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# PUBLIC OPINION AND THE SECOND AMENDMENT

*Nelson Lund*<sup>†</sup>

Eds. Note: A blog post by Professor Bryan Caplan<sup>1</sup> brought our attention to an interesting polling result from Gallup.<sup>2</sup> Since 1959, Gallup has asked a question, in one of two forms, regarding a law banning handguns for everyone except police or authorized persons. For the first decade of the survey, the yes responses outweighed the no (starting at a gap of 20 percentage points and decreasing from there). Since 1967, there has been a notable gap (on average around 20 percentage points) between those that respond no, there should not be a ban on handguns, outweighing those that respond yes, there should be a ban on handguns. We thought the intersection of public polling and Constitutional law was an interesting area to explore. We acknowledge that polling is a “light” metric, but it plays a significant role in shaping policy and legal outcomes. Professor Nelson Lund was kind enough to provide his thoughts, which we publish below.

The striking change in public polling results on the issue of handgun bans during recent decades undoubtedly reflects a significant cultural phenomenon. One can think of many possible contributing factors to the declining support for handgun bans, but it is extremely difficult to determine which of them actually contributed to the phenomenon or to determine how big each of their contributions has been.

Public polling has many notorious limitations. For example, it is well known that slight changes in the wording of a question can lead to dramatically different results. For that reason, the results can be extremely misleading. In this case, for example, the term “authorized person” might mean something very different to different respondents, and it is quite

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<sup>1</sup> [econlog.econlib.org/archives/2013/11/gun\\_grabbing\\_a.html#](http://econlog.econlib.org/archives/2013/11/gun_grabbing_a.html#).

<sup>2</sup> [www.gallup.com/poll/1645/guns.aspx](http://www.gallup.com/poll/1645/guns.aspx).

possible that a large fraction interpreted the term to mean something different from what the pollster had in mind. In addition, many respondents may have interpreted the term in one way during one time period and in a different way during other time periods.

Polling of this type is also unable to measure the intensity of the respondents' opinions or the stability of their convictions. If gun control and/or gun crime has recently been much in the news, many respondents might express different opinions than they would at other times. Similarly, some respondents will undoubtedly be more resistant than others to having their opinions changed by hearing evidence or arguments to which they have not been previously exposed.

Accordingly, I do not believe that we can learn a lot directly from polling data like these. The magnitude of the change measured by these data, however, strongly suggests some kind of important cultural shift, and that shift is confirmed by other data, especially dramatic legal changes that have occurred during this period.

I suspect that the two most important events were the adoption of a liberalized concealed carry statute in Florida in 1987 and the adoption of a major federal gun control statute in 1994.

During the first half of the period covered by the Gallup poll, almost all states with large urbanized population centers effectively prohibited most law-abiding citizens from carrying handguns in public. In 1987, Florida changed its statutes to make it very easy to get a permit for concealed carry. This caused a major public furor, consisting primarily of dire predictions that the streets would soon be running with blood. The predictions proved false, for permit holders almost never used their weapons to commit a crime. As the years went by, many other states changed their laws to resemble Florida's, and nobody has been able to show that this liberalization had any measurable bad effects. Today, only eight states make it almost impossible for an ordinary citizen to have the legal right to carry a concealed handgun.

It is hard to know whether changing public opinion was the main contributor to these legal changes, or whether the results of the legal changes contributed significantly to changes in public opinion. But we can be pretty sure that if the liberalization of concealed carry laws had produced disastrous effects, we would have different laws and different public attitudes today.

The 1994 federal gun control law reflects the other side of the coin. Public discussions of gun control typically flare up after heavy news cover-

age of gun crimes. The first major federal law, in 1934, was enacted in the wake of the gangster wars during Prohibition. The next major federal law, in 1968, came shortly after the assassinations of President Kennedy, Robert Kennedy and Martin Luther King, and the urban riots of that period. By the late 1980s, when states began liberalizing their concealed carry laws, gun control had become a more partisan issue than it had once been. A number of well publicized crimes took place, such as the Stockton schoolyard shooting in 1989, which predictably triggered loud calls for a new federal law. Nothing happened, however, until 1994 when the Democrats controlled both houses of Congress and the presidency. After enacting a new statute, the Democrats suffered devastating losses in the mid-term elections that year, and gun control was a major factor in their defeats. Neither House of Congress has taken any significant actions since that time. Even the nominal support for such measures by Al Gore in 2000 and John Kerry in 2004 appears to have hurt them, and it may have been a decisive factor in one or both of their defeats at the ballot box.

After the horrible massacre at Sandy Hook Elementary School in 2012, a few states passed relatively minor new restrictions on firearms, but others responded by *liberalizing* their gun laws. At the federal level President Obama has occasionally offered vague endorsements of more gun control, but he has not dared to impose any significant new restrictions through executive action. Nor has he pushed Congress to enact new legislation.

I regard these political results as more reliable indicators of a cultural shift than polling results. But they point in the same direction. The cultural shift may also help to explain the U.S. Supreme Court's sudden discovery of the Second Amendment in 2008, when it invalidated Washington D.C.'s handgun ban. The Second Amendment had been in the Constitution since 1791, but this was the first time the federal courts had used it to invalidate any gun control measure. Future cases may well confirm a right to carry handguns in public, especially now that so many states have shown that there is little or no danger in doing so. If that happens, it will become ever more unlikely that we will observe public attitudes shifting back toward what they seem to have been at the beginning of the period covered by the polling data. And it will certainly make the law more resistant to advocacy in favor of more gun control.

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