Arizona's 100-Year Conflict

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The Hundred Years' War between England and France—which actually lasted 116 years, from 1337 to 1453—ended with a series of victories by the French army led by Joan of Arc, a peasant girl. The100-year conflict between the Arizona Constitution's right to bear arms and its former statutory ban against carrying concealed weapons ("CCW") actually lasted 98 years—from February 14, 1912, when President William Howard Taft signed the Executive Order that made Arizona the 48th state in the Union and its constitution took effect—to July 29, 2010, the effective date of Senate Bill 1108, which repealed the CCW ban for persons over 21 years of age. With this repeal, Arizona followed Alaska and Vermont to become the third state in the United States to allow CCW without a permit.

Like many facets of state history, how we got here may be as instructive as the fact of our current law.

The first Arizona law prohibiting the carrying of concealed weapons was in § 382 of Title 11 of the 1901 Arizona Territorial Revised Statutes. Until the 2010 repeal, the CCW ban continuously remained in effect. However, gun-right advocates successfully obtained significant amendments to the ban in 1970 and 1994.

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Concealed-Carry and the Constitutional Convention

When the U.S. Constitution was adopted in 1787, its framers did not include a specific article setting forth rights guaranteed for the people; they were included in its first 10 amendments, also known as the Bill of Rights, adopted in 1791.

In contrast, the 52 male delegates to the Arizona Constitutional Convention of 1910 ("ACC") were resolved to include an entire article, titled "Declaration of Rights," in Arizona's Constitution. The fact that Arizona's Declaration of Rights is in the second article—following only the article declaring the state's boundaries—indicates the importance the delegates placed on it.

The Convention delegates considered Declaration of Rights texts from several previously adopted state constitutions, but ultimately approved the one based on Article 1 of the Constitution of the State of Washington. The Arizona right-to-bear-arms guarantee, in § 26, is identical to Art. 1, § 24 of the Washington Constitution. This right was initially proposed at the ACC on October 25, 1910, in Proposition 94, titled "Declaration of Rights," in § 32. It stated:

> The right of the individual citizen to bear arms in defense of himself or the State shall not be impaired, but nothing in this section shall be construed as authorizing individuals or corporations to organize, maintain or employ an armed body of men.[1]

The language in this initial right-to-bear-arms proposal was subsequently adopted by the Convention without modification. On November 10, 1910, Proposition 94 was amended in its entirety and replaced with a Substitute Proposition 94,[2] which became Article II of the Arizona Constitution. It was adopted by the Constitutional Convention on November 29, 1910. (The right to bear arms in Substitute Proposition 94 was re-numbered as § 32,[3] but retained the original text of § 24 of the initial draft.)

For insight into the debate among the delegates on this topic, see "Innocent Blood Spilled," p. 42.

Over Concealed Weapons

Innocent Blood Spilled

During the Constitutional Convention debate on § 32 of amended Proposition 94, at the evening session of the ACC on November 25, 1910, the following proceedings occurred:

Chairman [George Wyley Paul Hunt, Democrat, Gila County]: Are there any objections or corrections to section 32?

Mr. [Albert Cornelius] Baker [Democrat, Maricopa County]: Mr. Chairman, I move to strike out all of section 32. I never in all my life found it necessary to carry a six shooter and I have passed through nearly all the scenes and experiences of this wild and unsettled country. Carrying arms is dangerous. It is a very dangerous thing to oneself and to one's associates and should not be permitted under any circumstances. I have seen lives lost and innocent blood spilled just through the carrying of arms, concealed weapons, under one's coat or shirt. It is most dangerous and vile, a practice that should never be permitted except in times of war and never in times of peace. Think of it: carrying a six shooter or a knife or some other terrible arms of defense, and then in a moment of heated passion using that weapon. I do not believe in it, and I move to strike out that section.

Mr. [Wilfred Taft] Webb [Democrat, Graham-Greenlee County]: I second the motion for I agree with the gentleman from Maricopa that it is a pernicious thing and should not be included in this bill. I, too, in all my experiences have never see the time when it was necessary to carry concealed weapons except in times of Indian troubles, and I have had many and varied experiences in cow camps. I have been in many places where some might deem it necessary to come armed but I did not, nor do I believe it necessary to do so now. We are no longer a frontier country, and if we did not need arms in the early days of pioneering in this country, we do not now. We are no longer a frontier country, and if we did not need arms in the early days of pioneering in this country, we do not now, and I second the motion.

Mr. [James E.] Crutchfield [Democrat, Maricopa County]: I move to amend[1] by inserting after the word "impaired" in line 9, page 7, the following words,

"But the legislature shall have the right to regulate the wearing of weapons to prevent crime."

Mr. Baker: That is all right and I second that motion.

Mr. [Andrew F.] Parsons [Democrat, Cochise County]: Mr. Chairman, I move to amend by striking out all of section 32 and substituting the following in lieu thereof,

"The people shall have the right to bear arms for their safety and defense, but the legislature shall regulate the exercise of this right by law."

Mr. [Thomas Ambrose] Feeney [Democrat, Cochise County]: I second that motion.

Mr. Chairman: The question comes up on the amendment offered by the gentleman from Cochise, Mr. Parsons, to strike out section 32, and insert in lieu thereof his amendment.

Those in favor of this motion answer "aye," opposed "nay." The motion is lost. The question now comes upon on the amendment offered by Mr. Crutchfield to insert after the word "impaired" in line 9, page 7, the following words: "But the legislature shall have the right to regulate the wearing of weapons to prevent crime." Those in favor of the amendment say "aye"; those opposed "nay." The secretary will call the roll.

Roll call showed 22 "ayes" and 23 "nays."

Mr. Chairman: The motion is lost and section 32 will stand approved as read unless there are other amendments.[2]

1. Neither the chair nor any delegate made a Point of Order based on Robert's Rules of Order that the delegates were required to of dispose Mr. Baker's initial motion to strike, which had received a second from Mr. Webb, before any subsequent motion was in order.
2. JOHN S. GOFF, THE RECORDS OF THE ARIZONA CONSTITUTIONAL CONVENTION OF 1910, at 678, 679.

Thus, the proposed amendment, which would have added "but the Legislature shall have the right to regulate the wearing of weapons to prevent crimes" after the word "impaired" in the original draft, failed by only one vote.

In light of the ACC's adoption of § 32 of the Amended Proposition 94, at the next session, the delegates voted to indefinitely postpone the following three alternative arms guarantees, upon which no further action was taken:

- Proposition No. 98, subsection 4[4]:
  "The right of the people to keep or bear arms for their own defense and that of the State shall not be infringed. The Legislature shall have the power to regulate the wearing of arms to prevent crime."[5]
- Proposition No. 104, subsection 9[6]:
  "The right of the people to keep and bear arms shall not be denied or abridged; but this section shall not be construed to deny the right of the law-making power to regulate or prohibit the carrying of concealed weapons upon the person."[7]
- Proposition No. 116, § 17:
  "That the right of no citizen to keep and bear arms in defense of his home, person or property, or in aid of the civil power, when thereto legally summoned, shall be called in question; but nothing herein contained is intended to justify the practice of wearing concealed weapons."[8]

1990s Cases

In 1991, in *Dano v. Collins*,[9] Division 1 of the Arizona Court of Appeals, in a unanimous opinion written by former Court of Appeals Judge Edward C. Voss (currently a judge of the U.S. District Court for the District of Arizona), with former Judges Eino M. Jacobsen and Thomas C. Kleinschmidt concurring, considered and rejected the first constitutional challenge to the CCW ban. The *Dano* court affirmed the dismissal order entered by former Maricopa County Superior Court Judge Daniel E. Nastro of the declaratory judgment action filed by two process servers—Dano and Hueble—that challenged the CCW ban as violating the Arizona Constitutional right to bear arms; they felt they had a right to carry concealed weapons in self-defense while serving process.

In 1994, three years after *Dano*, Judge Voss again wrote the majority opinion in *State v. Moerman*,[10] in which Division 1 of the Arizona Court of Appeals again considered and rejected challenges to the CCW ban.

Moerman involved consolidated appeals of Moerman and Diaz, who had both had CCW convictions in the Phoenix Municipal Court, which were affirmed by former Maricopa County Superior Court Judge Norman D. "Doug" Hall. Both were stopped by police officers for minor traffic violations and both were carrying handguns concealed in "Galco" brand fanny-pack gun cases worn around their waist. These gun cases appeared similar to ordinary fanny packs, but were designed to carry handguns and had a pull-away front that allowed quick access to the handgun.

The defendants challenged their convictions for CCW based on (1) the Arizona Constitution's right to bear arms, and (2) the 1970 statutory exception for guns carried in scab-

CCW at the Court of Appeals

The following is a portion of the majority opinion in *State v. Moerman*,[1] *which* rejected a constitutional challenge to the concealed-carry ban. (It was written by Judge Edward Voss, with Judges Sheldon H. Weisberg and Susan A. Ehrlich concurring.)

> [Defendants argue] that [the CCW ban] is unconstitutional because it conflicts with the right to bear arms as guaranteed by Article II, section 26 of the Arizona Constitution.
>
> As the sole basis for their argument, Defendants cite the fact that the delegates at the Arizona Constitutional Convention of 1910 rejected five separate amendments that expressly would have granted the legislature the power to regulate or prohibit the carrying of concealed weapons. … [Defendants] contend, nevertheless, that *Dano* is not dispositive because it failed to analyze the "irrefutable" intent of the framers of the Arizona Constitution to create an absolute right to bear arms.
>
> Of the five "rejected amendments" cited by Defendants, three offer no indicia of the framers' intent regarding the right to bear arms. [Footnote omitted] Therefore, we examine only the remaining two. While the delegates at the Constitutional Convention were considering Arizona's Bill of Rights [footnote omitted] during the evening proceedings of November 25, 1910, the first "rejected amendment" was introduced. This amendment proposed to add to Arizona's right to bear arms the following clause: "But the legislature shall have the right to regulate the wearing of weapons to prevent crime." THE RECORDS OF THE ARIZONA CONSTITUTIONAL CONVENTION OF 1910 678 (John S. Goff ed., 1991). The delegates rejected this by a roll call vote of 23-22. *Id.* at 679. The second "rejected amendment" proposed to delete the entire provision and rephrase it as follows: "The people shall have the right to bear arms for their safety and defense, but the legislature shall regulate the exercise of this right by law." *Id.* at 678. This amendment was defeated by voice vote. *Id.* The delegates ultimately approved Arizona's Bill of Rights and then concluded the November 25, 1910, evening proceedings. *Id.* at 682.
>
> We do not believe these "rejected amendments" support Defendants' argument that the framers of the Arizona Constitution intended Article II, section 26 to confer an absolute right to bear arms. Defendants assert that because the second "rejected amendment" expressly would have authorized the legislature to regulate the right to bear arms, we should infer from its rejection that the delegates intended to make this right absolute. We disagree for two reasons. First, this amendment would have expanded the scope of an individual's right to bear arms. Instead of allowing a person to bear arms for defense only, the second "rejected amendment" would have allowed a person to bear arms for "safety and defense." *Id.* at 678 (emphasis added). Second, this amendment would have entirely eliminated the second clause of the proposed right to bear arms. This clause provides: "but nothing in this section shall be construed as authorizing individuals or corporations to organize, maintain, or employ an armed body of men." Arizona Constitution, Article II, § 26. The framers could have rejected this amendment because this clause was deleted. For both of these reasons, the second "rejected amendment" provides little, if any, support for Defendants' position. Likewise, when balanced against the clear evidence to the contrary, the remaining "rejected amendment" offers little evidence that the framers intended to make Arizona's right to bear arms absolute.[2]

1. 182 Ariz. 255, 895 P.2d 1018 (Ariz. Ct. App. 1994), *rev. den.*
2. 182 Ariz. at 257-259.

bard or case designed for carrying weapons. The late, former Phoenix Municipal Court Judge N. Pike Johnson and former Maricopa County Superior Court Judge Joseph D. Howe had both previously ruled in separate cases that a handgun carried in a Galco fanny-pack did not violate the CCW ban based on the gun case exception. Judge Howe wrote, "One cannot gainsay that a Galco brand fanny pack was a 'scabbard or case designed for carrying weapons.'"

The portion of Judge Voss' majority opinion that rejected defendants' constitutional challenge to the CCW ban was concurred with by both former Judges Sheldon H. Weisberg and Susan A. Ehrlich. (For an excerpt, read "CCW at the Court of Appeals," at left.)

1970 Statutory Amendment to CCW Ban Added Exceptions

In 1970, the Legislature added statutory exceptions to the CCW ban in Senate Bill 12 ("SB 12") (Chap. 166, § 2 of the 1970 Arizona Session Laws). It provided that a weapon is not a "concealed weapon" if:

1. It is carried in a belt holster which holster is wholly or partially visible, or is carried in a scabbard or case designed for carrying weapons which scabbard or case is wholly or partially visible.
2. It is located in a closed truck, luggage, or glove compartment of a motor vehicle.

SB 12, as introduced, included a provision that would have permitted a woman to carry a weapon in her purse for self-defense. This provision was removed from the initial bill in the Senate, in part because it was opposed by chiefs of police, who contended a woman would be better protected if she carried in her purse a chemical, such as mace or pepper spray, which are not classified as lethal weapons. The police chiefs argued that such chemicals would be more useful in self-defense because great skill is not required to use them.

Sen. Dan Halacy, Sen. James Holley and Judicial Committee Chairman John Conlan felt that a statutory authorization for a woman to carry a weapon in her purse would not allow a criminal to do anything that they were not already doing, and that the CCW ban wrongly prohibited a woman—who felt being armed was needed for protection—from exercising that right. However, some women strongly supported the police view during the hearing before the Senate Judiciary

Ben Avery on Concealed Carry

The late Ben Avery (1909-1996), a reporter for the *Arizona Republic* from 1937 to 1974,[1] wrote a column discussing the 1970 proposed exceptions:

> Two bills of vital interest to firearms owners have progressed through the Senate and hopefully will be acted upon by the House before the current session ends.... Senate Bill 12 passed several weeks ago.
>
> This bill is the result of two years of work in co-operation with the Chiefs of Police, Director James Hegarty of the Department of Public Safety, Arizona Wildlife Federation, Arizona Rifle and Pistol Association, Arizona Game and Fish Department and others outside the legislature.
>
> A lot of work has gone into it by legislators too, including Roeder, Senator Holsclaw, Senator Goetze, Sen. Kenneth Cardella and Sen. F.T. (Limie) Gibbings).

Committee, and the purse exception was voted down.[11]

(For more on the exceptions that had been proposed, read "Ben Avery on Concealed Carry," p. 44.)

During the House consideration of SB 12 after it had passed the Senate, the purse exception was again proposed and defeated. Rep. Ray Everett (R-Yavapai), who sponsored the purse amendment, contended that many women, especially in the urban areas of Phoenix and Tucson, presently violate the law in this regard. He disclosed that four women—either members of the House "or those close to us"—carried in their handbags weapons ranging from stilettos, .25-caliber automatics and tear-gas cartridges, to even a belt holster where it is "at least partially visible."[12]

The majority opinion in *Moerman*, rejected the defendant's gun-case exception argument, because these packs did not reveal to the average citizen that they contained a handgun. (For a significant portion of the majority opinion and dissent in that case, see "*Moerman* and Gun Exceptions," at right.)

1994 Amendment: CCW With Permit

In 1994, the Legislature rejected Judge Weisberg's invitation in his *Moerman* dissent to amend the CCW exceptions "to require that a holster, scabbard or case be readily identifiable as containing a weapon." In part, as a reaction demonstrating the Legislature's disapproval of the *Moerman* opinion, the Arizona Legislature amended the CCW ban[13] by adding A.R.S. § 13-3112, which exempted from the ban citizens who had obtained a CCW permit.

In a 2000 law-review article, Ryan S. Andrus wrote about the need for state-to-state CCW-permit reciprocity. He introduced his article with his editorial comment on the then-existing conflict between supporters and opponents of the CCW ban—which mirrors the debate that had occurred 90 years earlier in 1910 between the ACC delegates:

> "With the exception of abortion, perhaps no other issue in current American debate invokes more emotionally charged rhetoric and diametric opposition than the proper place of firearms in the modern-day United States.

The bill has been extensively revised in language by the above groups in cooperation with Sen. Sandra O'Connor, R-Maricopa, Senator Dan Halacy and Sen. James Holley, R-Maricopa, and the Senate Judiciary Committee, but the general meaning of the bill was changed so little that only two minor deletions were needed to correct an original written explanation.

In essence the bill provides a more sensible definition of "weapon" under Arizona law to include "anything readily capable of lethal use and possessed under circumstances not manifestly appropriate for lawful uses which it may have." As you see, this could include a tire iron carried stuffed inside your shirt.

The bill provides that a weapon is not concealed if carried in a belt holster which is at least partially visible, or in a case or scabbard designed for firearms, or if it's carried in the glove compartment, trunk or luggage compartment of a car.[2]

1. And for whom the the largest publicly operated shooting facility in the United States is named. It is located in Phoenix.
2. Ariz. Rep., Mar. 15, 1970.

Moerman and Gun Exceptions

Judge Voss' majority opinion in *State v. Moerman*[1] stated:

> Defendants argue that because a "fanny pack" is a "case designed for carrying weapons" pursuant to [the gun case statutory exception to CCW], the municipal and superior courts erred by convicting them. We disagree.
> ...
> That a "case" is designed intentionally to appear as though it is a benign every-day item containing anything but a weapon is irrelevant to Defendants. Defendants argue that any specially designed conveyance—a "fanny pack," purse, backpack, lunch box or briefcase—is a "case" for purposes of [the gun case exception]. Because this construction effectively would eviscerate the broad and general prohibition of [the CCW ban], we disagree.
> ...
> We believe that the legislature intended to prohibit a person from carrying a concealed weapon on his or her person in a manner readily accessible for immediate use unless the conveyance utilized to carry the weapon reasonably would place others on notice that such person is armed [footnote omitted]. "Fanny packs" do not give such notice. On one hand, conspicuously carrying a holster or scabbard gives notice to most people that one is armed. On the other hand, carrying a concealed weapon in a "fanny pack"—or for that matter in a purse, backpack, lunch box, briefcase, or other conveyance that is specially designed to carry a concealed weapon—does not [footnote omitted].
>
> We add that we would effectuate curious public policy if we accepted Defendants' argument that a "fanny pack" was a "case" for purposes of [the gun case exception]. Defendants imply that when two people carry concealed weapons in conveyances that are indistinguishable in appearance and when both are subsequently charged under [the CCW ban], the person who has a case with an interior designed for carrying weapons will be acquitted while the other person who has an ordinary case could be convicted. Under this interpretation, the manufacturer's design and marketing would be dispositive of what constitutes a "case" and, therefore, who is subject to criminal liability under this statute. This conclusion does not trouble Defendants, despite the statutory public policy that Arizona's Criminal Code should "differentiate on *reasonable* grounds between serious and minor offenses and … prescribe proportionate penalties for each." A.R.S. § 13-101(4) (1989) (emphasis added). Although Defendants may consider this distinction to be reasonable, we do not.[1]

Former Judge Weisberg wrote a dissenting opinion in support of defendants' gun case exception argument:

> The majority would interpret "a case designed for carrying weapons" to mean "a case designed for carrying weapons, which case must be readily identifiable as containing a weapon." Such interpretation does not give a person of ordinary intelligence fair notice of what the statute prohibits.
>
> To avoid confusion, the legislature ought to require that the holster, scabbard, or case be readily identifiable as containing a weapon. As presently written, however, the plain language of the statute includes these fanny-packs within the statutory exception.
>
> I conclude, therefore, that [the gun case exception], as interpreted by the majority, is unconstitutionally vague and deprives defendants of due process of law. Accordingly, I would reverse the convictions.[2]

1. 182 Ariz. 255, 895 P.2d 1018 (App. Div. 1 1994) rev. den.
2. 182 Ariz. at 260, 261.
3. *Id.* at 262.

Citizen Reactions

The July 29, 2010, issue of the *Arizona Republic*, published on the effective date of the CCW ban repeal, included an article by Kevin Kiley:

Today is the day gun-rights advocates have had in their sights for a long time.

Starting today, Arizona residents at least 21 years old can carry a concealed weapon without a permit.

Concealed carry

The law's passage is the culmination of several years of political maneuvering to ease gun regulations in Arizona.

During her time as governor, Janet Napolitano vetoed at least a dozen different weapons bills—several similar to the law going into effect today—that would have eased restrictions on gun owners.

But Napolitano's departure and the appointment of Gov. Jan Brewer in January, 2009, gave the Legislature and gun rights groups an ally in the executive office. Brewer signed the law April 16.

Last year, legislators passed a law allowing concealed-weapon permit holders to enter bars and restaurants.

In Arizona's nearly 100-year history as a state, lawmakers have done little to restrict individuals' ability to carry weapons openly.

Proponents of the new law argue that open carry has not had any impact on public safety or gun violence and that concealed carry without a permit won't alter that.

"It's really just a matter of preference," said Rachel Parsons, a spokeswoman for the National Rifle Association. "If a woman wants to carry her gun in her purse, she should be allowed to do that as easily as carrying it on her hip."

...

"If a weapon is not concealed, you're aware of a potential problem and it's easier to avoid it," said Arnold Rudley, a gun owner who took a permit course on July 17. "With concealed carry, the knowledge of a potential problem goes away and you might walk into a bad situation without knowing it."

"Whether guns are good or guns are bad, whether there should be more gun control or less gun control, and what types of gun control will best prevent crime and accidental deaths are questions that pervade congressional debate, the popular media, and even medical journals.

"Occupying center stage in the gun debate over the last few years has been the recent adoption by many states of permissive concealed-carry handgun statutes."[14]

2010: Repeal of the CCW Ban

In February 2010, now-former Sen. Russell Pearce (R-Mesa) sponsored Senate Bill 1108, which he stated simply puts into law what Arizona and the nation's founders always intended. He argued, "If you are a law-abiding citizen, you have a right to carry."[15]

On April 16, 2010, after the bill passed both houses of the Legislature, Gov. Jan Brewer signed SB 1108 into law, making it legal for anyone over the age of 21 to carry a concealed deadly weapon without a permit.

The governor lauded the bill as a victory for individual rights and constitutional freedom. Gov. Brewer stated, "As governor I have pledged a solemn and important oath to protect and defend the Constitution. I believe this legislation not only protects the Second Amendment rights of Arizona citizens, but restores those rights as well."[16]

To read an article in response to the enactment, see "Citizen Reactions" (at left).

The Future of the Right to Bear Arms in Arizona

On June 26, 2008, in a 5-4 decision, the U.S. Supreme Court ruled that the right to bear arms guaranteed in the Second Amendment of the U.S. Constitution conferred upon the individual the right to bear arms, and that the handgun ban and trigger-lock requirement of the District of Columbia violated this right of the petitioner, Heller, who was a special police officer.[17] Because this District of Columbia ordinance was federal, the ruling immediately raised the question whether the rights established in *Heller*, which were applicable to the federal government, also would be applicable against states based on the selective-incorporation doctrine of the due process clause of the U.S. Constitution's 14th Amendment.

In *State v. Sieyes*,[18] the Washington Supreme Court (en banc) held that, based on *Heller*, the Second Amendment right to bear arms applies to the state through the due process clause of the 14th Amendment.[19]

Conclusion

Currently, Arizona's adoption of SB 1108 in 2010 ended our 100-year legal conflict over concealed weapons. But it has not ended "the emotionally charged rhetoric and diametric opposition [over] the proper place of firearms" in Arizona, as one commentator has characterized it. Perhaps that resolution will occur in the State's second century.

endnotes

1. JOHN S. GOFF, THE RECORDS OF THE ARIZONA CONSTITUTIONAL CONVENTION OF 1910, at 1235.
2. *Id.* at 681, 682.
3. *Id.* at 1242.
4. *Id.* at 1693.
5. *Id.* at 1247.
6. *Id.* at 692.
7. *Id.* at 1252.
8. *Id.* at 1297.
9. *Dano v. Collins*, 802 P.2d 1021 (Ariz. Ct. App.1990), *review den.*, 809 P.2d 960 (1991).
10. 895 P.2d 1018 (Ariz. Ct. App. 1994), *rev. den.*
11. ARIZ. REP., Mar. 2, 1970.
12. *Women Lose on Bill To Carry Arms*, ARIZ. REP., April 2, 1970.
13. Chap. 109, 1994 Session Laws.
14. *Concealed Handgun Debate and the Need for State-to-State Concealed Handgun Permit Reciprocity*, 42 ARIZ. L. REV. 130 (2000) (citations omitted).
15. ARIZ. REP., Feb. 3, 2010.
16. ARIZ. CAPITOL TIMES, April 16, 2010.
17. *District of Columbia v. Heller*, 128 S. Ct. 2783 (2008).
18. *State v. Sieyes*, 225 P.3d 995 (Wash. 2010).
19. For more on the variance between the scope of the State constitutional arms right announced in *Moerman* and those established by the U.S. Supreme Court in *Heller*, *see* Hon. George T. Anagnost, *The Arizona Constitution: Sources, Structure and Interpretive Cases*, ARIZ. ATT'Y, March 2009, at 14. He wrote that article after *Heller* but prior to Arizona's repeal of the CCW ban.