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Firearms Law and Scholarship Beyond Bullets and Bodies

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Keywords

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Abstract

Academic work is increasingly important to court rulings on the Second Amendment and firearms law more generally. This article highlights two recent trends in social science research that supplement the traditional focus on guns and physical harm. The first strand of research focuses on the changing ways that gun owners connect with firearms, with personal security, status, identity, and cultural markers being key reasons people offer for possessing firearms. The second strand focuses on broadening our understanding of the impact of guns on the public sphere beyond just physical safety. This research surfaces the ways that guns can create fear, intimidation, and social trauma; deter civic participation and the exercise of constitutional rights; and further entrench racial inequality.

1. INTRODUCTION

At its most visceral, the gun debate in American politics, litigation, and scholarship is about the relationship between firearms and physical safety. But a growing body of research has begun to illuminate other important factors. Personal protection has become the primary reason for gun ownership. Further, firearm ownership and public carry are deeply intertwined with issues of status and identity, especially, but not exclusively, for White male gun owners. More recently, researchers have begun to investigate why people choose not to keep or bear arms and why people support regulating them. Altogether, scholarship is unearthing important aspects of the gun debate that go beyond the conventional focus on crime and physical safety. We first situate the importance of scholarship in firearms law and then provide a brief overview of some of the representative research.

2. SCHOLARSHIP AND THE TRANSFORMATION OF GUN LITIGATION

For decades, the central question for firearms law and litigation was whether the Second Amendment right is limited to people, arms, and activities having some connection to the organized militia, or whether it also encompasses a right to keep and bear arms for certain private purposes like self-defense (Blocher & Miller 2018). The militia-centric view prevailed overwhelmingly in courts, and many scholars took it as a given.

But, beginning in the 1950s and 1960s, and accelerating in the 1970s and 1980s, scholarship began to appear that supported the private purposes view—sometimes called the “individual right” view (Winkler 2009, pp. 95–96). Much of this scholarship was historical, purporting to present “originalist” claims about how the Founding generation understood the Second Amendment and connecting gun rights to other American values and traditions—sometimes by projecting the present into the past (Siegel 2008). But among elites within the legal academy, there was little activity; few prominent scholars wrote on the Second Amendment until the 1990s (Levinson 1989).

Then, in 2008, the Supreme Court handed down *District of Columbia v. Heller* (2008), which found that the Second Amendment encompasses a right to keep and bear arms for purposes unconnected to militia service, the “core” purpose of the right being self-defense within the home. In reaching that decision, the justices cited more secondary sources—including scholarship—and cited them more often than all traditional legal sources (cases, statutes, and constitutional provisions) combined. Although it would be too much to claim causation, it is safe to say that the historical and legal scholarship that preceded *Heller* played a prominent role in the decision itself.

But *Heller* also made clear that the right to keep and bear arms, like all constitutional rights, is subject to regulation. The court specifically approved as “presumptively lawful” such “longstanding prohibitions” as those regarding possession of firearms by felons and the mentally ill, carrying firearms into sensitive places such as schools and government buildings, concealed carrying, possession of “dangerous and unusual” weapons, and potentially other categories of regulation as well [*District of Columbia v. Heller* (2008), pp. 626–27, n. 26]. The court did not fully explain why these gun laws are constitutional, and it explicitly disclaimed any effort to articulate a generalized test or standard. To the degree that these exceptions (and potentially others) are justified because they are rooted in history, *Heller* helped generate demand for further historical research on gun regulation.

In dissent, Justice Breyer took a different approach, arguing that the constitutionality of contemporary gun laws should be evaluated based on a kind of interest-balancing test, “with the interests protected by the Second Amendment on one side and the governmental public-safety concerns on the other” [*District of Columbia v. Heller* (2008), p. 689]. Such a test naturally relies on empirical evidence and thus has generated demand for a different kind of scholarship about the effectiveness of modern gun laws.

As the dissenting justices predicted it would, *Heller* generated a wave of Second Amendment litigation—more than 1,000 constitutional challenges were filed in the 10 years after the case was decided (Ruben & Blocher 2018). Prior to June 2022, judges generally applied tests that combined elements of the majority’s historicism and the dissent’s means and ends empiricism. And—albeit with an increasing partisan difference (Germano & Samaha 2018)—they overwhelmingly rejected Second Amendment challenges, meaning that the boundaries of gun rights and regulation were still primarily the responsibility of the political branches. The political arena proved broadly hospitable to gun rights advocates, who generally prevailed both in blocking federal regulation and in expanding gun rights in many states through such measures as preempting local firearm regulation (Simon 2022), loosening or eliminating permit requirements for public carry, and guaranteeing extra-constitutional legal protections for firearms (Charles 2022a).

For more than a decade after *Heller*, the political branches remained the primary site of contestation, as the court declined dozens of petitions seeking review of Second Amendment cases. Then, in 2022, the court issued its decision in *New York State Rifle & Pistol Assoc. v. Bruen* (2022). The court held unconstitutional New York’s strict concealed-carry licensing law, which required applicants to show a heightened need for self-defense distinguishable from that of the general community. That holding had an immediate impact on the approximately 80 million Americans—roughly a quarter of the population—living in jurisdictions with similar laws. But the court’s more consequential holding was its rejection of the prevailing Second Amendment methodology, which permitted some evaluation of government interest and the fit between the regulation and that interest, and its adoption of a Second Amendment test that looks solely to history and analogy. If a modern law does not have an equal or analog in the Anglo-American historical tradition of firearm regulation, it cannot stand, seemingly regardless of its modern public safety benefits.

The court’s decision in *Bruen* presents a new set of challenges. For example, the decision makes it much harder for courts to consider the government’s contemporary reasons for regulating weapons or how effective those regulations are in preventing death, injury, intimidation, and other harms. But *Bruen* does not necessarily render social science irrelevant to legal decisions. It directs courts to consider whether a current law is analogous to a historical one by comparing both the justification for each law and the burden each law imposed. Social science can shed light on the burdens and justifications of contemporary laws, and perhaps also historical ones.

Traditional legal scholarship is still very much needed to give shape to the emerging law and doctrine of the Second Amendment, which is at roughly the same stage of development as the First Amendment was a century ago. *Heller* itself was profoundly shaped by sources outside of the legal academy (primarily history), and *Bruen* further emphasizes the need for research in the humanities and social sciences. Section 3 provides a brief overview of some important recent developments and possible future trajectories in that regard.

3. THE STATUS AND TRAJECTORY OF FIREARMS SCHOLARSHIP

Like the Second Amendment—and partly in a response to its legal transformation—firearms scholarship has changed in the past 15 years. One major change, chronicled by Carlson (2020) in this journal three years ago, has been from “Gun Studies 1.0”—which focused on generating scientific and quantitative empirical evidence—to an increasing focus on “Gun Studies 2.0,” which includes a broader and more sociological focus on the political and cultural considerations that make such evidence “meaningful.”

Even as both quantitative and qualitative branches of gun studies have continued to develop, the themes of gun studies have begun to shift—largely in response to changes in law, gun ownership, and use. Empirical studies of crime and physical harm, of course, remain important and hotly

contested (Donohue et al. 2021). But a growing literature, much of it based in sociology and social psychology, has also begun to explore the transformation in modes of gun ownership and use in the years since *Heller* was decided—especially the increased primacy of self-defense as a stated reason for gun ownership and the spread and politicization of public carry as a social practice. Even more recently, some scholars have begun to engage with the nonphysical harms of gun use: threats and fear; social trauma; deterrence from the exercise of constitutional rights, such as speech, assembly, and voting; and the inequality that can be reinforced both by gun use and by the enforcement of gun laws.

This is in some ways a natural parallel to the growing body of literature illuminating the psychic and social benefits that gun owners experience. It shows, as gun law and scholarship must, the considerations on all sides. Below, and with no claim to complete coverage, we highlight a few major developments.

In the decades before *Heller*, academic work occasionally engaged with America's gun "culture," generally to bemoan or criticize it. Hofstadter's (1970) lamentation of the United States "as the only modern industrial urban nation that persists in maintaining a gun culture" is largely representative. Some have noted that the study of lawful gun use has been left largely to criminologists and public health scholars rather than sociologists (Yamane 2017) or social psychologists (Buttrick 2020).

But the past decade or so has seen an impressive growth in the quantity and quality of sociological work on the place of guns in American life. And that scholarship has emerged at a time when gun ownership and use are undergoing a transformation. Self-defense and protection have recently become the primary reasons for gun ownership and are deeply intertwined with issues of status and identity (especially, but not exclusively, for White male gun owners). And some gun owners are increasingly carrying their guns in public—both individually and in groups—which in turn implicates the interests of others and raises the importance of work identifying and articulating the ways guns generate effects beyond physical safety.

Until relatively recently, US gun owners identified hunting and recreation as the primary reasons for gun ownership, even though most also identified "protection" as a somewhat-distant secondary reason for owning a gun. A 1999 Pew study found 49% of gun owners identified hunting and recreation as their primary reasons for gun ownership (even if they also selected "personal protection"), and only 26% chose personal protection as the primary reason (Pew 2013). [Even the Supreme Court, in finding self-defense to be the "core" of the Second Amendment, recognized that most Americans in the eighteenth century "undoubtedly thought it . . . even more important for . . . hunting" (*District of Columbia v. Heller* (2008), p. 599).] But by 2017, 68% of gun owners gave protection as their primary reason (Gallup 2019, Parker et al. 2017). This changing proportion can be attributed in part to an overall decline in hunting (Smith & Son 2015) and a general loosening of laws restricting concealed carry (Shapira et al. 2018).

It is also both a cause and a result of gun owners' changing self-conceptions (Lacombe 2021). Self-defense has become not only the primary reason for gun ownership but also the animating principle of what Yamane (2017, p. 5) calls "Gun Culture 2.0." In the words of National Rifle Association Executive Vice President Wayne LaPierre, "What is the 'gun culture'? . . . To millions of Americans, especially those who own firearms, the term refers to America's traditional bedrock values of self-reliance, self-defense, and self-determination" (cited in Melzer 2012, p. 29). Since 2014, and for the first time, "personal protection" and "concealed carry" have overtaken hunting and sport as the dominant themes in gun advertisements (Jacobs & Villaronga 2004, Yamane et al. 2018).

But protection can encompass a variety of different things. Perhaps the most obvious and visceral form—and the one most closely connected to the law of self-defense—is the use of guns to

defend against criminal threats. The data about how often this actually happens are strenuously disputed, but there can be little doubt that Americans have strong views about the likelihood of being attacked. Even as crime rates started to fall in the mid-1990s, fear of crime did not decline proportionately (Gramlich 2022), and fear continues to shape gun use and the gun debate. Scholars have studied the relationship between perceptions of risk, self-protection, and firearm purchase (Kleck et al. 2011). Notably, women are more likely than men to be afraid of crime (Logan 2020), although nearly twice as many men as women actually own guns for self-protection (Parker et al. 2017).

Given most metrics indicate that incidents of armed self-defense are quite rare (although how best to quantify these incidents is highly contested), it is all the more important to understand how hypothetical incidents appear to gun owners (Livingston 2022). Indeed, much of the focus of concealed carry courses is on developing the mental readiness to be able to use a gun against a threat, should the need arise (Carlson 2015a). Research has found that the hypotheticals used to prepare tend to be less complex than the average incident of self-defense (Barnhart et al. 2018).

A related but distinct line of scholarship has focused on another dimension of protection—protection not just from specific physical threats like crime but from instability or danger in a more generalized sense (Leander et al. 2017). In 2008, then-presidential candidate Barack Obama remarked, “You go into these small towns in Pennsylvania, and like a lot of small towns in the Midwest, the jobs have been gone now for 25 years, and nothing’s replaced them. . . . And it’s not surprising then they get bitter; they cling to guns or religion” (Seelye & Zeleny 2008).

Obama faced immense and intense criticism (many defiantly embraced the “bitters” label), but his basic message was consistent with that of many social science scholars. As Kohn (2004, p. 111) puts it, “One of the ways that shooters cope with the instability and anxiety of contemporary society is to grasp onto objects of safety, control, and profound symbolic meaning: guns.” Changes in economics, family structures, and gender/racial dynamics have left many White men feeling left behind; for some, guns can help restore “the strength and prestige of their idealized past” (Metzl 2019, p. 3). Rural Americans “facing unsettling economic times utilize guns as a foundational source of power and identity”; guns provide “moral purpose to white males who have lost, or fear losing, their economic footing” (Froese & Mencken 2019, pp. 23–24). Their loss of “breadwinner” confidence and power leads them to seek alternatives: a means to protect themselves (Froese & Mencken 2019) or to shift from a “provider” to a “protector” role (Carlson 2015b, Carlson et al. 2018, Squires 2018).

Qualitative sociological studies have helped illustrate the importance of firearms not only as a means of self-defense—in the narrow sense of preserving physical safety—but also as a means of retaining gendered status and authority in the face of socioeconomic stagnation that threatens traditional markers of masculinity (Carlson 2015b, Stroud 2016). “Gun advocates describe ways that firearms represent forms of selfhood forged through the protection of home and family” (Metzl 2019, p. 2).

Elements of this emotional protection argument are supported in other sources as well. Warner’s research has shown that stereotypically masculine attitudes were positively associated with protective ownership of guns—and that such attitudes are a far more important driver than economic precarity alone. Those who advocated stereotypically masculine ideals were also much more likely to own guns for protection if they faced economic precarity (Warner et al. 2021). For some, guns provide a way to assert masculinity (Cassino & Besen-Cassino 2019).

Whether these responses are normatively desirable is a separate question. Froese & Mencken (2019) use a “gun empowerment” scale to capture the degree to which gun owners feel morally and emotionally empowered by guns—finding in particular that White men in economic distress experience these benefits. Surely there is nothing wrong, in the abstract, with feelings of security;

some gun owners feel that they are stigmatized for the legitimate benefits they experience from gun ownership (French 2018). But Buttrick (2020, p. 836), writing from a social psychology perspective, argues that “guns act as a maladaptive coping mechanism that allows their owners to manage the psychological threats that they face in their everyday lives.”

At a broad level, the point is that “protection” as a reason for gun ownership is itself a complex topic worthy of further study—it encompasses not only self-defense from physical harm but psychological self-defense from a broader set of threats: “Gun ownership has been linked to fear, victimization, and collective security concerns; political attitudes and identities; socializations/social learning; and racial prejudice. Although often examined independently, these correlates of gun ownership share a common thread: to some degree, they are manifestations of a particular sensitivity to threat” (Warner et al. 2021, p. 112).

Gun manufacturers have marketed this aspect of guns, as in Glock advertisements suggesting that their weapons convey “the confidence to live your life” (Johnson 2012) or Bushmaster’s “consider your Man Card reissued” campaign (*Boston Globe* 2012). [Such ad campaigns are central to ongoing lawsuits against the industry, which, despite the high-profile success of the Sandy Hook plaintiffs, face significant legal hurdles [*Soto v. Bushmaster Firearms Int.* (2019)].]

4. CHANGING MODES OF GUN USE: CONCEALED AND OTHER FORMS OF PUBLIC CARRY

The protection-driven increase in gun ownership has direct implications for how people use their weapons. Those with low trust in law enforcement, for example, are far more likely to keep their gun nearby, act as public vigilantes, and be open to using the weapon in public if needed (Kreienkamp et al. 2021). “Central to Gun Culture 2.0 is the legal carrying of concealed weapons, mostly handguns, in public by ordinary Americans” (Yamane et al. 2018, p. 9).

Although data on public carry are relatively sparse, especially before *Heller*, various sources suggest that the rate at which gun owners bring their firearms into public spaces has increased. A 1993 National Self-Defense Survey found that 3.8% of respondents (both gun owners and nonowners) and 12.5% of gun owners had carried a gun on their person for protection at least once in the past 12 months (Kleck & Gertz 1998). The 1994 National Survey of the Private Ownership of Firearms found that 8.7% of gun owners “usually” carried on their person (Cook & Ludwig 1996). Researchers in a 2015 study estimated that 23.5% of the 38 million adult handgun owners in the United States had carried a gun publicly in the last 30 days. A third of those people carried their gun every day, and approximately half of those who reported carrying had carried their gun at least 18 of the past 30 days (Rowhani-Rahbar et al. 2017).

Data on the growth of both concealed permit holders and applications align with the 2015 findings. The number of concealed permit holders increased from 2.7 million in 1999, to 4.6 million in 2007, to 14.5 million in 2016 (Rowhani-Rahbar et al. 2017). One study of Florida, Indiana, Massachusetts, Texas, and Utah found that concealed handgun license applications had risen significantly. In Utah in 2010, there were approximately 11 applications per 1,000 observations in the group. By 2014, that number had risen to approximately 60 applications. In Florida in 2004, there were approximately 8 applications per 1,000 observations, whereas in 2014 there were approximately 16 applications (Shapira et al. 2018).

Rowhani-Rahbar et al.’s (2017) study of loaded handgun carrying included a questionnaire as to motivators for public carrying. The study found that 82.2% of respondents who had carried a loaded handgun in the past month did so for protection. This motivator was strongly correlated with the frequency with which the respondents tended to carry firearms in public. Whereas approximately 70% of respondents who had carried a handgun 1–6 days in the past month did so

for protection, approximately 90% of respondents who had carried one either 7–29 days or all 30 days had done so for protection. A large percentage of respondents who had carried a handgun 1–6 days, approximately 20%, did so for transportation. This might capture gun owners who, for example, simply transported their handgun from their home to their car.

Especially after *Bruen*, quantitative and qualitative studies of the practice of public carry would be exceptionally valuable. What percentage of gun owners carry their guns publicly, and why? Do they do so openly or concealed? How often are they used for defensive purposes? Against whom, and in what circumstances? How do other people—especially non-gun owners—experience such displays?

4.1. Social and Nonphysical Harms

The preceding section identified research exploring gun owners' perspectives—their reasons and ways of keeping and bearing arms. Scholars are also beginning to bring fresh perspectives on the reasons why others choose not to keep or bear arms, and why concerned citizens may wish to regulate them.

As noted in Section 3, the traditional focus here has been on the preservation of physical safety and prevention of physical harm. That frame remains crucially important, especially as gun deaths have skyrocketed in recent years. But recent scholarship in the social sciences has started to supplement that focus with accounts of nonphysical harms such as threats and fear, social trauma, and the compounding inequalities generated from gun violence. Making those harms legally legible remains a major task for legal scholarship and doctrine (Blocher & Siegel 2021).

Robust empirical evidence demonstrates that gun-related harms go far beyond physical loss (Cook & Ludwig 2000), and that these harms disproportionately impact vulnerable communities (Miller et al. 2000, pp. 710–11). A recent Pew survey reports that “overall, roughly one-in-four Americans (23%) say someone has used a gun to threaten or intimidate them or their family”; this includes a third of Black Americans (32%) (Parker et al. 2017, Vargas & Bhatia 2020). The secondary trauma from school shootings reverberates for millions of American students and parents, with a majority of teenagers and their parents reporting that they are very or somewhat worried about a shooting happening at their school; like gun threats, these numbers are also elevated for people of color (Graf 2018, Koo 2023).

One recent study explored the effects of Experiences of Violence (EVs) that include and go beyond individualized acts of victimization, including occurrence of gunshots in one's neighborhood, encounters with sidewalk memorials for individuals killed violently, or knowing someone at risk of violence to themselves or others. Communities that have experienced school shootings exhibited widespread symptoms of post-traumatic stress disorder (Palinkas et al. 2004). In California, Black and Latinx individuals were four times more likely than White Californians to report that gunshots were a “big problem” in their neighborhood. More than 6 in 10 White Californians saw no sidewalk memorials for those who had been killed by violence in an average week; for Black and Latinx Californians, the numbers were reversed. Mapped onto firearm ownership, “non-owners of firearms who lived with owners reported more prevalent and extensive social network EVs than others did. They were much more likely than firearm owners and non-owners in households without firearms to know persons they perceived to be at risk of violence” (Wintemute et al. 2022, p. 6).

Accounting for these nonphysical harms has concrete and important implications for how gun laws are written, enforced, and litigated. For example, federal law currently prohibits gun ownership by those convicted of domestic violence crimes [Unlawful Acts, 18 U.S.C. §§922(g)(9)], and that law has been evaluated by judges based on whether it prevents physical violence [*United States v. Skoien* (2010), pp. 642–45]. But social science research has shown that most abusers use guns to

intimidate their victims rather than to physically harm them (Sorenson 2017). Victims of hostile weapon displays suffer psychological, and not just physical, trauma and an ongoing sense of intimidation and threat, and such displays are a significant predictor of the severity of post-traumatic stress disorder symptoms (Sullivan & Weiss 2017). Reviewing domestic violence protection order cases in North Carolina, researchers discovered a significant portion (24.2%) involved firearm abuse short of shooting (Sullivan & Weiss 2017, p. 31).

There is a symmetry here with the rise of self-defense as a reason for gun ownership and use—even as some gun owners may find security or identity in their guns, they can inflict corresponding fear and threats on others. The expansion of public carry, both legally and as a social practice, makes this dynamic all the more important. But there is not yet a rich literature describing the ways in which choosing not to own a gun (or, for that matter, to support gun regulation) intersects with, and has its own parallels in, the kind of threat, status, and identity issues identified with gun ownership. That symmetry—and the ways in which law might enable its expression—is well worth further exploration (Ayres & Vars 2020, Stevenson 2021).

4.2. Race and Policing

Another crucial dimension of gun law and scholarship that has drawn increasing public and scholarly attention in recent years is the complicated and fraught relationship between guns, race, and law. In public discourse, as in scholarship, there are competing narratives, all of which contain an element of truth (Blocher & Siegel 2022, Duke Cent. Firearms Law 2019, Winkler 2022). Like any tool, guns can be used to combat repression or to exacerbate it. Enforcement of gun laws can help staunch the disproportionate loss of Black life to gun violence, but it can also worsen the already horrific toll of police violence and incarceration.

There is no single “solution” to this complex set of problems. Broad decriminalization of guns through the Second Amendment—as some advocates on the right and the left have urged¹—might well deliver some relief for communities of color torn apart by over-carceralization. Some scholars in the gun rights tradition—more recently joined by new allies—have emphasized the potential utility of guns as tools to resist tyranny and oppression (Cobb 2014, Jackson 2019, Johnson 2014), a theme that may resonate more strongly as the country grapples with the reality and extent of racialized police violence.

On the other hand, expansion of gun rights threatens to introduce new forms of inequality and exacerbate other existing racial harms. Gun deaths are heavily concentrated among Black Americans (Davis et al. 2022), and polls and studies have shown consistently that Black Americans favor gun regulation more than White Americans do (Crifasi et al. 2021). Further research into the views and preferences of communities of color—and, in particular, how they weigh the costs and benefits of gun deregulation—would be quite valuable.

It is also important to know as much as possible about the likely outcomes of such deregulation. For example, existing research suggests ways in which a more heavily armed society is one in which Black Americans are at even further risk of being killed—not only by police but by private citizens. Studies on threat perception have found consistently that people are especially likely to perceive Black people as threatening, for example, by mistaking a harmless item for a weapon when the person holding it is Black (Cothran 2011, p. 348; Eberhardt et al. 2004, p. 878; Judd et al. 2004, p. 75; Lee 2016, pp. 157–58; Payne 2001, p. 190), which could in turn worsen the problem of “false positive” defensive gun uses. Other studies cast some doubt on whether, in practice, people of color

¹Brief of the Black Attorneys of Legal Aid et al. as Amici Curiae in Support of Petitioners, *New York State Rifle & Pistol Assoc., Inc. v. Bruen*, 597 U.S. ___ (2022) (No. 20-843), 1–4.

will be able to benefit fully from a seemingly expanded right to armed self-defense—evidence regarding Stand Your Ground laws is not particularly encouraging (Murphy 2018, Roman 2013).

In the other direction, advocates of gun regulation must continue to grapple with the harms that law enforcement inflicts on communities of color, and whether alternative approaches might mitigate those harms while furthering public safety goals. Recent years have seen enormous growth in support for community violence intervention programs, and the Biden administration has directed unprecedented amounts of funding to the effort (White House 2021). To the degree that such programs can offer a reduction in gun violence without exclusive reliance on police and prosecutors, they could offer a way forward—one that responds to a complex social issue by targeting the underlying causes and conditions of violence (Charles 2022b).

Evolving approaches to guns and domestic violence show how law can simultaneously recognize nonphysical gun harms and also rely less heavily on state-enforced forms of control like prosecution and imprisonment. As noted above, there is growing awareness of the ways that guns are used not only to physically injure and kill intimate partners but also to intimidate and coerce them. At the same time, legal responses have expanded beyond state-backed coercion such as policing and incarceration. Domestic violence scholars and advocates have drawn attention to the physical and nonphysical costs of these purely punitive approaches—including to women, and especially in communities of color (Gruber 2020, p. 87). One result has been an increasing emphasis on restorative justice and community-based approaches rather than imprisonment alone (Coker 2020, Goodmark 2021).

5. CONCLUSION

Research and scholarship have never been more important to understanding the gun debate and its legal implications. In the same week the US Supreme Court curtailed the options for elected representatives to stem gun violence, Congress passed the first major federal firearms legislation in nearly three decades, the Bipartisan Safer Communities Act. Both of these developments came after two years of a global pandemic, during which significant changes in gun buying and gun violence trends materialized.

A surge of gun purchases punctuated the pandemic. Although most gun purchases during the height of the surge were made by existing owners (Simonson et al. 2021), many Americans became first-time gun owners, and data suggest that these new owners are more diverse than existing owners along at least race and gender lines (Azrael et al. 2021). At the same time, gun violence also surged. One study found a more than 30% increase in firearms-related nonfatal injuries during the first year of the pandemic (Sun et al. 2021). And national statistics show rising rates of firearm deaths after two decades of falling fatalities (Gramlich 2022). And even as we write in the fall of 2022, gun displays at election-related sites are reinforcing the ways in which firearms impact not only physical lives but the public sphere on which a constitutional democracy depends. Grappling with these changes through legislation and court decisions will continue to require scholarship that explores the meaning and impact of guns beyond bodies and bullets.

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