

educational fund to

STOPGUNVIOLENCE

imagine a future free from gun violence

THE TRUTH ABOUT “SECOND AMENDMENT REMEDIES”: How to Counter Insurrectionist Arguments

The radical insurrectionist ideology of the modern gun rights movement entered the popular consciousness when openly armed individuals began to show up at health care reform town hall meetings and presidential speeches during the summer of 2009. A year later, Nevada Senate candidate Sharron Angle made national news when she exclaimed:

[You know, our Founding Fathers, they put that Second Amendment in there for a good reason and that was for the people to protect themselves against a tyrannical government. And in fact Thomas Jefferson said it's good for a country to have a revolution every 20 years. I hope that's not where we're going, but, you know, if this Congress keeps going the way it is, people are really looking toward those Second Amendment remedies and saying, "My goodness, what can we do to turn this country around?"](#)

Angle wasn't having an original thought. This “insurrectionist idea” has been promoted by the National Rifle Association (NRA) and other elements of the gun rights movement for years. It holds that the Second Amendment gives *individuals* the right to shoot and kill government officials when *they* believe our government has become “tyrannical.” As a featured speaker at the 2011 NRA Convention, Newt Gingrich declared that, [“The right to bear arms is not about hunting. It's not about target practice. The right to bear arms is a political right designed to safeguard freedom so that no government can take away from you the rights that God has given you.”](#)



The insurrectionist idea undermines the most important idea in American political philosophy: political equality. The concept that one citizen's vote is as important as the next is America's bedrock principle and the gift that our Founders gave to the rest of the world in the Declaration of Independence. When political violence is used to undermine that principle, it corrodes our basic democratic institutions, including the rule of law (see CSGV's [“Insurrectionism Timeline”](#)). This fact sheet is intended to provide talking points to patriotic Americans who—either in debate or discussion—want to speak out against “Second Amendment remedies” in a direct and informed manner.

Talking Point #1: The “Militia” described in the Second Amendment was a tool used to *put down* internal rebellions, not foment them.

Many Americans are familiar with the text of the Second Amendment: “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.”

Second Amendment author James Madison made it clear in his writings and pronouncements that the states’ Militia would be [“officered by men chosen from among themselves, fighting for their common liberties, and united and conducted by governments possessing their affections and confidence.”](#) [“The Discipline of the Militia is evidently a National concern, and ought to be provided for in the National Constitution,”](#) he stated. At no time did Madison suggest that the Second Amendment dealt with *individual* self-defense, whether against common criminals or our government.

Furthermore, Madison made it clear that one of the primary purposes of the Militia should be to defend against [“internal insurrections.”](#) Article 1, Section 8 of the U.S. Constitution gives the federal Congress the power to “[call] forth the Militia to execute the Laws of the Union [and] suppress Insurrections.”

During our nation’s formative years, our Founders didn’t hesitate to use Militia forces to put down armed rebellions, including Shays’ Rebellion (1786-1787) and the Whiskey Rebellion (1791-1794).

TALKING POINT #2: Our Founders never intended our country to be in a state of perpetual revolution. In fact, the Constitution was drafted to quell rising fear of anarchy engendered by insurrectionary activity at the conclusion of the Revolutionary War.



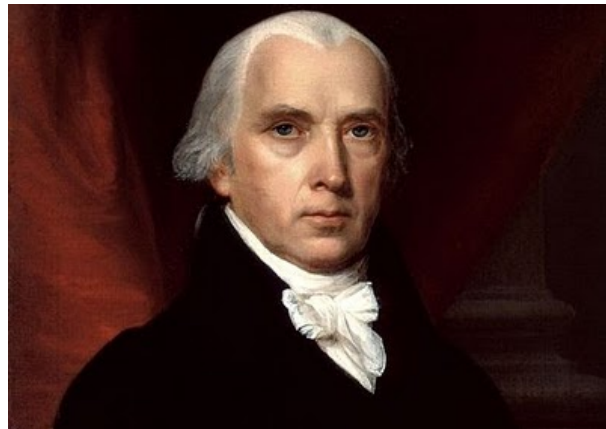
In the period immediately following the Revolutionary War, America was plagued by internal rebellions and lawlessness that threatened the integrity of our Republic. A provision was included in Article 3, Section 3 of the U.S. Constitution that defined treason as a crime punishable by death. As Benjamin Franklin noted shortly after the Constitution was ratified, [“We have been guarding against an evil that old States are most liable to, excess of power in the rulers, but our present danger seems to be defect of obedience in the subjects.”](#)

In the midst of a mass insurrection that would lead to the Civil War, our sixteenth president, Abraham Lincoln, put it this way during his First Inaugural Address: [“It is safe to assert that no government proper ever had a provision in its organic law for its own termination.”](#)

Gun rights activists will frequently reference Thomas Jefferson's assertion that, "[The tree of liberty must be refreshed from time to time with the blood of patriots and tyrants.](#)" Jefferson made this comment in response to Shays' Rebellion while living in Paris (he also commented that the rebellion was "[founded in ignorance](#)"). Once the final draft of the Constitution was sent to Congress, however, Jefferson eschewed the use of political violence entirely. "[Happy for us,](#)" he wrote in September 1787, "[that when we find our constitutions defective and insufficient to secure the happiness of our people, we can assemble with all the coolness of philosophers and set it to rights, while every other nation on earth must have resource to arms to amend or restore their constitutions.](#)" After being elected president, [his tolerance for challenges to federal authority and sovereignty diminished even further.](#) In 1807, after Aaron Burr conspired with military officers to create an independent republic in the American Southwest, Jefferson declared him a traitor and had him arrested and prosecuted for treason. In 1808, Jefferson deployed U.S. Army troops inside the country to enforce a trade embargo against Great Britain and France. Jefferson's use of military personnel to enforce domestic laws remains unprecedented.

TALKING POINT #3: The Constitution was specifically drafted to create more energy and strength in the federal government. The Federalists who drafted and ratified the Constitution and Bill of Rights never intended to give armed individuals veto power over federal and/or state laws.

James Madison, the author of the Second Amendment and the primary author of the U.S. Constitution, believed that the United States needed a stronger central government that would be "[clearly paramount](#)" to the states. Madison was deeply concerned about licentiousness and the phenomenon of armed mobs shutting down local governments in response to unpopular federal and state laws. To Madison, uprisings like Shays' Rebellion were clear examples of "[treason](#)" and demonstrated the need for a more robust federal government to guarantee Americans' individual liberties. As he wrote in Federalist No. 63, "[Liberty may be endangered by the abuse of liberty as well as by the abuses of power ... The former rather than the latter is apparently most to be apprehended by the United States.](#)"



In another telling remark directed at Patrick Henry during the Virginia Ratifying Convention, Madison said, "[There never was a government without force. What is the meaning of government? An institution to make people do their duty. A government leaving it to a man to do his duty, or not, as he pleases, would be a new species of government, or rather no government at all.](#)"

Finally, Madison completely rejected the paranoid fear of a tyrannical federal government that now

seems to be the organizing principle behind the contemporary gun rights movement. As Madison wrote to Thomas Jefferson, ["There may be a certain degree of danger, that succession of artful and ambitious rulers may, by gradual and well-timed advances, finally erect an independent Government on the subversion of liberty ... I must own that I see no tendency in our Governments to danger on that side. It has been remarked that there is a tendency in all Governments to an augmentation of power at the expense of liberty. But the remark, as usually understood, does not appear to me well founded."](#)

Talking Point #4: The man who led our troops to victory in the Revolutionary War spoke out against the concept of "Second Amendment remedies" more forcefully than anyone.

Modern gun rights activists will often point to the American colonists' revolution against the British monarchy as "proof" that they have a right to take up arms against our government. The ratification of the U.S. Constitution, however, was intended to obviate the need for political violence by providing a plethora of peaceful, democratic methods to redress grievances.



This intent was clearly evidenced in the words and deeds of the man who led our troops in battle during the Revolutionary War, General George Washington. It was Washington, as a sitting American president, who rode out to lead 12,950 state Militia forces against the Whiskey rebels, whom he called "[insurgents](#)."

Upon retiring from government, Washington made his views about government and insurrection even more clear in his "Farewell Address." Washington told the nation:

[This Government....has a just claim to your confidence and your support. Respect for its authority, compliance with its laws, acquiescence in its measures, are duties enjoined by the fundamental maxims of true Liberty. The basis of our political systems is the right of the people to make and to alter their Constitutions of Government. But the Constitution which at any time exists, till changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all. The very idea of the power and the right of the people to establish Government presupposes the duty of every individual to obey the established Government.](#)

Washington's view was the polar opposite of what one hears from modern gun rights activists, who constantly invoke the tired bumper sticker slogan, "I love my country, it's the government I fear." Washington made it clear that it was the government itself that protected liberty. "[Your Union ought to be considered as a main prop of your liberty, and...the love of the one ought to endear to you the preservation of the other,](#)" he said.

Washington saw no good that could come out of rebellion by privately armed mobs, and predicted a grim future should such insurrection ever be tolerated:

[The basis of our political systems is the right of the people to make and to alter their Constitutions of Government ... All obstructions to the execution of the Laws, all combinations and associations, under whatever plausible character, with the real design to direct, control, counteract, or awe the regular deliberation and action of the constituted authorities, are destructive of this fundamental principle, and of fatal tendency.](#)

Talking Point #5: The U.S. Supreme Court has consistently rejected insurrectionist ideology.

In 1869, the Supreme Court affirmed in the case of *Texas v. White* that states have no right to secede from the United States of America. Furthermore, the Court held that the federal government has an obligation to put down rebellions in order to ensure for every state a republican form of government. In affirming this obligation, the Court referred specifically to the federal government's authority under the Constitution to suppress insurrections.

In its decision in the case of *Presser v. Illinois* in 1886, the Court held that American citizens have no right to assemble, drill, or march in private citizens' militias. As the court stated, "[Military organization and military drill and parade under arms are subjects especially under the control of the government of every country. They cannot be claimed as a right independent of law.](#)"

Although Justice Antonin Scalia seemed to flirt with the insurrectionist idea in the 2008 *District of Columbia v. Heller* decision ("[If...the Second Amendment right is no more than the right to keep and use weapons as a member of an organized militia...if, that is, the organized militia is the sole institutional beneficiary of the Second Amendment's guarantee—it does not assure the existence of a 'citizens' militia' as a safeguard against tyranny](#)"), the holding in that ruling was focused on a right to use a firearm for self-defense in the home ("[Whatever else \[the Second Amendment\] leaves to future evaluation, it surely elevates above all other interests the right of law-abiding, responsible citizens to use arms in defense of hearth and home](#)").



Chief Justice John G. Roberts, in a 2010 dissent in the case of *Robertson v. United States ex rel. Wykenna*, summarized the argument against insurrectionism by stating:

Allegorical depictions of the law frequently show a figure wielding a sword—the sword of justice, to be used to smite those who violate the criminal laws ... A basic step in organizing a civilized society is to take that sword out of private hands and turn it over to an organized government, acting on behalf of all the people. Indeed, “The . . . power a man has in the state of nature is the power to punish the crimes committed against that law. [But this] he gives up when he joins [a] ... political society, and incorporates into [a] commonwealth.”

In short, there is no legal basis to the idea that the Second Amendment protects the right of an individual to take up arms against the government. In other words, there is no suicide clause in our Founding documents.