearm in the home operable for the purpose of immediate self-defense . . .

We are aware of the problem of handgun violence in this country, and we take seriously the concerns raised by the many amici who believe that prohibition of handgun ownership is a solution. The Constitution leaves the District of Columbia a variety of tools for combating that problem, including some measures regulating handguns . . . Undoubtedly some think that the Second Amendment is outmoded in a society where our standing army is the pride of our Nation, where well-trained police forces provide personal security, and where gun violence is a serious problem. That is perhaps debatable, but what is not debatable is that it is not the role of this Court to pronounce the Second Amendment extinct.
Participants should be familiar with D.C. v. Heller and the Supreme Court’s opinion in that case prior to beginning the Dialogue.

Share with Participants:
As we have discussed earlier in the Dialogue, the Supreme Court has stated that the constitutional right to bear arms is not without limitations. This is not the only constitutional right that isn’t absolute.

Let’s take a few minutes to discuss circumstances in which limitations are placed on our constitutional rights.

Language of the Amendment
Share with Participants the Text of the First Amendment:
“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

Ask Participants:
• In reading this amendment, what is our constitutional right to free speech protected from?
  government interference

An Absolute Right?
Share with Participants:
The Constitution says that the government’s actions are limited in creating laws that restrict our right to free speech. Does this mean that our individual right is absolute?

Ask Participants:
• Are there laws that the government has created that limit what we verbally say in our own homes? Are there laws that limit when, or how, or for what purpose we can use cell phones, computers, or other digital devices in our homes? Why do you think this is the case?
• What if we move this scenario into a personal or family car. Are there legal limitations placed on what we can verbally say in our car? Are there regulations on how we can use our own mobile devices? Why or why not?
  In this scenario there is a greater value placed on what, over the individual right to free speech?
  There are more limitations on when we can and can’t use mobile devices in a car if we are driving because this could impact the safety of other passengers and drivers on the road.
• Now, what happens if we are in an airplane? What are some examples of limitations placed on our right to free speech on a plane?
  Your speech is more restricted; you can’t say you have a bomb or refer to having a bomb. You must turn off your mobile devices during certain parts of the trip.
• Why do you think our rights become more restricted as we go from our home to our car to a plane?
• What do you think are some of the challenges that lawmakers face when they try to balance protecting individual rights with public safety?

We will think a bit more about the challenges of balancing individual rights and public safety as we move into three different groups to discuss policies surrounding Second Amendment rights on college campuses from different perspectives.

Weapons on a College Campus Debate
Share with Participants:
Did you know that all 50 states allow citizens to carry concealed weapons if they meet certain state requirements? In the wake of several campus shootings, the most deadly being the 2007 shooting at Virginia Tech University, a number of states are considering legislation about whether or not to...
permit guns on college campuses. For some, these events point to a need to ease existing firearm regulations and allow concealed weapons on campuses. Others see the solution in tightening restrictions to keep guns off campuses.

**Ask Participants:**
- What reasons might people have for allowing or not allowing guns on a college campus?
  - Some people might feel that they are better equipped to defend themselves if they can carry a firearm. College campuses are a place for learning; teachers and students might not feel safe contributing to robust discussions on contentious issues if classmates are allowed to have guns in lectures.

**Share with Participants:**
Currently, there are 18 states that ban carrying a concealed weapon on a college campus. As a result of recent state legislation and court rulings, eight states now have provisions allowing the carrying of concealed weapons on public college campuses. In 23 states the decision to ban or allow concealed carry weapons on campuses is made by each college or university individually.

**Ask Participants:**
- Should conceal-and-carry laws be determined by state legislators or the United States Congress? Why, or why not?
  - Possible responses: Conceal-and-carry laws should be decided by state legislators because this is a state’s rights issue, and they can best determine what policies work in the context of their state. Congress should determine what the conceal-and-carry laws should be for the entire country so that it is consistent throughout all states.

**Share with Participants** Handout 2-1, Conceal and Carry on Campus: A Policy Discussion:
We will all participate in a role-playing scenario to gain a better understanding of the different points of view that people have regarding allowing or banning concealed weapons on college campuses and to think about the issues that policymakers have to take into consideration.

**Assign Roles to Participants and Distribute Considering Your Role Questionnaire**
Split participants up by roles into the following two groups. Each group should be facilitated by an educator or lawyer. You may want to move one of the groups into another room or space for the role-playing activity.

**Group 1: Roles A–L**
**Group 2: Roles A–L**
In small groups, allow 25–30 minutes for the following discussion.

After allowing participants a few minutes to read their roles and think about the questions, distribute Handout 2-2, Crafting a Conceal-and-Carry Policy: A Venn Diagram. Ask participants to make a list of reasons why University X should or should not allow concealed weapons on campus. In the middle of the diagram there is space to indicate how the group can compromise to develop a policy that includes ideas from both sides. Ask participants to identify the idea that provides the strongest argument for their position on the policy as they discuss how to move forward.

After groups have completed their discussion, they can come back together for a sharing and debriefing of the activity. Facilitators can have the participants in the role of University X administrators present their group’s discussion and proposed policy.

**Ask Participants:**
- Was your group able to come to some type of consensus or compromise?
- Does your policy promote safety? In what ways? How difficult will your policy be to manage or monitor?
  - Participants can all resume their personal perspectives as the group moves into a debriefing of the role-playing activity.

**Ask Participants:**
- Was it hard for your group to negotiate a compromise?
- Were there arguments that you thought were more persuasive but not chosen? Why?
- What rights does the administration have to balance in this scenario?
- What do you think were some of the strongest arguments for and against a policy allowing conceal and carry on campus?
- Are there alternative strategies for increasing safety that come to mind?
- Why do you think there are so many different points of view on this issue when all 50 states have some type of allowance for citizens to carry concealed weapons?
- What issues do legislators face in developing policies for colleges or universities versus other state agencies and institutions?
Handout 2-1

Conceal and Carry on Campus: A Policy Discussion

Scenario: University X is a public school in a state that has left the decision to ban or allow concealed carry weapons up to the individual schools in the state. Recently there were a few violent incidents on another college campus a few hours away that have received a lot of media attention. University X does not currently allow concealed weapons on campus. It hasn’t had any major violent incidents on campus recently, but there was an on-campus suicide six years ago and a fraternity hazing incident. Due to the media attention surrounding the events at the other campus, the university administration has received a lot of pressure from students, parents, and faculty regarding the banning or allowing of concealed weapons on campus. The university administration has decided to bring all parties together to hear their points of view and to start to build a consensus for a policy that will act in the best interest of the campus.

Each of you will be assigned a role and will complete this activity keeping in mind the perspective of that role and not your personal viewpoint. After roles are assigned, there will be a few questions for each of you to consider before we split into two groups to begin the University X Town Hall Conceal and Carry on Campus Policy Discussion.

Conceal and Carry on Campus Policy Discussion Roles

Students

- You are a graduate student and a representative for Students for Concealed Carry on Campus. You support having licensed, concealed carry of handguns on college campuses for self-defense. You feel that you should be able to carry a concealed personal handgun in all buildings on campus. (Student A)
- You are president of a sorority/fraternity. You do not personally own a firearm but you support the right of other trained and licensed students to carry concealed guns on campus, only not in student dorms, and not in the sororities and fraternities that have properties on campus. (Student B)
- You are a junior who lives off campus and often has to walk through campus alone at night to get to the bus after spending late hours at the library. You are not personally comfortable with carrying a gun, and it makes you nervous to think that there would be more guns on campus. (Student C)
- You are a freshman who has recently graduated from a large high school in a community that was prone to violence. You do not feel that having guns on campus will make things safer or promote an academic environment. (Student D)

Parents

- You are a parent who is against having concealed guns on campus. Your son is a sophomore at University X and he has enjoyed his experience at the school. You do not see a reason why the school policy should change. (Parent E)
- You are a parent and your daughter attends University X. Both you and your daughter are licensed gun owners. You would feel more comfortable if she was allowed to carry a concealed weapon on campus for personal protection. (Parent F)

Faculty

- You are a longtime faculty member in the school’s psychology department. You remember the impact that the student’s suicide had on the whole university community six years ago. Your concern is that allowing concealed weapons on campus could open up a door to a host of other issues that the campus is not prepared to regulate. (Faculty G)
- You have been teaching at the university for a few years and have enjoyed making this community your home with your new family. You teach a very competitive course that relies on having open, and sometimes contentious, debates among your students. You are concerned that having concealed weapons on campus would make it harder for your course to
be one that welcome robust and informed discussions on controversial topics. (Faculty H)
• You have been a licensed gun owner for a long time and believe that it is within your Second Amendment right to have a concealed weapon on campus. You believe that with proper regulations, University X could have a responsible conceal-and-carry policy that would make everyone feel safe. (Faculty I)

University Administration
• You are a senior level administrator at University X. Recently you have been contacted by several major donors to the university threatening to cut their sizeable contributions to the school unless University X allows there to be concealed weapons on campus. (Administration J)
• You are a mental health counselor at University X. You are concerned because you are aware of a number of students who have violent tempers or other issues controlling their impulses. Some have been involved in campus fights. You are worried that things may escalate and a student may do something he or she regrets if he or she is carrying a concealed weapon on campus. (Administration K)
• You are a campus security officer at University X. You are frequently called to deal with potentially volatile situations. You are equipped with a gun but have never had to use it. You are concerned that adding the potential of a concealed weapon to the mix in responding to campus calls increases both the danger to your personal safety and the likelihood that someone who appears to be reaching for a concealed weapon will be shot in error. (Administration L)

Reflection Questions:
Consider the following questions from the perspective of your assigned role.

1. Are you for or against concealed carry on campus?
2. Why do you think people should or should not be allowed to have concealed weapons on campus? What are the three strongest arguments to support your position?
3. What do you think should be included in the school’s policy concerning concealed carry?
4. What would you be willing to give up, or negotiate, in the school’s policy on concealed carry?
Crafting a Conceal-and-Carry Policy: A Venn Diagram

Should University X Allow Conceal and Carry on Campus?

Make a list of reasons why University X should or should not allow concealed weapons on campus based on your assigned role. In the center area, indicate how your group might compromise to develop a policy that incorporates the concerns of both sides.
Would “Smart” Guns Be Smart Policy?

In this Dialogue, participants analyze a president’s quote about “smart” guns, examine examples of the technology, and consider potential public safety and health implications. Students will look at the roles, including strengths and limitations, of both the marketplace and law in developing safer consumer products.

“Smarter” Guns

Explain to participants that they will be analyzing a quote from President Obama that makes an argument about guns and safety using technology. According to the Brady Campaign to Prevent Gun Violence, the number of gun-related deaths in the United States is more than 30,000 a year and more than 3,000 children a year are injured in unintentional shootings. The president suggests the use of “smart” technology as a means of reducing intentional gun deaths (to help ensure the gun is not used to commit a crime by someone not legitimately in possession of it) and as a means of reducing accidental deaths, particularly such as those that occur when a child finds a gun and plays with it. The following is an excerpt from the president’s statement.

Today, many gun injuries and deaths are the result of legal guns that were stolen or misused or discharged accidentally . . . If we can set it up so you can't unlock your phone unless you've got the right fingerprint, why can't we do the same thing for our guns? If there's an app that can help us find a missing tablet . . . if we can do it for your iPad, there's no reason we can't do it with a stolen gun. If a child can't open a bottle of aspirin, we should make sure that they can't pull a trigger on a gun. Right?

Barack Obama, “Remarks by the President on Common-Sense Gun Safety Reform,” January 5, 2016.

Ask Participants:

- Why do we put protections such as passwords and fingerprint protection on our cell phones? Why do we put special childproof lids on aspirin bottles? How does the statement connect the examples of the aspirin bottles and the cell phone protections with his argument for smart guns with high tech safety technology? Guns have been around for hundreds of years. Why do you think the president is making the argument that we should add additional safety precautions now?

Participants should identify the primary object of the quote as guns, specifically, smart gun technology. Participants might identify examples from the quote and what they are protecting against: including smart phones, tablets, and fingerprint technology protecting against unauthorized use; locating apps protecting against loss or theft; and a child-resistant bottle of medicine protecting against unauthorized and potentially unsafe ingestion or overdose. The “why now?” question may lead back to a discussion of the gun violence statistics, the number of guns present in the United States (more than 300 million by some estimates) and the recentness of the availability of smart technologies, such as biometric sensors.

- What does “smart” mean? Did you know that “smart” is an acronym, and what it stands for?

Participants might list examples of “smart” terms or devices, including “smart phone,” “smart card,” “smart home,” or “smart board.” By definition, “smart,” in the technology sense, is actually an acronym for “Self-Monitoring Analysis and Reporting Technology.”
• How do the examples in the chart respond to the ideas expressed in the president’s statement? In what ways might these types of technology make gun owners or the public safer?

Participants might identify specific examples from the chart, such as fingerprint technology, that respond to the

Smart Gun Technology

Share with Participants Handout 3-1, Chart of “Examples of Gun Safety Innovation and Smart Gun Technology.”

The chart outlines five examples of efforts to develop safer guns using smart technologies. Review the examples with participants. Emphasize that these examples are projects “in development” or “testing,” or are not yet available for public sale in the United States.

Ask Participants:

• What qualities do “smart” objects have? How might “smart” technology make objects safer or more secure?

Participants may list qualities such as technologically based, electronic, computerized, fast, efficient, small, data-driven or data-collecting, and able to communicate. Participants might cite examples of smart technology making products safer or more secure, including added security to electronic devices; added security to chips on smart cards; and safer smart homes.

• How might guns use smart technology? What safety features might be incorporated into guns using smart technology?

Participants might offer examples suggested by the quote such as fingerprint-locking guns, an app to locate lost guns, and child-resistant triggers. Allow participants to discuss their thoughts or speculate about whether this technology exists or would be a new invention.
quote. Participants might identify scenarios in which these types of technology could make situations safer, including preventing accidental shootings, including by children; preventing the use of stolen guns, including in crimes; and possibly preventing a mass shooting in a public setting.

- Some gun advocates oppose producing smart guns. Can you envision any potential downsides to utilizing high-tech solutions to provide an extra level of safety before one can shoot a gun?

Participants might identify scenarios in which these types of technology would not make gun owners or the public safer, including doing nothing to stop any criminal shootings by the legitimate owner; not-functioning during times when someone, such as a police officer or victim, might be grabbing a gun that does not belong to him or her and attempting to shoot it in self-defense; or a smart gun “jammer” preventing police officers or other “good guys” from responding to a shooting in a specific location. Participants may also identify possible drawbacks, such as the time it takes to enter a fingerprint or code, possible software malfunction or hacking of the gun or its technological features, or a false sense of safety because of the technology. Stress that like most solutions to pressing problems, a balance must occur between the competing interests—here the public health and safety with the interests of the efficient use of the product for the purposes for which it was designed. Note that technology continues to evolve and is constantly improving and that smart guns are no different.

Smart Guns and the Law

One reason that gun manufacturers, dealers, and others have pushed against the introduction of smart gun technologies in the marketplace is their concern that once smart guns are generally available, laws or regulations may be passed limiting their ability to make, sell, or buy guns without such technologies. In fact one state, New Jersey, enacted such a law in 2002.

Share with Participants:

New Jersey Childproof Handgun Law

The amended bill specifies that three years after it is determined that personalized handguns are available for retail purposes, it will be illegal for any registered or licensed firearms manufacturer or dealer to transport, sell, expose for sale, possess for sale, assign, or transfer any handgun unless that handgun is a personalized handgun.

Ask Participants:

- What does the New Jersey law do?
  How might the law contribute to public safety in New Jersey?

Allow participants to summarize the New Jersey law effects: the New Jersey law requires all guns sold there to be smart guns, once smart guns are available. Encourage participants to draw connections between safety aspects of smart guns, and how such a law could contribute to increased public safety by preventing their unauthorized use.

- What arguments do you think opponents of this law have offered against it?

Participants may identify that opponents argue that mandating these technologies would be an infringement on their Second Amendment rights. Some gun rights advocates are concerned that the New Jersey example will inspire other state and local governments to pass similar laws—it’s a “slippery slope.” It would limit consumer choice among the types of guns available, could make it difficult for guns to function in an emergency, or increase the cost of guns to owners.

Participants might mention that smart guns do not prevent people from actually owning or shooting guns, and that the federal government already mandates safety requirements in many consumer products, such as seatbelts in cars.

- What do you think of laws mandating or encouraging the manufacture and/or sale of smart guns? Are they a good idea? Why or why not?

Let the students debate their viewpoints and come to their own conclusion.

- Given the number of gun-related deaths and injuries, gun violence in the United States has been increasingly viewed as a public health crisis. Do you see a role for smart guns in containing this “epidemic” of violence? If so, what is that role? Do you think smart guns alone can end this epidemic? Why or why not?

Wrap up discussion by asking participants to offer final thoughts on the issues and potential policy solutions.
Enter a Code
The lock requires an authorized user to enter a code for the gun to unlock it or allow it to function. The example here uses one dial that is built into a cartridge that is used with the gun. It may be added to an existing gun.

Ammunition
Ammunition will not fire unless a specific grip sequence is applied to the grip (in blue) from an authorized user. The grip system may be installed on an existing gun.

Radio Frequency Identification (RFID) Guns
This type of gun requires an authorized user to wear a watchband or a ring in order for it to fire. RFID technology is built into the gun.

Fingerprint Guns
This gun requires fingerprint identification of an authorized user in order to fire. Fingerprint identification technology is built into the gun.

Smart Gun Jammer
Similar in function to a cell phone jammer, it uses satellite data to “jam” smart guns from firing in a specific location, such as a school, office, or park.

Source: Smart Tech Challenges Foundation, 2016.
Images courtesy of (from top): Zore, Everlokt, Armotix, Kodiak Industries, and Wikimedia Commons.
What Is a Public Health Crisis?

Ask Participants:

- What does it mean when you say something is a “crisis”?

A crisis can be defined in a number of ways. The most common definition is that it is a serious or difficult situation that needs attention. Other definitions include: “the turning point for better or worse in an acute disease or fever; an emotionally significant event or radical change of status in a person’s life; an unstable or crucial time or state of affairs in which a decisive change is impending; a situation that has reached a critical phase” (Merriam-Webster).

- Can you think of some examples of crises that impact health?

Participants may provide many different types of examples, including natural disasters, environmental issues such as air or water pollution or lead-point poisoning, infectious disease outbreaks, etc. Some of these will likely involve the public; others may be personal or affecting small groups. Differentiate between what might be called a public crisis (e.g., global, national, regional, community-level issues) and what might be more in the nature of a personal or group crisis.

Ask Participants to Discuss:

Provide participants with Handout 4-1 (“Identifying a Public Health Crisis”). Divide participants into eight small groups, and assign each group one scenario. Allow the participants 5–10 minutes to read their scenario and discuss whether it involves a public health crisis. Allow each group to present their scenario to the rest of the group, and what they have determined about its potential to be a public health crisis.

Ask Participants:

- Which of these situations involves public health crises? What do the public health crisis situations have in common?

Participants may answer they all involve a health-related issue; the potential for harm to many people exists; public officials have an interest in stopping it and a role to play to protect the public health and safety. Differentiate between individual and public issues.

- What sort of actions do government officials take when there is a public health crisis? Do charitable organizations, private businesses, and community members have a role to play in public health crises? If so what?

Officials may quarantine an individual or community to contain an epidemic and make sure it does not spread to others; they may help facilitate victims receiving treatment; they may take action to deal with the source of the health issue, such as cleaning up dirty water or regulating an unhealthy situation, such as pollution or second-hand smoke; they may conduct research; they may provide emergency funds; and they may help ensure the availability of life’s essentials such as food and clean drinking water. Individuals, businesses, and community groups often assist and fill in the gaps for the good of the community.
Gun Violence as a Public Health Crisis

Share with participants:
Provide participants with Handout 4-2 (“The Stats: Gun Violence in the United States”). Explain to participants that the discussion will now turn to gun violence in the United States. Ask participants to study and consider the statistics about gun-related deaths and injuries. Allow participants 3–5 minutes to review the statistics on the handout.

Ask Participants:
• What do we learn about gun deaths, injuries, and gun ownership in the United States from these statistics?
  Encourage participants to identify particular statistics that they found surprising or significant. Highlight particular statistics as necessary to draw attention to the number of gun deaths, injuries, and rates of gun ownership in the United States.

• What are some of the costs of gun violence? Who pays these costs?
  Chart participants’ responses on a whiteboard or chart paper. Participants may mention parties such as families, overworked healthcare providers, individuals unable to receive hospital treatment because emergency rooms are busy with gunshot victims, employers (due to victims’ and families’ lost work time), individual homeowners, communities, or governments.

Share with Participants:
In June 2016, the American Medical Association (AMA) adopted a policy calling gun violence in the United States a “public health crisis,” which requires a “comprehensive public health response and solutions.” Share the following quote about the policy to participants:

With approximately 30,000 men, women and children dying each year at the barrel of a gun in elementary schools, movie theaters, workplaces, houses of worship and on live television, the United States faces a public health crisis of gun violence.

Steven Stack, M.D., President, American Medical Association

Ask Participants:
• Why do you think doctors and other healthcare providers are particularly concerned with gun violence?
  Answers will vary, but will likely center on the fact that doctors are on the frontlines of providing care to gunshot victims. In addition to treating injury, doctors are also concerned with preventative care to help individuals avoid pain, injury, and other conditions that adversely impact public health.

• What factors from the statistics or our discussion about public health crises support the AMA’s designation of gun violence as a public health crisis?
  Participants may use the statistics to show that gun violence is a widespread issue, meeting the test of its being a “public” crisis. The connection to health necessary to show it is a public health crisis may come from the involvement of healthcare (e.g., emergency rooms), the impact on community health, etc.

• What do you think of the AMA’s decision to treat gun violence as a public health crisis?
  Encourage participants to express their reactions to the AMA’s policy statement.

Ask Participants to Discuss:
Provide participants with Handout 4-3 (“Examining the Relationship Between Gun Violence and Individual and Community Health”). Divide participants into eight small groups, and assign each group one scenario. Allow the participants 5–10 minutes to read their scenario and discuss to what degree it supports the argument that gun violence is a public health crisis. Allow each group to present their scenario to the rest of the group, and what they have determined about its potential to be an argument in support of identifying gun violence as a public health crisis.

Ask Participants:
• We looked at several scenarios that suggested arguments for treating gun violence as a public health crisis. Which scenario do you think best supports the AMA’s position that gun violence is a public health crisis? least supports? Why?
  Ask participants to rank the scenarios best to least, on a scale of 1–8 with number 1 being the best. Remind participants that there are no right or wrong answers.
Ask Participants to Discuss:

Explain to participants that you want them to consider how designating gun violence as a public health crisis might lead to efforts to address, including reduce, it. Remind participants that emergency response actions to public health crises can come from a government, in the form of laws and regulations, personnel and resource assistance, funding, or tax breaks, but responses to public health crises also come from friends, neighbors, the community, charitably entities, churches, and others. Ask each group to look at their assigned scenario and develop a potential solution to help prevent or address the gun violence incident presented. Provide participants with 8–10 minutes to formulate solutions.

Ask Participants:

- What solutions did you develop to address the gun violence issues presented in your scenario?
  Ask each group to present their scenario and their solutions and ideas to the rest of the groups. If necessary, ask groups to elaborate on who is providing their proposed emergency response (e.g., government, community members, etc.).
  Who might bear the costs of the response? What potential opposition, if any, might arise to the proposed solution? How might they overcome it?
- How did thinking of gun violence as a public health crisis, rather than a crime issue, for example, affect how you looked at these scenarios and how you thought about what solutions might be appropriate and possible?
  Encourage participants to share how this shaped their thinking as they developed solutions to their scenarios.
- Do you agree with the AMA’s position that gun violence in the United States is a public health crisis? Why or why not?
  Create a continuum on a whiteboard or poster-sized piece of paper. At the top should be the words, “Gun Violence Is a Public Health Crisis.” Draw a line below the heading, and plot numbers 1–10 evenly across the line. Near the number 1, write “Strongly Disagree.” Near the number 10, write “Strongly Agree.” Provide the participants with sticky notes and have them place the note at the point in the continuum that best expresses their viewpoint.
Identifying a Public Health Crisis

Scenario 1
School A decided to remove all of the soda machines in its cafeteria. The school took this step out of concern for the health of its students. According to the Center for Disease Control, in the United States:

- Childhood obesity has more than doubled in children and quadrupled in adolescents in the past 30 years;
- The percentage of children aged 6–11 years in the United States who were obese increased from 7% in 1980 to nearly 18% in 2012;
- More than one third of children and adolescents are currently classified as overweight or obese.

The consumption of sugary beverages has been shown to be a contributor to weight issues among both children and adults. In removing the soda machines, the principal said, “We are fighting for our students’ health!”

Scenario 2
A tornado hit a small town in State B. It landed in a field and missed the town center. The Jones family was not so lucky, however. The storm took the roof off the barn to their family farm. They also lost some of their livestock and suffered extensive damage to their crops. Flying debris injured two family members; one required extensive hospitalization and rehabilitation. Members of a local church held a fundraiser for the family to pay for damages not covered by insurance.

Scenario 3
A massive category 5 hurricane hit State C with full force. Days of torrential rains and winds lead to record flooding. When major rivers overflowed, thousands were displaced from their homes, many of which were completely destroyed. Days after the hurricane, electricity still had not been restored and many areas lacked clean drinking water. State C sent bottled water to all of the affected areas, and volunteer medical personnel showed up to help the sick and injured when local hospitals proved ill equipped to handle the situation.

Scenario 4
An outbreak of the Zika virus has occurred in a neighborhood in a coastal community in State D. Zika is a mosquito-born virus with serious health consequences, including the potential for causing birth defects when contracted by pregnant women. Although only five cases have been reported in the community, state and federal government and health officials act immediately to deal with the issue. Mosquito spraying is drastically increased; screening of community members for the Zika virus is initiated; medical experts arrive to assist local hospital staff with identifying and treating the virus; and travel to the area is restricted.

Scenario 5
Mrs. Jasper decided to bring her famous homemade chicken salad to a potluck picnic at a local community center. She had a lot of errands on the day of the picnic, and forgot to put ice in the cooler with the chicken salad, which she kept in the trunk of her car. It was a warm day, and the chicken salad went bad. Five people who ate chicken salad sandwiches at the potluck got sick; two had to go the hospital and have their stomachs pumped. The community center decided henceforth it will have all events catered.

Scenario 6
In the cold and flu season, a quarter of Reggie’s class was out sick. The school announced that it was adding hand-sanitizer dispensers in all the corridors and asked students to wash their hands frequently to prevent the flow of germs. Reggie had a big track meet the following day that he did not want to miss. Suddenly, Reggie sneezed and his nose started to run.

Scenario 7
Public officials fail to properly maintain a city’s water pipes and the pipes begin to degrade and leech lead. Replacement of the pipe system is a massive project that will take years and millions of dollars. In the meantime, town residents are no longer able to use the water from their tap without heavy filtering. The filters are an added expense that some residents can ill afford and do not completely solve the issue. Some town residents who drank the water before the contamination was discovered are suffering the effects of lead in their bodies; others are concerned they may have been harmed, but there is a long backlog for medical testing. Federal, state, and local officials approve funding to help pay for the filters and for the personnel to perform medical testing. Public entities and local charities provide bottled water. Jake is angry his water is contaminated and that his family was put at risk. He is considering joining a class-action lawsuit brought by another resident of the city.

Scenario 8
A train carrying noxious chemicals derailed 20 miles from a mid-sized town. The place where the train derailed is near the lake where the town gets all of its drinking water. Officials estimate that if nothing is done in 72 hours, the noxious chemicals that spilled out of the train during the derailment will reach the lake and contaminate the water.
Daily Gun Violence in United States

- 298 people shot
- 151 injured in attacks
- 90 people die
- 56 commit suicide
- 31 are murdered
- 10 people survive a suicide attempt
- 48 kids and teens are shot, and 7 die

In 2015 alone, in the United States there were 372 mass shootings (in which four or more people died or were injured), averaging a little more than one mass shooting a day. (Source: Mass Shooting Tracker)

According to the Congressional Research Service, there are more than 300 million guns in the United States. That averages out to one gun for every man, woman, and child in the country.

The Stats:
Gun Violence in the United States*

Average Annual U.S. Gun Deaths
- Unintentionally killed: 567
- Killed by police intervention: 440
- Murdered: 11,184
- Die but intent unknown: 261
- Suicide: 20,511

Total: 32,964

Average Annual U.S. Gun Injuries Survived
- Survive suicide attempts: 3,791
- Shot by police intervention: 827
- Shot unintentionally: 16,334
- Injured in attacks: 55,009

Total: 75,962

Some Estimated Costs of Gun Violence**
- Firearm injuries cost $174 billion in the United States in 2010.
- Firearm injury costs average $645 per gun in America.
- The costs include medical and mental health care costs, criminal justice costs, wage losses, and the value of pain, suffering and lost quality of life.
- Violence—assaults and suicide acts—dominated the costs.
- Researchers approximate that gun violence costs $8.6 billion in direct medical-related expenses alone, including for emergency and medical care. (Source: Law Center to Prevent Gun Violence)
- Taxpayers foot the bill for $500 million in annual hospital costs related to gun violence, according to a 2014 study from the Urban Institute.

*Source: The Brady Center to Prevent Gun Violence

** These estimates are based on the injury data from the Centers for Disease Control and unit costs from the Pacific Institute for Research and Evaluation’s (PIRE) injury cost model. Data was developed by Ted R. Miller, PhD, Principal Research Scientist, Children’s Safety Network Economics and Data Analysis Resource Center, at Pacific Institute for Research and Evaluation, December 2012.
Examining the Relationship Between Gun Violence and Individual and Community Health

**Scenario 1**
Homeowners in a community plagued by gun violence have seen home values decline by 40 percent over the last decade. Due to the decreasing values, many cannot afford to sell their homes and leave the neighborhood. One of those homeowners has asthma and wants to move out of her home to a warmer, drier climate. However, her low home value prevents her from realizing this dream. She has been hospitalized twice this year with breathing difficulties.

**Scenario 2**
Doctors in a local emergency room are working twelve- to fourteen-hour shifts due to a large influx of patients with gunshot wounds. Because the doctors are so busy with gun violence victims, patients with less serious injuries are being diverted to a hospital six miles away. For some without cars, getting to the alternate hospital requires a bus ride with two transfers.

**Scenario 3**
Jane, a 19-year-old girl with a history of mental health problems and drug addiction, gets hold of her father’s gun. She tried to commit suicide by overdosing on pills two years earlier but was rushed to the hospital in time and revived. She and her parents have no funds or coverage to pay for counseling or treatment and are unaware of free programs in their area. She is found in her room shot and unconscious with the gun on the bed. It is not clear whether she shot herself on purpose. Her distraught parents lack any savings or insurance to cover the $15,000 funeral cost.

**Scenario 4**
Gun violence goes up markedly in a neighborhood. As a result of the uptick in violence, senior citizens in the area stop holding their daily yoga sessions in the park and limit their time outdoors. For many, the sessions were their main source or exercise. Studies demonstrate that seniors who remain active live happier, healthier, and longer lives.

**Scenario 5**
A child finds a gun hidden in a box in his parents’ closet. He uses the gun to play “soldier.” During his game, he accidentally fires the gun, shattering a window. Broken glass shards lodge themselves in the child’s arm, requiring a trip to the emergency room. Nurses are upset when the child tells them how the injury happened.

**Scenario 6**
Gary has a history of domestic violence. He has been convicted several times on felony assault charges. He had a gun license, but it was suspended due to the convictions. He walks into a gun shop and asks to buy the most powerful gun the shop owner has and a case of bullets. The shop owner fails to perform the legally required background check and sells Gary the gun. Three days later, there is an article in the local paper reporting that Gary shot and seriously injured his ex-girlfriend, who requires months of hospitalization. The gun used in the crime was the one he bought in the shop.

**Scenario 7**
State Y does a study of individuals who receive treatment in state hospitals. The study reveals a high percentage of individuals who receive emergency room treatment and have no or insufficient insurance are gun-violence victims. The hospitals must treat these individuals, many of whom come in with life-threatening injuries. Taxpayers wind up footing much of the bill for this care, which totals millions of dollars a year.

**Scenario 8**
Shari lives in a neighborhood with a lot of crime. On her way to work one day, she witnesses a fatal shooting. She is traumatized by the event and has difficulty leaving her home for months afterwards. She starts missing work and ultimately loses her job and health benefits due to her absenteeism. She wakes up extremely ill one morning and is taken by ambulance to the emergency room. She has a major intervention operation without any health coverage. A bill for several thousand dollars arrives from the hospital, and she has no money to pay it.
Additional Resources

For more materials and information on gun violence and public health, please visit this resource’s companion website at [www.ambar.org/gunviolence](http://www.ambar.org/gunviolence). Online you will find:

- A downloadable PDF version of this booklet
- Printable versions of all handouts referenced in this resource
- Visual aids for Dialogue presentations
- A list of external links to news stories, opinion pieces, and policy statements on gun violence and its connection to public health
- Links to documentaries, news programs, videos of public symposia, podcasts, and other multimedia content focusing on the public health aspects of gun violence
- Lesson plans relating to gun violence and public health from other education organizations
- An opportunity to provide feedback and share your stories and ideas

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