

ORIGIN OF AN INSURRECTION:

***HOW SECOND
AMENDMENT
EXTREMISM LED TO
JANUARY 6***



BRADY
UNITED AGAINST GUN VIOLENCE

ABOUT BRADY

Founded in 1974, Brady works across Congress, courts, and communities, uniting gun owners and non-gun owners alike, to take action, not sides, and end America's gun violence epidemic. Our organization today carries the name of Jim Brady, who was shot and severely injured in the assassination attempt on President Ronald Reagan. Jim and his wife Sarah led the fight to pass federal legislation requiring background checks for gun sales. Brady continues to uphold Jim and Sarah's legacy by uniting Americans from coast to coast — red and blue, young and old, liberal and conservative — against the epidemic of gun violence.

INTRODUCTION

In January 2020, Brady advocates planned to take part in an annual Martin Luther King Jr. gun violence prevention advocacy event at the Virginia State Capitol, but state officials cautioned would-be participants that 2020 would be different: Second Amendment extremists were planning to turn out. Out of caution, Brady cancelled its official participation in the event because an estimated 20,000 individuals from across the country, armed with assault-style rifles and wearing tactical gear, descended on the State Capitol in Richmond, VA. It was a deeply troubling moment for members of the gun violence prevention movement, who saw their First Amendment right to speak and assemble quashed by gun-toting extremists. We did not know then that the events of that day were only a dress rehearsal for far worse to come.

On January 6, 2021, Congress was set to certify the results of the 2020 election. But extremists, many of them armed, mounted an insurrection with violent force that resulted in death and injury and nearly derailed Congress' capacity to confirm a president duly elected by the citizens of the United States. For Brady supporters and gun violence prevention advocates, it was both a sickening gut punch and *deja vu*. Although only one of the four people¹ killed on January 6 was shot, the 2021 attack had the same roots as the 2020 Virginia State Capitol² unrest: Second Amendment extremism.

Second Amendment extremism arises from what's commonly known as the "insurrectionist"

construction of the Second Amendment: a false interpretation fomented by extremists, marketed by the gun lobby, and adopted by some mainstream politicians, including the 45th President of the United States. Second Amendment extremism lays the foundation for much domestic unrest and weaponized terror throughout American history, including but not limited to the Oklahoma City Bombing, the armed agitation at the Michigan State Capitol, and yes — January 6, 2021. Indeed, investigations and firsthand accounts of January 6 show that many of its agitators were armed, ready, and willing to harm lawmakers. Accordingly, officers on duty at the U.S. Capitol that day had credible reasons to fear that many rioters were armed; a number of these officers have since testified before Congress that those fears hindered their ability to control the insurrectionist mob.

Yet the common narrative around January 6 often omits the role of Second Amendment extremism. Ignoring the ways in which guns, and gun mythology, fuel domestic extremism in America has been — and will continue to be — a deadly error. For these reasons, this report sets out to examine the role U.S. gun culture and policy played in laying the foundation for January 6. If we do not spend time reflecting upon our past, we are doomed to repeat it — and that we cannot do, because human lives and bedrock civic principles hang in the balance of this understanding and reckoning. At Brady, we have confronted extremism before, and we know that unless we take action, we will face it again.

HOW SECOND AMENDMENT EXTREMISM HELPED BUILD THE IDEOLOGY BEHIND THE JANUARY 6 ATTACK

SECOND AMENDMENT EXTREMISM TOUTS A RIGHT TO INSURRECTION

“If [Hillary Clinton] gets to pick her judges, nothing you can do, folks. Although the Second Amendment people — maybe there is, I don’t know.”

— Donald Trump

The “insurrectionist” construction of the Second Amendment, which holds that the right to keep and bear arms *necessarily* includes the right to take up arms against the government,³ underlies January 6. To be clear, this ideology is false. **The Constitution does not include a right to insurrection.**⁴ In fact, the evidence shows that the Constitution’s purpose was “to prevent armed anarchy and insurrection.”⁵ Tellingly, every state has at least one law forbidding private armies and paramilitary groups.⁶

Nevertheless, the insurrectionist interpretation has taken root — helped, in part, by groups like the National Rifle Association (NRA).⁷ In his book “Guns, Crime & Freedom,” for example, NRA CEO and Executive Vice President Wayne LaPierre supports the insurrectionist idea, stating that “the people have the right, must have the right, to take whatever measures necessary, including force,

to abolish oppressive government.”⁸ Further, as Joshua Horwitz and Casey Anderson detailed in “Guns, Democracy, and the Insurrectionist Idea,” the NRA consistently tells its supporters that the Second Amendment empowers them to oppose, by force, a “tyrannical” government seeking to “disarm” them.⁹ Perhaps as a result of the NRA’s sustained insurrectionist messaging, extremist arguments have made their way into the courts; Second Amendment extremists claim that the Supreme Court has adopted their views, at least in part. In particular, they raise one sentence in the precedent-setting case, *District of Columbia v. Heller*,¹⁰ where the majority opinion suggests that the Second Amendment must assume “a ‘citizens’ militia’ as a safeguard against tyranny.”¹¹ Future cases in the Supreme Court and lower courts will determine whether, and to what extent, this insurrectionist philosophy will be adopted as constitutional.

Compared to their dubious claims about *Heller*, Second Amendment extremists have a much stronger basis for claiming that a significant number of politicians are on their side. Texas Sen. Ted Cruz, for instance, in a letter to supporters of his failed 2016 presidential campaign, wrote that the Second Amendment “serve[s] as the ultimate check against governmental tyranny.”¹² Cruz is far from alone. Examples abound of lawmakers touting the once-unthinkable notion that the Second Amendment is a license for insurrection. Rep. Madison Cawthorn (R-NC), for example, has said that assault weapons must remain legal because the Second Amendment is not about hunting, but about empowering civilians to take on the government.¹³ Rep. Matt Gaetz (R-FL) similarly told supporters that “the Second Amendment is not about hunting, it’s not about recreation, it’s not about sports. The Second Amendment is about maintaining within

the citizenry the ability to maintain an armed rebellion against the government, if that becomes necessary.”¹⁴ This extremist idea — that citizens may rightfully wield force against perceived tyranny — is exactly what drove many would-be insurrectionists to the Capitol on January 6.

Take, for example, the Oath Keepers and the Proud Boys, both of whom investigators have identified as potential “leaders”¹⁵ of the January 6 attacks. Second Amendment extremism is central to both groups’ worldviews. For example, Oath Keepers founder Stewart Rhodes “wrote a creed listing 10 types of orders that members vow to resist. Gun-control laws are first among them.”¹⁶ Consequently, Oath Keepers promote anti-government policies, such as so-called “Second Amendment sanctuary cities,” in which jurisdictions “opt out” of enforcing state gun laws.¹⁷ Like the Oath Keepers, the Proud Boys also figured heavily in January 6, and they too espouse anti-government, Second Amendment extremist views.¹⁸

Second Amendment extremism underpins the Oath Keepers’ and Proud Boys’ ideology because it enables them and their ilk to engage in illegal behavior, such as storming the Capitol, while still considering themselves “law-abiding citizens.”¹⁹ After all, anti-government views and lawless conduct seemingly contradict these groups’ supposed emphases on “law and order”

and patriotism²⁰ — unless overthrowing the government is, itself, a lawful part of citizenship. This is, of course, exactly what Second Amendment extremism holds, and how it overcomes the cognitive dissonance inherent in attacking one’s duly elected government in the name of “patriotism.”

Within this context, January 6 is no aberration. That is why authors Joshua Horwitz and Casey Anderson were able to predict the attack in 2009, 11 years before it happened:

If elite and popular opinion are prepared to acquiesce in the idea that self-proclaimed freedom fighters have the right to stockpile arms in preparation for a showdown with the government, to organize violent resistance to any government they decide is tyrannical, *to order an armed march on the Capitol*, or to give the ‘Fire’ command, then the consensus concerning the limits of the legitimate means of political dissent on which our system depends is in doubt.²¹

Horwitz and Anderson’s prescient observation shows that the January 6 attack was the natural and logical result of an ideology claiming that “citizens” have a right to take up arms against the government.

THE “INSURRECTIONIST” CONSTRUCTION OF THE SECOND AMENDMENT, WHICH HOLDS THAT THE RIGHT TO KEEP AND BEAR ARMS NECESSARILY INCLUDES THE RIGHT TO TAKE UP ARMS AGAINST THE GOVERNMENT, UNDERLIES JANUARY 6.

SECOND AMENDMENT EXTREMISM, LIKE JANUARY 6, TURNS ON WHITENESS

“Citizenship” is racially coded in American culture.²² **When it comes to guns, “mainstream society reflexively codes white men carrying weapons in public as patriots, while marking armed Black men as threats or criminals.”**²³

This racial coding, which casts armed white men as virtuous patriots, is a critical element in understanding January 6, and the dangerous outcomes of this distortion persist today.

“The Governor of Michigan should give a little, and put out the fire. These are very good people, but they are angry.”

— Donald Trump on armed protestors against COVID-19 regulations

“These THUGS are dishonoring the memory of George Floyd, and I won’t let that happen . . . When the looting starts, the shooting starts.”

— Donald Trump on protestors against police violence

The insurrectionist Second Amendment framing is not an equal opportunity ideology. It implicitly — and often explicitly — assumes that white people, specifically white men, will be the ones wielding arms. In this way, **Second Amendment extremism, like January 6, is inseparable from white supremacist ideology.** It should therefore be no surprise that white supremacy is foundational to the Capitol attack; history shows that domestic extremism fueled by white supremacy has a violent track record. Consider these examples:

- The 1873 Colfax massacre, in which a white mob killed approximately 150 Black men who were attempting to protect the results of a legitimate election;²⁴
- the 1890 Wounded Knee Massacre, in which U.S. Army soldiers used machine guns to shoot and kill an estimated 300 Lakota men, women, and children;²⁵
- the Wilmington Insurrection of 1898, in which a group of white supremacists overthrew a duly elected, interracial government, killing anywhere from 60 to 300 people in the process;
- the Tulsa Race Massacre of 1921, that killed up to 300 Black Tulsans and destroyed an entire section of town;²⁶
- the 2012 Wisconsin Sikh Temple attack, in which a white supremacist gunman shot and killed 7 people;²⁷
- the 2018 Tree of Life Synagogue shooting, in which a white supremacist gunman shot and killed 11 people in the deadliest attack on an American Jewish community;²⁸ and
- the 2019 shooting in an El Paso Walmart, in which the shooter, who admitted he was “targeting Mexicans,”²⁹ shot and killed 23 people.³⁰

THE FBI ALLOCATED JUST 20% OF ITS RESOURCES TO COMBATTING DOMESTIC TERRORISM, WITH A DISPROPORTIONATE AMOUNT AIMED AT UNPROVEN “THREATS” LIKE “ANTIFA” OR “BLACK IDENTITY EXTREMISTS,” EVEN THOUGH DHS DECLARED WHITE SUPREMACIST EXTREMISTS POSE THE MOST LETHAL THREAT.

Perhaps no incident encapsulates the deadliness of white supremacy and Second Amendment extremism more than the 1995 Oklahoma City bombing, which killed 168 people — including numerous children and infants — in the deadliest³¹ act of “homegrown” terrorism in the United States.³² Among the primary attacker’s³³ reasons for bombing the Alfred P. Murrah Federal Building was what the New York Times called his “overwhelming obsession with guns, blending into far-right politics that saw the Government trying to disarm and betray its citizenry fueled by ... perhaps above all, a venomous novel called ‘The Turner Diaries.’”³⁴ The “Turner Diaries,” a white supremacist’s must-read, is a book about white men seeking to overthrow a Black and Jewish-controlled government that has disarmed white people.³⁵ In other words, the deadliest “homegrown” terror attack in U.S. history arose in large part from what could be fairly characterized as a toxic mix of Second Amendment extremism and white supremacy.

This list of incidents does not even come close to capturing the scale of white supremacist extremism and violence in America. The Washington Post and Center for Strategic and International Studies recently reported that incidents of “domestic terror”³⁶ have surged to levels not seen since the militia-movement era of

the 90s.³⁷ In that time, far-right anti-government groups, spurred in part by what they saw as tyranny in pursuing a fugitive from firearms charges at Ruby Ridge, organized to resist the government.³⁸ The movement arguably culminated in the Oklahoma City bombing, but never went away.³⁹ Now, the Anti-Defamation League (ADL) reports that “over the past 10 years, white supremacists have been responsible for 248 of the 429 extremist-related murders (58%),” and they remained the most lethal group in 2020.⁴⁰ In 2019 congressional oversight hearings related to white supremacist violence, Rep. Jamie B. Raskin (D-MD) noted that “any expert is going to tell you that this is the most serious security threat to the American people today.”⁴¹ Indeed, Trump-appointed FBI Director Christopher Wray warned “Jan. 6 was not an isolated event. The problem of domestic terrorism has been metastasizing across the country for a long time now and it’s not going away anytime soon.”⁴² Likewise, in commemorating 20 years since the September 11 attacks, former President George W. Bush warned Americans about the need to confront domestic threats, saying “we have seen growing evidence that the dangers to our country can come not only across borders, but from violence that gathers within ... It is our continuing duty to confront them.”⁴³

Yet the country does not adequately dedicate itself to tackling this issue.⁴⁴ As of 2019, the FBI allocated just 20% of its resources to combatting domestic terrorism, and a disproportionate amount of that 20% is aimed at unproven “threats” like “antifa” or “Black identity extremists,”⁴⁵ even though the U.S. Department of Homeland Security (DHS) has declared that white supremacist extremists pose the most lethal threat.⁴⁶ This demonstrates that when the FBI does address potential domestic terrorism, it often ignores the largest danger — white supremacist violence — to focus instead on monitoring marginalized communities. The FBI, for instance, has launched many investigations into environmental groups and warned law enforcement of so-called “Black identity extremists.”⁴⁷

This discrepancy is predictable because American culture in general — and especially Second Amendment extremist culture — casts Black and Brown people as threatening.

The spectre of supposed “scary Black and Brown people” is a key organizing principle for Second Amendment extremism. In her paper *Racial Resentment and White Americans Gun Policy Preferences*, political scientist Alexandra Filindra found that “the post-WWII era and the civil rights movement represent critical junctures when prejudiced whites started to shift away from supporting gun control as a result of the institutional and cultural changes of the era.”⁴⁸ Then, starting in the 1970s, the National Rifle Association “allied themselves with the leadership of the ‘New Right’ movement which had emerged out of the white resistance movements of the 1950s–1960s.”⁴⁹ The “gun rights” movement is

still tied to white identity politics today. A 2016 study from the University of Illinois at Chicago, for example, found that racial resentment among whites fueled opposition to “gun control.” This drives political affiliations: A 2017 study in the *Social Studies Quarterly* found “that gun culture had become strongly associated with explicit racism.”⁵⁰

Qualitative research further supports the link between gun policy preferences and racial attitudes. For instance, when sociologist Angela Stroud asked white gun owners why they choose to arm themselves, “they frequently replied with answers that highlighted a ‘criminal class’ of people of color to justify gun ownership.”⁵¹ These attitudes are the foreseeable result of the gun industry’s decades-long campaign to convince white Americans to fear “violent criminals.” Indeed, the NRA faced condemnation after it ran an ad “urg[ing] Congress to crack down on violent criminals, rather than enact stronger gun-control laws; [and] show[ing] black-and-white photos of Hispanics and blacks”⁵² in 1999. Similarly, NRA President Wayne LaPierre decried gun violence prevention at the 2018 Conservative Political Action Conference (CPAC), saying “[t]heir laws don’t stop illegal criminals from crossing our borders every single day. Their laws don’t stop the scourge of gang violence and drug crime that savages Baltimore, Chicago, and every major American community.”⁵³ In other words, opposition to sensible gun regulation is related to racist attitudes — a claim that evidence bears out.⁵⁴ As a result of racialized opposition to gun violence prevention laws, the United States is reportedly the most armed civilian society on earth⁵⁵ — a dynamic that very much impacted January 6.

To go further, the gun industry, until the recent pandemic-spurred surge in gun sales, was facing a shrinking market. To increase sales, it has focused on explicit advertising toward communities of color.⁵⁶ Yet even as it markets firearms to non-white consumers, the gun industry continues to center itself around the white male experience. As sociologist Jennifer Carlson found, the industry has shaped its call for armed self-defense to fit a white, male worldview.⁵⁷ In particular, Carlson argues that while the gun industry ostensibly seeks to be more racially inclusive, its narrative continues to “emphasiz[e] a ‘universal’ vulnerability to a particular threat: fast, lethal threats perpetuated by strangers who are often Black and always men.” This characterization is not just factually inaccurate; it is harmful, ignoring evidence that guns seriously exacerbate many different forms of violence, such as domestic violence and suicide.

THE SUPREME COURT HAS THE POTENTIAL TO MAKE SECOND AMENDMENT EXTREMISM THE LAW OF THE LAND

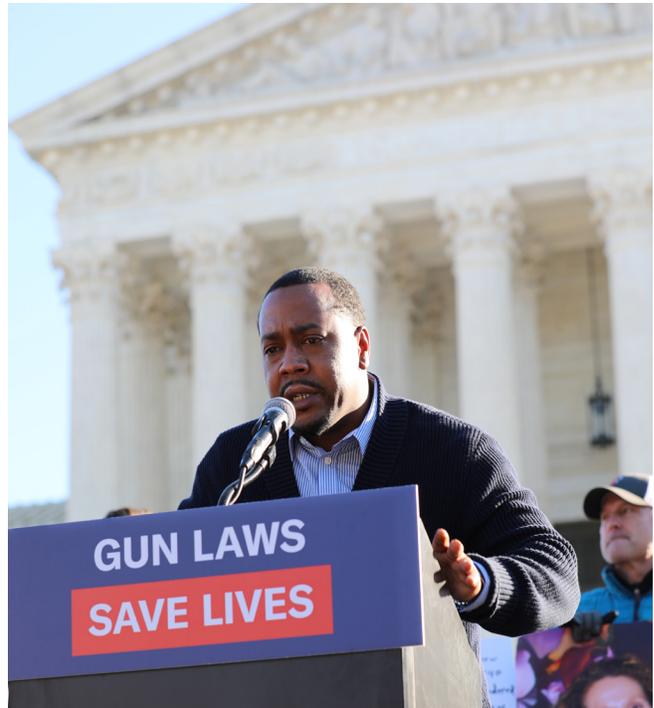
“The only thing that stops a bad guy with a gun, is a good guy with a gun.”

— Wayne LaPierre

“If you shoot us, we all have weapons, we will shoot back, or we’ll get our guns. We outnumber you.”

— threats from January 6 mob, as described by Sergeant Aquilino Gonell, U.S. Capitol Police officer

Investigations and firsthand accounts of January 6 show that many agitators were armed, ready, and willing to physically harm lawmakers. At the



Dion Green joins Brady and fellow gun violence survivors outside the Supreme Court as oral arguments in *NYSRPA v. Bruen* begin.

same time, those investigations also show that — due, in part to the District’s gun laws — many agitators were unable to wreak as much havoc as they hoped. For example, in testimony to the House Select Committee investigating the events of January 6, Officer Michael Fanone of the Metropolitan Police Department in Washington, D.C., shared that the D.C. police department’s gun recovery unit was working “constantly” and making “multiple” gun arrests between January 5-7 against individuals who had attended or planned to attend the attempted insurrection. Despite the gun recovery unit’s efforts, the officers on duty at the Capitol that day still had credible reasons to fear that many rioters were armed — and that fear hindered their ability to respond, allowing the mob to breach the Capitol. As Officer Fanone testified, he and his colleagues wondered:

How many guns are there in this crowd? If we start firing, is that the signal to them to

set off the explosives, however many there are in the city? Is that the signal for them to break out their firearms and shoot back? So that's the reason why I didn't shoot anyone, and I imagine many others didn't. Because like I said before, there were over 9,000 of the terrorists out there with an unknown number of firearms and a couple hundred of us, maybe. So we could not ... If that turned into a firefight, we would've lost, and this was a fight we couldn't afford to lose.

In other words, lax gun regulations undermined the officers' capacity to protect the Capitol, Congress, the vice president, and the election itself. This, when coupled with the insurrectionist Second Amendment framework, should impel lawmakers to pass reasonable gun regulations; yet less than a year after the January 6 attack on the Capitol, the U.S. Supreme Court heard a case that has the potential to make reasonable gun regulations unlawful.

On November 3, 2021, the Court heard arguments in *New York State Rifle & Pistol Association Inc. (NYSRPA) v. Bruen*, which centers on the scope of the Second Amendment outside the home. The question at hand is whether a New York law that gives the state discretion in granting concealed

carry licenses violates the Second Amendment. According to NYSRPA — the New York state affiliate of the NRA — a state should not have discretion in granting a concealed carry permit because the Second Amendment necessarily includes the right to carry a firearm outside the home for self-defense and armed confrontation.

With January 6th's shadow looming, the dangerous implications of the case couldn't be more clear.

First, if the Supreme Court decides in NYSRPA's favor, then suddenly thousands of reasonable concealed carry laws across the country, including laws like the one that enabled D.C. police to make "constant" gun arrests in the days leading up to January 6, would be invalid. How much bolder and how much bloodier would insurrectionist factions become in a world where the nation's capital cannot lawfully regulate concealed weapons on its streets?

Second, the Court could empower the insurrectionist Second Amendment interpretation through non-binding statements known as "dicta." Technically, dicta are not law, but lower courts nonetheless look to them for guidance — and considering that lower courts handle the majority of the nation's legal questions, dicta can have a



LAX GUN REGULATIONS UNDERMINED THE OFFICERS' CAPACITY TO PROTECT THE CAPITOL, CONGRESS, THE VICE PRESIDENT, AND THE ELECTION ITSELF



powerful impact on the legal landscape. *NYSRPA v. Bruen* thus presents an opportunity for the Court to seemingly bless the insurrectionist view. Understanding this opportunity, amici, or “friends of the court,” have made Second Amendment extremist arguments in their briefs. Gun Owners of America (GOA), for instance, submitted a brief to the Court arguing, among other things, that New York’s concealed carry law denies residents the right to defend themselves “against a government that in the future could turn against its people” — in other words, denies residents the right to insurrection. Likewise, in their brief supporting NYSRPA, the National Foundation

for Gun Rights and the National Association for Gun Rights argued that, in “[o]ur particular form of government . . . it is the individual citizen who ultimately possesses inalienable and pre-existing rights such as the right to keep and bear arms for self-defense *against tyranny* and violence.” What constitutes “tyranny” is in the eye of the beholder, of course — and some January 6 rioters believed that their effort to overturn a legitimate election was actually a fight against just that: a tyrannical government. That is why it would be so dangerous for the Supreme Court to accept any of these extremist arguments.



Insurrectionists storm the U.S. Capitol on January 6, 2021. Photo courtesy of TapTheForwardAssist, CC BY-SA 4.0 via Wikimedia Commons

RECOMMENDATIONS

PASS GUN VIOLENCE PREVENTION LAWS, SUPPORT A REASONABLE CONSTRUCTION OF THE SECOND AMENDMENT, AND DIRECT ATF TO CRACK DOWN ON THE CRIMINAL GUN MARKET

The insurrectionist construction of the Second Amendment, combined with lax gun laws and an emboldened white supremacist movement, will continue to threaten our democracy and public safety unless Congress and state and local lawmakers take action. As January 6 showed, strong gun laws work — but we still have far to go. That is why Congress should do the following:

- **Expand and strengthen Brady Background Checks** to cover all gun transactions, including those between private, unlicensed parties, save for a few reasonable and narrow exceptions (H.R. 8 / S. 529).
 - This would put yet another barrier in the way of anyone planning to commit domestic terror with a firearm.
- **Address the “Charleston Loophole”** by giving the background check system adequate time to conduct a thorough background check before a licensed dealer can transfer a gun (H.R. 1446).
 - This would stop prohibited individuals, like the white supremacist gunman responsible for the shooting at Mother Emanuel Church in Charleston, SC, from getting a gun.

- **Pass Extreme Risk Protection Orders** at the federal level to empower family members and law enforcement to temporarily separate individuals from firearms if there is an extreme risk that they will hurt themselves or others (H.R. 3480 / H.R. 2377 / S. 1819).
- **Prohibit violent hate crime offenders from accessing firearms** (H.R. 3929/ S. 2090). Statistics show that such convictions predict a highly increased risk for future violence.

In addition to Congress, our nation’s courts have a responsibility to resist extremist interpretations of the Second Amendment that have no constitutional validity. In particular, at the time of this report, the Supreme Court is considering *New York State Rifle & Pistol Association Inc. v. Bruen* (“NYSRPA”), a case in which the petitioners have asked the Court to recognize, among other things, a right to carry firearms in the public square for “armed confrontation.” Considering that such a right does not exist within the Second Amendment, and given how January 6 shows the dangers of Second Amendment extremism, the Court should decline to make such a vast expansion.



Brady supporters including President Kris Brown advocate for stronger gun laws outside the Virginia State Capitol.

CONCLUSION

To think that January 6 was an aberration would be a grave mistake. The mayhem on January 6, 2021, was directly related to Second Amendment extremism. If our reckoning of that day's violence does not account for the role Second Amendment extremism played in fomenting it, then we have failed because the forces that gave rise to January 6 are still here.

For example, even as the 2022 midterm elections loom — with the 2024 presidential election not far behind — some polls suggest a majority of Republican voters still falsely believe the 2020 election was stolen. Simultaneously, extremist violence, much of it stemming from ascendant right-wing, white power movements, has reached its highest level in decades. In addition, local, state, and the Federal government will continue to face emergencies, such as the Coronavirus pandemic, that impel them to protect public health and national security. At the same time, officials at all levels, from local School Boards to Congress, have faced increasing threats from disgruntled constituents who view valid public safety and national security measures as “tyranny.” That is why promoting a false Second Amendment interpretation that foments, rather than quells, the use of guns to combat subjective notions of “tyranny,” undermines the core of our democracy, which is dependent on duly elected officials carrying out their duties without fear of injury and death.

Sadly, our nation's history of gun violence prevention has advanced because of that very threat; Congress enacted the 1934 Federal Firearms Act after the attempted assassination

of President Franklin Delano Roosevelt, the 1968 Gun Control Act after President John F. Kennedy, United States Attorney General Robert F. Kennedy, and Civil Rights leader Martin Luther King Jr. were shot and killed, and the Brady Law after the attempted assassination of President Ronald Reagan that injured Press Secretary James Brady. If we are to follow the lessons of history, we must take concrete steps to ensure that our past violence is not a prologue to a more violent future. We must heed the warning of January 6 and take action to stem future violence — beginning with renouncing Second Amendment extremism and addressing its many contributions to the nation's epidemic of gun violence. Brady stands ready to meet its heritage of a bi-partisan organization that achieved what was seemingly impossible: passage of the Brady Law by unanimous consent of the United States Senate. We can and we must affirm the basic premise of a society that values the right to safety and the right not to be shot — rights that we cannot allow to be swallowed by an insurrectionist interpretation of the Second Amendment.

ENDNOTES

1. Capitol Police Officer Brian Sicknick died on January 7th. In addition, four officers who responded to the attacks died by suicide (<https://www.reuters.com/world/us/officer-who-responded-us-capitol-attack-is-third-die-by-suicide-2021-08-02/>), but it is not clear whether the attacks played a role in their deaths.
2. The Armed Conflict Location and Event Data Project (ACLED) reports at least 100 instances of protests in state capitals — all of which were armed — between May 2020 and mid-January 2021 (<https://everytownresearch.org/report/armed-extremism-us-capitol/>).
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20. <https://www.theatlantic.com/magazine/archive/2020/11/right-wing-militias-civil-war/616473/>
21. Horwitz, J. & Anderson, C. (2009). *Guns, democracy, and the insurrectionist idea*. University of Michigan Press Ann Arbor (emphasis added)
22. To put it simply, gun culture assumes whiteness, or at least, white norms. Consider that the key Second Amendment Case, *D.C. v. Heller*, 554 U.S. 571 (2008) relied on antebellum norms to understand the Second Amendment’s scope. The Second Amendment reads “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.” U.S. Const. amend. II. But, in *Heller*, the Court all but disposed of the militia clause, to hold that the Second Amendment protects an individual’s right to keep and bear a handgun in the home for self-defense. In so finding, Justice Scalia, writing for the majority, relied on several cases from the antebellum south: *Nunn v. State*, 1 Ga. 243 (1846); *State v. Chandler*, 5 La. Ann. 489 (1850); *Simpson v. State*, 13 Tenn. 356, 5 Yer. 356 (1833); and *Aymette v. State*, 21 Tenn. 154 (1840). In the 18th and 19th centuries states routinely limited the right to keep and bear arms to “citizens,” and at the time that meant “white people.” Robert J. Cottrol & Raymond T. Diamond, *Never Intended to Be Applied to the White Population: Firearms Regulation and Racial Disparity - The Redeemed South’s Legacy to a National Jurisprudence - Freedom: Constitutional Law*, 70 *Chi.-Kent L. Rev.* 1307, 1316 (1995). Take, for example, *Nunn v. State*, an 1846 Georgia Supreme Court case that Scalia relied on to understand the scope of the Second Amendment. In *Heller*, Scalia quoted from *Nunn* saying “the right of the whole person, old and young, women and boy, and not militia only, have the right to bear arms.” But Scalia did not mention that *Nunn* specified that firearms regulations are lawful so long as they do not deprive citizens of their natural right to self defense (gun fight) and just two years later, the same Georgia court made it clear that Black people were not citizens “intended to bear arms.” *Cooper & Worsham v. Savannah* 4 Ga. 68 (1848) (“free people of color have never been recognized as citizens, they are not intended to bear arms.”). Justice Scalia likewise cited *Simpson v. State*, 13 Tenn. 356 (1833) to support his reasoning in *Heller*. In *Simpson*, the Tennessee Supreme Court interpreted a state constitutional provision as conferring a right “to all the free citizens of the state to keep and bear arms for their defense.” *Id.* at 360. The very next year, Tennessee amended its state Constitution, changing the phrase “freemen” to only “free white men,” *Id.* at 3248; see *Cramer*, 4 *Kan. J.L. & Pub. Pol’y* 17 (citing Stanley Elkins, *Slavery*, University of Chicago Press (1968) at 220), excluding Black people from the right to keep and bear arms. Justice Scalia thus imported antebellum racist attitudes into the Second Amendment precedent operating today.
23. <https://www.nature.com/articles/s41599-019-0240-y>
24. <https://www.blackpast.org/african-american-history/colfax-massacre-1873/>
25. <https://www.politico.com/magazine/story/2019/01/17/the-horror-of-trumps-wounded-knee-tweet-224024/>
26. <https://www.tulsaohistory.org/exhibit/1921-tulsa-race-massacre/>

27. <https://www.cbsnews.com/news/sikh-temple-shooting-suspect-wade-michael-page-was-white-supremacist/>
28. <https://www.nytimes.com/2018/10/27/us/active-shooter-pittsburgh-synagogue-shooting.html>
29. <https://www.aljazeera.com/news/2020/2/7/el-paso-walmart-shooting-suspect-charged-with-federal-hate-crimes>
30. <https://www.reuters.com/article/us-texas-shooting/death-toll-reaches-23-from-last-years-mass-shooting-in-el-paso-texas-idUSKCN22901V>
31. As distinguished from deadly events perpetuated by government, such as the Wounded Knee Massacre, in which United States Army soldiers shot and killed an estimated 300 Lakota people. <https://www.nationalgeographic.com/history/article/what-really-happened-at-wounded-knee-the-site-of-a-historic-massacre>
32. <https://www.fbi.gov/history/famous-cases/oklahoma-city-bombing>
33. Out of respect for the victims we will not use his name
34. <https://www.nytimes.com/1995/12/31/us/mcveigh-s-mind-special-report-oklahoma-bombing-suspect-unraveling-frayed-life.html>
35. Loaded
36. The Center for Strategic and International Studies defines “domestic terror” as “attacks or plots involving a deliberate use or threat of violence to achieve political goals, create a broad psychological impact or change government policy. That definition excludes many violent events, including incidents during nationwide unrest last year, because CSIS analysts could not determine whether attackers had a political or ideological motive.” <https://www.washingtonpost.com/investigations/interactive/2021/domestic-terrorism-data/>
37. <https://www.washingtonpost.com/investigations/interactive/2021/domestic-terrorism-data/>
38. <https://www.theguardian.com/us-news/2017/aug/26/ruby-ridge-1992-modern-american-militia-charlottesville>
39. <https://www.adl.org/education/resources/backgrounders/militia-movement>
40. (Anti-Defamation League, “Murder and Extremism in the United States in 2020,” available at <https://www.adl.org/murder-and-extremism-2020#exploring-the-numbers> (last accessed March 2021))
41. Id.
42. <https://apnews.com/article/fbi-chris-wray-testify-capitol-riot-9a5539af34b15338bb5c4923907eeb67>
43. <https://www.bushcenter.org/about-the-center/newsroom/press-releases/2021/09/remarks-president-bush-shanksville-9-11.html>
44. Id.
45. <https://www.brennancenter.org/our-work/analysis-opinion/fbi-targets-new-generation-black-activists>
46. <https://www.npr.org/2019/11/25/782732901/terrorism-experts-say-u-s-isnt-taking-white-supremacist-threats-seriously-enough>
47. https://www.brennancenter.org/sites/default/files/publications/2018_10_DomesticTerrorism_V2%20%281%29.pdf
48. https://www.academia.edu/16785113/Racial_Resentment_and_White_Americans_Gun_Policy_Preferences?auto=download
49. <https://link.springer.com/article/10.1007/s11109-015-9326-4>
50. <https://blogs.scientificamerican.com/observations/why-are-white-men-stockpiling-guns/>
51. <https://www.nature.com/articles/s41599-019-0240-y>
52. <https://www.adweek.com/brand-marketing/nra-ad-slammed-racist-42630/>; e.g. “Guns also connote complex tensions, stereotypes, and anxieties about race. NRA rhetoric posits guns as protections against, in the words of CEO Wayne LaPierre, “bad guys,” thugs, “terrorists and home invaders and drug cartels, and car-jackers” (Cox, 2014; Beauchamp, 2017)” <https://www.nature.com/articles/s41599-019-0240-y>
53. <https://www.theguardian.com/us-news/2018/feb/22/wayne-lapierre-nra-cpac-hate-bingo>.
54. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3815007/> and <https://www.theguardian.com/us-news/2019/aug/08/racism-gun-control-dying-of-whiteness>
55. <https://www.vox.com/2018/6/21/17488024/gun-ownership-violence-shootings-us>
56. <https://vpc.org/how-the-firearms-industry-and-nra-market-guns-to-communities-of-color-contents/>
57. <https://journals.sagepub.com/doi/pdf/10.1177/1557085113502518>



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