

The Racist History of Gun Control Policy and Rhetoric in the United States

From the Colonies to the Present, How African Americans' Right to Own and Use Firearms has
Been Restricted by the White Population

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Introduction:

“The stranglehold of oppression cannot be loosened by a plea to the oppressor’s conscious.

Social change in something as fundamental as racist oppression involves violence.”¹

Say their names: George Floyd. Breonna Taylor. Ahmaud Arbury. Philandro Castile. Treyvon Martin. Eric Garner. Elijah McClain. Rayshard Brooks. Daniel Prude. Attatiana Jefferson. Aura Rosser. Stephon Clark. Botham Jean. Alton Sterling. Michelle Cusseaux. Freddy Grey. Janisha Fonville. Akai Gurley. Tamir Rice. Gabriella Nevarez. Michael Brown.

Above are just a sample of the hundreds of innocent Black men and women killed by police officers in the recent past. The nationwide grief their deaths have produced make it, at times, hard to stand by a country you so desperately want to love but are ashamed of at the same time. The United States labels itself as the land of the free and the brave, but, in actuality, it is plagued by systematic racism which has been perpetuated for centuries by the white population. This has ultimately cost the lives and livelihoods of tens of thousands of its own annually. The hypocrisy is astounding. While, as a nation, we would like to think our racist past is simply that - our past - this is not the case. Blacks today may no longer be physically bound by metal shackles, but they are still controlled, to a sense, by the state and public alike. This paradox is especially evident when examining the history of gun control policy and rhetoric in the United States and Colonies which predated it. The second amendment is considered to be a fundamental right of Americans, yet, in reality, this right has only freely been applied to the white population. This is not a coincidence. In fact, the history of gun control is thoroughly entangled with systemic racism. The includes policy which both explicitly and implicitly targets the African American

¹ Robert F. Williams, Martin Luther King Jr., and Truman Nelson, *Negroes with Guns* (New York: Marzani & Munsell, 1962), 107.

population, as well as rhetoric and attitudes that essentially bar Blacks from owning or using guns out of fear of imprisonment, injury, or death.

Ultimately, this thesis argues that it is immoral, if not impossible, to understand the issue of gun control policy, rhetoric, and attitudes without fully acknowledging the issue of race, specifically the Black race. Starting in 1680 with the passage of one of the first weapon control laws in the Colonies, Blacks, whether free or enslaved, were barred from carrying a weapon or weapon-like object.² The motivation behind this is clear. The white population had a strong desire to keep African Americans weakened and subservient and accomplished this by taking away the object which would most support Blacks' ability to resist this system, and defend themselves as human beings, not as property. This stemmed partially from a greed to keep their free source of labor, and, in part, from a fear of the potential reality of Blacks using their guns to harm their white owners or other whites. This law set a precedent of restricting African Americans' right to possess and use guns which would be followed for centuries to come. This is seen in the passage of the Black Codes, the installation of Jim Crow laws, the solidification of police brutality, biased policing and prosecutorial practices, mass incarceration in the criminal justice system, and most recently with the passive attitude of politicians, the media, and the general public alike towards the thousands of Black male lives lost to gun violence annually. Clearly, while the ways in which the objective of de-arming African Americans has changed over time, the motivation and action necessary to achieve this nefarious goal was present.

This thesis builds upon historical scholarship that addresses the history of gun control in the United States and the Colonies which predated it in two main ways. The first is the span of

² Charles E. Cobb, Jr., *This Nonviolent Stuff'll Get You Killed: How Guns made the Civil Rights Movement Possible* (New York: Basic Books, 2014), 33.

time covered. Specifically, there are no works that I have discovered that address gun control over the same extensive span of time. For example, instead of covering the 1600s to the present, most works I have encountered discuss a specific period of time, such as during the Civil Rights Movement. I have also examined many works which, instead of focusing on a period of time, the pieces focus on a group, like the Black Panther Party, or a set of policies, like the Black Codes, which typically fall within a specific range of time.

The second way in which this thesis differs from past works relates to the first differentiation. Specifically, if a work addressing this topic does cover the same or a similar degree of scope, it does not place the emphasis on race that this thesis does. For example, the work might discuss laws, but will not go into depth about the racially motivated reasons behind these policies, or their discriminatory effects as a primary outcome. This leaves their work wholly incomplete given that the issue of race is essential to address when examining the history of gun control.

These two differences are visible in law professor Adam Winkler's *Gunfight*, a source which plays a prominent role in the prologue and first chapter of this thesis. The book analyzes gun control policy and attitudes from various periods in U.S. history including, but not restricted to, the days of the founding fathers, the 1930s, and the 1970s with the purpose of explaining a current piece of proposed gun control legislation. This source was vital for the first chapter and prologue of this thesis because it provided a great deal of introductory information regarding gun control policy during the beginning stages of the United States through the mid-1800s. The aim of the book, however, was not to argue that these policies were created to prevent African Americans from accessing guns; rather, that served more as accessory information. Not explicitly addressing this point is a disservice to the argument and book as a whole. Leaving this critical

motivation out, the reader cannot obtain a full understanding of how the history of weapon legislation shaped today's laws. Additionally, it removes from the conversation the explanation of why different demographics in the United States have varying attitudes regarding gun usage and gun rights. Furthermore, this source does not encompass the whole history of U.S. gun legislation; rather, it takes bits and pieces of history to argue its point.³

A source used extensively in the second chapter of this thesis is journalist Charles E. Cobb Jr.'s *This Nonviolent Stuff'll Get You Killed*. It entertains the discussion of how weapons were essential to the African American freedom movement from the 1940s to the 1960s. The main emphasis of the book focuses on the integral role armed self-defense played in the Southern Civil Rights Movement. This source was excellent for obtaining a better understanding of the essential role weapons played in Blacks' lives in the deep South, and how they were, in many cases, necessary for protection and to assert their rights. However, similarly to the source discussed above, it only speaks to a concentrated period of time. Furthermore, it does not address actual gun regulation policy; that was not the aim of the book.⁴

In the third chapter, practically all the sources I used extensively commented and/or focused on the issue of race. In fact, virtually every source I used addressed the disparities in gun rights between Blacks and whites. Conversely, most sources I used only examined either the present or the recent past. No significant sources used in this chapter detailed a long period of time. These facts are exemplified in the works of two criminologists: Rod Brunson's "'Police Don't Like Black People': African American Young Men's Accumulated Police Experiences," and Shaun Gabbidon's *Criminological Perspectives on Race and Crime*. The former discusses

³ Adam Winkler, *Gunfight: The Battle Over the Right to Bear Arms in America* (New York: W.W. Norton & Co, 2011).

⁴ Cobb, *This Nonviolent Stuff'll*.

how Black males experience racial profiling by police, and how many Black men feel as if the police are both not on their side, as well as actively working against them. The main focus of this piece is more recent racial discrimination, and thus, only addresses a short period of time focusing on the 2000s. The latter, on the other hand, talks about the creation of the “criminalblackman” and the lasting impact of the criminalization of African Americans, especially young males, in the 1980s and 1990s. Again, this piece focuses greatly on the disparities between whites and Blacks, yet only does so for a short historical period of time.⁵

The overarching question this paper addresses, therefore, is: How has gun control policy and rhetoric in the United States been shaped by race? Throughout my research extending from the 1600s to the present, I have found significant and detailed evidence supporting my answer to this question. Specifically, race has always played a role in the motivation and formulation of gun control laws and attitudes, however, over time its methods have changed. In early American history, it was not only acceptable, but encouraged to create and defend racist policy. There was no need for more implicit racist attitudes to prevent African Americans from accessing guns because there were laws present to enforce these beliefs. However, as the country progressed and African Americans were both given and demanded for themselves more rights, explicitly biased rhetoric and laws were no longer publicly tolerable. This resulted in the creation and proliferation of subtle racism. This new kind of hatred continued the trend of treating African Americans as lesser members of society, yet did so in a way that did not violate anti-discriminatory laws. This is evident in the stark difference between the colonial laws explicitly banning Blacks from owning or wielding anything from a stick to a gun, to today’s laws which

⁵ Shaun L. Gabbidon, *Criminological Perspectives on Race and Crime*, 2nd ed. (New York, NY: Routledge, 2010).

prevent most people with a felony or drug addiction (people who are more likely to be Black because of the biased criminal justice system) from owning a gun.

The methodology of this thesis primarily involves gathering, analyzing, and utilizing the information present in primary and secondary source documents to examine how gun control policy and rhetoric has been centered around keeping the African American race weakened and unable to stand up for their rights. This analysis encompasses multiple primary sources - from legislation and court cases, to newspapers and psychological studies - with the purpose of establishing a historical framework on which to base the argument. Secondary sources, on the other hand, fill in the gaps that the primary sources leave behind. For example, many of the primary sources are pieces of legislation found either in federal, state, or colonial law, many of which were passed at very different periods of time. The secondary sources serve to connect these different pieces of legislation together as they provide context and perspective. As secondary sources tend to be more neutral, they help to sift out the lies and exaggerations of the truth that are often found in primary sources.

Arguably the most important type of primary source for the study of this topic is historical legislation. Legal code is the backbone of this thesis. I use it to cite specific examples in which both implicit and explicit racial biases become legalized and enforceable. As I have stated previously, I begin the first chapter by citing the one of the initial laws passed in the colonies preventing African Americans from owning weapons. I then take the reader through other significant laws that were later passed in relation to Blacks and guns, using the legislation to illustrate the changing beliefs that come along with time. Another type of primary source that provides supporting evidence is psychological studies. While primarily only used in the third chapter of the paper, they demonstrate both implicit and explicit attitudes of whites and Blacks

regarding gun use. They offer a fresh take on the typical sources I use, which do not tend to reveal implicit or underlying causes. Lastly, a third type of primary source used extensively in my thesis is newspapers. Newspapers, even more so than legislation, give evidence as to the opinions of everyday people and popular discourse around issues of race and gun control. Unlike legislation, it connects to the typical person on a deeper level and is more likely to reflect the varying attitudes of the time. This is especially evident when examining the beliefs of people across different regions of the country.

This thesis breaks the examination of racist gun control policy and rhetoric in the United States and Colonies into four sections. The first, a short prologue, begins in 1680 with the passage of one of the first weapon control policies in the Colonies and runs through to just before the Civil War. Following the prologue, the first chapter begins at the start of the Civil War and discusses the transition to the Jim Crow Era. These two sections answer the question: How did gun and weapon control policy and rhetoric develop, change, and, in many cases, be abolished as attitudes towards Black rights and autonomy shifted from the 1680s to the 1870s? The main focus of the first chapter is the Black Codes. These were a series of laws passed across numerous Southern states either right before or soon after their defeat in the war.⁶ The goal behind them was to keep African Americans in virtually the same powerless position they were in as slaves. States accomplished this by restricting practically every aspect of life for the newly freed African Americans, including gun ownership and use. The rise and fall of the Black Codes will be discussed through the lens of the Reconstruction Era, which is broken up into three stages to accurately describe the changing attitudes and policies of the time. This chapter concludes by

⁶ Theodore Brantner Wilson, *The Black Codes of the South* (Tuscaloosa, Alabama: University of Alabama, 1965), 10.

discussing the transition to the Jim Crow Era and how it was greatly influenced by the ideology of the Black Codes.

The second chapter of this thesis discusses the period of and surrounding the Civil Rights Movement. It answers the question: How did the growing prominence of the Civil Rights Movement and Black power organizations such as the Black Panther Party, the NAACP, and smaller militia organizations encourage citizens as well as politicians to enact unprecedented gun control legislation and further ingrain a racial bias into the criminal justice system? This chapter is framed in terms of the Long Civil Rights Movement. Coined by Jacquelyn Dowd Hall, this essentially states the Civil Rights Movement, characteristic of the 1950s through the 1970s, actually had its roots in the late 1930s and early 1940s with the New Deal and the Second World War.⁷ That being said, this chapter is broken up into multiple sections beginning with the increased use of guns in the African American community, visible in groups such as the NAACP, the Black Panthers, and local Black militia/protection organizations. It then highlights the harsh police and state response to Blacks' increasingly vocal gun use. Finally, it discusses the national legal response to this. Chapter two builds on the first in that it illustrates the change from laws explicitly banning Blacks' gun use, to laws and behavior which accomplish the same goal without outright stating that as its purpose. However, like the prologue and the first chapter, the motivation behind these laws was a deep-seated fear of Black equality and the destruction of a white society that could arise if African Americans had access to guns.

The third and final chapter examines the period of the 1980s to the present. It answers the question: How has implicit and explicit racial bias from the 1980s to today made an impact on

⁷ Jacquelyn Dowd Hall, "The Long Civil Rights Movement and the Political Uses of the Past," *Journal of American History* 91, no. 4 (March 2005): 1235.

both the creation of biased gun laws and, on the other hand, produced a resistance to passing gun control policy where it is needed most? It takes a slightly different approach from the prologue and the first two chapters in that it looks at the issue of gun control policy and rhetoric in a two-fold manner. The first, in line with the rest of the thesis, is that whites aim to restrict the second amendment rights of Blacks to keep them powerless. This is seen in cases of police brutality, biased policing and legal practices, and mass incarceration. The aspect that differs, however, is the argument that whites are simultaneously resisting the passage of gun control legislation in stark contrast to the thousands of Black men dying on a yearly basis due to gun violence. This is because, either explicitly or implicitly, they care more about unrestricted access to their second amendment right than they do about Black lives. I also argue this is due to whites aiming to keep the Black population weakened due to the proliferation of gun violence in their communities. At the end of the third chapter, the reader will have a comprehensive understanding of the history of gun control in the United States and Colonies which predated it. I feel it is important to include such an extensive period of time because it gives the reader a holistic understanding of the issue that would not be possible if one simply examined a shorter time frame. Without taking the long view, the continuity between these distinct eras can be obscured, and racist applications of gun control might instead appear as a mere accident or unconscious habit, rather than a key origin and fundamental driver of gun control in America.

Prologue: The Defense of White Superiority

“When the people move for liberation they must have the basic tool of liberation: the gun”¹

Gun control laws in North America vastly predated the formation of the United States. Well before the Founding Fathers were even born, wealthy slave holders enacted laws which prohibited African Americans from owning any form of weapon, or weapon-like object. These provisions were put in place on a local level and varied from colony to colony, but were all generally founded under the context of white superiority which was comprised of an underlying fear and overarching hatred of Blacks. This thesis focuses on three main time periods: the period of and surrounding the Civil War, the Civil Rights Era, and the 1980s to the present. That being said, the prologue gives essential background information about the origins of the connections between racism and gun control, allowing the reader to understand the further chapters in a more holistic, deeper way. Surveying relevant legislation during the Colonial, Revolutionary, and Antebellum eras, leading into the Civil War, is key to understanding the continuities across this longer history.

In 1680, nearly 60 years after the first enslaved African arrived in colonies, the Virginia General Assembly passed one of the first gun control laws in the colonies. This made it illegal for any African American to carry a weapon, or a weapon-like object. Since the term “weapon-like object” is not specific, it left the door open for white men and women to punish Blacks for possessing many objects that clearly had no intention to cause harm. For example, African Americans could not carry around a cane, despite potentially needing it to walk properly, out of

¹ Huey P. Newton and Toni Morrison, *To Die for the People: The Writings of Huey P. Newton* (San Francisco: City Lights Books, 2009), 84.

fear it will be used as a weapon.² Note that I used the words African American instead of slave. This is because practically all gun control laws passed before the Civil War pertaining to African Americans applied to all Blacks, even the rare few who were free.³ The reasoning behind this was that the white population both feared and hated free Blacks, more so than they did slaves. Free blacks were viewed as just as uncivilized and child-like as slaves, but they had no master to control them. This inherently created a liability for white slave owners. Not only did they have to worry about their own slaves causing trouble, but they had the added annoyance of fretting about the damage free Blacks could potentially cause. Freedmen were eyed with great suspicion and often harassed because of the belief that they would encourage enslaved African Americans to fight for their freedom.⁴ The colony of North Carolina solidified this fear by putting it in legal writing. The passage of a 1741 act stated that emancipation was illegal, and no slave could be set free “under any pretense whatsoever, except for meritorious service.”⁵ However, if one was able to succeed in freeing his or her slave, the freedman was required to leave the province within six months otherwise he or she would be sold back into slavery. This not only made it virtually

² The practice of criminalizing minorities, and African Americans specifically, because of their race still very much so occurs in the United States today. Whether it is due to conscious or unconscious bias, because of their darker skin tone, Blacks are often singled out by figures of authority like the police and the judicial system. One example supporting this statement is visible when looking at the data of who is targeted by the stop and frisk policy. Namely, African American men are pulled aside at much higher rates than white women per se. To continue, statistically the higher the frequency in which Black men are stopped, the more African Americans will be arrested and, in turn, incarcerated. While this is just one example in which African Americans and minorities in general have been targeting by people in power, there are countless other cases of this type of discriminatory behavior occurring. This system is fueled by racial bias and criminalizes the Black body for simply existing. The concept of Black criminalization will be discussed extensively in the second and third chapters of this thesis.

³ Charles E. Cobb Jr, *This Nonviolent Stuff'll Get You Killed: How Guns made the Civil Rights Movement Possible* (New York: Basic Books, a member of the Perseus Books Group, 2014), 33.

Cobb, *This Nonviolent Stuff'll Get You Killed*, 33.

⁴ Theodore Bratner Wilson, *The Black Codes of the South* (Tuscaloosa: University of Alabama), 1965, 28.

⁵ Meritorious means deserving reward or praise.

impossible to be granted freedom as a slave, but also established the very real threat of losing that freedom soon after if one did not quickly comply with colonial laws.⁶

As time progressed and gun technology became more advanced, this weapons control law was revised in 1723 to specifically address gun use. It stated that an African American could not possess any firearm or weapon defensively or offensively.⁷ The most striking aspect of this revised legislation was that possession of a weapon was still illegal for Black men and women in the case of self-defense. Meaning that, if a white man were to threaten a Black man (even if he was a free) with a weapon, the free Black man could not legally defend himself, and if he did, he could be prosecuted for breaking the law.⁸ It is clear by this legislation that the Black body was held with very little regard. So little regard, that if a white person committed manslaughter against a slave, as long as there was no malicious intent, the crime was legal. This is seen in a 1799 court case in which a white man was found guilty of shooting and killing a slave yet was acquitted because there was no punishment for such a crime.⁹

There was widespread belief that under no circumstances should an African American stand up to a white person. This is because it upset the “natural order” of the South. If whites were supposedly superior to African Americans, then they should theoretically be able to do whatever they please to them without fear of backlash or argument. That being said, if this superiority dynamic was upset, a harsh punishment was sure to follow. Specifically, any Black man who raised a hand against a white man would, at the very least, be subject to the harsh

⁶ Halen T. Catterall, David M. Matteson, and James J. Hayden, *Judicial Cases Concerning American Slavery and the Negro* (Washington, D.C.: Carnegie Institution of Washington, 1926): 72. It is also important to note that even if a freedman managed to leave the area, there was still the ever-present threat of being illegally captured and sold back into slavery. This occurrence was not uncommon even in states where slavery was illegal.

⁷ Cobb, *This Nonviolent Stuff*, 33.

⁸ This policy took over 100 years to finally be revoked by the Supreme Court some 20 or so years before the Civil War erupted.

⁹ Catterall, Matteson, and Hayden, *Judicial Cases Concerning*, 94.

punishment of a public whipping of 30 lashes.¹⁰ If this scenario were to occur, however, being a slave would be beneficial. In the eyes of a many whites, a slave, while inferior, was financially valuable and therefore physical punishment should be capped in terms of severity to ensure the slave could still work. A freedman, on the other hand, was considered a threat even if they had not committed any crime. Therefore, if a free Black harmed or attempted to harm a white person, their punishment, though not legally accepted, could be as severe as death.

In addition to the laws discussed above, there are many other examples of legislation enacted with the sole purpose of restricting African American “weapon” use in the colonies. In early 1700s Maryland, African Americans could not own a dog without a license from a Justice of the Peace. Furthermore, even if this license was obtained (which is unlikely because the Justice of the Peace was always white), African Americans could only own one dog at a time. Mississippi passed a similar law around the same time stating that no African American could own a dog under any circumstances. Mississippi even authorized slave patrols to kill a dog found to have an African American owner.¹¹ While not directly related to guns, in the eyes of white lawmakers, a dog could be used as a weapon, and they did not want to give Blacks any more ammunition or ability to revolt than they believed they already had.

Preventing African Americans from accessing guns was not just supported by the average slave owner. Rather, this ideology was backed by members of the upper echelon, men who continue to be praised and studied in schools throughout the nation. Specifically, the Founding Fathers supported very strict gun control measures. In fact, after the United States won its independence, the Founding Fathers as well as other politicians prohibited large portions of the

¹⁰ Cobb, *This Nonviolent Stuff'll*, 31.

¹¹ Wilson, *The Black Codes*, 69-70.

population, including but not restricted to African Americans, from owning guns. This policy of gun restriction stood in stark contrast to the recently passed Second Amendment, which gave every citizen the right to keep and bear arms for the purpose of forming militias for defense purposes. Furthermore, for those legally allowed to own firearms, the vast majority of them had to register their guns.¹² The focus on militias and individual gun registration helps explain Founding Fathers' adamantness towards prohibiting Blacks from owning guns, which stemmed from fear of a second war breaking out.¹³ If citizens' possession of firearms was necessary to ensure the efficient formation of militias to defend against both external and internal threats, by preventing African Americans from accessing guns, it clearly labels them as threats that need to be neutralized rather than potential protectors of the nation. While unjust, their rationale was understandable. As is illustrated below, slaves and freedmen alike were furious about their status in society and were vying to take up arms and fight for their rights. Their hopes of finally being freed with the formation of the United States were quashed. After the United States won its independence, little changed for African Americans in the South. While many Blacks were hopeful the end of the war would bring about a better life and even freedom for some, these dreams were quickly destroyed. In fact, in many cases life got worse for Black Southerners. This tension came to a head in various places across the South with slave rebellions.

Slave owners lived with the ever-present fear that their unpaid form of labor, which allowed them to become rich in the first place, would eventually destroy their wealth via rebellion. As a slave owner himself, Thomas Jefferson believed keeping firearms out of the

¹² It is interesting to note that gun regulation laws were much stricter at the close of the Revolutionary War than they are currently, especially considering the type of weapon available to the public at that time. Muskets and rifles were the primary weapons used by everyday citizens and soldiers alike, both of which have far less power and capability of causing destruction than a current assault rifle, which is the most common weapon used in mass shootings today.

¹³ Adam Winkler, *Gunfight: The Battle Over the Right to Bear Arms in America* (New York: W.W. Norton & Co, 2011): 131.

hands of African Americans was essential to both personal and public safety.¹⁴ It is ironic to think that the Founding Fathers, a group of men revered for establishing the first democratic nation in modern history, actually held many contradicting beliefs to freedom and equality.¹⁵

This dichotomy between African Americans' wishes and the reality of their circumstances resulted in an increase in slave uprisings. Enslaved Blacks saw the newly "freed" white Americans and desired the same outcome for themselves. When it was clear they were not going to get the same prize of "freedom" the colonists won, they decided to take actions into their own hands. In 1811, a group of slaves living in New Orleans organized and fought for this right. After their failed attempt, New Orleans made it illegal for African Americans to carry a stick or cane in public out of fear it could be used to harm another white person or give ammunition for another revolt.¹⁶ Another more famous example of slaves working to assert their right to freedom is the Virginia Nat Turner rebellion of 1831. Turner, with the help of six other slaves, killed the Travis family (his owners) and, by enlisting the help of 75 other slaves, acquired arms and horses and put up a massive fight. By the revolt's conclusion, Turner and his followers ended up killing 51 white people living in the surrounding area. Turner managed to escape capture for six weeks and was finally discovered "after a beautiful chase to the whole company, both in Kin William and Hannover; being at no time out of hearing of either party, without there being one moment's loss or fault of any description whatsoever."¹⁷ Once in the

¹⁴ Cobb, *This Nonviolent Stuff'll*, 34.

¹⁵ This is why it is important to understand historical perspective. A reader today could not and would not say that preventing a large group of people from practicing a certain right simply due to the color of their skin exudes equality. However, during the late 1700s when the constitution was written, there was a much different view regarding who qualified as someone deserving of equal treatment. Specifically, if one was a white, land-owning man, then he fit into this privileged category. That is why African Americans were not freed with the creation of the United States, and also why women could still not vote. Holding a modern-day perspective on equality can cloud a person's ability to truly understand why men like the Founding Fathers could hold such beliefs and enact such unequal policies.

¹⁶ Winkler, *Gunfight*, 132-133.

¹⁷ "Nat Turner," *American Turf Register and Sporting Magazine* (May 1833): 464.

hands' of the authorities, he was hung with 16 of his followers in a public forum in Virginia.¹⁸ This rebellion resulted in the enactment of extremely harsh laws prohibiting the education, movement, and assembly of slaves in order to prevent future riots. These strict provisions not only made life worse for African Americans, but because of their harsh nature, widened the divide between the pro-slavery and anti-slavery political parties.¹⁹

While revolts like these were taking place all across the South, the War of 1812, the second war the United States fought with Great Britain in less than a 40-year period, was also occurring in the background. During this war it was discovered that militias, while good for responding to emergencies, were less effective as a full-fledged, long-term military force. As a result, at the conclusion of the War of 1812, Southern militia power was promptly directed to patrol slaves. Specifically, these militias would hunt down escaped slaves and terrorize free ones. The power of militias grew to such a degree that in 1825, Florida gave them the legal right to enter any Black person's house and lawfully take away their guns, ammunition, and any other type of weapon found.²⁰ While the state did not legally give these militias power to do more than that, it can be assumed that on these visits Blacks were terrorized and sometimes beaten within their own homes.

This unjust treatment of African Americans, freedmen and slaves alike, was becoming, by the day, more unacceptable in the North. Therefore, the dichotomy of attitudes surrounding the morality of slavery was also growing further apart, ultimately leading to the Civil War.

¹⁸ The practice of public executions of slaves and African American alike ties into the superior/inferior dynamic between whites and Blacks. Specifically, whites used this tactic to instill fear into the African American population and further enforce the idea that their lives were expendable, and therefore whites would not tolerate Blacks acting like, or pursuing, a status equal to theirs.

¹⁹ History.com Editors, "Nat Turner," *History.com* (December 2, 2009).

²⁰ Winkler, *Gunfight*, 133.

However, even after the Confederacy was defeated, Black freedom was still controlled heavily. This is especially evident with gun ownership rights. By the time the war erupted, there had already been nearly two centuries of legislation regarding gun use in the Black community to set a strong precedent for keeping these policies in the future. The first chapter of this thesis goes into depth about the push for racially motivated gun control policies in the South following the war. This is notably seen in the Black Codes and in Jim Crow laws/attitudes.

Chapter 1: The Dichotomy Between Black Freedom and White Preferences

“A racist state legislature is capable of using a wide range of public policy choices to achieve the same nefarious ends. Gun laws are no different.”¹

The right to possess a firearm is endowed to every U.S. citizen under the Second Amendment which declares "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." For many, it is a facet of the law that defines Americans and sets the United States apart from countries like England, where it is illegal to own most guns.² While many white Americans proudly flaunt their guns, this patriotic connection is not nearly as prevalent in the African American community. This is because, despite the overarching American belief that every citizen has the right to own a firearm, there has been a consistent pattern in which the United States government and its people have denied this fundamental freedom to African Americans.

To begin, it is clear that African Americans in North America have been relentlessly discriminated against since the first slave ship arrived in the colonies in 1619. The desire white colonists had to maintain control over their enslaved labor force, as well as superiority over Blacks generally, resulted in their continued enslavement and societal repression. As the “peculiar institution” of slavery gained economic and structural importance in the colonies, and eventually the newly formed nation, fears surrounding a Black uprising grew. In response, as the prologue argued, Southern policy makers actively prohibited Blacks from owning or using anything that could be perceived as a weapon.

¹ Joshua Horwitz and Casey Anderson, *Guns, Democracy, and the Insurrectionist Idea* (Ann Arbor: University of Michigan Press, 2009), 126-127.

² Walt Hickey, “How Australia And Other Developed Nations Have Put A Stop to Gun Violence,” *Business Insider*, (January 16, 2013), <https://www.businessinsider.com/canada-australia-japan-britain-gun-control-2013-1>.

This policy of outlawing African American gun usage, not surprisingly, prevailed after Blacks won their freedom, and supposedly equal status, in the Civil War. Furthermore, while the institution of traditional African American slavery was destroyed, white Southerners still strongly clung to the idea that they were superior to Blacks.³ One could argue this is because after having their whole way of life destroyed, they needed to hold onto some semblance of “normalcy”- which to them was their status in society. Others could argue that this continuance of discriminatory behavior and attitude was simply due to a deeply engrained racial ideology which positioned whites as the superior race and Blacks as the inferior. Either way, the white population believed that in order for society to function there needed to be a hierarchy with laws supporting it, and the only way this could be accomplished was by ensuring African Americans could not battle their way to equality. White Southerners fought vehemently to pry any gun or weapon out of the hands of law-abiding African Americans, often with the use of force. This policy continued until the United States federal government finally stepped in and outlawed these unconstitutional provisions (called the Black Codes). Namely, it was the Civil Rights Act of 1866 which officially ended the short reign of the Black Codes.⁴ The passage of this legislation, however, did not stop the violence and hatred directed towards African Americans in

³ It is important to note here that slavery in the United States was not eradicated with the end of the Civil War and the passage of the 13th Amendment. Rather, modern forms of slavery still exist in the United States. A prime example of this is seen in U.S. prisons. Prison labor is exploited in such a drastic way that their work, in combination with their confinement, can be viewed as a parallel to slavery. Specifically, despite doing virtually the same labor and working similar hours as a typical free employee, the average prisoner gets paid less than a dollar an hour for their work. Furthermore, African Americans comprise a much larger percentage of the prison population than their demographics would indicate. This is not, in any way, due to the fact that African Americans are inherently more prone to committing crimes. Rather, the system has been set up to criminalize the Black body for simply existing. An example for this is seen in the disparity of sentencing between white and Black people who commit the same crimes. This is visible in the drastic differences in crack and cocaine drug laws. Criminal charges for crack, which is used much more frequently in minority communities, offer much longer jail times and overall harsher punishments than cocaine, which is predominantly used by Caucasians. This will be discussed more extensively in the third chapter.

⁴ Charles E. Cobb, Jr. *This Nonviolent Stuff'll Get You Killed: How Guns made the Civil Rights Movement Possible* (New York: Basic Books, 2014), 40.

the South. Unbeknownst to most, the Ku Klux Klan originated as a militia of sorts aimed at preventing Blacks from organizing politically forcibly taking weapons, and more specifically firearms, from the hands of African Americans.⁵ This racist agenda remained steadfast well into the Jim Crow Era, with the continued perseverance by white Southerners to perpetuate the inferior status of African Americans while, at the same time, instilling fear into the Black population to quell any form of revolt or uprising.

This chapter focuses on gun restriction laws aimed at African Americans over a roughly ten year period. The beginning of the piece discusses the time period during and following the Civil War. This brief section will simply give a historical introduction to the conditions which produced the Black Codes. The chapter then delves into the Black Codes and how they quashed many of African Americans' newly gained freedoms, including gun ownership rights. Finally, the last section of this paper will discuss the transition into the Jim Crow laws and how the former Black Codes influenced them.

The main argument of this chapter is that gun control policy in the United States has specifically been molded in the context of preventing African Americans from obtaining firearms out of a fear stemming from implicit and explicit racial bias. However, before delving into the main argument of the piece, there are a few key concepts the reader should keep in mind. The first being that beneath the surface of all these discriminatory laws regarding African American gun usage is fear - fear of upsetting a system of life so beneficial both financially and socially to white Southerners, fear of physical harm, or even death due to a revolt, and most importantly fear surrounding a change in the way of thinking about oneself and others if the hierarchical

⁵ "Guns, Reagan, the NRA and the Black Panthers," *Concord (NH) Monitor*, July 17, 2016.

system in the South was upset. Secondly, and more pertinent to the argument, the passage of these laws was made possible due to the superior/inferior dynamic between whites and Blacks. Namely, since white Southerners held such weight, and wielded so much control in the South, they could do (almost) whatever they wanted. This included enacting unjust policies they sought fit regarding African Americans, especially during the time of slavery. It is obvious that African Americans did not support the racist agenda of these laws, but there was little they could do to enact change when they were considered sub-human and subsequently given no power.

Section 1: The Civil War

The conflict between both whites and Blacks, and supporters and opponents of slavery eventually came to a head with the election of President Abraham Lincoln in 1860. By May of 1861 the Civil War began with North Carolina's secession from the Union. This was quickly followed by Alabama's secession and its addendum "inviting all other Southern States to meet in Alabama for the purpose of forming a new government."⁶ African Americans, after some resistance, came out in droves to participate in the war. To further elaborate, their participation in the war was not automatically accepted. Rather, because many viewed Blacks as child-like in their mentality, thus unable to be trained to organize and fight in a war, their participation was originally restriction. This was compounded by the fact that President Lincoln had a strong resistance to enlist the race due to a worry that it would push more Southern states to side with the Confederacy. It was not until the Union army was greatly suffering from a lack of soldiers did Lincoln finally agree to allow their inscription.⁷ Once they were allowed to enlist, however,

⁶ "The Secession Movement: Succession of Mississippi Firing into the Star of the West; Secession of Alabama Succession of Florida the Star of the West," *Maine (ME) Farmer*, January 17, 1861.

⁷ "Black Troops in Union Blue" (Constitutional Rights Foundation), accessed March 16, 2021, <https://www.crf-usa.org/black-history-month/black-troops-in-union-blue>.

roughly 179,000 Blacks (~10% of Union Army) participated in the Civil War.⁸ Their contribution to the Union military not only led to their success in the Civil War over the Confederacy, but it also instilled a new confidence in Blacks. Black veterans returned, without qualms and as representatives of a victorious Army, to the South with their military commissioned weapons ready to stand up for themselves.⁹ Furthermore, following the war, there were hundreds of thousands of surplus firearms being sold inexpensively, allowing a greater percentage of African Americans to obtain quality guns.¹⁰ This was extremely unnerving to white Southerners. Not only was the whole institution they built their livelihoods on destroyed, but they now had the looming threat of guns in the hands of African Americans, a group they abused and treated as no more than property.

In anticipation of this happening, Southern lawmakers held a series of conventions shortly before the Confederacy surrendered to enact a number of laws called the Black Codes.¹¹ These codes regulated the lives of African Americans in almost every way possible, including gun ownership rights. These demeaning, racist laws took effect immediately, but only for a short time. This is because the policies created during the Reconstruction Era became a force to be reckoned with in the South at the conclusion of the war.

⁸ Elise Freeman, Wynell Burroughs Schamel, and Jean West, "The Fight for Equal Rights: A Recruiting Poster for Black Soldiers in the Civil War," *Social Education* 56, 2 (February 1992): 118-120. [Revised and updated in 1999 by Budge Weidman.]

⁹ Unlike today, soldiers who fought in the Civil War were encouraged to take their military issued weapons home with them following the war.

¹⁰ Adam Winkler, *Gunfight: The Battle Over the Right to Bear Arms in America* (New York: W.W. Norton & Co, 2011), 133.

¹¹ It is important to note that some Northern states like Connecticut, New York, Ohio, etc. passed their own set of Black Codes previous to the Southern states. They were enacted earlier than their counterparts in the South because slavery was outlawed in most Northern states far before it was in the South. While this behavior cannot be justified in any sense, this chapter will not be discussing the Black Codes created in the North for multiple reasons. The most relevant is simply because of length constraints. One could, and many have, written whole books simply discussing the Black Codes. Therefore, in order to create a comprehensive concise paper, it is crucial to pick and choose the most relevant and pertinent information, and that lies in the Black Codes of the South.

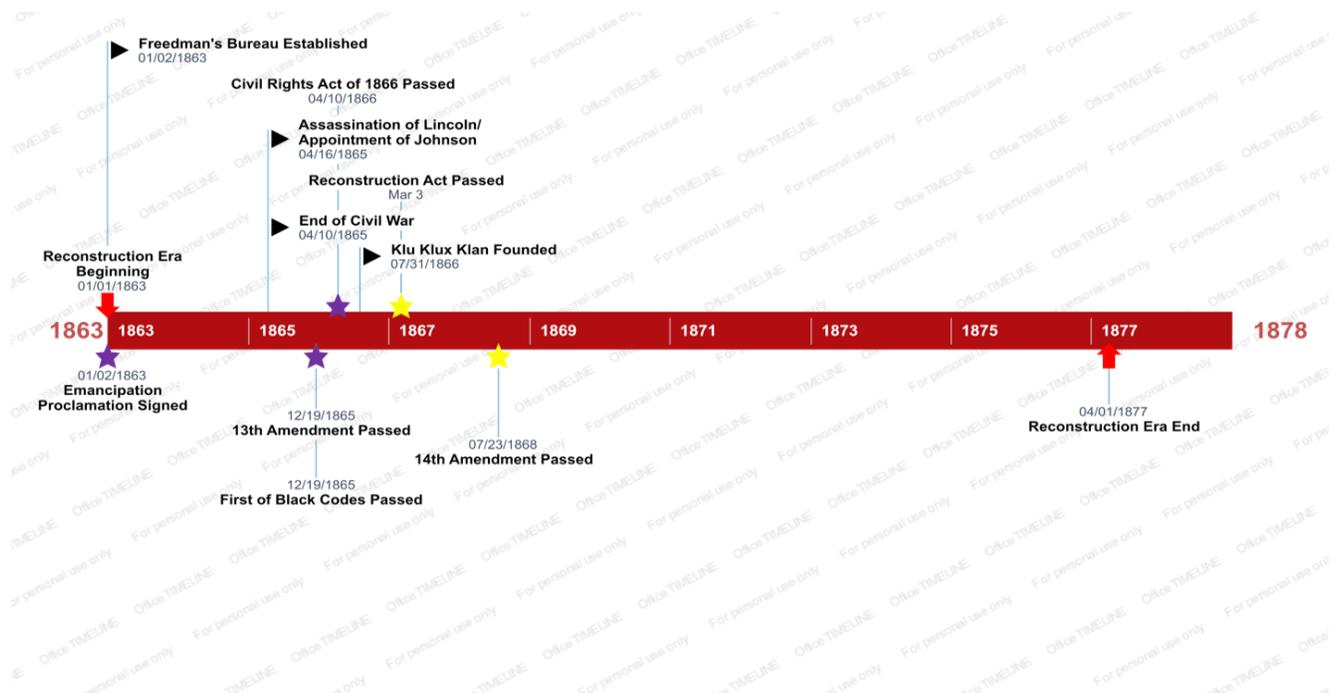
Section 2: The Black Codes and the Reconstruction Era

Subsection 1: Timeline of Events

Before delving deeply into the Black Codes and the Reconstruction Era, it is important to establish a timeline of events occurring during this period. This is because a lot of extremely important events and policies occurs in a relatively short period of time. To start, it is well established that the Reconstruction Era is divided into three stages: the first began with the Emancipation Proclamation and ended with President Lincoln's assassination. The second began with Vice President Johnson's assumption of the Presidency (which happened the day of Lincoln's death) and ended in 1866 with the passage of the Civil Rights Act. These two beginning stages of the Reconstruction Era, however, are not necessarily what one would consider characteristic of the time period. This is because the first period occurred during the Civil War, meaning that the vast majority of Blacks were still enslaved. Additionally, during the second stage, few reforms to protect African Americans were passed. Rather, the third stage, began with the passage of the 1866 Civil Rights Act and ending in 1877 with the election of Rutherford B. Hayes, is what comes to mind when one thinks about the Reconstruction Era.¹² This is the time in which African Americans were truly allowed to prosper and live as (somewhat) equal citizens in the South. While it is useful to divide this period into stages, it is important to note that their date ranges are not exact. As with any events in history, there are always overlaps between time periods, meaning there are often contradictory policies and attitudes occurring at the same time. For example, the Amnesty Proclamation, which pardoned many former Confederate soldiers and sympathizers, was presented the same year as the 14th

¹² William A. Sinclair, *The Aftermath of Slavery* (Chicago: Afro-Am Press, 1969): 165.

Amendment, which established birthright citizenship to all those born in the United States and expanded the due process clause. While the Amnesty Proclamation occurred during the time period of the third stage, it is more characteristic of the first stage.



Subsection 2: The First and Second Stages of the Reconstruction Era

Because of their relative insignificance when it came to reforms made and protections granted to Southern African Americans, this chapter will not be referring to the first two stages as part of the Reconstruction Era. While, admittedly, the Emancipation Proclamation was a huge step towards African American equality, it was more of a catalyst for change rather than something that immediately improved their lives. Furthermore, during the second stage of the Reconstruction Era, President Johnson not only stood back and allowed racist, discriminatory legislation like the Black Codes to be passed, but he also created bigoted policy himself. While the events discussed immediately below do not necessarily pertain to gun ownership rights, they

help to establish a framework for which the reader can refer back to in order to better understand how post-Civil War racist gun control policy was able to be passed.

The first piece of evidence establishing this precedence is visible in President Johnson's Proclamation of Amnesty and Pardon:

“I, Andrew Johnson, President of the United States, do, by virtue of the Constitution, and in the name of the people of the United States, hereby proclaim and declare unconditionally, and without reservation, to all and to every person who directly or indirectly participated in the late insurrection or rebellion, excepting such person or persons as may be under presentment or indictment an any Court of the United States having competent jurisdiction upon a charge of treason or other felony, a full pardon and amnesty for the offense of treason against the United States, or of adhering to their enemies during the late civil war, with restoration of all rights of property, except as to slaves, and except, also, as to any property of which any person may have been legally divested under the laws of the United States.”¹³

With this statement, Johnson granted amnesty to all who fought for or supported the Confederacy except for top ranking government and political officials, those who left Union States to aid Confederate States, and those who committed war crimes. However, Johnson also allowed anyone who was not automatically pardoned to appeal their case to Johnson, himself, leaving the door open for even more Confederates to walk away unscathed and unpunished for their deeds.¹⁴ Johnson “liberally extended” these pardons under the guise it would lead to a more peaceful union of the states. He believed that since the country was no longer at war, there was no need to continue to punish the South and the former Confederate citizens to a great degree.¹⁵ The effect, however, was to allow white Southerners “home rule,” or free rein in governing race relations and other social and economic issues in their states.

¹³ “Telegrams: By the President of the United States- A Proclamation. All Pains, Penalties, Confiscations and Disfranchisements Removed. A Full Pardon to All Participants in the Rebellion. Amnesty Proclamation by President Johnson,” *New York Times*, July 4, 1868.

¹⁴ Sinclair, *The Aftermath of Slavery*, 57.

¹⁵ “Telegrams: By the President.”

In addition to showing his favoritism towards former Confederate agents, Johnson also purposefully prevented African Americans from prospering and living freely via different pieces of legislation he either dismissed or supported. To begin, he vetoed a bill to expand the Freedman's Bureau, an agency created at the time of the Emancipation Proclamation, aimed at helping recently freed African Americans adjust to their new lives and ensure their equal status under the law and within the community. Johnson, on the other hand, created a policy known as Presidential Reconstruction which forced former slaves to sign work contracts. These contracts restricted virtually every aspect of life for those who signed them and essentially placed Blacks back into slavery-like living and working conditions.¹⁶ One of most deceptive aspects of this policy was that most African Americans were illiterate (mainly due to the educational restrictions placed on slaves) and could not read these contracts. They were led to believe the documents provided them with the promise of employment at a respectable job, but instead they were unknowingly agreeing to be placed in virtually the same situation they were forced to live before they "supposedly" gained their freedom. This evidence shows that, even at the highest levels of government, there was still great pushback regarding giving African Americans the rights they deserved. Additionally, it is further proof for supporting the argument that the true Reconstruction Era did not begin until its third stage (starting with the Civil Rights Act of 1866).

Now that a timeline for the first and second stages of the Reconstruction Period has been established, this piece will address the Black Codes which were passed in the second stage and outlawed during the third stage. After this topic has been fully discussed, the chapter then addresses the third, and most significant stage of the Reconstruction Era.

¹⁶ Horwitz and Anderson, *Guns, Democracy*, 127.

Laws preventing African Americans' use of weapons during the time of legal slavery certainly informed the policies created within the first and second stages of the Reconstruction Era. However, the policies restricting African American gun use after the Civil War, now that Blacks are supposedly equal citizens with equal rights under the law, have more complex origins and effects. What is clear is that the promise of equality and freedom given to the newly freed Blacks was almost immediately broken.

Around the time of Lincoln's assassination and the end of the Civil War, a series of conventions were held in various Southern states to discuss the rights of the soon-to-be-freed African Americans. These meetings were created in anticipation of the Confederacy losing the war and their slaves. Southern states wanted to be fully equipped with a set of laws ensuring Blacks would remain subservient to whites when their "peculiar institution" was eventually destroyed. It is, however, remarkable that Southern lawmakers were able to enact these codes solely in the few months between 1865 and 1866.¹⁷

Subsection 3: The Black Codes

The Black Codes restricted the freedoms of African Americans in every way imaginable. While this chapter will mainly address the gun usage provisions within these codes, it is important to give perspective on other ways these laws unjustly impacted Blacks. For example, the Black Codes limited African Americans' potential professions. Specifically, it banned Blacks from working in industries other than manual labor, primarily restricting them to farming and sharecropping.¹⁸ Given that manual labor jobs are physically demanding and tend not to pay

¹⁷ Glenn Utter, *The Gun Debate*, 3rd Edition, *An Encyclopedia of Gun Rights and Gun Control in the United States* (Amenia, NY: Grey House Publishing, 2016), 39.

¹⁸ Theodore Bratner Wilson, *The Black Codes of the South* (Tuscaloosa: University of Alabama, 1965), 69.

well, it is clear the intention Southern lawmakers had when enacting these types of laws. Forcing African Americans to work in these occupations ensured they would remain powerless due to poverty and exhaustion.

The first state to pass a comprehensive set of Black Codes was Mississippi in November of 1865. These codes included a provision forbidding African Americans (with some exceptions) from keeping or carrying a firearm, ammunition, a dirk, or a bowie knife.¹⁹ These codes gave whites the ability to confiscate, and keep for themselves, any prohibited items found on African Americans. If this was not severe enough, the laws went a step further with a provision stating all previous free Black and slave laws not already rescinded “are hereby re-enacted, and declared in full force and effect... except so far as the mode and manner of trial and punishment have been changed or altered by law.”²⁰ With this provision, it is clear that while Southern lawmakers understood slaves were now technically free men and women, they were going to exert all possible means to ensure Blacks continued to be treated as if they were still slaves.

The Mississippi Convention also amended their constitution “to authorize the legislature to dispense with a grand jury and permit prosecutions before justices of the peace for such offenses such as affray, drunkenness, and vagrancy.”²¹ Historically, laws addressing issues such as these were created to target minority populations and were (and still are) essentially used as a way to criminalize non-whites.

Shortly after Mississippi released its code, South Carolina was quick to follow. While similar, South Carolina’s code was more detailed, comprehensive, and discriminatory. When

¹⁹ A dirk is a type of short dagger.

²⁰ Wilson, *The Black Codes*, 69.

²¹ Wilson, *The Black Codes*, 68. Affray is the crime of fighting in public.

reading through even just a small portion of the codes, it is evident their primary purpose was to ensure the African American population remained wholeheartedly subservient to the white race. In fact, in many of the provisions, the words slave and servant could easily be interchangeable. For example, one provision stated that “servants shall not leave their premise without a written pass”; another proclaimed that “the master may whip his servant himself if the latter be under eighteen, but if he be so old as to make the experiment dangerous to the master, the Judge may order him whipped by the Sheriff.” These codes were so deeply rooted in historical slave-era laws that they even continued the allowance of buying freed African Americans. To make this act legal a white man simply had to claim the freedman failed to support him/herself or his/her child/ren. Furthermore, following the bitterness of a lost war and resentment over the abolishment of slavery, it can be assumed that it was not be hard to convince a judge in South Carolina to permit a freedman to be sold back into servitude.²²

Another provision that particularly stood out as reminiscent of pre-Civil War slavery dealt with attempted rebellion. Specifically, any attempt at a rebellion by an African American was punishable by a fine of up to \$1000 (roughly \$8,150 today), imprisonment up to 10 years, whipping, confinement, and/ or corporal punishment.²³ This provision exemplified the still very present fears of a Black uprising. It is extremely ironic, however, that a state which openly rebelled against the United States would impose such a strict policy against that same act. In their mind, however, these legislators justified their rebellion because of their race. Their light skin tone gave them a God given right to fight for what they believed in. Whereas, in their belief,

²² “An Important Thing: Black Codes,” *Chicago Tribune*, November 29, 1865.

²³ Wilson, *The Black Codes*, 72. It is important to note the sheer amount of money this fine cost. Given that the vast majority of African Americans were poverty stricken, it is clear that this punishment was created to financially cripple blacks. White lawmakers knew full well that there was a slim chance that an African American could afford this payment, and therefore used it as a tool to incarcerate blacks and place them in a lifelong obligation to the state because of their debt.

a rebellion by African Americans would only be caused by stupidity, and would simply result in destruction and fear, not progress. Not surprising to hear, these laws created a huge backlash in both the Southern African American community as well as in the North. Though many were outraged by these policies, they did not have the power to do anything about them. Rather, it took the power of the United States government and a military official named General Daniel E. Sickles to reverse these absurd policies in South Carolina. Sickles was a soldier during the Civil War who was later appointed as the Military Governor of South Carolina during the third stage of the Reconstruction Era. Sickles was disgusted by South Carolina's Black Codes and almost immediately revoked all the discriminatory legislation found within them. His effort, while valiant, was short lived. Inevitably these laws were to return again in full force at the conclusion of the Reconstruction era and the beginning of the Jim Crow Era.²⁴ The resurrection of these provisions, however, did not come about entirely through legal means, rather through unspoken actions and implicit attitudes.

Other Southern states to enact their own set of Black Codes were Alabama and Louisiana. Both states prohibited African Americans (not including veterans) from owning guns without a license or special permit.²⁵ Not surprisingly, these permits and licenses were controlled by white men, making it virtually impossible for a Black man or woman to legally obtain a gun. This resulted in many Blacks illegally purchasing guns, making the potential penalties of exposure even greater. Punishment for having an unlicensed firearm was a fine and confiscation of the weapon.²⁶ Old slave patrols reemerged to enforce the Black Codes and to terrorize African

²⁴ Wilson, *The Black Codes*, 75.

²⁵ The only reason these states allowed veteran African Americans to keep their guns was because they were commissioned by the United States Military and thus much harder to confiscate without proper justification. However, this did not stop everyday white citizens from terrorizing veteran Blacks by either stealing their weapons or forcing them to relinquish their guns out of fear.

²⁶ Utter, *The Gun Debate*, 39.

Americans. This along with the combination of great incentives to catch Blacks with weapons, and a hatred over their newfound freedom created a white frenzy, making it extremely difficult to hide a gun as an African American.²⁷

Subsection 4: The Third Wave of the Reconstruction Era

Those in the North, aware of the atrocities committed against African Americans in the South, demanded change. Faced with growing pressure in 1866, Congress passed the Civil Rights Act which banned all Black Codes and other forms of discriminatory legislation. While originally vetoed by President Johnson, the House overrode his opposition with Republicans' nearly unanimous support of the bill.²⁸ This tremendous accomplishment was the first time in U.S. history that Congress overrode a Presidential veto on a bill that held so much weight. This was also the first time a piece of civil rights legislation was supported in Congress. The Civil Rights Act built off the 13th amendment which abolished slavery and gave Congress, not the individual states, the power to enforce this new statute.²⁹ Anticipating the 14th Amendment passed two years later, it granted all citizens equal protection and benefit under the law. This law clearly indicated the Black Codes were illegal given they did not apply equally to whites and Blacks.³⁰ Soon after the passage of the 1866 Civil Rights Act, Congress also signed the Reconstruction Act into law in March of 1867. This placed the South under martial law, allowing

²⁷ Winkler, *Gunfight*, 133.

²⁸ Note, the values each party stood for during the Civil War and Reconstruction Era were quite different than they are today. In fact, many would view the ideologies of the parties as flipped. Specifically, during this time, the Republican party was more progressive (except on issues such as big business) while the Democratic party was more conservative (except for its Northern urban wing, which included many European Immigrants).

²⁹ The 13th amendment banned slavery and involuntary servitude except in the case of punishment for a crime. It is important to note that the wording of this amendment still allowed involuntary servitude as a penalty for breaking the law. As discussed previously, this provision has allowed a subset of slavery to continue into today within the prison population without much thought or pushback.

³⁰ "The Civil Rights Bill of 1866," *US House of Representatives: History, Art & Archives* (accessed November 13, 2019).

Northern troops to be stationed in the area.³¹ The passage of this second act, not surprisingly, spawned very different reactions from people depending on the region of the country in which they lived. Many in the South were greatly angered with one Kentucky newspaper stating the act was unconstitutional, tyrannical, and a step away from equality and the restoration of the Union.³² On the other hand, many people in the North praised the legislation with one Chicago newspaper proclaiming, “it is possibly the best thing to have happened.”³³

The passage of these two instrumental acts ushered in the third, and most productive, stage of the Reconstruction Era. The 14th Amendment was also passed during the third stage of the Reconstruction Era a few years later in 1868. Like other pieces of legislation, this amendment built off past work, especially noting the Civil Rights Act of 1866, which included similar provisions but had been difficult to enforce. This amendment defended those civil rights by establishing nationwide birthright citizenship, expanding the due process clause of the 5th Amendment, adding an equal protection clause, and working to ensure more fair voting practices by not allowing states to gain representatives if they were actively excluding people from voting.³⁴

The third stage of the Reconstruction Era was, in many ways, a bountiful time for Southern African Americans. With the South under martial law, between the years of 1866 and 1877 Northern troops protected the newly freed African Americans. During this time Blacks

³¹ Sinclair, *The Aftermath of Slavery*, 82.

³² “The New Reconstruction Act,” *Daily Courier* (Louisville, KY), July 15, 1867.

³³ “The Reconstruction Act,” *Chicago Tribune*, July 16, 1867.

³⁴ The 14th Amendment is still used today to enforce equal protection for people of all races, nationalities, and gender, not just African Americans.

came out in droves to participate in elections and gained more seats in public office than would be seen again for decades to come.³⁵

This period, however, did not witness a complete reversal of hatred for or discrimination against African Americans. Rather, many white Southerners were livid. Not only did they lose their “peculiar institution,” but they lost a war, lives, and a sense of state freedom and autonomy they so previously held before the war. With Northern troops stationed in the South enforcing laws many Southerners did not support, and repealing laws they did, anger was building. This desire for revenge came to a head with the creation of the Ku Klux Klan (KKK).

The KKK was founded in a small town in Tennessee in 1865 by a group of former Confederate soldiers under the guise of forcibly taking weapons out of the hands of African Americans.³⁶ Initially, their actions were limited to tormenting Blacks and confiscating their weapons. Its founding members never intended the organization to become the infamous group it is today, but following its creation, it became an organism of its own. As the group grew and new factions formed, it became more violent towards African Americans. These unaffiliated bands were overtly aggressive, forming a mob mentality and involving themselves with lynchings, with many in the South supporting their actions.³⁷ As a later newspaper noted, many viewed the KKK as “the only defense of the stricken whites against injustice, robbery and violence” and “often the Ku-Klux made a law for the south that was just and better administered

³⁵ “The End of Reconstruction,” US History II (American Yawp), Lumen Learning (accessed October 21, 2019), <https://courses.lumenlearning.com/ushistory2ay/chapter/the-end-of-reconstruction-2/>.

³⁶ Winkler, *Gunfight*, 136.

³⁷ Winkler, *Gunfight*, 136-137.

than the law that was sought to be imposed by the greedy squatters [Northern soldiers] who swaggered in all the seats of authority in the garb of Federal Power.”³⁸

If the creation of a terrorist-like organization was not dangerous enough for Southern African Americans, their Northern troop protectorate would soon be taken away. The third wave of the Reconstruction Era concluded with the 1876 presidential election of Rutherford B. Hayes. To secure victory in a tight and contested election, Hayes made a deal that if he was awarded the presidency, he would remove the Northern troops stationed in the South.³⁹ These soldiers were the only force upholding African Americans’ freedom to participate in public office and live their life as equals without (much) fear. Ultimately, the conclusion of this period ushered in a wave of racial atrocities which reverberated through every aspect of life for African Americans in the South.

Section 3: The Jim Crow Era

Much to the despair of Radical Republicans and progressives alike, the Reconstruction Era did little to help African Americans in the long run. While the Black Codes were no longer a viable option for Southerners to control the movements and rights of African Americans, lawmakers’ hopes of reestablishing, and thus maintaining, their white superiority were not dashed. Instead, the period following the third wave of the Reconstruction Era brought on a new set of discriminatory legislation called the Jim Crow laws. This legislation differed from the

³⁸ “The Black Man’s Burden: Conditions in the South and the Elimination of the Negro from Politics; How White Supremacy is Achieved and Maintained; No Civil Equality; A Disfranchising Measure in North Carolina—The Summary and Wholesale Enfranchisement of the Black People A Mistake; Small Result from Attempts to Educate and Elevate the Negro the Work of the Lynching Mobs The Lynching Mobs” *The Globe* (Toronto, Ontario). February 28, 1899.

³⁹ “The End.”

Black Codes because of the 14th Amendment.⁴⁰ With the ratification of this amendment, laws could no longer be explicitly discriminatory towards race; rather, they had to apply to all people. This meant the Jim Crow provisions needed to be far less overt with their racist language.

To present the reader with evidence of the impact Jim Crow laws had on African American gun usage in the United States, this section will address a court case to give concrete evidence. This segment's main focus, however, will examine the unspoken laws and attitudes prevalent in the South and how this was the force that truly took guns out of the hands of Blacks. That being said, the clear distinction between the Black Codes and the Jim Crow laws was that the Black Codes were a set of written down legal code explicitly preventing African Americans from owning or accessing guns, whereas the Jim Crow gun "laws" were characterized by unspoken policy enforced by violence and fear.

The framework supporting the structure of the Jim Crow Era was long in coming. The concept of "mutuality," also known as separate but equal, began gaining prevalence in the minds of whites and Blacks roughly around the time of the Civil War. The difference between civil and social rights for African Americans also caused big debates leading up to this time. Specifically, it was more common for white Southerners to support civil rights for Blacks rather than social rights. For example, it was more acceptable for a white Southerner to believe a Black person had the right to not have their property stolen, than it was to accept that an African American should attend a well-funded school with white children. Legislators restricted the social freedom of

⁴⁰ As stated previously, the 14th amendment also ruled that State representatives are appointed based on the number of people in each state, and it will reduce the basis of state representation if people who have the legal right to vote are prohibited from doing so. Furthermore, it outlawed anyone who has participated in an insurrection or rebellion against the state from holding office and claimed the United States government would not pay the debts of the Confederacy. With these other less well-known sections of the 14th Amendment, it is made clear that the North was concerned about the South taking away the rights of the newly freed African Americans. The federal government wanted to ensure that Blacks had a say in their government and it would not be run, yet again, by Confederate war heroes and politicians.

African Americans to enforce the separation of the races and superiority of white men and women. This distinction is critical to make because it sets the stage for Jim Crow laws and the more subtle, yet still racist policies created to keep African Americans inferior both intellectually, socially, and economically.⁴¹ Furthermore, an ideal way to make sure African Americans remain unable to rise in the ranks of society was by taking their guns away. As mentioned previously, the best way to ensure Blacks remained subservient was to eliminate their ability to fight for their rights and freedoms by taking their weapons away.

The Jim Crow Era was characterized by lynching, segregation, and a reemerging control over the Black population. In fact, in the 30 years following the Civil War, an estimated 5,000 African Americans were lynched. This stood in stark contrast to the time before the Civil War where most of those who were lynched were white supporters of abolition.⁴² This change in victims is interesting because it shows the decrease in value of the Black body. Before the Civil War, African Americans were treated terribly, but their life had value because it could be used to gain a profit. However, after Blacks were freed, their bodies no longer signaled financial gain because they were not property, resulting in their expendability. In response to these mass targeted killings of innocent people, African Americans began to form their own militias for protection.⁴³ This is seen in one newspaper article, which stated that “there is great excitement in the town of Sharpesburg, and trouble between white and Black people is feared. The negroes are arming themselves and flocking into town to prevent a threatened lynching of the boy Davis.”⁴⁴

⁴¹ Paul Escott, *North Carolinians in the Era of the Civil War and Reconstruction* (Chapel Hill: University of North Carolina Press, 2008), 167.

⁴² Winkler, *Gunfight*, 143.

⁴³ Winkler, *Gunfight*, 143.

⁴⁴ “Negroes Arming: Serious Trouble Expected Between Races in Bath Country; Negroes with Protect One of their Number from Mob Violence; Sensational Lynching of a Black Murderer at Wickliffe, Kentucky Dragged to Death By A Mob and His Lifeless Body Swang to a Tree Lynch Law in Kentucky,” *Courier-Journal* (Louisville, Kentucky), June 9, 1891.

The main goal of these Black militias was first and foremost to keep African Americans safe. The second goal, however, was to defend their right to own a gun.⁴⁵ This aspiration was challenged frequently. In an 1876 court case, Louisiana state officials, who happened to be members of the KKK, were charged with conspiring to disarm a meeting of African Americans. The case made it all the way to the Supreme Court where the justices ruled in the favor of the Klansmen. The outcome of the case stated that the officials had the legal right to disarm the African American group in order to protect the common good. This decision was clearly racist and represented yet another way in which the legal system failed to protect the rights of African Americans. While this case technically occurred during the third stage of Reconstruction and not during the Jim Crow era, it exemplified attitudes towards African Americans and guns at a time in which the country was moving away from the Black Codes and towards Jim Crow laws. It gives background and sets yet another precedent for lawmakers and citizens alike in the South to follow when drafting and expressing this new set of discriminatory provisions and attitudes.

Another example of discrimination found in legal proceedings during the Jim Crow Era involved an 11-year-old Black boy with a toy gun. In St. Louis in 1900 it was illegal to fire a gun within city limits, and the boy was charged with violating this law. However, when his case was being reviewed by a judge to determine his guilt, it was discovered that the gun was fake. Knowing this new information, the judge should have dropped all the charges given that it is not possible to fire a fake gun, but this was not the case. Instead, the judge found the boy guilty and fined him \$10 (almost \$310 today). While it was not written in the newspaper article reporting this court case, it is clear this is a case of racial discrimination. There was no legal backing for

⁴⁵ The 2nd amendment guarantees the right to own a firearm, while the 14th amendment ensures equal status for African Americans under the law. Therefore, the combination of the two amendments theoretically establishes that African Americans can own and use firearms in two places.

the judge to fine the boy, but he was able to do so because they lived in the Jim Crow South. This is just another example of the white ruling class bending the laws and using their historic power to discriminate against the Black population while continuing to instill the idea that Blacks are subservient to the will of the white man.⁴⁶

Not only did laws and government officials support discriminatory gun legislation, but popular ideology regarding African Americans' place in society prevented Blacks who legally owned guns from using them. The Jim Crow South was not a favorable place to be Black after the Reconstruction Era. There was an overarching white authority reinforcing the notion that whites could do whatever they wanted to Blacks without little to any backlash. This is exemplified in Historian Emilye Crosby's quote: "whites could attack blacks capriciously and with immunity." This attitude resulted in many African Americans simply allowing whites to treat them terribly out of fear of retaliation that could lead to financial loss, property damage, or even death. Therefore, despite there not necessarily being laws which outright prohibited African American from using guns, there were unspoken codes which made it clear that Blacks should not own a gun and, if they did, they should not attempt to use it against a white person.⁴⁷ This created a huge issue for Blacks in the South because "for oppressed people who can't rely on the police, having a gun is sometimes the only means of protection."⁴⁸

An instrumental aspect of the Jim Crow Era in the South was segregation. Whites sought to stay as far away from Blacks as physically possible while still living in close proximity. This separation further reinforced the racist and discriminatory beliefs of many white Southerners. If

⁴⁶ "A Heavy Fine for a Toy 'Gun': Judge Wislizenys Assesses a Smal' Negro \$10 for Firing a Diminutive' Weapon and Declares Himself," *St. Louis Post-Dispatch*, July 2, 1900.

⁴⁷ Emilye Crosby, *Little Taste of Freedom: The Black Freedom Struggle in Claiborne County, Mississippi* (Chapel Hill: University of North Carolina Press, 2005), 9.

⁴⁸ Winkler, *Gunfight*, 106.

one is constantly taught Black men are savage, untrustworthy, and violent then, if never presented with contradictory evidence, one will continue to believe this. This separation and spread of misinformation perpetuated the idea that African Americans should not have access to guns because of their “brutal” nature. Historian William Sinclair illustrates this point vividly, arguing that “race prejudice is largely a matter of teaching and training. Any people can teach their children to hate or despise another people.”⁴⁹

Overall, while there was some legislation and judicial rulings that indirectly prevented African Americans from possessing guns in this period, the more important aspect to consider is the attitudes of Southerners. African Americans were, in many cases, afraid of using their guns out of fear pertaining to white retaliation, not legal punishment. And while Blacks were deeply committed to democracy, they understood that in the South, this democracy was based upon an order of violence that they needed to respect if they valued their life and/or the lives of their family and friends.⁵⁰

Conclusion:

Jim Crow laws were established in the late 1870s after the Reconstruction period closed and were still being enforced for roughly 90 years until the Civil Rights Movement gained a stronger foothold in the nation in the mid-1950s. During these years African Americans were treated as second class citizens throughout the South (and in many places in the North). Every aspect of their life, from where they could sit on a bus to what they could say, was dictated by the white population and enforced with an iron fist of fear. In the case of Black Southerners, having a gun offered little protection because they knew using it would result in a worsened

⁴⁹ Sinclair, *The Aftermath of Slavery*, 113.

⁵⁰ Horwitz and Anderson, *Guns, Democracy*, 130.

outcome for them and/or their families. This is why it is crucial to address rhetoric and attitudes as well as laws regarding gun control policy. Just because the law says one thing (i.e. everyone has the right to possess and use a firearm) does not mean citizens will obey it (i.e. restricting African Americans from using guns through fear and intimidation.) This fact is critical given that discriminatory gun control measures continued to persist despite the legal advancements of the Civil Rights Movement. While the Jim Crow laws themselves would eventually fall, the assumptions and attitudes which formed their backing would continue to perpetuate the discriminatory basis of gun control through various novel mechanisms.

Chapter 2: Black Power Versus the White Institution

“When people say they are opposed to Negroes ‘resorting to violence’ what they really mean is they are opposed to Negroes defending themselves and challenging the exclusive monopoly of violence practiced by white racists.”¹

Evident by the first chapter of this thesis, whites have fought extremely hard to prevent African Americans from accessing and utilizing guns. Beginning in the 1600s with the passage of the first weapon restriction law following through to the start of the third stage of the Reconstruction Era, it was legally permissible and often encouraged for local, state, and national authorities to enact discriminatory legislation regarding gun use. Following the Reconstruction Era, however, it was no longer legally permissible for laws to discriminate based on race. Unsurprisingly, this did not prevent whites from vehemently forcing guns out of the hands of law-abiding Blacks. Instead, whites used intimidation, violence, and legal loopholes to ensure African Americans would remain weaponless and subservient. This tactic continued with full force into the Civil Rights Era with help from politicians, stacked courts, and, most importantly, the police. This backing from virtually every powerful institution of law creation and enforcement fostered a climate in which African Americans were not able to assert their constitutional right to gun ownership.

The Civil Rights Era attempted to change this. It was a time in which courageous Blacks and whites across the country united together to fight for equality. The most known are the giants of the Civil Rights Movement such as Martin Luther King Jr., Ida B. Wells, and Rosa Parks, to name a few, and the major strides they took for the African American community. Their

¹ Floyd B. Barbour, *The Black Power Revolt: A Collection of Essays* (Boston: P. Sargent, 1968), 152.

nonviolent agenda has been carefully recorded and preserved through the media and literature in such a way that it is practically impossible to know American history and not know them or their mission. While this is extremely important, only knowing about the nonviolent portion of the Civil Rights Movement leaves a massive gap in history. Rather, it is crucial to know the values and struggles of those on the fringes of the movement like Bobby Seale, Robert Williams, and the everyday men and women taking small, but equally vital steps in pursuit of this just goal as well. This chapter focuses on the actions of those lesser known and unjustly criminalized. These are the men and women who actively rallied for their rights with the help of firearms. They used the second amendment to assert their power and combat the reign of terror and violence perpetuated by the white population. However, this was not easily accomplished. From California to Mississippi to Illinois, many whites were both fearful and enraged that African Americans had the audacity to disturb the social order that kept them powerless and subservient.

While African Americans were pushing for equality, whites across the country were fighting their own battle. They watched in disgust as Blacks took up arms; but, at first glance there was not much that could be done about this “problem.” Most forms of discriminatory legislation were illegal with the passage of the 14th amendment, and even though law enforcement often stood on the side of the white oppressor, without a mass collective effort not much could be done to prevent African Americans from accessing guns on a widespread scale.² However, whites found ways around this. With the help of the justice system, beginning on the ground with police officers and reaching up to the level of judges, higher level courts, and legislators, guns could be removed from Black households, and individuals’ second amendment

² Reminder: the 14th Amendment legalized naturalization for all people born in the United States, regardless of race. It also made it illegal to create legislation that hindered peoples’ constitutional rights. Meaning, a law would not be permissible if it outlawed freedom of speech for African Americans only, per se.

right could be lawfully taken away. In this way, the Civil Rights Period was much different from that of colonial and early America. Whites needed to find clever ways around the system to ensure African Americans could not obtain or use their guns without making laws which explicitly stated so.

This chapter continues the discussion presented in the prologue and first chapter of this thesis by arguing that gun control policy and rhetoric beginning in the 1930s and ending in the 1970s was centered around preventing African Americans from owning and/or using guns. It will start with a brief historical introduction. This will help the reader better understand the context in which these laws and discriminatory behavior occurred. The second section of this chapter will discuss the growing use of guns in the African American community. It will focus on two groups of people: 1) Black citizens in the South, including both important civil rights leaders as well as ordinary people and Black militia groups; and, 2) Black Power organizations such as the Black Panther Party and the National Association for the Advancement of Colored People (NAACP). Members of both groups were adamant about the necessity of guns for protection and advancing the movement for equality. They understood that the police and law enforcement structure as a whole was not there to protect them. Rather, the system often worked directly against them. Guns offered Blacks a form of protection that was being denied to them by the government.

Following these two sections, the chapter will then delve into the local, state, and national responses to the growing use of guns in the African American population. This portion of the chapter, among other things, gives examples of how police officers abused their power to ensure African Americans would not be able to use their guns. To accomplish this, their actions relied heavily on intimidation. This section also mentions examples of state and national authorities acting in the interest of whites over Blacks. The last major piece of this chapter discusses gun

control legislation created during this time. It will examine three national laws and the implication of their passage on the African American community. This analysis makes clear these policies were racially motivated and disproportionately impacted the African American community.

Section 1: The History

As most know, the Civil Rights Movement was a time in which African Americans across the nation took a stand (or a seat) for their rights. These men and women refused to accept the relentless violence and discrimination imposed upon them by the white population any longer. Many also know this was a deeply divisive period in United States history. Whites were angry that Blacks were threatening the social order that placed them at the top of the hierarchy, and Blacks were enraged they were still being treated as second class citizens decades after they were given freedom and supposed equal status within society. Additionally, in a continuation with earlier periods, whites were also afraid. There were many unknowns about the future structure of the United States if African Americans were treated as equals, which created a nationwide anxiety.

What many do not know, however, is that the Civil Rights Movement began in the late 1930s and early 1940s, during and after the New Deal and World War II. Coined by Jacquelyn Dowd Hall, “the long Civil Rights Movement” had its roots in the dramatic social, economic, and cultural changes that occurred at this time.³ World War II placed the system of Southern racial hierarchy under immense pressure. It uprooted millions of whites and Blacks from rural areas and congregated them together in cities, resulting in the two races living and working

³ Jacquelyn Dowd Hall, “The Long Civil Rights Movement and the Political Uses of the Past,” *Journal of American History* 91, no. 4 (March 2005): 1235.

together in the closest proximity since the time of slavery.⁴ Furthermore, the sheer amount of white men who were forced to leave their jobs to fight in the war resulted in far more employers hiring Black men and women. In fact, more than a million Black women left the domestic service industry during World War II and never returned. This allowed African Americans to improve their finances as well as gain confidence by working in higher paying, more skilled jobs.⁵ Additionally, World War II, like the Civil War, ignited a spark in Black veterans to fight for their rights. Even more salient with WWII, African Americans were exposed to a different world outside of the U.S. where Blacks were not treated as inferior beings simply because of their skin color. Fighting in the war also exposed veterans to the discipline and knowledge necessary to organize.⁶ In fact, Black veterans would later prove to be extremely important and influential in the fight for equality in the 1950s and 1960s.⁷

This newfound confidence and aggression from returning Blacks enraged many Southern whites leading to a reinvigorated wave of violence against the African American community often with the support of law enforcement agencies. In fact, police brutality was vitally important to upholding the racist power structures of the South.⁸ In their article addressing white terror and violence directed at African Americans, historians Zoe Spencer and Olivia Perlow stated that “once a classic method of lynching was the rope. Now it is the policeman’s bullet.”⁹ Often, the

⁴ Adam Fairclough, *Race & Democracy: The Civil Rights Struggle in Louisiana, 1915-1972* (Athens: University of Georgia Press, 1995), 75.

⁵ Andrew Hacker, *Two Nations: Black and White, Separate, Hostile, Unequal* (New York and Toronto: Scribner's, 1992), 21.

⁶ Charles E. Cobb Jr., *This Nonviolent Stuff'll Get You Killed: How Guns made the Civil Rights Movement Possible* (New York: Basic Books, 2014), 55-56.

⁷ Cobb, *This Nonviolent Stuff'll*, 72.

⁸ Silvan Niedermeier and Paul Paul Cohen, *The Color of the Third Degree: Racism, Police Torture, and Civil Rights in the American South, 1930-1955* (Chapel Hill: The University of North Carolina Press, 2019), 5.

⁹ Zoe Spencer and Olivia N. Perlow, "Reconceptualizing Historic and Contemporary Violence Against African Americans as Savage White American Terror (SWAT)," *Journal of African American Studies* 22, no. 2-3 (September 2018): 163.

police role was to intimidate Blacks and ensure those who “stepped out of line” returned to their designated inferior place within society or face consequences.¹⁰ This included pressuring Blacks to either relinquish their guns or, at the very least, be afraid to use them against whites.

The growing tension between whites and Blacks starting in the late 1930s came to a head with the rise of Black power organizations such as the Black Panther Party. African Americans’ frustration with the nonviolent Civil Rights Movement led by people like Martin Luther King Jr. was growing, especially in urban areas. They did not just want to be able to sit at a lunch counter, they wanted the killings of innocent African Americans by police and the general white population to cease.¹¹ The tone of the Civil Rights Movement, they believed, was created with mind to liberal whites, not young urban Blacks.¹² The disenfranchised parties desired a movement which addressed issues faced by Blacks in the Northern and Western United States instead of just in the deep South. They believed the only way Blacks could gain respect and equality was by fighting for it themselves, not using the aid of whites.

Section 2: Gun Use by African Americans

Without virtually any form of governmental protection, African Americans were constantly vulnerable to attack. White superiority was so deeply ingrained in the Southern mindset that some whites thought they had a God-given right to kill any Black person who stepped out of line or dared to show contempt for the white Southern way of life.¹³ Even being accused of supporting civil rights in the deep South could get a person (white or Black) killed, let alone actively fighting for equality as an African American.¹⁴ Therefore, many Blacks felt as if

¹⁰ Niedermeier and Cohen, *The Color*, 18.

¹¹ Alfonso, “They aren’t going to listen,” 98.

¹² Barbour, *The Black Power Revolt*, 45.

¹³ Cobb, *This Nonviolent Stuff’ll*, 147.

¹⁴ Cobb, *This Nonviolent Stuff’ll*, 106.

they had no choice but to arm themselves. In fact, at this point in time, the concept of self-protection was so ingrained in African American ideology that nonviolent civil rights groups had a difficult time changing this attitude. The Student Non-Violent Coordinating Committee (SNCC) whose leaders, evident by the name, were against using weapons to advocate for equality, found it extremely difficult, if not impossible, to change this attitude. Most politically active Blacks, even those who promoted strict non-violent policies like Martin Luther King Jr., were armed.¹⁵ King so deeply believed in the concept of self-defense that he regarded its use, when necessary, as an act of courage that deserved respect.¹⁶ In fact, as the journalist, professor, and former SNCC activist Charles E. Cobb Jr. stated, “when it came down to a question of survival, most activists’ practice of ‘nonviolence’ proved quite flexible.”¹⁷ This is because white supremacist terror enveloped Black communities across the South, and those who were prominent civil rights activists had an especially large target on their backs.¹⁸ Interestingly enough, because gun use was so deeply woven into the mentality of Southern African Americans, nonviolent group policies towards weapon usage began to change, becoming much more accepting of the use of firearms for self-protection.¹⁹

Robert F. Williams was a prominent self-defense advocate who led a branch of the National Association for the Advancement of Colored People (NAACP) in Monroe, North Carolina. His chapter was unique in that there was a strong representation of veterans and of the less wealthy. Other branches were mostly comprised of middle-class Blacks. Their strong Southern mentality in combination with the military ideology picked up overseas resulted in a

¹⁵ Timothy B. Tyson, "Robert F. Williams, 'Black Power,' and the Roots of the African American Freedom Struggle," *Journal of American History* 85, no. 2 (1998): 545-546.

¹⁶ Tyson, "Robert F. Williams," 561.

¹⁷ Cobb, *This Nonviolent Stuff'll*, 140.

¹⁸ Cobb, *This Nonviolent Stuff'll*, 25.

¹⁹ Cobb, *This Nonviolent Stuff'll*, 159.

stark belief in the necessity of weapons. In his book *Negroes with Guns*, Williams stated “it has always been an accepted right of Americans, as the history of our Western states proves, that where the law is unable, or unwilling, to enforce order, the citizens can, and must, act in self-defense against lawless violence.”²⁰ This forceful methodology resulted in Monroe lunch counter sit-ins to be the least violent in the South. The Monroe members showed a willingness to fight and defend themselves which whites were afraid to challenge.²¹ Williams explained this in his book by stating “these are people [whites] who would like to do violence to others but want to have immunity from violence themselves. They are the people who just love it when pacifist negroes turn the other cheek.”²² Not only did Williams and his chapter use guns for the direct purpose of self-defense, but they also understood fighting back held a larger meaning. He believed when African Americans used firearms to fight for their rights it brought both national and international attention to the issue of discrimination. The fact that Blacks needed to use guns to protect themselves because the police were not doing their jobs greatly embarrassed the United States. This resulted in a greater willingness on the part of U.S. politicians to make concessions and hear the plight of African Americans.²³

In addition to people like Williams and those in the Monroe NAACP, other self-defense groups formed in the South, one of them being the Deacons for Self Defense and Justice. Founded in Bogalusa, Louisiana, this group organized to protect civil rights workers as well as their African American community from the police and the KKK. They carried concealed guns during the day and openly at night to give civil rights activists the ability to do their work

²⁰ Robert F. Williams, Martin Luther King Jr., and Truman Nelson, *Negroes with Guns* (New York: Marzani & Munsell, 1962): 36.

²¹ Williams, *Negroes*, 65.

²² Williams, *Negroes*, 97.

²³ Williams, *Negroes*, 38.

without impediment from the police or threat from the KKK.²⁴ Their tactics were effective, making it so these groups could no longer terrorize Blacks without a fight. For all the violence and fear these white men caused, underneath their sheets and without their uniforms, they were nothing but cowards. These men were only able to terrorize the Black population when there was no threat of retaliation. However, when there was a possibility of personal injury, both the police and the KKK rarely dared to threaten the armed African Americans.

Black Southerners were not the only ones using guns to fight for equality. Rather, the Black Panther Party (BPP), previously known as the Black Panther Party for Self-Defense, was infamous for its militant actions and beliefs. With its original roots in California, the group spread throughout the nation preaching an ideology of Black power, Black self-sufficiency, and how the use of guns would help African Americans achieve those goals. They firmly believed the non-violent civil rights leaders were not doing enough for the advancement of Black people. They viewed strictly nonviolent leaders as serving their white oppressors by keeping the Black population “submissive, passive, and nonviolent.”²⁵ Huey Newton, one of the founding members of the party, so vehemently despised this because he believed “the power of the oppressor rests upon the submission of the people.” Only with the weight of the gun, he said, can the African American population put an end to the violence and terror they were subjected to.²⁶

Interestingly enough, the party derived many of its principles from the Revolutionary War and third-world anticolonial struggles. The BPP understood the founding documents of the United States: the Declaration of Independence and the Constitution, were written by an

²⁴ Elwood Watson, “Deacons for Defense and Justice,” (February 4, 2020.) <https://www.blackpast.org/african-american-history/deacons-defense-and-justice/>.

²⁵ Huey P. Newton and Toni Morrison, *To Die for the People: The Writings of Huey P. Newton*. (San Francisco: City Lights Books, 2009), 85.

²⁶ Newton and Morrison, *To Die*, 82-84.

oppressed people (the colonists) as an act of resistance.²⁷ They used history as both a justification and a guidance for their actions and use of guns.

The Black Panther Party patrolled the streets fully armed with the intent of “policing the police.” They walked with a gun in one hand and the constitution in the other to ensure African Americans were not being abused or taken advantage of by their supposed protectors. Their purpose of bringing firearms was not, however, to incite violence. Rather, it was to ensure police officers and citizens alike would not just brush their claims aside. Guns gave the BPP the authority to show officers they were serious about protecting their rights against unjust abuses by the white power system.²⁸ The Black Panther Party exuded confidence in their race and ideology which resulted in an inherent power feared by whites. “This is the significance of black power as a slogan. For once, black people are going to use the words they want to use - not just the words whites want to hear.”²⁹ White fear created a distorted image of the group as an overly violent gang obsessed with weapons. This was very far from the case given that the BPP only resorted to violence when absolutely necessary.³⁰ In addition to fear, there was also a deep anger directed at the party. Whites did not like to be challenged by Blacks especially if it was with a deadly weapon.

Section 3: Police and State Response

²⁷ Jama Lazerow, *In Search of the Black Panther Party: New Perspectives on a Revolutionary Movement* (Durham, NC: Duke University Press, 2006), 68-69.

²⁸ History.com Editors, “Black Panthers,” (November 3, 2017), <https://www.history.com/topics/civil-rights-movement/black-panthers>.

²⁹ Barbour, *The Black Power Revolt*, 61-62.

³⁰ Lazerow, *In Search of*, 67. The effects of demonizing the Black Panther Party are still seen in present attitudes. When the group is brought up, ideas of militancy and violence come to mind, but not any of the social work they accomplished. They set up free breakfast programs for children (a system the United States government had yet to adopt) and free health clinics for the community. Their main goal was not violence, as popular notion would lead one to believe, but rather equality, political representation, and an overall better life for African Americans. This was not publicized, however, because the media and government wanted the population to distrust the BPP. This is the power of rhetoric. History is not typically recorded by the oppressed, but rather the oppressor.

The use of guns for self-defense was a necessity for African Americans in the deep South where neither local, state, nor federal agencies paid any heed to their safety. Police officers were notorious for working against the African American population, and were often understood as “the gatekeepers for white supremacy.” They justified their egregious actions under the guise of working to preserve law and order. However, in reality this meant keeping Blacks subservient and docile via threat of violence and imprisonment.³¹ It was not out of the ordinary for police officers to take guns away from law abiding African Americans simply because they had the capacity to do so. They took full advantage of the Southern power structure which allowed them to do practically anything they pleased to the Black population without major retaliation or threat of job loss. In fact, it was all too common that “police departments around the country served to protect white interests at the expense of African American freedom”³²

Before discussing a few examples demonstrating this point, it is important to note that police attitudes towards African Americans were not much better in the North than they were in the South. In Chicago, for example, segregated Black neighborhoods were given far inferior police services, often being subjugated to police brutality and targeted as criminals due to their skin color. This illustrates the fact that just because there was no legal segregation, it did not mean whites and Blacks were treated equally. While racism in the North is important to study, with a few exceptions noted below, it largely falls outside the scope of this thesis.³³

To turn the attention back to Southern police abuse of power, an event in Monroe, NC, is illustrative. In this instance, an armed white mob surrounded a group of freedom riders. Not only

³¹ Jerry N. Brand, "Police Brutality as an Extension of White Supremacy: Social Control of African Americans in Contemporary America," PhD Diss., (University of North Carolina, Greensboro, 2020), 13-14.

³² Kenneth Allen Kent, "'The Missing Link': Black Police and Black Power in Chicago, 1965-1987," PhD Diss., (University of Florida, 2015), 19.

³³ Kent, "'The Missing Link,'" 14.

did the police fail to come to the rescue of the defenseless men and women, but they made the situation more dangerous for the activists.³⁴ When armed African Americans from the community approached the mob to protect the freedom riders, the police officers took away their weapons and handed them to the angry crowd.³⁵ In this situation the racial bias is clear. The protesting whites were outfitted with weapons and clearly prepared to incite violence and the officers did nothing. Furthermore, when armed Blacks came to diffuse the situation and bring the freedom riders to safety, they were instantly demonized. Their firearms were illegally taken away, leaving them and the freedom riders defenseless against an angry white mob.

Another example of police officers' blatant disregard for the safety of Blacks in favor of pushing their own agenda is seen in an instance with Robert F. Williams. On his way to picket a segregated pool in Monroe, he ended up accidentally hitting a white man's car when the driver tried to force him off the road. Soon after, a crowd of whites formed around the two cars chanting "kill the niggers! Kill the niggers! Pour gasoline on the niggers." As to be expected, the police standing by did not do anything to dissipate the rising tension of the situation until Williams, clearly feeling in danger, pulled out his gun for protection. As soon as the officers saw the weapon, they immediately told him to surrender it. Williams clearly had a right to use his gun in this situation. He was being threatened by a white mob and received no help or protection from the officers. Yet, as soon as there was a legitimate danger to whites, the officers saw it as their duty to remove that threat regardless of the legality of doing so.³⁶ In addition to officers illegally disarming Blacks, they would often use weapons as an excuse to use violence against

³⁴ The freedom riders were a group of Black and white civil rights activists who rode a series of buses into the South together to protest discrimination against Blacks. They faced enraged whites as they traveled through the South but remained strictly non-violent often in the face of severe danger.

³⁵ Williams, *Negroes*, 80.

³⁶ Williams, *Negroes*, 42-43.

them and destroy their property. “Police commonly stopped, questioned, and searched Blacks, so gun possession could indeed put a person at risk by giving police an excuse to gun him or her down.”³⁷

On top of local law enforcement frequently siding with the white population, state authorities almost always reinforced white violence. Similar to police departments, they undertook these actions in the name of law and order.³⁸ A prime example of this occurred in 1946 in Columbia, Tennessee.³⁹ After two African Americans were arrested and put in jail, a large group of Blacks armed themselves to protect the mother and son duo from a likely lynching. This action frightened whites and resulted in the town calling in state troopers for support.⁴⁰ Once arrived, state troopers decimated the Black section of the town. They shot out windows, ripped up the floors of businesses and homes, and broke furniture searching for weapons, ammunition, and gunmen all under the guise of law and order. After this assault, not a single Black owned business was left undamaged and every firearm found, regardless of legality, was confiscated.⁴¹ Not only was this an extreme overstep of power, but it was also a clear violation of African American rights. State troopers violated the fifth and second amendments respectively by destroying their property and taking away their guns. This overzealous use of force by state agents exemplifies not only the fact that the government’s attitudes and actions

³⁷ Cobb, *This Nonviolent Stuff’ll*, 139.

³⁸ Cobb, *This Nonviolent Stuff’ll*, 140.

³⁹ Niedermeier and Cohen, *The Color*, 5-15. For African Americans, being arrested in the South was often a multistage ordeal. First, there was the threat of violence from police officers. It was not uncommon for African Americans to be beaten in jails by white officers either to force a confession or simply because they could. Second, there was the issue of facing discrimination by jurors, judges, and the general judicial system (practically all of whom were white) leading to guilty convictions of innocent Blacks. Lastly, and more pertinent, was the threat of death via lynching by a white mob. Angry whites would often storm jails and lynch the Black prisoners inside in response to their supposed crime. This was especially common if the “crime” involved a white woman.

⁴⁰ Cobb, *This Nonviolent Stuff’ll*, 63. It is important to note here that the armed Blacks were not violent. They were simply standing guard to ensure the angry whites would not be able to harm the mother and son who were essentially sitting ducks in the prison.

⁴¹ Cobb, *This Nonviolent Stuff’ll*, 63.

often stood in direct opposition to African Americans' rights, but it also shows their desire to keep Blacks unarmed. The town whites were unable to tolerate a nonviolent display of weapons and show of force from the African American community, and thus used an act of Black self-defense as an excuse to break the law with support from the state. As the historian Jerry Brand stated, "we cannot overlook the glaring similarities of slave patrols who over policed African slaves and freed Blacks in the framework of peace and order with violence and the over-policing of African Americans in contemporary America."⁴²

A similar example to this is seen in 1967 Plainfield, New Jersey. After a series of riots resulting in a police officer being beaten to death, the governor declared Martial Law. He then instructed the National Guard and State Troopers to conduct a house-by-house search (without warrants) of illegal guns in solely the African American section of town. In the process of searching for stolen firearms, the officers made a mess of homes and damaged pieces of furniture greatly upsetting many residents. Their excuse for their inappropriate behavior was that there was a miscommunication in the way the searches were to be conducted.⁴³ This was an overzealous abuse of power both by the governor and the National Guard and State Troopers. To begin, the governor only ordered searches to be conducted in African American homes. While it was mainly Blacks who participated in the riots leading up to the governor declaring Martial Law, it was incorrect to single them out to be searched. There were certainly whites in the area who possessed illegal guns, yet no troopers went into their homes without warrants.

Additionally, the National Guard and State Troopers had no right to damage people's property

⁴² Brand, "Police Brutality," 2.

⁴³ Thomas A. Johnson, "Troopers Search Plainfield Homes for Stolen Guns: But House-to-House Hunt is Ended After Negroes Complain of Damage; Some Weapons Found; Heavily Armed Troopers Act Without Warrants Under Proclamation by Hughes; Homes in Plainfield Searched for Stolen Guns by Troopers," *New York Times*, July 20, 1967.

while inside their homes. This was only able to occur because law enforcement agents, for the most part, were white, and the residents were Black. They felt threatened by the thought of Blacks with guns and were angered that they took the life of a police officer, so they abused their power. It is hard, if not impossible, to imagine this situation occurring if the rioters were white and the person killed was Black, as has often occurred in cases of lynching. This fear of unprovoked violence and potential death forced Blacks to think twice about owning a gun. Unlike whites, they did not outwardly display their guns on their person or in their vehicles. It was not safe for them to do.⁴⁴

The federal government's response to protecting African Americans was, unfortunately, not much different from that of state and local governments. By the 1950s and 1960s it became very clear the federal government had little interest supporting the struggle for civil rights. This translated into them generally not providing (adequate) protection for African Americans. An example of this is seen, again, with a group of freedom riders, but this time in Alabama. In 1961 Montgomery, seven freedom riders were arrested at a lunch counter for "disturbing the peace" as they were waiting to board a bus to take them to Jackson, Mississippi. Their presence and mission incited anger in the local population resulting in the shooting of one of the freedom riders from a car passing by. The federal government did not do much to help the situation with an article following the event stating "Attorney General Robert F. Kennedy reduced the number of Federal marshals in Alabama from 666 to 100. He apparently acted under a policy of toning down the Justice Department's police role in the dispute." It is more probable however, that

⁴⁴ Cobb, *This Nonviolent Stuff'll*, 140.

Kennedy's goal behind this reduction policy was to leave civil rights activists with little protection from the biased state and local forces.⁴⁵

In fact, the Kennedy administration watched the desegregation efforts in the South with ambivalence and frustration. They were angered and threatened by the way these activists were making the United States look to the rest of the world.⁴⁶ As a country that labels itself as the land of the free and holds equality as one of its central tenets, the Civil Rights Movement was easily an embarrassment to the United States and its government. The world watched as men and women peacefully marched for equality only to be met with hoses, dogs, bully clubs, and armed white rioters. The Civil Rights Movement exposed the cruel hypocrisy of the United States. It showed the world that while the country might outwardly support the idea of equality and liberty for all, this was only true if one's skin color was white.

Section 4: Legal response

Despite the 14th Amendment, there were some legal responses to the increased use of guns in the African American community. When analyzing the laws, it is clear they were used as a tool by politicians and lobbyists alike to push an anti-gun agenda on the Black, but not the white, community. This is because the laws strategically restricted gun use and ownership from certain groups of people, like the less wealthy and those who have previously committed crimes and drug offenses. As discussed above, police officers often stood on the side of the white community resulting in far higher arrest rates of African Americans than of whites. This meant that while these pieces of legislation technically applied to all Americans equally regardless of

⁴⁵ United Press International, "Yale's Chaplain Among 11 Seized in Montgomery: New Freedom Riders are Arrested at Cafeteria—Professors in Group Negro Leader is Shot Assailant Fires from Car—U.S. Marshals Reduced from 666 to 100; More Freedom Riders are Arrested at Lunch Counter in Montgomery; Group Includes Yale's Chaplain 3 White Professors in it – Negro Integration Leader is Shot from a Car," *New York Times*, May 26, 1961.

⁴⁶ Cobb, *This Nonviolent Stuff'll*, 74-80.

race, in reality, they affected the African American population to a much greater degree than the white population.

The first major piece of gun legislation to be passed during the period of the “long Civil Rights Movement” was the National Firearms Act of 1934. This was the first national gun regulation law passed in United States history. It created a federal tax applied to the manufacture, sale, and transfer of certain classified firearms. This mainly included machine guns, short-barreled shotguns or rifles, and silencers. Interestingly enough, it excluded taxation from most types of handguns.⁴⁷ Taxation, in general, increases the price of items making them less accessible to the lower class. This is very important to note when examining if there was a racial motivation behind this law.⁴⁸ While the 1930s was a hard time financially for most due to the Great Depression, it impacted African Americans to a much greater degree than whites. In general, African Americans were the last to be hired and the first to be fired. Furthermore, when they were able to find a job, it was typically lower paying. Higher skilled jobs that paid more money were, for the most part, only accessible to white men. The combination of the Great Depression and workplace discrimination resulted in African American unemployment rates reaching 50% in the 1930s. This is compared to the white unemployment rate which was considerably lower at 25%.⁴⁹ Given that at least 50% of Blacks had little to no source of income, and the other half were making significantly less than their white counterparts, even a small

⁴⁷ Unfortunately, gun ownership demographics were not recorded this early in American history. It would have been interesting to see what type of firearms were owned by Blacks versus whites at this time. Especially noting if there was much overlap in the types of guns owned or little. While this is just speculation, if Blacks mainly used the classified firearms and whites more so handguns, it would certainly add to the conversation about racial motivation to these laws.

⁴⁸ “Key Federal Regulation Acts,” Giffords, September 3, 2020, <https://giffords.org/lawcenter/gun-laws/policy-areas/other-laws-policies/key-federal-regulation-acts/>.

⁴⁹ Christopher Klein, “Last Hired, First Fired: How the Great Depression Affected African Americans,” History.com, April 18, 2018, <https://www.history.com/news/last-hired-first-fired-how-the-great-depression-affected-african-americans>.

increase in firearm price due to taxation could make a significant impact on their accessibility to guns.⁵⁰ In this subtle way, lawmakers were able to create legislation which applied more so to African Americans than it did to whites without violating the 14th amendment.

The passage of this law set the stage for the Federal Firearms Act (FFA) of 1938. Among other things, the FFA made it illegal to transfer firearms to certain groups of people like convicted felons.⁵¹ This piece of legislation would have been fair and acceptable if Blacks and whites were arrested and convicted at similar rates, but this was not the case. In 1926 the government began recording the race of inmates in state and federal prisons (white, Black, and other). At this time, 78% of prisoners were white while 21% were Black. While the percentages would, without further analysis, lead one to believe whites were arrested at much higher rates, this is incorrect. African Americans made up a much smaller percentage of the population than whites, so it is understandable they constituted less of the bodies in prison. However, when comparing prison numbers to the national demographics of 1926, it is found that 106 out of 100,000 African Americans were incarcerated whereas only 36 out of 100,000 whites were.⁵² This is a dramatic difference. Given that no race is inherently more prone to criminal behavior, this disparity in arrest rates is clearly due to discriminatory processes in the judicial system beginning with police officers and ending with biased judges, juries, and lawyers. It also has to do with the socioeconomic disparities between the white and Black population. Specifically,

⁵⁰ I purposely used the words “at least” earlier in the sentence to point out that a larger percentage of the African American community was likely unemployed as well. This is because unemployment numbers only take into consideration the percentage of the population who are out of work but actively looking for a job. It does not note the amount of people who are unemployed by their own choosing. That being said, there were surely more African Americans who chose not to be employed at the time, ultimately raising the 50% statistic.

⁵¹ “Key Federal Regulation.”

⁵² Patrick A. Langan, *Race of Prisoners Admitted to State and Federal Institutions, 1926-86* (Washington, DC: U.S. Department of Justice, 1991), 5-7.

Blacks were, and still are, given less opportunities to gain wealth and move out of poverty making it more likely they will be forced to resort to crime.

Lawmakers in the late 1930s knew Blacks were consistently arrested and convicted at higher rates than whites. They also knew this practice was likely to continue, especially if there was a strong motivation on the part of the judicial system to do so. That being said, it is not farfetched to draw a connection between the statistics and the Federal Firearms Act. Whether or not politicians were deliberate in using this legislation to prevent African Americans from accessing guns, they could not have been ignorant to its practical effects. To further elaborate on this point, when this law was passed in 1938, Blacks made up 26% of the admitting prison population. After its passage, with a greater motivation to arrest and convict Blacks of felonies, this percentage rose to 33% in 1946.⁵³

The next and last nationwide piece of gun control legislation passed during the long Civil Rights Period was the Gun Control Act (GCA) of 1968. This law repealed the Federal Firearms Act but included some of its revised provisions. It established a minimum age to purchase a gun (18 or 21 depending on the type), required that all firearms have a serial number, and expanded the definition for prohibited persons to include the mentally ill and drug addicts.⁵⁴ The key aspect of the GCA pertaining to this thesis is its prohibition to drug addicts. This is important for two reasons. The first is that, while the official beginning to the war on drugs was in the 1980s, anxieties about the dangers of drugs, and especially drug addicts, were growing steadily starting in the 1930s. The second concerns the fact the firearm dealer had the discretion to choose who to sell to. Specifically, “the dealer will determine this [whether the prospective buyer is a drug

⁵³ Langan, *Race of Prisoners*, 5.

⁵⁴ “Key Federal Regulation.”

addict] by asking the buyer.” This leaves the door open to a whole range of discriminatory selling practices. It would be simple for a firearm dealer not to sell to an African American by claiming they thought they were a drug addict.⁵⁵ However, to fully understand the implications of the GCA, it is important to analyze drug laws and their effect on the population at this time and the period leading up to it.

In 1937, the United States government passed the Marihuana Tax Act which unofficially banned marijuana, and there was a clear racial motivation behind its passage.⁵⁶ The director of the Federal Bureau of Narcotics, Harry Anslinger, claimed it was mainly African Americans and Latinos using the drug which was causing the degradation of the nation and its values. He also argued the use of marijuana was causing an uptick in the national crime rate.⁵⁷ This harmful and incorrect rhetoric set the stage for a nationwide fear of minorities and drug use for decades to come. Following its passage, all states proceeded to ban the sale and use of marijuana. In response, the Boggs Act of 1951 was enacted, establishing a mandatory prison sentences for certain drug offenses. Additionally, in 1956, the Narcotic Control Act established harsher penalties for possession, and instituted the death penalty for selling heroin to a minor.⁵⁸ These laws had very real implications for the African American community. Not surprisingly, given arrest rates at the time, African Americans were targeted and arrested for drug crimes at much higher rates than their white counterparts. Specifically, in 1965, 17.9 in 100,000 whites were convicted of drug violations, versus 91.3 in 100,000 nonwhites. This is an extremely shocking and stark contrast in conviction rates. In 1968, when the GCA was passed, these numbers were

⁵⁵ "How Gun Control Act Affects You," *Washington Post*, December 8, 1968.

⁵⁶ Lisa N. Sacco, *Drug Enforcement in the United States: History, Policy, and Trends* (Congressional Research Service, 2014), 4. Note, at this period of the time marijuana was spelled with an “h” not a “j”.

⁵⁷ Cydney Adams, “The Man Behind the Marijuana Ban for All the Wrong Reasons,” CBS News, May 16, 2017, <https://www.cbsnews.com/news/harry-anslinger-the-man-behind-the-marijuana-ban/>.

⁵⁸ Sacco, *Drug Enforcement*, 4.

95.7 for whites and 204.7 for nonwhites. Notice how this number only rose by 77.8 for whites, whereas it increased by 113.4 for nonwhites. To give one final statistic, in 1970, two years after the GCA was passed these numbers were 198.9 and 395.7 for whites and nonwhites respectively.⁵⁹

Again, I will state this is not due a specific race having a greater propensity for drug use or criminal behavior than another. Rather, it has to do with biased policing and an unjust legal system which arrests and convicts minorities at far greater rates than they do whites who commit the same or similar crimes. The combination of these three pieces of legislation created a huge incentive for police officers, judges, lawyers, and the state and federal governments to arrest and convict Blacks. In these ways, politicians were able to enact gun control policy that accomplished the key goal of preventing African Americans from accessing firearms without violating the 14th amendment. It is important to note these laws did not, in fact, apply to all African Americans, only those who have been convicted of certain crimes. However, they did disproportionately apply to African Americans to such a great degree that it cannot be ignored when analyzing the legislation.

Conclusion:

“The stranglehold of oppression cannot be loosened by a plea to the oppressor’s conscience.

Social change in something as fundamental as racist oppression involves violence.”⁶⁰

The Civil Rights Movement was a period of mass progress and change, but attitudes and inherent biases have proven to be much more resistant to adjustment than laws. This is seen in

⁵⁹ *Age-Specific Arrest Rates and Race-Specific Arrest Rates for Selected Offenses 1965-1992* (Washington, D.C: U.S. Department of Justice, 1993), 177.

⁶⁰ Williams, *Negroes*, 107.

the continued push to prevent African Americans from accessing and using guns despite their legal right to do so. Whites utilized practically every avenue to accomplish this goal. From police and mob intimidation, to an unjust legal system, to gun control laws which affected Blacks at a far greater rate than whites, they certainly pushed their agenda. This did not, however, prevent Blacks from asserting their constitutional right to bear arms. Instead, Blacks were more vocal and visible than ever before about firearms. From the everyday African American in the deep South, to the Black Panther Party, Blacks understood the importance of guns in their fight for equality.

However, despite their legitimate frustration with the lack of progress being made, the image of African Americans with guns was used to their disadvantage. The media and public alike twisted and demonized these images to reinforce and reinvigorate the idea that Blacks were inherently violent and not to be trusted. This perpetuated the over policing of Black communities and gave justification for their higher arrest and conviction rates. In this way the growing use of guns in the African American community correlated with the extralegal responses of the local, state, and federal governments. Additionally, with the knowledge that Blacks were convicted of crimes at higher rates than whites because of the unjust legal system, lawmakers were able to create legislation disproportionately targeting the African American community. In these ways, African Americans were either prohibited from expressing their second amendment right or strongly encouraged not to, resulting in the continuation of racist gun control policy and rhetoric well into the 20th century.

Chapter 3: White Lives and White Preferences Over Black Lives

“There is no understanding [the Negro question] without realizing the kind of self-feeling a race must have who, in a land where men are supposed to be equal, find themselves marked with indelible inferiority.”¹

On April 20, 1999 two teens stormed Columbine high school armed with a 9 mm semi-automatic handgun, a sawed off 12-gauge double barreled shotgun, a model 995 carbine rifle, and a 12-gauge pump shotgun and proceeded to slaughter 12 students and one teacher injuring another 24 people.² It was, to that day, the worst mass shooting in American history.³ Similar to tragic events like this one, the day of April 20th was etched in the minds of those both across the nation and abroad. The loss of innocent life devastated the country and calls for stricter gun control grew louder and more poignant. What America would later find out, however, is that mass shootings, especially those in public settings like schools, were soon to become a far more regular event. Fast forward to today, there has since been countless mass shootings, many of them more deadly than the last. The grief our nation, and especially those personally affected by these horrific events, must bear has been insurmountable.

Mass shootings such as Columbine, Sandy Hook, the Pulse Night Club, the Boulder King Soopers, and more leave a stain in the minds of Americans in a way wholly unparalleled to any other forms of gun violence. There are many reasons for this, but what this chapter highlights is

¹ Charles Cooley, quoted in Shaun L. Gabbidon, *Criminological Perspectives on Race and Crime*, 2nd ed. (New York: Routledge, 2010), 121.

² Note that I did not include the names of the two teenagers who committed this horrific crime. This was purposeful and is part of a growing movement to refrain from naming mass shooters to ensure they do not gain notoriety. Additionally, their names are irrelevant to the issue at hand. The two boys armed themselves intending to kill as many people as possible. It is the crime they committed, not their names, that should be remembered and recorded.

³ C. Shepard, “Weapons Used During the Shootings at Columbine High School,” *Weapons Used at Columbine*, (accessed February 17, 2021), <http://www.acolumbinesite.com/weapon.php>.

the typical race of those affected by these crimes. Specifically, mass shootings have primarily been a white, more rural issue as opposed to the daily killings of African Americans in the inner-city. Most Americans tend to view the issue of guns and gun deaths in two separate lights, one that affects primarily white America and the other Black and minority America. This chapter will demonstrate the different ways politicians, the media, and everyday people view gun ownership and crimes regarding race and how this significantly impacts the policy and rhetoric surrounding the issue of gun violence.

In the previous two chapters I discussed how both everyday whites as well as those in power (typically also white) used legislation and biased behavior and attitudes to either legally restrict the second amendment rights of African Americans or, through threat and intimidation, strongly encourage Blacks to relinquish their rights. This was done out of a combination of fear and greed. By keeping guns out of Black hands, it ensured that whites remained the dominant, powerful race in America because it greatly diminished African Americans' ability to stand up for their rights. It also gave whites the added assurance that Blacks would not utilize firearms against the white population. This chapter takes a slightly different angle on this subject. On one hand, I will continue the discussion of forcing guns out of Black hands via police brutality as well as biased policing practices and mass incarceration. The criminalization of the Black body has provided a useful tool for America to both legally and extralegally prevent African Americans from accessing or using guns. On the other hand, the new take on this issue will address the loud and powerful resistance to creating gun policy legislation despite the thousands of Black people dying via gun homicide on a yearly basis. Specifically, this chapter will argue the lack of policy being passed both today and in the past few decades is due to the lax attitude of politicians and many whites in general to the inner-city violence epidemic. Black, as well as

minority, bodies are often viewed as disposable. Their deaths, a result of a toxic inner-city culture which promotes gangs, violence, and delinquency, can appear to some as inevitable.

Unlike the victims of mass shootings, those who died within the confines of the concrete jungle are viewed as inherently guilty and partially to blame for their death. I will argue that this indifferent attitude towards the lives of inner-city African Americans has resulted in a lessened push to create gun control policy. Those with political power, especially in the conservative party, are resisting the passage of legislation because, whether consciously or unconsciously, they value their second amendment right over Black lives. Additionally, some resistance to passing gun laws still likely stems from desires to keep Blacks weakened and subservient due to the continued proliferation of gun violence in their communities.

It is not, however, fair to say this is the only reason such legislation has not been passed. Rather, it also has to do with the way many white Americans view their second amendment right. Blacks' use of guns is seen as fundamentally criminal in nature, so the solution is arrest and incarceration. This approach targets the individual instead of creating policy which would "unfairly" impact the white community. Whites' use of firearms, on the other hand, is viewed as nationalistic and an American liberty, such that, even when whites commit crimes - even mass shootings - wielding these weapons, it is labeled as a misguided attempt at patriotism, thrown off balance due to mental illness. This classification, again, makes the passage of legislation that restricts the rights of others based on the misdeeds of one "confused" person unjust. This is compounded by the powerful force exerted on policy makers and citizens alike by the National Rifle Association (NRA).

This chapter begins by giving vital historical context focusing on the increasing panic in the 1980s and 1990s of inner-city crime and Black violence, and how this resulted in a tough-on-

crime stance by leading politicians at the time.⁴ It continues by explaining the issues of police brutality and mass incarceration and how they have been used both legally and extralegally to prohibit Blacks from owning and/or using firearms. Specifically, police brutality strongly encourages African Americans either not to own or not to use their firearm(s) out of fear police officers will instantaneously label them as threats leading to, at the very least, harsher treatment, and to the most extreme, getting shot and killed. Finally, mass incarceration, continuing the conversation from the previous chapter, is used as a tool by the legal system to lawfully prevent African Americans from owning guns. Following this, the chapter will then transition to the concept of white indifference toward Black lives when it comes down to their second amendment right. It discusses how many whites have often been resistant to the passage of gun control policies because they care more about their right to own and use firearms and their societal superiority over Blacks, than Black lives. Finally, the last section of this chapter briefly surveys the gun control laws passed during the period of the 1980s to the present which highlights these tendencies.

Section 1: The History

With the end of the Civil Rights Movement and abolishment of segregation and Jim Crow laws, criminalization became the primary means by which whites continued to exert their control over Blacks.⁵ This was especially evident during the 1980s and 1990s which saw a revitalization of racism packaged in a more subtle and “socially appropriate” way. With an overpublicized and over politicized uptick in crime over the course of this period, a great fear

⁴ This attitude toward Black/minority crime did not greatly diminish as time progressed. In fact, it was very resistant to change and has continued to impact policy and nationwide perception of crime to today.

⁵ Jennifer Carlson, "Police Warriors and Police Guardians: Race, Masculinity, and the Construction of Gun Violence," *Social Problems* 68, no. 1 (February 2021): 401.

emerged in America of dangerous cities populated with menacing criminals. In the minds of the political elite, especially those in the conservative party, and much of impressionable America, a new villain emerged. He provided the American public a scapegoat for the problems the nation was facing at the time and a novel way for whites to vent their racist ideology without being labeled as such. He was a young Black male living in the inner-city. He was viewed as a trigger happy, violence prone, gang member, drug dealer, delinquent, and overall social burden all at once simply because of his sex, age, and race.⁶ During this time the media also began focusing on inner-city violence, exposing the term “black-on-black violence” to the mainstream public.⁷ The demeaning and harmful stereotyping of young Black males is exemplified by criminologist Dr. Shaun Gabbidon’s theory known as the “criminalblackman.” This describes the notion that because Black men are consistently portrayed as criminals, it leads many to conclude that the majority of Black men are inherently dangerous and ultimately predisposed to a life of crime.⁸ Adding to the growing fear of white America was the rise of the crack epidemic in cities across the nation, further reinforcing the link between violence, drugs, and African Americans in the minds of everyday citizens and, more importantly, the police.⁹

Nationwide panic gave the Reagan administration and the conservative party as a whole both an opportunity and advantage to push through their anti-crime agenda targeting the Black male community which culminated in the Federal Anti-drug Abuse Act of 1986.¹⁰ As stated since by Professor David Wilson, “nineteen-eighties crime legislation was the translation of the

⁶ David Wilson, *Inventing Black-on-Black Violence: Discourse, Space, and Representation* (Syracuse, NY: Syracuse University Press, 2005), 133.

⁷ Gabbidon, *Criminological Perspectives*, 131.

⁸ Gabbidon, *Criminological Perspectives*, 134.

⁹ Carlson, "Police Warriors and Police Guardians," 402.

¹⁰ Wilson, *Inventing Black-on-Black Violence*, 131.

new moral black panic into policy and laws.”¹¹ On a broader level, this law established mandatory minimum sentences for possession of cocaine. However, when examined more closely, the penalties varied significantly depending on the type of cocaine possessed. Specifically, the cheaper crack cocaine found more often in low income, minority communities carried far greater penalties for possession and distribution than the more expensive powder cocaine typically used by affluent white individuals. To illustrate the devastating effects of this law on the African American community, statistics show that prior to its enactment “the average federal drug sentence for African Americans was 11 percent higher than for whites. Four years later, the average federal drug sentence for African Americans was 49 percent higher.”¹² This further emphasizes the fact that “racism... persisted in public thought via rhetoric and social construction that politics and politicians kept alive.”¹³

Following Ronald Reagan’s Presidency, President George H. W. Bush continued with a similar tough-on-crime stance, but it was not until the 1990s and the Clinton administration did another significant federal crime control bill, the Violent Crime Control and Law Enforcement Act of 1994, pass. It was the most extensive federal crime legislation implemented to date.¹⁴ One of its major provisions was to change the jurisdiction under which certain crimes fell. Specifically, it created new federal crimes which previously fell under state jurisdiction. It also developed incentives for prosecutors to try defendants in federal, as opposed to state court, by

¹¹ Wilson, *Inventing Black-on-Black Violence*, 138.

¹² American Civil Liberties Union, “ACLU Releases Crack Cocaine Report, Anti-Drug Abuse Act of 1986 Deepened Racial Inequity in Sentencing,” (accessed February 18, 2021), <https://www.aclu.org/press-releases/aclu-releases-crack-cocaine-report-anti-drug-abuse-act-1986-deepened-racial-inequity>

¹³ Wilson, *Inventing Black-on-Black Violence*, 70.

¹⁴ This fact is not surprising given the vast majority of crimes fall under state, not federal jurisdiction. This means, prior to this legislation’s passage, the federal government and Congress did not have extensive means to prosecute crimes and impact the overall crime rate heavily.

offering longer mandatory penalties and removing some protections for defendants.¹⁵ Additionally, it authorized the death penalty for dozens of existing and new crimes and devised the “3 strikes you’re out” policy.¹⁶ To put it simply, the “3 strikes you’re out policy” imposes a mandatory life sentence without possibility of parole to those convicted of certain crimes for a third time. This type of legislation fosters an impersonal, backlogged legal system which severely increases the prison sentence length of those with a criminal history. More importantly, it also leaves judges, jurors, and prosecutors little if any wiggle room in deciding the severity of punishment for those found guilty. The most significant aspect of this legislation to the argument of this thesis, however, is the money it doled out to states to increase community policing and incarceration facilities. Specifically, it provided 12.5 billion dollars in grants to fund state incarceration, 50% of which was dedicated to states imposing “truth in sentencing” laws that cut back parole and possibility of early release for prisoners.¹⁷ It also provided 8.8 billion dollars for state and local law enforcement to hire as many as 100,000 new police officers, placing a strong emphasis on community policing.¹⁸ As a result of this legislation, the number of state and federal incarceration facilities rose by an astonishing 45% between 1990 and 2005.¹⁹

The reason I include these two laws, which, on the surface have nothing to do with guns, is to emphasize the very present and growing outward emphasis on Black criminality.²⁰ “The

¹⁵ Jon Felde, Christine Wnuk, Christopher Zimmerman, and National Conference of State Legislatures, *States and the Violent Crime Control and Law Enforcement Act of 1994*, 7, no. 1. (Denver, CO: National Conference of State Legislatures, 1995), 2.

¹⁶ Lauren Brook Eisen, “The 1994 Crime Bill and Beyond: How Federal Funding Shapes the Criminal Justice System,” Brennan Center for Justice, September 9, 2019, <https://www.brennancenter.org/our-work/analysis-opinion/1994-crime-bill-and-beyond-how-federal-funding-shapes-criminal-justice>.

¹⁷ Eisen, “The 1994 Crime.”

¹⁸ Felde, Wnuk, et. al., *States and the Violent Crime*, 3.

¹⁹ Eisen, “The 1994 Crime.”

²⁰ Note: the 1994 crime bill did include multiple pieces of gun control legislation including a ban on certain types of assault weapons and a new restriction on who cannot purchase a handgun. This will be discussed to a greater extent later in the chapter.

funding [provided by this bill] encouraged states and cities to increase arrests, prosecutions, and incarceration, playing a tremendously powerful part in growing the size and scope of our correctional system.”²¹ To illustrate the effects of the Violent Crime Control and Law Enforcement Act in 1993, before its passage there was already a distinct difference in incarceration rates between Blacks and whites. Specifically, out of 100,000 people 398 white men compared to 2,920 for Black men were incarcerated.²² Fast forward seven years to 2000 (six years after the passage of the Violent Crime Control and Law Enforcement Act) out of 100,000 residents 449 white versus 3,457 for Black men were prisoners.²³ This is an increase in incarceration rates for both races, but especially dramatic for African Americans with a jump in almost 1,000 additional Blacks incarcerated per 100,000 people.

While the concept of disparities in incarceration rates is nothing new, its acceleration demonstrated the intensifying criminalization of the Black body, especially in regard to young Black men. The 1980s and 1990s saw a concerted effort by white America to label Black men and boys as criminals, thus legitimizing the act of police brutality towards African Americans as well as the concept that African Americans are and should be arrested and convicted at higher rates than whites. The fact that Blacks are born with a target on their backs imposed by the police and white community alike forces guns out of their hands in two ways. First, this happens via legal means by preventing the vast majority of those with a felony from owning guns. Second, it fosters a fear among African Americans that they will be jailed, shot, or even killed while lawfully practicing their second amendment right because, in the minds of many – especially

²¹ Eisen, “The 1994 Crime.”

²² United States, Bureau of Justice Statistics, *Prisoners in 1994*, prepared by Allen J. Beck and Darrell K. Gilliard (August 1995), 8, <https://www.bjs.gov/content/pub/pdf/Pi94.pdf>.

²³ United States, Bureau of Justice Statistics, *Prisoners in 2000*, prepared by Allen J. Beck and Paige M. Harrison (August 2001), 11, <https://www.bjs.gov/content/pub/pdf/p00.pdf>.

within the police force – a Black man with a gun is a recipe for danger. In addition to preventing African Americans from accessing and/or using guns, the idea of inherent Black criminality also allowed the nation to foster an indifference towards the lives of inner-city African Americans in cases where it opposes whites' second amendment right, ultimately dulling the push for stricter gun control regulations.

In the sections following I address the issues of police brutality and inner-city violence in relation to race in greater depth relating them to the issue of gun control policy and rhetoric. Specifically, when examining the issue of police brutality, I argue the threat posed by police to the African American community became a tool to restrict their second amendment right. On the other hand, when analyzing the inner-city violence epidemic stemming from gun use, I argue the resistance presented by members of Congress, local government, and lobbying groups like the NRA to passing gun control policy and/or other programs aimed at reducing the bloodshed is another way in which the white majority values their rights over that of Blacks. Simultaneously, this inaction also accomplishes the goal of keeping the Black minority weakened through the proliferation of gun violence in their communities.

Section 2: Police Brutality, Mass Incarceration, and Gun Control

The practice of police brutality, mass incarceration, and their role in keeping guns out of African American hands is nothing new. The present-day police officer inherited his role in keeping the Black community unarmed and powerless from his slave patrol and KKK successors. As sociologist David Embrick observed, starting “from the days of slavery to the years of Jim Crow to the post-Civil Rights Era, Black and brown bodies have been controlled

and put on display as an affirmation of white superiority.”²⁴ While the overt racism classically characterized by the behavior of slave patrols and the KKK became more taboo, police prejudice towards African Americans did not disappear. Rather, the explicit, or outwardly stated, reason why these men and women in blue targeted African Americans changed. Instead of singling out Blacks because of their explicit dislike for the race, more recently police officers have targeted the group using a more subtle, yet still clearly racist ideology. As discussed extensively in the historical section of this chapter, Blacks were thought to be predisposed to violence, and therefore more likely to commit crimes. Using this incorrect stereotype, police officers justified their harsh attitudes and behavior toward the African American community under the guise of protecting law and order. As an extension of this, police officers and the justice system, including prosecutors, judges, and juries, were able to unjustly target, arrest, and convict Blacks at rates which would be considered unacceptable if paralleled in the white community.

To support this claim, a research study conducted by Dr. Jenifer Carlson demonstrates there are two radically different styles of policing. The first type, dubbed as “the warrior,” emphasizes aggressive practices and enforcement policies against (typically Black and brown) perpetrators. The second, called “the guardian,” stresses the need to protect (typically white) victims. To further accentuate this point, police chiefs characteristically categorize gun violence into two categories, gang/drug related aggression involving Black and brown people, and mass shootings involving whites. Carlson argues that public law enforcement is an institution shaped by whiteness which “systematically criminalized boys and men of color by reflecting and reproducing tropes that naturalize urban violence, designating boys and men of color as criminals

²⁴ David G. Embrick, "Two Nations, Revisited: The Lynching of Black and Brown Bodies, Police Brutality, and Racial Control in 'Post-Racial' Amerikkka," *Critical Sociology* 41, no. 6 (June 2015): 838.

through practices such as racial profiling and the intense policing of urban spaces.”²⁵ In fact, young African Americans men have the most frequent and negative involuntary contact with the police. Another study surveying young Black men living in the inner-city found that 83% of respondents experienced police harassment personally, and 90% knew of someone harassed or mistreated by the police.²⁶ The author, Rod Brunson, explained that this mistreatment stems from aggressive crime control strategies and intense community policing of inner-city areas.²⁷

Police brutality is clearly an issue in itself. It results in great distrust and hostility forming between law enforcement and the communities they are supposedly meant to protect. Men and women of color, especially in less wealthy inner-city areas, have developed a resistance to calling the police in times of trouble out of fear they will bring more harm than good. This fact is especially relevant when guns are involved. In Brunson’s study, many of those surveyed “felt that police behaved as if their participation in crime was a forgone conclusion and they merely needed to locate supporting evidence to make an arrest,” and that seemingly innocent objects might heighten police suspicion of them.²⁸ With an already raised suspicion and distrust towards the Black community on the part of police officers, gun possession by African Americans could be, and in many cases has been, deadly. As cases like Rayshard Brooks who was shot and killed by police because he was sleeping in his car blocking a fast food drive-thru, George Floyd who faced the same fate because he supposedly used a counterfeit \$20 bill, Breonna Taylor and Attatiana Jefferson who were both shot and killed within their homes for simply existing, and the many more Black men and women who have been murdered at the hands of police demonstrate

²⁵ Carlson, "Police Warriors and Police Guardians," 399-401.

²⁶ Rod K. Brunson, "'Police Don't Like Black People': African-American Young Men's Accumulated Police Experiences," *Criminology & Public Policy* 6, no. 1 (March 2007): 77-81.

²⁷ Brunson, "'Police Don't Like Black People,'" 73.

²⁸ Brunson, "'Police Don't Like Black People,'" 82-84.

that little to no provocation is needed to be served a death warrant while Black.²⁹ That being said, given that living while Black is already a precursor to injury or death by police, owning a gun only exacerbates this threat.

A study conducting a meta-analysis of various shooting task studies illustrates this point well.³⁰ While all published papers examining shooting reaction times in relation to race suggest there is a statistically significant bias against Black targets, there have been some disparities in the various results. Once analyzed together, however, the meta-analysis established that across all studies participants were faster to shoot armed Black targets than armed white targets. Results also showed that across all studies participants were slower to not shoot unarmed Black suspects than unarmed white suspects. In conclusion, it was found that participants were more likely to have a liberal shooting threshold (meaning there was a lower necessary threshold to be met in the decision to fire a weapon) when aiming at Blacks, in comparison to whites.³¹ While this study was not comprised solely of police officers, it can be assumed that since the study's participants were representative of the general population, the results can and should apply to police officers. Though in a lab setting this bias obviously does not impact the Black population, it does have significant implications for the real world given that police officers often carry guns with them. This statistic is one of the many deterrents for African Americans to own and carry firearms.

Another more “real world” example supporting the role of police brutality in restricting African Americans’ second amendment right is seen in the 2016 shooting of Philando Castile.

²⁹ Alia Chughtai, “Know Their Names: Black People Killed by the Police in the U.S.,” *Al Jazeera Interactives* (September 20, 2020), <https://interactive.aljazeera.com/aje/2020/know-their-names/index.html>.

³⁰ A meta-analysis compares all the studies on a particular topic, in this case shooting rates in relation to race, to one another in order to come to an overarching conclusion of the data. This is often necessary because, when there are various studies looking at the same issue, it is not uncommon for different results/ conclusions to arise.

³¹ Yara Mekawi and Konrad Bresin, “Is the Evidence from Racial Bias Shooting Task Studies a Smoking Gun? Results from a Meta-Analysis,” *Journal of Experimental Social Psychology* 61 (November 2015): 121-123.

Philando Castile and his fiancé Diamond Reynolds were pulled over by police officer Jeronimo Yanez because they “just look like people involved in a robbery” and that Castile especially resembled one of the suspects “just ‘cause of [his] wideset nose.” Note the significance of racial profiling here. Assuming that it is quite difficult to get an accurate view of someone in a moving car, Castile and Reynolds were singled out as potential criminals because they were Black driving through a particular area.³² Additionally, the fact that they were instinctively labeled as criminals is important. According to Brunson, police officers are more likely to break policy when dealing with those who they believe to have already broken the law.³³ That being said, after Castile was pulled over, he informed Yanez that he had a gun in his car which he had a concealed carry permit for. After explicitly stating he was reaching for his wallet, the officer shot Castile point-blank fearing he was instead vying for his gun.³⁴ This example is just one of many when it comes to law enforcement relying on their racial (whether implicit or explicit) bias and power to act as judge, jury, and executioner. The only “crime” Castile committed was driving while Black with a legally owned gun, and for that it cost him his life. His death sparked outcries, vigils, and protests, yet, in the scheme of things, not much changed. Two years after Castile’s death, African American still men made up 40% of the unarmed men shot by police; a shocking statistic given they constitute roughly 6% of the population.³⁵

³² German Lopez, “Philando Castile Minnesota Police Shooting: Officer Cleared of Manslaughter Charge,” Vox (July 7, 2016), <https://www.vox.com/2016/7/7/12116288/minnesota-police-shooting-philando-castile-falcon-heights-video>.

³³ Brunson, ““Police Don’t Like Black People,”” 90.

³⁴ Lopez, “Philando Castile.”

³⁵ Mary Bernstein, Jordan McMillan, and Elizabeth Charash, “Once in Parkland, a Year in Hartford, a Weekend in Chicago: Race and Resistance in the Gun Violence Prevention Movement,” *Sociological Forum* 34, no.1 (December 2019): 1158.

Parenthetically, the NRA's response to Castile's murder was revealing. One would think the NRA, being the nation's most vocal and powerful gun rights organization, would have immediately commented on Castile's shooting. He had a legal concealed firearm permit and was killed as a direct result of it. However, it took the NRA nearly 36 hours to comment on Castile's murder. Furthermore, in their comment addressing the shooting they did not mention Castile's name or defend his right not to be shot for legally possessing a firearm. This evidently demonstrates the attitude of the NRA towards Black lives. As an organization which holds tremendous power in both the legal and social realm, which, in turn, greatly impacts the opinions of many Americans, the NRA should be supporting all those who want to practice their second amendment right regardless of race. This further illustrates the point made in this thesis that the white population is actively trying to restrict the Black population's second amendment right.³⁶

Situations like these, where Black men and women either lose their life or get injured for practicing their second amendment right greatly impacts community ideology. African Americans are forced to walk a fine line when it comes to gun ownership. On one hand, guns provide a form of protection from potential dangers, but, on the other hand, they can also foster precarious and potentially harmful situations. In this way, while there is no explicit law stating Blacks cannot own a gun (or carry one in their car), there are real consequences for intimidating a white person of authority. Additionally, in a society that often views police officers as legitimate in their power and right in their actions, if an officer does act inappropriately and uses deadly force when unnecessary, there will continue to be sizable support for him or her. Philando Castile's murderer was found not guilty of both manslaughter and dangerous discharge of a

³⁶ R. J. Young, *Let it Bang: A Young Black Man's Reluctant Odyssey into Guns* (Boston: Houghton Mifflin Harcourt, 2018), 88-119.

firearm.³⁷ Embrick highlights the utter disappointment in this verdict stating “the blatant disregard for black and brown bodies and racialized acts of social control is evident with the recent murders committed by police officers (or vigilantes) across the nation.”³⁸

Mass incarceration of the African American population follows directly from police brutality and biased policing practices. If police officers believe a certain race to be at a greater disposition to commit crimes, they are more likely to unjustly target them for searches, harshly testify against them in court, etc. resulting in higher arrest and conviction rates. While the importance of this topic has been previously established, more recent statistics help to illustrate the acceleration of the disproportional rate in which African Americans are arrested and convicted of crime.

The United States currently has the highest number of incarcerated individuals in the world by a longshot. The practical implications of this fact hit especially hard within African American community. As of 2001, one out of every three Blacks boys born that year could expect to go to prison at some point in his life. As of 2015, African Americans were 5.6 times more likely to be incarcerated than their white counterparts.³⁹ In a poll conducted that same year, 69% of minorities believed the U.S. criminal justice system favored whites over Blacks, whereas only 42% of whites believed that.⁴⁰ To continue the conversation further into the present, in 2016, Blacks constituted 27% of those arrested in the United States yet only accounted for

³⁷ Lopez, “Philando Castile.”

³⁸ Embrick, “Two Nations,” 837.

³⁹ Josh Rovner, “Report to the United Nations on Racial Disparities in the U.S. Criminal Justice System,” The Sentencing Project, (May 1, 2018), 3, <https://www.sentencingproject.org/publications/un-report-on-racial-disparities/>

⁴⁰ Embrick, “Two Nations,” 838.

roughly 13% of the population. Even more shocking, that same year African American youth constituted 35% of juvenile arrests.⁴¹

Mass incarceration prevents African Americans from accessing guns in two ways. The first, and most obvious, is that while in prison Blacks clearly cannot access firearms. Higher arrest rates translate into fewer Blacks in the community and therefore fewer guns in the community. Additionally, sentences enforced to a greater extent by truth-in-sentencing laws and the “3 strikes you’re out” policy exacerbate this fact.⁴² The second way mass incarceration impacts Blacks’ ability to own and access firearms is by having a criminal record. As discussed in the previous chapter, the Gun Control Act of 1968 generally prohibits gun ownership to anyone who has been convicted of a federal crime carrying a sentence of more than one year (typically a felony). It also restricts the second amendment right for those convicted of certain state crimes including some misdemeanors.⁴³ The logic behind this law is sound. One who has committed a serious crime should not have the ability to own a gun in respect to the safety of others. However, it enters a grey area of acceptability when considering the difference in arrest and conviction rates between whites and Blacks. Can a law be fair if it targets one race over another, even if it is through indirect measures?

Moreover, this dichotomy is compounded by the indifference of white America towards the inner-city violence epidemic, in part, due to what is often expressed as an almost primal need to protect their second amendment right. This places the topic of gun control in America in a

⁴¹ Rovner, “Report to the United Nations,” 2.

⁴² This is not even taking into consideration the disproportionate rate in which African Americans are convicted of the death penalty. In fact, people of color have accounted for 43% of those executed since 1976 and 55% of those currently on death row. “Race and the Death Penalty,” American Civil Liberties Union, (accessed February 23, 2021), <https://www.aclu.org/other/race-and-death-penalty>.

⁴³ “Firearm Prohibitions,” Giffords, (November 24, 2020), <https://giffords.org/lawcenter/gun-laws/policy-areas/who-can-have-a-gun/firearm-prohibitions>.

different light, revealing how whites today are resisting the passage of gun control policy for two reasons. The first is to continue the proliferation of gun violence in African American communities, which keeps the Black, especially inner-city area, weakened, therefore ensuring the superiority of the white race. Second, it conversely serves to protect the second amendment right of whites under virtually all circumstances.

Section 3: The Importance of the Second Amendment Over Black Lives

“Congress has only moved in response to galvanizing tragedy, and galvanizing tragedy tends not to involve urban, run-of-the-mill murder.”⁴⁴

Ever since 1972, approximately 30,000 lives have been lost annually due to gun violence. Alongside leading the world in incarceration populations, the U.S. has also led the world in total firearm deaths. This is taking into account countries who are engaged in civil wars, where lawlessness and gangs are the rule not the exception. When examining the issue of firearm homicide, young African American males are those primarily affected.⁴⁵ Specifically, African American men comprise around half of those killed annually due to gun homicide, equating to roughly 5,500 to 6,000 Black men dying yearly.⁴⁶ As a partial result of these facts, in 1983, the Center for Disease Control (CDC) declared firearm violence to be a significant public health threat. However, consistent with the trend of resisting gun control affecting the white population, in 1996 Congress, pushed by the NRA, prohibited the CDC from engaging in any sort of research which might be used to advocate for gun control measures.⁴⁷ This was a mistake and has since certainly cost the lives of hundreds of thousands of people across the nation. And, it

⁴⁴ Matt Bennet, quoted in Lois Beckett, "How the Gun Control Debate Ignores Black Lives," Propublica (November 24, 2015): 1.

⁴⁵ Robert J. Spitzer, *The Politics of Gun Control* (New York: Routledge, 2018), 75-78.

⁴⁶ Beckett, "How the Gun Control," 5.

⁴⁷ Spitzer, *The Politics of*, 74-75.

raises a key question: what accounts for Americans' apparently deep emotional connection to firearms despite them costing the lives of thousands of people annually?

In 2012, the year of the Sandy Hook shooting when 26 elementary school children and teachers lost their lives, 90 people were killed in mass shootings.⁴⁸ While focusing on those horrific events, the media failed to inform the public that during that same year nearly 6,000 Black males were murdered due to gun violence.⁴⁹ In 2015 there were more days with mass shootings than without, resulting in the loss of 369 lives. Yet again, another roughly 6,000 Black males were murdered with firearms. I could go on and list the statistics of mass shooting deaths compared to that of Black male victims of gun violence, but that would simply be reemphasizing the same conclusion: many more Black men die a year as a result of "run-of-the-mill" homicide than people do in mass shootings. In fact, young Black men are six times more likely than young white men to have a close friend or family member killed due to gun violence, a difference of 37.6% to 6.4% respectively.⁵⁰ It is a moral facet of many human societies that all life is sacred, and none is inherently worth more than another. However, if that is true, why do we know of and pay tribute to those who lost their lives within the classrooms and halls of Sandy Hook Elementary School but not those gunned down on a street corner? Why do a few tragic events evoke such poignant emotions and disgust while thousands of smaller, yet still horrific, crises do not cause the nation to bat an eye? America, as the record of inaction suggests, cares little about the Black body.

⁴⁸ A mass shooting is characterized as the shooting and/or killing of four or more individuals in a single occurrence.

⁴⁹ Beckett, "How the Gun Control," 1.

⁵⁰ Alycia Santilli, Kathleen O'Connor Duffany, Amy Carroll-Scott, Jordan Thomas, Ann Greene, Anita Arora, Alicia Agnoli, Geliang Gan, and Jeannette Ickovics, "Bridging the Response to Mass Shootings and Urban Violence: Exposure to Violence in New Haven, Connecticut," *American Journal of Public Health* 107, no. 3 (March 2017): 374-377.

The gun violence epidemic in the inner-city has been, in a large part, ignored by the white public. This is a combination of the lack of media and political attention being devoted to this crisis. However, even when this issue is brought to the attention of politicians and white citizens alike, there has not been much movement in the form of policy change or advocacy programs. One of the reasons for this is racial resentment. Whites who are racially prejudiced are among the strongest supporters of gun rights. In a study conducted by H.W. Williams, results showed those who score high on racial resentment are 25% less likely to support gun control measures which would increase the difficulty of buying a firearm compared to those who scored low on the scale. Furthermore, when whites are told to think about Blacks, they are less likely to support gun control measures than if they were not given this primer.⁵¹ Another study concluded, “racial resentment is a statistically significant and substantively important predictor of white opposition to gun control.”⁵² The general conclusion of these studies reasoned that their results were due to the ideology conjured up in white minds when thinking about the second amendment. Specifically, the right to gun ownership and usage prompts ideas of white patriotism and virtue reinforcing the concept of a proud, white, racial identity.⁵³ Such an identity cannot pay heed to the struggles of Blacks. In this way, certain whites are resistant to passing legislation necessary to help mend the issues in Black inner-city communities because they value their freedom and second amendment right over the lives of their African American sisters and brothers. They view Black deaths as a result of heightened crime and implicit Black criminality that needs to be addressed through policing and imprisonment. They do not consider, for example, the centuries of inferior treatment the Black race has been subjected to resulting in a lack of resources and

⁵¹ H.W. Wilson Company, *Guns in America*, 89, no 1. (Amenia, NY: Grey House Publishing, 2017), 121-123.

⁵² Alexandra Filindra and Noah J. Kaplan, "Racial Resentment and Whites' Gun Policy Preferences in Contemporary America," *Political Behavior* 38, no. 2 (March 2016): 255.

⁵³ Wilson Company, *Guns in America*, 123.

proper education, or the substantial wealth gap between Blacks and whites. The issue is viewed in a singular light, only addressing what can be seen directly with the eye, which is crime rates in majority African American and/or minority communities.

When the issue of inner-city gun violence is brought to the attention of prominent politicians, a similar passive response is given. In 1996 Boston developed its Ceasefire Program involving police partnering with members of their community to determine who is most at risk for either shooting someone or being shot. Once these community members were identified, police members talked to them directly, highlighting the risks of their behavior and offering them support. Its aim was to end, or at least curb, the proliferation of gun violence among young inner-city men. After two years of implementation, the number of youth homicides dropped by an astonishing 63%. While the program is costly and time intensive, it is dramatically effective and ultimately responsible for saving the lives of those most vulnerable to gun violence. Another positive to the program is that it works towards mending the divide between the police and their communities, an issue clearly outlined earlier in this chapter. When brought up to then Vice President Joe Biden as a program to be implemented on a nationwide scale, he quickly rejected the proposal. Partially due to the decline in violent crime since the 1990s and partially due to the lack of media attention on the epidemic, “there was no political will in the country to address inner-city violence.”⁵⁴ In fact, in 2014 following the Sandy Hook massacre, Congress approved 75 million dollars for school safety research which included putting more police officers in schools, while simultaneously cutting the funding for two of the Ceasefire Programs, one from 8 million dollars to 5.5 million and the other from 2 million dollars to 1 million. Overall, Congress spent a measly 31 million dollars on 5 grants dealing with urban violence, less than half of what

⁵⁴ Beckett, "How the Gun Control," 1-5.

it approved for research regarding school safety.⁵⁵ The contradiction in spending is clear. Despite urban gun violence costing thousands of more lives, Congress is willing to put that fact aside because these deaths do not gain media attention. Politicians, by trade, need the support of the public. If the public either does not care or is indifferent towards a particular issue, chances are politicians will have a similar attitude. The white community's plight prevails in the media and in politics because whites are seen as innocent whereas Blacks are labeled as criminals. This results in some groups (whites) being seen as inheritably worthy, while others (Blacks) are more likely to automatically be considered less worthy despite having legitimate claims.⁵⁶

Victims of mass shootings, typically being white and affluent, have greater access to resources such as the media and, more importantly, have the confidence bestowed to them by their skin color to raise their concerns and expect to be heard. "Suburban activists straightforwardly [demand] changes in laws and policies while urban activists of color challenge racialized meaning systems and structural racism that have left their communities impoverished and forgotten and render the police a threat rather than an ally."⁵⁷ A white, more rural person does not have the added weight of implicit criminality, meaning they do not need to "prove" their innocence. Blacks and minorities in general, on the other hand, are forced to defend their innocence. They need to convince the white public and lawmakers alike that gun violence in Black communities is not normal and should not be expected. This presents an added challenge to an already heart wrenching situation.

With the information presented in this section, it is apparent there are massive disparities in the way the public as well as politicians view gun violence and gun deaths. The lack of

⁵⁵ Beckett, "How the Gun Control," 7.

⁵⁶ Bernstein, McMillan, and Charash, "Once in Parkland," 1155.

⁵⁷ Bernstein, McMillan, and Charash, "Once in Parkland," 1161.

attention devoted to this dire issue is just another way in which white America is using firearms to keep the African American community subservient and weakened. By continually ignoring the issue of gun violence, white America is allowing gun violence, and gun death, to plague inner cities. With the constant threat of injury and/or death as a result of widespread firearm misuse, it is hard for a race to prosper and bridge the ever-growing gap between the “superior” white race and the “inferior” Black race.

Section 4: Gun Control Laws Passed from the 1980s to the Present

“America was born gripping a rifle in her hands - and with that rifle, she went on to establish a legacy of unparalleled achievement and accomplishment.”⁵⁸

Gun legislation in the past few decades has tended to reinforce these dynamics of racism and bifurcation. Additionally, many whites have resisted the passage of gun control laws because they value their second amendment rights, whether consciously or unconsciously, over the lives and stability of inner-city Blacks. This is exemplified in the first law regarding gun control established in this period, the Firearm Owners’ Protection Act of 1986 (FOPA). Its passage, lobbied heavily for by the NRA, repealed some of the provisions of the GCA of 1968. While it did ban the manufacture and sale of machine guns to civilians and made it easier for those convicted of crimes to restore their gun rights, its main focus was to diminish the power of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) in regulating gun sales. Specifically, it limited how often the ATF could inspect firearm dealers and raised the threshold necessary for the ATF to charge a firearm dealer with a violation. It required “ATF agents to prove that dealers *willfully* failed to document transfers, sold guns to people they knew to be

⁵⁸ Donald J. Campbell, *America's Gun Wars: A Cultural History of Gun Control in the United States* (Santa Barbara, CA: Praeger, 2019), 1.

prohibited, or otherwise violated federal regulations.”⁵⁹ It is important to note that its passage allowed the restoration of the right to own personal firearms to some convicted felons, helping to reverse some of the wrong doings of the GCA. However, its aim to lessen the power of the ATF is critical to explain in this context. With a lessened threat of being caught and prosecuted by the federal government, firearm dealers had more leeway to bend or even break the rules given that the ATF checks less than 7% of the more than 60,000 licensed firearm dealers annually.⁶⁰ This ultimately results in more people obtaining guns who have no place doing so, increasing the likelihood of gun violence.

It ultimately paved the way for a larger percentage of people, but specifically *whites*, to purchase firearms. I emphasize the word white because, in reality, this law applied more freely and without consequence to them than Blacks or minorities. This is because of the rising fear of crime in the 1980s and 1990s and the notion of the “criminalblackman.” With a heightened fear of inner-city crime resulting in increased scrutiny of the Black community by the police, media, and public, the act of purchasing and owning a firearm as an African American especially when one was not legally allowed to do so was risky. The chances of getting caught were much higher as a Black than a white person. However, even though the possibility of being apprehended by the police was higher, the law still allowed more members of the African American community to purchase firearms. Furthermore, though it technically granted greater freedom for both whites and Blacks to express their second amendment right, in practice, it effected the two races very differently. In the white, gun-owning community it was championed, whereas in the Black community it ushered in a wave of death. In 1985, a year before this law was passed, homicide

⁵⁹ Emphasis from the original, Alex Yablon, “How 'The Law That Saved Gun Rights' Guttled ATF Oversight of Firearm Dealers,” The Trace, January 4, 2021, <https://www.thetrace.org/newsletter/firearm-owners-protection-act-atf-gun-dealers/>.

⁶⁰ Yablon, “How ‘The Law.’”

rates per 100,000 individuals were 5.2 for whites and 27.6 for Blacks. After its passage in 1986, these numbers jumped to 5.4 and 31.5 respectively, ultimately reaching a height for the Black community in 1991 with 5.5 white people and 39.3 African Americans dying per 100,000 people due to homicide. While their deaths are not solely as result of gun violence, almost 51% of homicides at this time were caused by firearms.⁶¹ It is also important to note that this increase in homicide rates was not solely due to the passage of the FOPA, especially when examining the change in homicide rates from 1985 to 1986. However, the overall increase in deaths between 1985 and 1991 is so dramatic and pertinent to race that it would be wrong to not hold the FOPA partially responsible. Evident by these statistics, the passage of the FOPA expanded whites' second amendment right without much consequence, whereas it created a dire effect in the Black community. This follows the trend evident in this period of increasing Americans' access to firearms at the great benefit of the white community over that of the Black.

The next law passed regarding gun control in this period was the 1993 Brady Bill. Inspired by the assassination attempt on Ronald Reagan, this law required a five-day waiting period and background checks on all handguns purchased through licensed dealers.⁶² This was the only piece of legislation fully devoted to strengthening gun restrictions passed within this time frame. The contradiction between the Brady Bill and the Firearm Owners' Protection Act is interesting. It seems almost as if the Brady Bill goes completely against what the FOPA aimed to accomplish. It is also probably the closest the federal government has come to protecting the lives of inner-city African Americans during this period. This is true for two reasons: the first being the prevalence of handguns in the United States. In a study by Pew Research, 72% of those

⁶¹ United States, Bureau of Justice Statistics, *Homicide Trends in the United States*, prepared by James Alan Fox and Marianne W. Zawitz (ca. 2006), np., <https://www.bjs.gov/content/pub/pdf/htius.pdf>

⁶² Anthony K. Fleming, *Gun Policy in the United States and Canada: The Impact of Mass Murders and Assassinations on Gun Control* (London and New York: Bloomsbury Academic & Professional, 2012), 12.

who own a single gun own a handgun, and 62% of those who own multiple guns owned at least one handgun.⁶³ Secondly, by one estimate, there is a 33% chance a handgun will be used in a crime over the course of its life.⁶⁴ Given that African Americans are much more likely to be victims of gun violence, the fewer handguns in the community, ultimately the fewer deaths.

The Violent Crime Control and Law Enforcement Act, discussed extensively earlier in this chapter, also included a subsection called the Public Safety and Recreational Firearms Use Protection Act. Dubbed as the assault weapons ban, its inclusion temporarily prohibited the manufacture, sale, and possession of a semiautomatic assault weapon. It expired in 2004 and has since failed to be renewed. Unlike the Brady Bill, the purpose of this provision was clearly aimed at addressing mass shootings instead of inner-city violence. This is because while handguns are often used in mass shootings as well as the one-off shootings plaguing the Black community, assault weapons are much more likely to be used in mass shootings. In fact, assault weapons are only used in 22% to 35% of gun crime in general but are utilized in up to 57% of mass murders.⁶⁵

In 2003 and 2005 Congress passed similar amendments protecting gun retailers and manufacturers from lawsuits. Specifically, the 2003 Tiahrt Amendment “prohibited the ATF from publicly releasing data showing where criminals purchased their firearms and stipulated that only law enforcement officers or prosecutors could access such information.” This protected gun shops from lawsuits and public judgement while also greatly hampering research on gun

⁶³ Kim Parker et. al., “The Demographics of Gun Ownership in the U.S.,” Pew Research Center’s Social & Demographic Trends Project, Pew Research Center, May 30, 2020, <https://www.pewresearch.org/social-trends/2017/06/22/the-demographics-of-gun-ownership/>.

⁶⁴ Spitzer, *The Politics*, 80. This is including handguns legally bought from licensed dealers.

⁶⁵ Christopher S. Koper, William D. Johnson, Jordan L. Nichols, Ambrozine Ayers, and Natalie Mullins, “Criminal Use of Assault Weapons and High-Capacity Semiautomatic Firearms: An Updated Examination of Local and National Sources,” *Journal of Urban Health* 95, no. 3 (March 2018): 313.

issues. The 2005 Protection of Lawful Commerce in Arms Act “prevent[ed] gun manufacturers from being named in federal or state civil suits by those who were victims of crimes involving guns made by that company.”⁶⁶ This law stands out for its audacity in protecting the gun industry over the victims of gun violence, or even gun owners themselves. Whether for sport or protection, the ultimate purpose of firearms is to injure, kill, or destroy something. Why then should those who are creating these dangerous devices not be held, at least partially, responsible when their products are used to take the lives of others? While the Tiahrt Amendment and the Protection of Lawful Commerce Act do not weaken individuals’ gun rights per se, they do follow a similar trend. By protecting gun manufacturers and dealers from lawsuit due to the harm their product causes, it essentially gives them a get-out-of-jail-free card for allowing or even condoning the continuation of gun violence.

The culmination of laws passed from the 1980s to the present is clearly disjointed. On the one hand, you have legislation like the FOPA, the Tiahrt Amendment, and the Protection of Lawful Commerce Act, all of which aim to weaken gun control. Whereas, on the other hand, passed in relatively the same time frame, there is the Brady Bill and the assault weapons ban in the Violent Crime Control and Law Enforcement Act, both of which had the ultimate goal of strengthening gun laws. These pieces of legislation, when viewed together without proper context or background information, seem confusing and contradictory. However, when examined with mind to the issue of race and gun rights, a pattern in the laws begin to emerge. In terms of the issue of guns and gun violence in the white community there are two competing forces. One pushes for almost unrestricted access to firearms regardless of its impact on the Black

⁶⁶ Sarah Gray, “A Timeline of Gun Control Laws in The U.S.,” *Time* (April 30, 2019), <https://time.com/5169210/us-gun-control-laws-history-timeline/>.

community seen with the FOPA, the Tiahrt Amendment and the Protection of Lawful Commerce Act. The other, exemplified by the assault weapons ban, demonstrates the angered pushback by the public because of mass shootings costing white lives. When examining the legislation passed in terms of Blacks' use of guns and gun violence in their community, there seems to be a lack of compassion. While the Brady Bill does make a positive impact on the African American community by strengthening the process of purchasing handguns, it is clear with the FOPA and the assault weapons ban that the focus of the nation is simply not directed on the plight of violence in the Black community. Black lives pale in comparison to the almost divine-like qualities of the second amendment in the eyes of many whites. Further exacerbating this, when it comes down to Black lives versus white lives, the lighter the skin the greater the media, politicians, and public appears to care.

Conclusion:

Gun violence in the United States and especially in the African American community is an epidemic. Tens of thousands of people die annually to a product that is worshiped by millions. The United States, therefore, has been forced to walk a thin line on gun policy because one cannot ignore something that takes the lives of so many every year, but one also cannot take away one of the most prized possessions of the nation. I would argue that nothing has captivated the hearts of so many Americans over such an extended period of time as firearms have. Whether for sport, protection, collection, etc. firearms have established their place in America. However, guns play a very different role in the community depending on race. America views the issue of gun rights, gun control, and gun violence in two surprisingly disparate lights. White Americans are thought to have a God-given right to own and use their guns. Even when they use them to cause mass harm to others, it is viewed as an anomaly that is most likely caused by mental illness

or some other outside factor that is not inherently their fault. Black Americans, on the other hand, have a less “enlightened” connection with guns. Black men especially are viewed as a threat to others, particularly white others, and therefore should not be granted the same degree of firearm rights. When they commit a gun crime, it is interpreted as a flaw of their own doing. It is simply evidence of their criminal and violent nature. In this way gun control policy and rhetoric has been shaped around the issue of race today and in the past.

This chapter built on the previous work in this thesis by taking two approaches to the issue of gun control and rhetoric. On one hand, the chapter continued the argument made in the prologue and previous two chapters that whites aim to curb the second amendment rights of African Americans via police brutality, biased policing practices, and ultimately mass incarceration to keep them subservient and unable to use force to exert their claim to equality. On the other hand, the chapter took a very different approach and argued that, more recently, whites have resisted the passage of gun control laws or other advocacy programs aimed at reducing firearm violence because, whether explicitly or implicitly, they value their freedom and second amendment right over the lives of inner-city Blacks. This concept is further illustrated when examining the different national and political responses, if there were any, to mass shootings compared to the thousands of Black homicides occurring annually.

Mass shootings have made such a negative impact in the hearts and minds of America. They have strengthened and revitalized calls for stricter gun control and labeled America to the international community as a gun-happy place. What this chapter has highlighted, however, is that mass shootings do not constitute, by any means, a large percentage of gun deaths in America. Rather, “America’s high rate of gun murders isn’t caused by events like Sandy Hook...

It's fueled by a relentless drumbeat of deaths of Black men."⁶⁷ Yet, the deaths of African Americans, and especially Black men, do not seem to conjure up the same national outcry that mass shootings have. This paradox is evident by the lack of media and political attention on the issue. I argue, therefore, it is impossible to understand the issue of gun control, policy, and rhetoric without considering the issue of race. Race is what fuels this biased system where Black men are dying by the thousands, yet no one seems to care. Or, at least no one who can make a real difference in policy seems to care.

⁶⁷ Beckett, "How the Gun Control," 2.

Conclusion:

The Black Lives Matter Movement is a “challenge to white privilege and supremacy, and it seeks to disrupt the status quo by forcing America to unflinchingly examine the ways in which state-sponsored agents treat Black Americans as, at best, second-class citizens.”¹

Centuries of sub-par treatment resulting in the deaths of hundreds of thousands of innocent Black men, women, and children has culminated in the creation of the Black Lives Matter (BLM) Movement. It is somewhat like a revitalized Civil Rights Movement, yet it is less focused on civility and working within the confines of what the white community feels is acceptable and comfortable, and more aimed at aggressive tactics to create widespread change in policy and attitude in a shorter period of time. Their cries to end the killings of innocent African Americans by police and everyday citizens alike have enlisted the support of people of all classes and races, yet they have also sparked a strong resistance seen in the All Lives Matter (ALM) Movement and the Blue Lives Matter Movement. These two groups scoff at the thought of racism still being a viable issue for Blacks in the United States, and adamantly fight for their rights as (mostly) white citizens in a country that is becoming increasingly diverse. These two countermovements came about, in part, due to the concepts of white fragility, white supremacy, and postracialism. “White fragility is a state in which even a minimum amount of racial stress becomes intolerable, triggering a range of defensive moves.”² Whereas postracialism is the idea that racism, and race in general, are no longer relevant concepts in present day American discourse.³ The same disheartened, irrational reasoning behind these two movements spurred the

¹ Julius Baily and David J. Leonard, quoted in Amanda Nell Edgar and Andre E. Johnson, *The Struggle Over Black Lives Matter and All Lives Matter* (Lanham, MD: Lexington Books, 2018), 7.

² Robin DiAngelo, quoted in Edgar and Johnson *The Struggle Over Black*, 27.

³ Edgar and Johnson *The Struggle Over Black*, 70.

sentiment found in the recent riot at the United States Capitol building on January 6, 2021. The way the public, media, politicians, and especially law enforcement officers treated the BLM protestors versus the Capitol rioters illustrates how the connections between race and gun control, a consequential relationship that this thesis has tracked over the course of more than two centuries, persists in the present.

“I can’t breathe!” Some of George Floyd’s last words before losing consciousness and eventually dying at the hands of police turned into a rallying cry for the Black Lives Matter protests. Over the summer of 2020, despite being in the midst of a deadly pandemic, people came out by the hundreds of thousands across the nation and world in protest (initially) over the death of George Floyd who was killed when police officer Derek Chauvin knelt on his neck cutting off his air supply for a total of 8 minutes and 42 seconds. Those who took to the streets called for an end to the mass killings of innocent African Americans, hoping to curb police brutality through measures like defunding the police and requiring more accountability for law enforcement officers who break the rules. According to a study conducted by the Harvard Radcliffe Institute, 96.3% of BLM protests were completely peaceful involving no property damage and no police injuries, and 97.7% of these protests involved no injuries to participants, bystanders, or police.⁴ Despite this, these protests were met on numerous occasions with tear gas, rubber bullets, bully sticks, and police officers alongside national guard personnel decked out in full-fledged riot gear. This is in part due to former President Trump’s remarks on the Black Lives Matter protests taking over cities and an almost incessant need to “restore law and order.” Trump even went to the utmost extreme, clearing a completely peaceful protest in Washington D.C.

⁴ Erica Chenoweth and Jeremy Pressman, “Black Lives Matter Protesters Were Overwhelmingly Peaceful, Our Research Finds,” Radcliffe Institute for Advanced Study at Harvard University, October 20, 2020, <https://www.radcliffe.harvard.edu/news-and-ideas/black-lives-matter-protesters-were-overwhelmingly-peaceful-our-research-finds>.

with tear gas and rubber bullets in order to take a photo shoot with a bible in his hand in front of a church which later expressed their outrage at him using religion as a prop for his militaristic agenda.⁵ All this for protests which were largely peaceful and meant to express a legitimate anger over the deaths of innocent African Americans.

This harsh and unnecessary reaction to the BLM protests can be starkly contrasted to that of the Capitol riot. Arriving by the tens of thousands brandishing confederate flags and MAGA (Make American Great Again) gear, guns, explosives, knives, brass knuckles, stun guns, and various other weapons, Trump supporters marched to the Capitol to protest the baseless claim that the Presidential election was rigged, and declared Donald Trump the true winner, not Joe Biden. As their numbers rose, so did their anger culminating in rioters breaking through multiple barriers to enter the Capitol. The rioters then spread throughout the building disgracing the nation's most important democratic site. They forced Congress members to barricade themselves in the House Chamber and their offices, many of them, especially those dubbed as far left politicians, feared for their life as they heard rioters call out their names in a fervent attempt to find and capture them. All said and done, a total of 60 Capitol Police officers were injured and one officer and four rioters were killed. Yet, following the attack, photos emerged of police officers being extremely passive, sometimes even helpful, towards the mob. Photographs show Capitol Police officers allowing rioters to enter Capitol grounds, aiding them in their photo shoots, and guiding them down to the Capitol steps so they did not fall.⁶ If this was not egregious enough, Trump's response to this horrific attack was no better. In the midst of the event, Trump

⁵ Bill Chappell, "He Did Not Pray': Fallout Grows From Trump's Photo-Op At St. John's Church," NPR (NPR, June 2, 2020), <https://www.npr.org/2020/06/02/867705160/he-did-not-pray-fallout-grows-from-trump-s-photo-op-at-st-john-s-church>.

⁶ Samantha Schmidt and Rachel Chason, "The Freedom to Assemble, in Two Acts," *Washington Post* January 14, 2021, <https://www.washingtonpost.com/dc-md-va/interactive/2021/blm-protest-capitol-riot-police-comparison/>.

released a very sympathetic video telling the rioters “go home. We love you. You’re very special.” Further emphasizing his not-so-veiled support for the rioters, Trump continued to spew his illogical claim that the election was stolen from him, which, bear in mind, was the harmful rhetoric which caused the riot in the first place.⁷

Pay heed to the difference in reactions. One, which was largely peaceful, yet supported a Black cause, was demonized and met with the force necessary to combat a violent group tasked with carrying out mass destruction. The other was quite the opposite of peaceful, yet it was comprised of mainly white conservative supporters, so the group was simply allowed to, and even assisted with, threatening the lives and sanctity of our nation’s most integral symbol of democracy. This disparate response rests upon a long history of racist policies and rhetoric which I have outlined extensively throughout this thesis. African Americans have been vilified since the day they were trafficked to the shores of North America. While there are many ways the white population has worked to keep African Americans subservient, the one this thesis has examined extensively is through the access and use of guns. By disparaging the Black race, the white population has been able to justify their ability, whether through legal or rhetorical means, to keep guns out of Black hands. Furthermore, by preventing African Americans from accessing guns, the white population ensures superior status in society by taking away the means for which Blacks can stand up for their rights.

This thesis began in 1680 with the passage of the first weapon control act in the Colonies. It is important the conversation begins here, otherwise it would be impossible to get a holistic understanding of the issue of gun control in the United States and Colonies which predated it.

⁷ “Go Home. We Love You’: Trump to Protestors,” ABC News, accessed March 2, 2021, <https://abcnews.go.com/Politics/video/home-love-trump-protesters-75094574>.

The short prologue analyzing the period from 1680 to the Civil War traced the hatred and fear much of the white population had for Blacks. Evidence for this is seen in the fact that all weapon control laws applying to slaves also applied to free Blacks. The white population so desperately tried to hold their power over the Black population that, in the eyes of many laws, they essentially treated free Blacks as if they were still enslaved.

Following the prologue, the thesis delved into the first chapter which discussed the time period from the Civil War to the Jim Crow Era. What is important to note in this section is the shift in the way gun policy was being crafted. Before the Civil War, slaves and free Blacks (for the most part) were treated as inferior beings subject to the wishes of the white population, whatever they might be. However, following the Civil War and the passage of the 13th Amendment, African Americans were now free citizens, and thus could no longer be controlled to the same degree. This resulted in numerous Southern states passing Black Codes which restricted virtually every aspect of life for Blacks in the South, including gun ownership. However, within a matter of months Congress passed the Civil Rights Act of 1866 and then the 14th Amendment, both of which banned all forms of racial discriminatory legislation. This ushered in a new attitude towards gun control. Specifically, while gun legislation directly targeting African Americans could no longer be passed, biased policing practices, white terror, lynchings, and mass incarceration, all evidence of overt and explicit racism, were very much present and thriving in the country, and especially the South.

The Civil Rights Period, from the late 1930s to the 1970s, simultaneously brought a new sense of hope and enlightenment, while also exemplifying some of the darkest and disturbing beliefs of Americans regarding race. Evident by police and state brutality towards the Black population, as well as through biased laws which impacted Blacks more so than whites, there

was still a great push to ensure African Americans did not have access to firearms. This period continued the trend in gun control policy and rhetoric shifting from the overt and explicit to the concealed and implicit. Specifically, the undisguised racism seen in the Black Codes became less acceptable. State agents now looked to sidestep laws and bend the rules to reach their goals. However, the racism practiced in this period was still mainly characterized by explicit attitudes.

Finally, the third chapter illustrated what occurs when racist ideology becomes more implicit and less overt. Today, it is unacceptable to outwardly target a person due to the color of their skin, but this does not mean it does not happen. It simply means when it does occur, it is accredited more so to an underlying, inexpressible belief of Black inferiority and criminality. This is evident with the continuation of police brutality, mass incarceration, and the passage of laws which disproportionately affect the Black population. It is also visible with the resistance to pass substantial firearm control legislation and/or establish gun violence prevention advocacy programs despite the thousands of Black men dying annually due to gun violence. Today's politicians, media stations, and everyday Americans do not, for the most part, target or dismiss African Americans because they hate Black people, but rather because of America's deeply ingrained racist ideology which has justified the unequal treatment of African Americans to such a degree that it appears normal. For example, much of the public views the high incarceration rates of African Americans as evidence of Black criminality. It is easy to say this when one does not take into consideration the repercussions of slavery and centuries of inferior treatment that have left much of the Black community in a sub-par socioeconomic position with poor access to schooling and other resources necessary to remove oneself from poverty. Furthermore, it ignores the ever-present fact that African Americans are targeted by the police and criminal justice system to an extent incomparable to whites.

Overall, this thesis aimed to expose some of the deeply rooted racist beliefs in an area otherwise assumed to be immune from such ideology. The second amendment is a facet of the Bill of Rights revered by millions of Americans, but would people still have the same attitude toward the amendment if they knew its history? That is for you, the reader, to decide.

This topic is immensely important to discuss because it examines another aspect in which the American people and the United States government has prioritized the desires of white Americans over the lives of Black Americans. All too often people today think the impacts of slavery have long dissipated, only to be found in the pages of history books. This, clearly, is not the case. Innocent African Americans are still dying on a daily basis because of the horrid beliefs of those who lived hundreds of years ago. Given that this racist ideology has stood so firm to the test of time in America makes one question if the country will ever truly be equal. There have been tens of thousands of protests, riots, vigils, marches, and movements since 1619, yet African Americans still seem to occupy an inferior place in the American ecosystem. However, I would like to believe this will not always be the case. While Americans still have a long way to go in the pursuit for equality, we have also come a tremendous way. However, the only way this will be truly accomplished is by educating oneself and others. I have learned an astonishing amount about Black history through researching and writing this thesis, and feel as if I am a more understanding person because of it. Without educating oneself, it is easy to look at an issue like mass incarceration or the proliferation of gun violence in inner-city communities and view it as a Black flaw instead of thinking about the vast degree of factors, much of which the African American population had no control over, that together culminated in current day affairs. That being said, issues like preventing African Americans from owning and/or using guns, need to be

discussed if we, as a country, have any hope in making the nation a place where racial discrimination is truly a thing of the past.

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