

Race to the 2nd Amendment  
With Duke Law Professor Darrell Miller

Second Amendment:

"The right of the people to keep and bear Arms, shall not be infringed."

Laws Mentioned in the Interview:

1. Black Codes:

- Description: Laws passed after the Emancipation in 1865 that made it difficult for freed persons of color to own guns, among other restrictions.
- Purpose: To control and limit the freedom of African-Americans by imposing discriminatory regulations.

2. Mulford Act:

- Description: A California law enacted in 1967 that prohibited the carrying of loaded firearms in public.
- Purpose: Prompted by the activities of the Black Panthers who practiced "cop watching" to monitor police misconduct. Though race-neutral in language, it was enacted in response to the actions of a Black militant group.

3. Application of Gun Licensing Laws:

- Description: Laws that require individuals to obtain licenses for various activities, including owning firearms.
- Relevance: While intended to regulate gun ownership and ensure public safety, these laws have historically been applied in a racially discriminatory manner.

Cases Discussed:

1. District of Columbia v. Heller (2008):

- Description: A landmark Supreme Court case that affirmed an individual's right to possess firearms for lawful purposes, such as self-defense within the home.
- Significance: This case was pivotal in interpreting the Second Amendment as protecting an individual's right to keep and bear arms.

2. McDonald v. City of Chicago (2010):
  - Description: A Supreme Court case that determined whether the Second Amendment applies to the states through the Fourteenth Amendment.
  - Significance: The Court held that the Second Amendment is fully applicable to the states, further solidifying individual gun rights.
3. New York State Rifle & Pistol Association Inc. v. Bruen (2022):
  - Description: A Supreme Court case that challenged New York's stringent regulations on carrying concealed handguns in public.
  - Significance: The Court ruled that the Second Amendment protects an individual's right to carry a handgun for self-defense outside the home, striking down New York's requirement for applicants to demonstrate a special need for self-protection.
4. United States v. Rahimi Case (pending at the time of taping):
  - Description: This case examines the intersection of domestic violence and gun rights, focusing on the legality and enforcement of disarming individuals under domestic violence protection orders.
  - Significance: It brings renewed attention to how victim safety measures align with constitutional protections and due process requirements.

#### Key Points Discussed:

- Professor Miller highlights how certain regulations have explicitly targeted African-Americans, using examples such as the Black Codes.
- Miller discusses the disproportionate impact of current gun regulations on minority communities, emphasizing the need for equitable enforcement.
- Constitutional Balance: The broader constitutional implications are addressed, including the balance between individual rights and public safety.
- Caution Against Overgeneralization: While many laws have been used for racially discriminatory purposes, not all gun laws are racially motivated or fundamentally undermined by history.

For further reading and resources, visit the Duke Center for Firearms Law.

- <https://firearmslaw.duke.edu/>

