

# APTA LEGAL AFFAIRS SEMINAR 2019

## GUNS ON TRANSIT



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# 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.”





## Life after *Heller*

- Prior to 2008, there was substantial support in Supreme Court opinions for the interpretation that the Second Amendment was a collective right protecting states from the federal government.
- In *District of Columbia v. Heller*, the U.S. Supreme Court recognized the individual right to bear arms. (*District of Columbia v. Heller*, (2008) 544 U.S. 570).
- *Heller* was made applicable to states in *McDonald v. Chicago, Illinois* (2010) 561 U.S. 742.
- While *Heller* marks a shift toward acceptance of the individual rights interpretation of the Second Amendment, the *Heller* Court and other state and federal courts have consistently held that some regulation of the right to keep and bear arms is acceptable.





# Federal Circuit Courts: The right to carry firearms in public

- The D.C. Circuit and the 7th Circuit have held that the Second Amendment protects a general right to carry in public.
- The Second, Third, and Fourth Circuits have presumed that the Second Amendment protects the right to carry in public.
- *Young v. Hawaii*, 896 F. 3d 1044 (2018). The Ninth Circuit considered whether the Second Amendment encompasses the right of a responsible law-abiding citizen to openly carry a firearm for self-defense.





# State Laws Impacting the Regulation of Firearms on Public Transportation

- State Constitutional rights.
- State laws specifically addressing firearms on public transportation.
- State laws regulating guns in vehicles generally.
- State laws addressing the right of public employees to carry firearms.
- Storage in a locked vehicle.
- State preemption.

