

## The Student Issue

- A Citizen's Guide to the Second Amendment
- Wine Not! Regulations Surrounding the Production of US Wines
- Investigating a Serial Killer: The Development of the FBI's Role Told Through Public Documents

# DttP

## Documents to the People

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**Editorial Staff:**

Please see the wiki for full contact information: [wikis.ala.org/godort/index.php/DttP\\_Editorial\\_Staff\\_and\\_Column\\_Editors](http://wikis.ala.org/godort/index.php/DttP_Editorial_Staff_and_Column_Editors).

**Lead Editors:**

Laura Sare, Texas A&M University Libraries; (979) 458-2200; [DttPeditor@gmail.com](mailto:DttPeditor@gmail.com)

**Editors:**

Sonnet Ireland, St. Tammany Parish Library; (985) 646-6470, [sonnet@stpl.us](mailto:sonnet@stpl.us)  
Stephanie Bowe, University of Maryland; (410) 706-0783; [sbowe@law.umaryland.edu](mailto:sbowe@law.umaryland.edu)

Lynda Kellam, UNC Greensboro; (336) 303-8104; [lmkellam@uncg.edu](mailto:lmkellam@uncg.edu)

Richard Mikulski, Portland State University; (503) 725-9939; [richard.m.mikulski@pdx.edu](mailto:richard.m.mikulski@pdx.edu)

**Reviews Editor:** Emily Alford, Indiana University, [alfordem@indiana.edu](mailto:alfordem@indiana.edu)

**Advertising Editor:** Laura Sare, Texas A&M University Libraries; (979) 458-2200, [lsare@tamu.edu](mailto:lsare@tamu.edu)

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**Columnists:**

Documents Without Borders

Jim Church

Doe Library

University of California, Berkeley

[jchurch@library.berkeley.edu](mailto:jchurch@library.berkeley.edu)

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## The Student Issue

### Column

- 2 Editor's Corner—Laura Sare
- 3 From the Chair—Hallie Pritchett
- 5 Lost in the Stacks for Forty-One Years—Robert Lopresti

### Features

- 7 A Citizen's Guide to the Second Amendment  
D. L. Womble
- 17 Wine Not!  
*Regulations Surrounding the Production of US Wines*  
Angela Cooke
- 19 Investigating a Serial Killer  
*The Development of the FBI's Role Told Through Public Documents*  
Kaylee Osowski

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**About the Cover:** Piping Plover Chicks and Egg. Credit: Susan Haig, US Geological Survey. Public domain. <https://www.usgs.gov/media/images/piping-plover>.

This is my first cover I get to select as editor, and I chose my favorite topic—birds! On the cover is a piping plover nest, and here on this page is the adult version. These little shorebirds are entertaining to watch as they run along the beach, often eating worms they pull out of the sand that are longer than they are. I get to see them in Texas when they come down to spend the winter along the Gulf coast. Unfortunately regional populations of this bird are listed under the Endangered Species Act as Threatened or Endangered ([ecos.fws.gov/ecp0/profile/speciesProfile?spcode=B079](http://ecos.fws.gov/ecp0/profile/speciesProfile?spcode=B079)).

For over 100 years conservation of wildlife has been a focus of the federal government. In 1903 President Theodore Roosevelt signed an executive order that allowed the Department of Agriculture to use Pelican Island in Florida ([www.fws.gov/refuge/pelican\\_island/](http://www.fws.gov/refuge/pelican_island/)) as a breeding ground and preserve for native birds. This preservation movement led to the National Wildlife Refuge System that is now managed under the US Fish and Wildlife Service (USFWS). In 1918 the Migratory Bird Treaty Act was enacted, making it illegal for anyone to possess, transport, sell, or purchase any migratory bird, or the parts, nests, or eggs of these birds except for holders of a valid permit ([www.fws.gov/birds/policies-and-regulations/laws-legislations/migratory-bird-treaty-act.php](http://www.fws.gov/birds/policies-and-regulations/laws-legislations/migratory-bird-treaty-act.php)). Later, the USFWS became the principal federal agency charged with protecting and enhancing the populations and habitats of more than eight hundred species of migratory birds that spend all or part of their lives in the United States. Part of this management is done with the Endangered Species Act (ESA) of 1973 that provides states with assistance to develop and maintain conservation programs for wildlife species that are at risk of becoming extinct ([www.fws.gov/international/laws-treaties-agreements/us-conservation-laws/endangered-species-act.html](http://www.fws.gov/international/laws-treaties-agreements/us-conservation-laws/endangered-species-act.html)). Successful species benefiting from the ESA include delistings of the Peregrine Falcon 1999 and the Bald Eagle in 2007 ([www.fws.gov/pacific/ecoservices/BaldEagleDelisting.htm](http://www.fws.gov/pacific/ecoservices/BaldEagleDelisting.htm)).

Fun fact, part of the delisting process includes going through the *Federal Register* process ([www.fws.gov/pacific/ecoservices/endangered/classification/pdf/delisting.pdf](http://www.fws.gov/pacific/ecoservices/endangered/classification/pdf/delisting.pdf)). Federal regulations are one of the basic tools the government uses to carry out public policy. The public can play an extremely

important role by commenting on proposed rules and other documents that solicit public input. These comments can help shape the agency's decisions. This year, proposed revisions to the ESA will make it harder for threatened species to get protections in timely manner ([www.regulations.gov/document?D=FWS-HQ-ES-2018-0006-0001](http://www.regulations.gov/document?D=FWS-HQ-ES-2018-0006-0001)). Fortunately we now have [www.regulations.gov](http://www.regulations.gov) that makes it easy to provide comments on the ESA changes. The ESA comment period will be closed by the time this issue goes to press, but hopefully USFWS will craft rules to keep current endangered species protections in place.

Laws and regulations are not the only way the government interacts with birds. The federal government has been collecting various data about birds for decades. In 1966, the US Geological Survey's Patuxent Wildlife Research Center (now partnering with the Canadian Wildlife Service) began running the Breeding Bird Survey, a longitudinal study that continues today. This survey requires citizen volunteers to run the routes to count the birds. I got to do this for a couple of years in the Texas Panhandle. Data can be found at ([www.pwrc.usgs.gov/bbs/RawData/](http://www.pwrc.usgs.gov/bbs/RawData/)). Banded bird data can be found as well ([www.pwrc.usgs.gov/BBL/homepage/start.cfm](http://www.pwrc.usgs.gov/BBL/homepage/start.cfm)). Other data on birds (and other critters) can be found in the USGS Gap Analysis Program (GAP). GAP works to ensure that common species—those that are not officially endangered—remain common by identifying those species and plant communities that are not adequately represented in existing conservation lands ([gapanalysis.usgs.gov/](http://gapanalysis.usgs.gov/)). Endangered species usually have their own data as well—Rhode



Adult Piping Plover. Credit: Susan Haig, U.S. Geological Survey. Public domain. [www.usgs.gov/media/images/piping-plover-0](http://www.usgs.gov/media/images/piping-plover-0).

Island Piping Plover Restoration Project ([catalog.data.gov/dataset/rhode-island-piping-plover-restoration-project-2002](http://catalog.data.gov/dataset/rhode-island-piping-plover-restoration-project-2002)).

Unfortunately, the Federal Aviation Administration has also collected a lot of data on birds when they strike aircraft, and their data goes back to 1990 ([wildlife.faa.gov/database/Search.aspx](http://wildlife.faa.gov/database/Search.aspx)).

To finish on a happier note here is one last database—the USFWS Feather Atlas—a database of flight feather photos ([www.fws.gov/lab/featheratlas/index.php](http://www.fws.gov/lab/featheratlas/index.php)).

On a different note, this is our Student Paper issue. Thanks to all the students who participated and for all the library and information science faculty for nominating papers.

# From the Chair

Hallie Pritchett



**A**lthough I have worked in libraries since I was in high school (which was much longer ago than I care to admit), I did not become a librarian until 2007. Why I chose to wait so long before going to library school is a story for another time. But there are some

advantages to working as a student employee and then as a full-time paraprofessional in a large academic library—in my case, the University of Minnesota Libraries—before going to library school. One is that over the years I have done just about everything there is to do in a library. I have shelved books, worked in circulation, answered reference questions, done collection development, worked in technical services, shifted collections, done preservation work . . . the list goes on. As first a branch manager and now as a library administrator, the depth and breadth of my work experience in libraries has been invaluable; my work as a paraprofessional in particular has had a profound impact on how I approach librarianship in general.

Another advantage to having spent so many years as a library paraprofessional is that I got to work with a wide variety of academic librarians and observe how they approached the profession. Some of their activities and attitudes were truly inspiring, while others made me roll my eyes or scratch my head; again, stories for another time. But the one thing that really stood out for me is that regardless of their specialty, all of the librarians I worked with belonged to library associations and were professionally active; everyone regularly attended conferences, published articles, and did presentations. So many of my librarian colleagues belonged to ALA that the libraries on campus were virtually deserted for a week or so every January and June. Granted, such professional development activities were and remain a requirement for continuous appointment there; those who did not meet the requirements for continuous appointment in the allotted time period were let go. Regardless, the message was clear: being a librarian meant that you were committed to remaining professionally active throughout your career. Although my career as a librarian ultimately took me elsewhere, the ideal of being an active professional both within and outside the library in which I work has continued to resonate with me.

I joined ALA while I was in library school and joined MAGIRT when I became the map librarian at the University of Georgia in 2007. When I became UGA's regional depository

coordinator a year later, one of the first things I did was join GODORT. No one told me to do so, nor did GODORT extend me an invitation of any kind. I joined GODORT because in my experience that is what government documents librarians—of which I was now one—were supposed to do. While UGA does not have continuous appointment, they do have a promotions process and as someone who started their professional career a bit later in life, I was anxious to make up for what I viewed as lost time. Also, as Georgia's regional depository coordinator, I felt a certain obligation to be active professionally at the national level. And so I joined GODORT.

As mentioned in my previous From the Chair column, I was not active in GODORT until quite recently. Initially, that did not seem to matter, either to me or to GODORT. I attended a few meetings here and there when I could fit them in around my MAGIRT activities, but because I was also attending the semiannual Depository Library Council meetings, I never felt like I was missing anything. After all, between ALA conferences and DLC meetings (where GODORT also met), I was seeing more or less the same people four times a year. And while calls for volunteers to serve on various committees went out annually, I never felt the urge to sign up; for that matter, no one ever asked me to. In fact, the one time I did decide to volunteer for a GODORT committee in those early years, I was told by a Steering Committee member who shall remain nameless that I was “too busy” with other obligations they thought I had. So much for volunteering! Then again, at the time GODORT had over a thousand members; they could afford to turn away “busy” volunteers like me.

And then the economy tanked and everything changed. Suddenly, travel budgets were being cut and fewer and fewer librarians were able to attend conferences regularly. By 2011, so few people were attending the Spring DLC meetings that GPO decided to cancel them entirely in favor of an extended annual meeting in the fall, a plan that quickly fell by the wayside due to the 2013 federal government shutdown. GPO eventually went back to a semiannual DLC meeting schedule, with a virtual meeting in the spring and an in-person meeting in the fall that is also broadcast live so as many people as possible can attend. When I became chair of MAGIRT in 2011, I pushed to adopt a mostly virtual meeting schedule to allow those people who could not attend in-person meetings the opportunity to participate in the activities of the round table. GODORT was a bit late to the virtual meeting trend, making its first forays in 2014

or 2015, but as of this writing most if not all of GODORT's committees hold virtual meetings between conferences and some even hold virtual meetings in lieu of meeting in person.

Yet as essential and ubiquitous as virtual meetings and conferences have become, the fact remains that they are not the same as in-person meetings and conferences. They do not offer the networking opportunities that happen between meetings; unless you are attending the same virtual meeting as a colleague in your library, you do not get the chance to chat someone up in the hallway during a break. It makes recruiting committee members that much harder; it is much easier to say no via email than it is to say no to someone in person. Even worse: many librarians, especially in the years immediately after the economy crashed, felt that if they could not afford to attend a conference in person they could not be professionally active in a national library association. Why join ALA—and by extension GODORT—if you cannot afford to attend any of its conferences?

The key is to demonstrate value and to reach out to potential members; if they cannot come to us, we need to find a way to go to them. In my opinion, this is where GODORT has dropped the ball. Since 2007, while ALA's membership has declined by 8.3 percent, GODORT's has dropped by a whopping 59.3 percent. As of August, 2018, GODORT's membership is less than 1 percent of ALA's membership, which means we will lose our councilor position after the 2019 ALA Annual Conference. In a time where interest in government information and the need for advocacy is at an all-time high, it is simply mind-boggling that GODORT is struggling to attract and retain members.

The halcyon days where new government documents librarians happily joined GODORT because they thought they were supposed to be long gone. So too are the days where most if not all government documents librarians were free to specialize in government information; more often than not, government information is just one of any number of a librarian's duties and responsibilities. That is not necessarily a bad thing; in theory, having more librarians that work with government information means more potential members for GODORT. We just need to find a way to put that theory into practice.

In the coming months, the Steering Committee will be taking action on a number of fronts to address our declining membership. These include restructuring how we handle our online presence, planning our in-person conference schedules around meetings, programs, and activities designed to demonstrate GODORT's value and attract new members, and starting a membership drive. But Steering cannot do this alone; we need the advice and support of *all* of our current members to help strengthen and rejuvenate our round table. Working together, we can ensure that GODORT remains a vital and vibrant organization for all current and future information professionals that work with government information.

**Hallie Pritchett** (hallie.pritchett@ndsu.edu) Associate  
Dean of Libraries for Research and Learning, North  
Dakota State University.

# Lost in the Stacks for Forty-One Years

Robert Lopresti

I recently retired after more than four decades as a librarian. My job title always included “Government Documents” or “Government Information,” although, as I am sure you understand, a large share of my time was dedicated to what is covered by that familiar phrase “other duties as assigned.”

But having turned in my keys and name tag gave me a chance to ponder the high (and low) lights of my career. Here are a few of the more memorable moments related to the gov-doc biz.

#

My first job was at a public library. It was the biggest in our part of the county and when one of the small libraries had a reference question they couldn't answer they bounced it to us. One of those smaller institutions had a director named Miss D. Her main characteristic, as far as I could tell, was that she was terrified of the members of her library board.

One day she called up and asked for the government documents librarian. It seemed one of her board members was looking for some federal statistics about drug abuse.

I wrote the questions down. “Some of these I can answer,” I told her. “But in some cases I don't think the data is available.”

“Well, do what you can.”

I did. This was long before the Internet so I had to dig through a whole lot of books. Finally, after several hours of toil I called her up.

“I was able to find most of your answers, but not all of them.”

“Oh,” she said. “Then never mind.” And hung up.

#

My next job was at a college library. One night a college student came up to the reference desk and asked: “Is Nicaragua in Europe?” This was during the Reagan administration when it looked like we might be invading that country any day.

I think I kept a straight face. “No, Nicaragua is in Central America.”

“Oh,” she said. “Is Central America in Europe?”

#

My third professional job was at a university. One day an older community member wandered into my department.

“So you get federal documents here.”

“That's right.”

“Do you have classified publications?”

I laughed. “I can barely get them to send us tax forms.”

#

But let's talk about something they *did* send us. One day my assistant placed a newly arrived publication on my desk, as opposed to the usual location.

I figured out why pretty quickly. At the bottom of the cover it said: FOR LAW ENFORCEMENT USE ONLY. Of course, that is one category of publication that is not supposed to be sent to depositories.

The pamphlet was about an organization that does not approve of certain activities and allegedly had a habit of blowing up buildings in which those activities took place. This publication explained to law enforcement officials the methods these people had been using.

This was before email so I phoned the GPO. “You didn't mean to send us that publication.”

“Why not?”

“Because it's full of diagrams of explosive devices. It's basically a manual for bomb-makers.”

“We'll get back to you.”

Later that day they did. “You're right. Destroy it.”

So, of course I did.

A few days later I got a letter from GPO, addressed to all depository libraries. It said that the publication was sent by mistake and we should return it immediately.

I picked up the phone. “You told me to destroy it. How am I supposed to return it?”

“We'll get back to you.”

They did. “Send us a letter explaining how you destroyed it.”

I was sorely tempted to say, “I used the method shown on page seven.” But who needs that kind of trouble?

#

I supervised the shifting of 200,000 government publications at least five times. On the day we finished one move we had the windows open and a squirrel hopped in. He scampered straight to the A 13's, which are, of course, the publications of the Forest Service.

“Boy,” I thought, “if only the students could find their way as easily as you!”

#

A student had been asked to find out everything she could about someone—anyone—who lived in our county in 1880. I took her to the microfilm reels for the 1880 census, showed her how to use them and went back to my desk.

Soon she reappeared with a question: “What's a demimonde?”

I knew the answer but following the old rule I took her to a dictionary to check that it indeed meant *prostitute*.

She had found an entire building full of demimondes: a brothel. She was *thrilled*.

I told this to another librarian who nodded gravely. “In Seattle they called them seamstresses.”

#

One of our regular patrons was a Vietnam vet who was having trouble with the Department of Veterans Affairs (VA). As he told the story he wanted to receive disability payments because his time over there had driven him crazy. The VA’s defense was—again, according to him—that he was already crazy when the army drafted him. Not a great argument.

A member of the public is welcome to use our collection and anyone can borrow our federal publications, if they show ID. This veteran wanted to borrow some but he refused to show his ID because he thought the VA might be tracking what books he read.

I told him that didn’t match my experience of reality but I respected his right to his own. Nonetheless, he couldn’t borrow the documents.

He used them in-house, over several years. I don’t know how his case turned out but he started taking better care of himself and bringing in fellow vets whom he helped use the docs. I counted that as a win.

#

In 2006 someone stole more than six hundred pages out of our old Congressional Serial Set volumes. After more than a year and a half of sleuthing by various people at our university the thief was sent to prison.

The craziest part was that we had identified the thief within a month (he was selling our stuff on eBay). Then we had to gather evidence. But after that it took more than a year to find a law enforcement agency willing and able to cooperate. One agency told us, “We don’t work on crimes with only one

victim.” When the Department of Homeland Security (DHS) eventually raided the man’s property, they found books from more than one hundred libraries. One victim, my foot.

(Why DHS? Because he was selling across the border, which made it an Immigration and Customs Enforcement issue.)

#

When I use a statistics compendium I try to find time to skim the introduction. That’s where they hide the weird stuff: the results that don’t make sense and otherwise show up, at best, only in the footnotes at the bottom of the statistics tables.

So, one day I picked up the book on occupations from the 1920 Census and found that the introduction had a section titled “Peculiar Occupations for Women.” It explained that census takers had reported women in a lot of occupations that women obviously could not have been working in, like masons and plasterers. And so, the census bosses explained solemnly, the records were carefully examined and if they could figure out what the mistake was they corrected it. Or should I say if they figured out what the “mistake” was they “corrected” it. And how many female pioneers in their fields were erased from history?

That led to me writing *When Women Didn’t Count: The Chronic Mismeasure and Marginalization of American Women in Federal Statistics*. Writing that book—and winning GODORT’s Margaret T. Lane/Virginia F. Saunders Memorial Research Award for it—seemed like a great way to end my career in Gov Docs Land.

Best wishes to all of you carrying the torch forward. I will be cheering from the sidelines.

**Robert Lopresti** (rob@roblopresti.com), Bellingham, Washington.

# A Citizen's Guide to the Second Amendment

D. L. Womble

**N**ow—when a new generation is poised to enter the fray of the American debate over the meaning of the Second Amendment and how we might control the possession and use of firearms in our country—a review of the evolution of the firearms debate through the prism of historical documents, congressional debate and legislation, regulations by federal agencies, and statistical data seems useful. Such an undertaking is daunting and can never be exhaustive; yet, if we are to have a substantive conversation and find a reasonable path forward, citizens need to be armed with information.

A rational conversation will be rooted in fact; thus, the participants' knowing the evolution of this debate is critical. This guide makes this information easily accessible from one place, using natural language. While crafted for the novice researcher, the guide also aspires to be useful to veteran scholars. The result is a collection of freely accessible resources provided by the federal government and other reliable secondary sources that offers an overview of the history of federal firearms laws and insight into the debate surrounding Second Amendment rights and sensible gun control measures.

A secondary goal of this guide is to show citizens the myriad official, online resources (and a few unofficial ones) through which our federal government can be explored. The guide is presented in two parts: (1) a chronology of firearms legislation generated by the three branches of the federal government and (2) a research guide to the Second Amendment.

## The Second Amendment Legacy

Our federal firearms laws take three forms and come from the three branches of government. The US Congress enacts statutes (laws) that then become part of the *U.S. Code* and the law of the land. The federal courts interpret the statutes through their opinions on individual cases, and these opinions are known as case law. The president and the executive branch apply the laws through rules and regulations. So, there are statutes, case law,

and administrative regulations that have all interpreted the Second Amendment. Here are the significant firearms laws in the United States from the adoption of the Second Amendment to the present:

- 1791** The Bill of Rights consisting of the first ten amendments to the US Constitution is ratified (approved) by the thirteen states. The Second Amendment states, "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."<sup>1</sup>
- 1876** The US Supreme Court rules in *United States v. Cruikshank* that the Second Amendment "has no other effect than to restrict the powers of the national government" and holds that the Second Amendment creates no individual right to keep or bear arms.<sup>2</sup>
- 1886** In *Presser v. Illinois*, the US Supreme Court states that the Second Amendment "is a limitation only upon the power of Congress and the National government, and not upon that of the States."<sup>3</sup>
- 1894** In *Miller v. Texas*, the US Supreme Court affirms that the Second Amendment limits the federal government's power and not the individual states.<sup>4</sup>
- 1897** In *Robertson v. Baldwin*, the US Supreme Court reinforces the notion that the Second Amendment limits the Congress but not state legislatures.<sup>5</sup>
- 1934** Congress makes its first effort to restrict the use of firearms by enacting The National Firearms Act (NFA) after the St. Valentine's Day Massacre of 1929 and the attempted assassination of President Franklin D. Roosevelt in 1933. The NFA levies taxes on persons and companies that import, manufacture, and sell firearms and requires that all firearms be registered with the Secretary of the Treasury. Firearms defined by this law include shotguns and rifles with barrels less than eighteen inches

long, machine guns, and firearms described as “any other weapons,” along with mufflers and silencers. The sale of the handguns of the era—pistols and revolvers—are not taxed, and they do not have to be registered.<sup>6</sup>

- 1938** The Federal Firearms Act of 1938 requires gun sellers to be licensed by the Internal Revenue Service to sell guns and to maintain records of purchases, and it prohibits felons from purchasing firearms or ammunition.<sup>7</sup>
- 1939** In *United States v. Miller*, the US Supreme Court rules that the National Firearms Act of 1934 allows Congress to regulate the interstate selling of a short barrel shotgun, stating that the Second Amendment only prohibits laws which interfere with the “preservation or efficiency” of the states.<sup>8</sup>
- 1942** In *Cases v. United States*, the 1st Circuit Court upholds federal laws prohibiting possession of firearms by felons.<sup>9</sup>
- 1968** In *Haynes v. United States*, the US Supreme Court upholds Fifth Amendment precedents and rules that the registration requirement imposed on the possessor of an unregistered firearm by the NFA of 1934 violates the possessor’s privilege from self-incrimination under the Fifth Amendment, rendering the NFA of 1934 unconstitutional.<sup>10</sup>
- 1968** Congress passes The Omnibus Crime Control and Safe Streets Act of 1968 following the assassination of President John F. Kennedy. Under this legislation, interstate trade in handguns is banned and the minimum age for buying handguns is raised to 21.<sup>11</sup>
- 1968** Congress passes the Gun Control Act (GCA) of 1968 following the assassinations of President John Kennedy, Attorney General Robert Kennedy, and Dr. Martin Luther King Jr. The law imposes stricter licensing and regulation on the firearms industry, names new categories of firearms offenses, and bans the sale of firearms and ammunition to felons and certain other prohibited persons. The law establishes the first federal jurisdiction over “destructive devices,” including bombs, mines, grenades, and other similar mechanisms. The Treasury Department’s Alcohol and Tobacco Tax Division is formed and given the power to enforce the Gun Control Act.<sup>12</sup>
- 1971** In *United States v. Bass*, the US Supreme Court holds that the language of the Omnibus Crime Control and Safe Streets Act of 1968 does not specify whether a connection with interstate commerce must be made to individually prosecute a convicted felon for receiving or possessing a firearm.<sup>13</sup>
- 1971** In *United States v. Decker*, the 8th Circuit Court upholds extensive federal regulation of firearms dealers.<sup>14</sup>
- 1971** In *United States v. Synnes*, the 8th Circuit Court upholds federal laws prohibiting the possession of firearms by felons.<sup>15</sup>
- 1972** The Alcohol and Tobacco Tax Division of the Internal Revenue Service becomes the Bureau of Alcohol, Tobacco and Firearms (ATF), an independent bureau. The ATF draws its jurisdictional powers from the Gun Control Act of 1968, Title VII of the Omnibus Crime Control and Safe Street Act of 1968, and Title XI of the Organized Crime Control Act of 1970.<sup>16</sup>
- 1972** In *Cody v. United States*, the 8th Circuit Court upholds the requirement that gun buyers accurately answer certain questions prior to purchase.<sup>17</sup>
- 1974** In *United States v. Johnson*, the 4th Circuit Court upholds federal laws prohibiting the possession of firearms by felons.<sup>18</sup>
- 1976** In *Barrett v. United States*, the US Supreme Court interprets the section of the Gun Control Act of 1968 that makes it illegal for a convicted felon “to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce” to include the intrastate purchase of firearms by a felon from a gun seller of a firearm that previously, but without the felon’s knowledge, had been transported across state lines from the manufacturer to a distributor and then to the seller.<sup>19</sup>
- 1976** In *United States v. Warin*, the 6th Circuit Court upholds federal laws banning machine guns and maintains that the Second Amendment confers a collective right, but not an individual right, to bear arms.<sup>20</sup>
- 1977** In *Scarborough v. United States*, the US Supreme Court rules that the Omnibus Crime Control and Safe Streets Act of 1968 makes it illegal for a felon to possess a firearm that had been sold across state lines even when the firearm has been purchased before the individual had become a convicted felon.<sup>21</sup>
- 1977** In *United States v. Oakes*, the 2nd Circuit Court upholds federal laws restricting the possession of machine guns.<sup>22</sup>
- 1982** In *Quilici v. Village of Morton Grove*, the 7th Circuit Court reaffirms the non-application of the Second Amendment to the states.<sup>23</sup>
- 1986** The Firearm Owners Protection Act (FOPA) expands the NFA definition of “silencer” to include combinations of parts for silencers and any parts that are used to make silencers and amended the GCA to ban machine gun ownership, except by government agencies and by

- owners who have legally bought their machine guns before May 19, 1986.<sup>24</sup>
- 1988** Congress passes the Undetectable Firearms Act, which makes it illegal to manufacture, import, sell, ship, deliver, own, transfer, or receive firearms containing less than 3.7 ounces of metal.<sup>25</sup>
- 1990** As part of the Crime Control Act of 1990, Congress passes the Gun-Free School Zones Act, which makes it a crime to possess or discharge a firearm in a school zone and outlaws the assembly of semiautomatic rifles or shotguns using legally imported parts.<sup>26</sup>
- 1992** In *United States v. Hale*, the 8th Circuit Court upholds federal laws regulating the private possession of machine guns.<sup>27</sup>
- 1993** The Brady Handgun Violence Prevention Act of 1993 amends the Gun Control Act of 1968 and imposes a waiting period of five days before a licensed importer, manufacturer, or dealer may sell, deliver, or transfer a handgun to an unlicensed individual. The waiting period applies only in states that do not have a solid system of background checks of potential gun buyers.<sup>28</sup>
- 1994** The Federal Assault Weapons Ban (AWB) is part of the Violent Crime Control and Law Enforcement Act of 1994 that bans the manufacture, transfer and possession of nineteen models of semiautomatic assault weapons and prohibits the transfer and possession of large capacity ammunition magazines that can hold more than ten rounds of ammunition. The AWB contains a sunset clause that ensures the semiautomatic assault weapons ban will expire ten years from the date of its enactment.<sup>29</sup>
- 1996** In *Hickman v. Block*, the 9th Circuit Court maintains the Second Amendment right is solely “held by the states.”<sup>30</sup>
- 1996** In *United States v. Rybar*, the 3rd Circuit Court upholds federal laws regulating the private possession of machine guns.<sup>31</sup>
- 1996** In *San Diego Gun Rights Comm. v. Reno*, the 9th Circuit Court upholds the Federal Assault Weapons Ban.<sup>32</sup>
- 1997** In *Printz v. United States*, the US Supreme Court holds that certain temporary sections of the Brady Law violate the Tenth Amendment. In a concurring opinion, Justice Clarence Thomas suggests that the Second Amendment creates a “personal right to ‘keep and bear arms’” and that such a right would preclude aggressive gun control regulations.<sup>33</sup>
- 1999** In *Fraternal Order of Police v. United States*, the DC Circuit Court upholds laws that make it illegal for persons convicted of domestic violence to own firearms.<sup>34</sup>
- 1999** In *Gillespie v. City of Indianapolis*, the 7th Circuit Court upholds a law prohibiting firearms ownership by persons subject to restraining orders.<sup>35</sup>
- 1999** In *United States v. Baker*, the 6th Circuit Court upholds federal laws prohibiting firearm possession by persons subject to domestic violence protection orders.<sup>36</sup>
- 1999** In *United States v. Emerson*, the Northern District of Texas US District Court strikes down a federal statute prohibiting the possession of firearms by persons subject to restraining orders, alluding to Thomas’s opinion in *Printz v. United States*.<sup>37</sup>
- 1999** In *United States v. Spruill*, the Western District of Texas US District Court upholds federal laws prohibiting firearm possession by persons subject to restraining orders.<sup>38</sup>
- 2001** The Fifth Circuit Court of Appeals upholds the District Court’s Ruling in *United States v. Emerson*, a ruling that the Supreme Court declines to review.<sup>39</sup>
- 2003** Backed by the National Rifle Association, the Tiahrt Amendments are provisions that have been attached to US Department of Justice appropriations bills since 2003 that significantly restrict law enforcement’s ability to investigate gun crimes and prosecute dodgy gun dealers. The Amendments currently prevent the Alcohol, Tobacco and Firearms Bureau (ATF) from releasing firearm trace data to cities, states, researchers, litigants, and members of the public, require the FBI to destroy all approved gun buyer records within twenty-four hours, and bars the ATF from requiring gun dealers to submit their inventories to law enforcement.<sup>40</sup>
- 2005** The Protection of Lawful Commerce in Arms Act (PLCAA) protects firearms manufacturers and sellers from liability when crimes have been committed with their products. They can only be held liable if they sell a firearm to someone whom they know intends to use the firearm to commit a crime. The Child Safety Lock Act of 2005 (CLSA), Section 5 of the PLCAA, makes it illegal for licensed firearms dealers to sell handguns to any person, other than another licensee, unless the buyer is provided with a secure gun storage or safety device for that handgun.<sup>41</sup>
- 2007** After the Virginia Tech University shootings, the NICS Improvement Amendments Act (NIAA) is passed. The NIAA fixes loopholes in the National Instant Criminal Background Check (NICS) system, such as requiring state agencies to report persons with mental conditions that preclude them from legally purchasing firearms to the attorney general.<sup>42</sup>

- 2008** In *District of Columbia v. Heller*, the US Supreme Court reverses the precedent set by *United States v. Miller* in 1939 and rules that the Second Amendment confers an “individual right” to bear arms. The Court strikes down a District of Columbia law that banned virtually all handguns and required that other types of firearms in a home be disassembled or always equipped with a trigger lock. The Court maintains that handguns are the “most popular weapon chosen by Americans for self-defense in the home.”<sup>43</sup>
- 2010** In *McDonald v. City of Chicago*, the US Supreme Court rules that Second Amendment rights are applicable to states through the Fourteenth Amendment, affirming that state governments cannot infringe upon the individual’s right to own firearms.<sup>44</sup>
- 2016** In *Caetano v. Massachusetts*, the US Supreme Court strikes down a ruling by a state court that upheld a ban on stun guns, stating that Second Amendment rights include owning firearms that were not in existence at the time the Constitution was written.<sup>45</sup>
- 2017** In *Kolbe v. Hogan*, the 4th Circuit Court upholds Maryland’s assault weapons ban, ruling that the Firearms Safety Act enacted after the Sandy Hook Elementary shooting does not violate the Second Amendment.<sup>46</sup>

## Research Guide to the Second Amendment

While the Second Amendment timeline recounts the official actions of our federal government, the debate surrounding those laws is complex. Government records are the best primary sources of this information, and many of those records are now digitized and can be found on government websites. Explore the following online government resources (and a few secondary sources) to find answers to such questions as, “Wasn’t there a third part of the Second Amendment originally?” “What does the Fourteenth Amendment have to do with the Second Amendment?” (Hint: *McDonald v. City of Chicago*), and “What does it take for Congress to enact new firearms laws?” (Hint: think presidentially).

### Congress

Congress.gov is the starting point for any federal legislative research.<sup>47</sup> A source of congressional legislation, the site also offers access to the primary Founding Documents in one place, including an annotated version of the US Constitution, The Declaration of Independence, and the Bill of Rights. Among the Founding Documents included on Congress.gov are the *Federalist Papers*, eighty-five essays written by three of

the Constitution’s authors—Alexander Hamilton, James Madison, and John Jay—in favor of its ratification by the thirteen states. *Federalist No. 29* by Alexander Hamilton ([www.congress.gov/resources/display/content/The+Federalist+Papers#TheFederalistPapers-29](http://www.congress.gov/resources/display/content/The+Federalist+Papers#TheFederalistPapers-29)) and *Federalist No. 46*

by James Madison ([www.congress.gov/resources/display/content/The+Federalist+Papers#TheFederalistPapers-46](http://www.congress.gov/resources/display/content/The+Federalist+Papers#TheFederalistPapers-46)) both discuss the notion of a well-regulated militia.

The *Congressional Record* at Congress.gov is published by the Government Publishing Office and reports the Congress’ daily proceedings dating to 1995. The index for the daily edition is published biweekly and is available on govinfo.gov dating back to 1983. The “History of Bills and Resolutions” for the daily edition of the *Congressional Record* is a separate collection in govinfo.gov and lists the House and Senate bills introduced in a congressional session and summarizes their legislative history.

The United States Congressional Serial Set Catalog within the Catalog of U.S. Government Publications ([catalog.gpo.gov](http://catalog.gpo.gov)) contains records for House and Senate reports, House and Senate documents, Senate executive reports and documents, and Senate treaty documents.

The Library of Congress (LOC) at loc.gov, the research arm of Congress, holds a digital collection of early historical legislative documents on its website at “A Century of Lawmaking for a New Nation, US Congressional Documents and Debates 1774-1875.”<sup>48</sup> The LOC also has webpages devoted to the Second Amendment. Start with the research guide entitled “United States: Gun Ownership and the Supreme Court”<sup>49</sup> and then Ruth Levush’s “Firearms-Control Legislation and Policy.”<sup>50</sup>

The *U.S. Code* at [uscode.house.gov](http://uscode.house.gov) is “an official consolidation and codification by subject matter of the general and permanent laws of the United States.”<sup>51</sup> Search the *U.S. Code* for codified versions of the National Firearms Act and the Gun Control Act. The Law Library of Congress ([loc.gov/law](http://loc.gov/law)) has digitized the *United States Statutes at Large* from 1789 to present. Reading the *Statutes* in their chronological order makes it easier to follow the evolution of the laws before they are codified into the *U.S. Code*.

House.gov, the portal to the US House of Representatives, has an organizational chart of the House, an index of congress persons with contact information, the House Leadership, and current legislative work.<sup>52</sup> Current House Bills pertaining to the



Second Amendment can be tracked here. Similarly, Senate.gov offers access to and information about the US Senate.<sup>53</sup>

The Congressional Research Service (CRS) consists of subject matter experts at the Library of Congress who prepare confidential, nonpartisan, factual reports for member of Congress about public policy. CRS reports such as “Gun Control: Statutory Disclosure Limitations on ATF Firearms Trace Data and Multiple Handgun Sales Reports” by William J. Krouse are solid resources but have not been readily found on government sites. Recently, Congress passed a law to place CRS reports under the umbrella of the Federal Depository Library Program. The Librarian of Congress has been directed to make all CRS reports equally accessible online.<sup>54</sup> Until that public website is ready, here are a few free online sites to find CRS reports:

- Archive-It.org
- CRSreports.com
- EveryCRSreport.com
- Federation of American Scientists (fas.org)

## The Courts

At SupremeCourt.gov you can find Opinions of the Court, which are collected in sets of books called reporters.<sup>55</sup> *The United States Reports* is the official edition, and digital bound versions can be found on the US Supreme Court's website. The bound volumes from number 502 forward and date from the October term of 1991 are published on the site. The Court's latest Slip Opinions that have yet to be bound are also available on the site. Use the advanced search option to find Court opinions but read the search tips first.



If searching for Court opinions on SupremeCourt.gov frustrates you, Google Scholar (scholar.google.com) makes its exhaustive collection of case law more easily searchable. Mark the “Case Law” button to search for US Supreme Court cases since 1791, Federal District Courts and Appellate Courts cases from 1923 and State Supreme Courts and State Appellate Courts cases from 1950.

Other free, solid resources for case law are Findlaw.com, where you can find Supreme Court Briefs from October 1999 to 2007, Cornell Law School's Legal Institute (www.law.cornell.edu/), and Oyez.org, a complete multimedia judicial archive of the U.S Supreme Court and source for all the Court's audio since October 1955. Listen to the Court's announcement of

its opinion in *District of Columbia v. Heller* at www.oyez.org/cases/2007/07-290.

## The Executive Branch

Three Federal agencies are tasked with the job of implementing firearms laws and are appropriately under the umbrella of the US Department of Justice.<sup>56</sup> The Bureau of Alcohol, Tobacco, Firearms and Explosives is the starting point for exploring the Second Amendment within the



executive branch, as the ATF owes its existence to firearms legislation. Central to the ATF's mission is the protection of the public from crimes involving firearms, explosives, arson, the diversion of alcohol and tobacco products, and to regulate lawful commerce in firearms and explosives.<sup>57</sup> The ATF issues rules and regulations that put the NFA and the GCA into effect, which can be found at atf.gov/rules-and-regulations/firearms-rulings. One of the ATF's tools is the National Tracing Center (NTC), the sole organization authorized to trace US and foreign manufactured firearms for international, federal, state, and local law enforcement agencies.<sup>58</sup>

The Bureau of Justice Statistics (bjs.gov) bills itself as the United States' primary source for criminal justice statistics.<sup>59</sup> Browse its site by the topic of “Crime Type,” then look at “Weapon Use” to find reports like *Firearm Violence, 1993–2011* by Michael Planty and Jennifer L. Truman, where you might be surprised to find the table 1, “Criminal Firearm Violence, 1993–2011.”<sup>60</sup>

The Federal Bureau of Investigations (fbi.gov) is mandated by the Brady Handgun Violence Prevention Act of 1993 to run the National Instant Criminal Background Check System that is used by licensed firearms dealers to instantly determine whether a prospective buyer can legally buy firearms.<sup>61</sup>

The *Federal Register* (federalregister.gov) is the official journal of the federal government and holds government agency rules, proposed rules, and public notices. Public notices are meant to inform citizens of impending regulations and offer them a timeframe to provide comments to the agencies who are proposing the regulations. The *Federal Register* is updated every business day, and the final rules issued by the federal agencies and published in the *Federal Register* are collected and codified in the *Code of Federal Regulations* (CFR), which is updated annually.

**TABLE 1**  
**Criminal firearm violence, 1993–2011**

Year	Total fatal and nonfatal firearm violence	Number			Rate of nonfatal firearm victimization <sup>c</sup>	Percent	
		Firearm homicides	Nonfatal firearm victimizations <sup>a</sup>	Nonfatal firearm incidents <sup>b</sup>		All violence involving firearms	All firearm violence that was homicide
1993	1,548,000	18,253	1,529,700	1,222,700	7.3	9.2%	1.2%
1994	1,585,700	17,527	1,568,200	1,287,200	7.4	9.3	1.1
1995	1,208,800	15,551	1,193,200	1,028,900	5.5	7.9	1.3
1996	1,114,800	14,037	1,100,800	939,500	5.1	7.9	1.3
1997	1,037,300	13,252	1,024,100	882,900	4.7	7.7	1.3
1998	847,200	11,798	835,400	673,300	3.8	7.0	1.4
1999	651,700	10,828	640,900	523,600	2.9	6.1	1.7
2000	621,000	10,801	610,200	483,700	2.7	7.3	1.7
2001	574,500	11,348	563,100	507,000	2.5	7.7	2.0
2002	551,800	11,829	540,000	450,800	2.3	7.4	2.1
2003	479,300	11,920	467,300	385,000	2.0	6.2	2.5
2004	468,100	11,624	456,500	405,800	1.9	6.9	2.5
2005	515,900	12,352	503,500	446,400	2.1	7.4	2.4
2006	627,200	12,791	614,400	552,000	2.5	7.4	2.0
2007	567,400	12,632	554,800	448,400	2.2	8.3	2.2
2008	383,500	12,179	371,300	331,600	1.5	6.0	3.2
2009	421,600	11,493	410,100	383,400	1.6	7.4	2.7
2010	426,100	11,078	415,000	378,800	1.6	8.6	2.6
2011 <sup>d</sup>	478,400	11,101	467,300	414,600	1.8	8.2	2.3

Note: See appendix table 3 for standard errors.

<sup>a</sup>A victimization refers to a single victim that experienced a criminal incident.

<sup>b</sup>An incident is a specific criminal act involving one or more victims or victimizations.

<sup>c</sup>Per 1,000 persons age 12 or older.

<sup>d</sup>Preliminary homicide estimates retrieved from Hoyert DL, Xu JQ. (2012) Deaths: Preliminary data for 2011. *National Vital Statistics Reports*, 61(6).

Sources: Bureau of Justice Statistics, National Crime Victimization Survey, 1993–2011; and Centers for Disease Control and Prevention, National Center for Injury Prevention and Control, Web-based Injury Statistics Query and Reporting System (WISQARS), 1993–2010. Retrieved March 2013 from [www.cdc.gov/ncipc/wisqars](http://www.cdc.gov/ncipc/wisqars).

Search the *Federal Register* website for rules and regulations that have been generated since 1994 to implement the NFA and the GCA. For a full listing of federal regulations browse [govinfo.gov](http://govinfo.gov). You will find a recently repealed Social Security Administration (SSA) rule that states the SSA’s plan to report mentally-challenged disability recipients who could not take care of their affairs to the NICS system at [www.federalregister.gov/documents/2016/12/19/2016-30407/implementation-of-the-nics-improvement-amendments-act-of-2007](http://www.federalregister.gov/documents/2016/12/19/2016-30407/implementation-of-the-nics-improvement-amendments-act-of-2007).

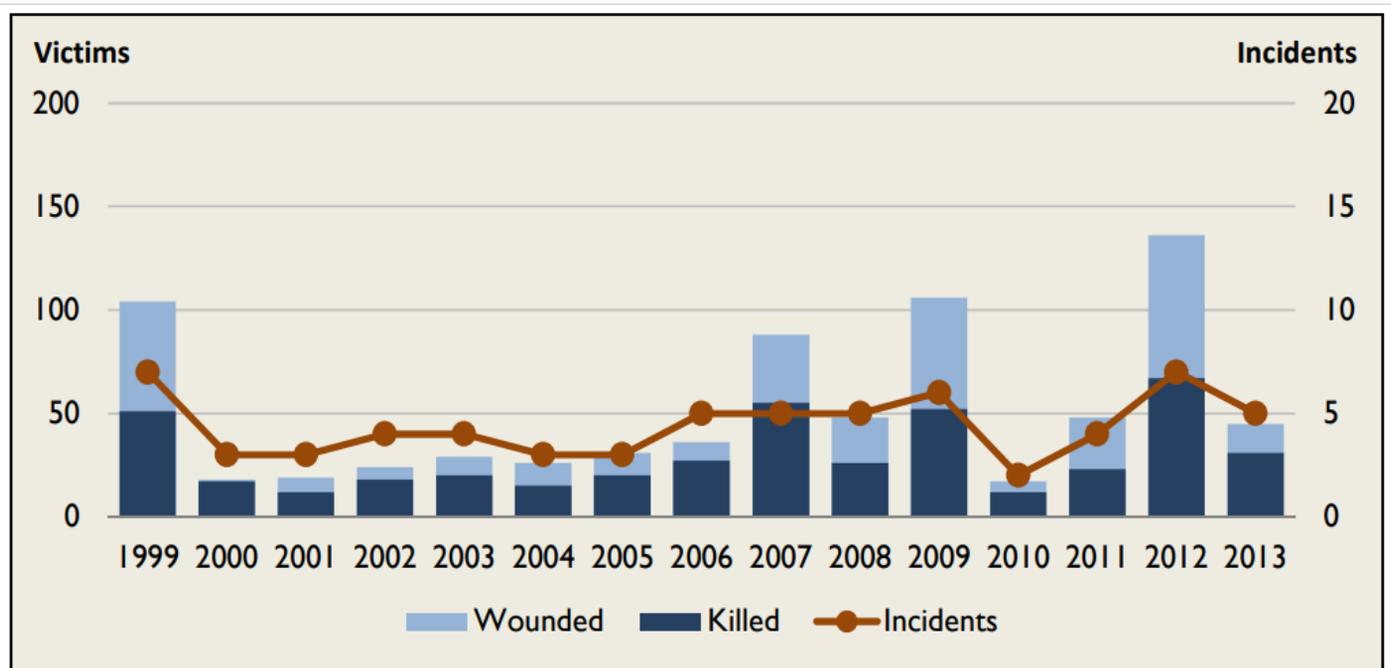
Science.gov is a federal public access portal that offers free access to research and development results and scientific and technical information from scientific organizations across thirteen federal agencies and is a solid source of statistical reports and analysis of firearm violence in the US and other countries.<sup>62</sup> Science.gov includes reports such as the CRS report “Mass Murder with Firearms: Incidents and Victims, 1999–2013” by William J. Krouse and Daniel J. Richardson with charts like figure 1.<sup>63</sup>

### One Stop Shopping

These are official online sources of federal government information and documents for all three branches:<sup>64</sup>

- Govinfo.gov is the US citizens’ official guide to federal government and a service of the United States Government Publishing Office (GPO). Govinfo.gov is “free U.S. Government information for all” and offers “free access to official publications.”<sup>65</sup>
- The Catalog of U.S. Government Publications (CGP) at [catalog.gcp.gov](http://catalog.gcp.gov) is the finding tool for federal government publications, which comprise the National Bibliography of U.S. Government Publications. “The CGP contains descriptive records for historical and current publications and provides direct links to those that are available online.”<sup>66</sup> To find publications issued prior to 1976, check the printed *Monthly Catalog* at a Federal Depository Library or log onto WorldCat.org, a global collection of library collections, as several





**Source:** CRS analysis of FBI Supplementary Homicide Reports, press accounts, agency press releases, and other compilations by mass media and advocacy groups.

**Notes:** “Mass public shooting” means a multiple homicide incident in which four or more victims are murdered with firearms—not including the offender(s)—within one event, and at least some of the murders occurred in a public location or locations in close geographical proximity (e.g., a workplace, school, restaurant, or other public settings), and the murders are not attributable to any other underlying criminal activity or commonplace circumstance (armed robbery, criminal competition, insurance fraud, argument, or romantic triangle).

Figure 1. Mass Public Shootings at Workplace, Schools, Restaurants, and Other Public Places (1999–2013)

Federal Depository Libraries have cataloged their complete depository holdings.

- The US Government Publishing Office (GPO) at [gpo.gov](http://gpo.gov) keeps US citizens informed “as the official, digital, and secure source for producing, preserving, and distributing official Federal Government publications and information products for Congress, Federal agencies, and the American public.”<sup>67</sup> Scroll to the bottom of their home page to find links to other federal resources.
- USA.gov is the official portal to the federal government and state, local, and tribal governments as well. Its mission is to “create and organize timely, needed government information and services and make them accessible.”<sup>68</sup>

Hopefully, this guide serves its purpose to inform and engage citizens in the debate surrounding the Second Amendment. The evolution of the interpretation of the Second Amendment from conferring a collective right held by the states to bestowing an individual right upon all Americans is revealed by

the documents the federal government has generated. Citizens have only to read them for themselves. No guide is complete, however, and for further research you should contact your local Federal Depository Librarian.

**D. L. Womble** ([womble56@uw.edu](mailto:womble56@uw.edu)), MLIS Candidate, University of Washington LIS526 Government Publications

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# Wine Not!

## Regulations Surrounding the Production of US Wines

Angela Cooke

*In the United States, wine consumption has grown continuously for the last twenty years. With more than seven thousand wineries across the country, wine has become an integral part of America's culture. As individuals have become more educated about wines the demand for higher quality wines has increased. These higher-quality wines are produced in specified areas throughout the United States and have numerous regulations affecting all aspects of production, ranging from conception and where the grapes come from, to marketing and what must appear on the label.*

For wine production in the United States, there are numerous and precise regulations. These regulations affect all aspects of wine production from conception to bottling. Specific policies help regulate where wine is produced, standardize labeling, and help classify types of wine. The purpose of these laws is to regulate all aspects of wine production and to help combat wine fraud. It also protects the public health, regulating the amount and types of additives that can be used in winemaking.

Wine is regulated by regional, state, and local laws, which can differ widely depending upon whether wines are classified as “New World” or “Old World” Wines.<sup>1</sup> A New World Wine is one produced outside of a “traditional” wine region, and are often from locations such as Argentina, Australia, New Zealand, and the United States. “Old World” areas are countries with an established history of wine production and tradition, as in the cases of Italy or France. Due to this distinction, and the vast variety of wine laws, this paper focuses strictly on American wine production, with some minor discussion of Old World wine standards and regulations for the purpose of comparison.

### American Wine

American wine has a history spanning three hundred years and it has become the fourth largest producer of wine following France, Italy, and Spain. All fifty states now have some acres in vineyard cultivation, each of which is known for producing

a unique variety of wine and for having its own local laws regarding wine production. The most popular and well-known regions of production in the country include the West Coast, with California producing around 90 percent of the country's total wine, totaling 680,272,512 gallons of wine in 2016.<sup>2</sup> Other well-known wine producing regions include the Great Lakes Region and the East Coast, most notably the Hudson Valley and eastern Long Island.

The Alcohol and Tobacco Tax and Trade Bureau (TTB), as part of the United States Department of Treasury, regulates and collects taxes on trades and imports of alcohol. The TTB was established under the Homeland Security Act of 2002 on January 24, 2003, dividing the Bureau of Alcohol, Tobacco, and Firearms (ATF) into two new organizations with separate functions. The *Federal Register* states that “the Act created a new tax and trade bureau within the Department of the Treasury, and shifted certain law enforcement functions of ATF to the Department of Justice. The Act called for the tax collection functions to remain with the Department of the Treasury; and the new organization was called the Alcohol and Tobacco Tax and Trade Bureau.”<sup>3</sup>

### AVA—American Viticultural Area

Determining the production location for an individual bottle of wine can be summarized in three letters: AVA, or American Viticultural Area. The AVA indicates the wine grapes' growing region, each of which have distinguishable geographic features.<sup>4</sup> The geographic location of a winery is significant, as the United States is vast with differing climates, soils, and crops, all of which influence the quality and taste of the wine. For this reason, when a US winery associates with a specific region, they are making claims that their wine holds qualities unique to that location. The first federally approved American Viticultural Area was the Augusta AVA in Missouri.<sup>5</sup> Due to flooding, a distinct soil type existed in the area, producing wine known

for distinctive flavors. Creating a wine with an AVA provides consumers with a kind of quality assurance, and can improve sales. This wine is known, or at least thought to be, of a higher quality, often resulting in higher wine and grape prices. Napa Valley, perhaps one of the most famous and well known areas, wasn't established until 1981.<sup>6</sup>

AVAs only apply to the United States, but other countries have similar regulations designating their wine production by region. In Italy, for example, a quality assurance label for wines is known as Denominazione di origine controllata (DOC).<sup>7</sup> There are different levels of labels such as DO, DOC, and DOCG, all of which require that wine be produced within a designated region using a predefined method. This is meant to ensure quality, and when you see one of the labels on a bottle, you can confidently say that you are holding a wine of a certain caliber.

So how are these areas designated? The TTB creates new AVAs at the request of the wineries and other petitioners. As of November 2016, there were 238 AVAs in the United States.<sup>8</sup> Applicants must provide evidence that growing conditions and physical features are distinctive to this area. The proposed area should also be locally or nationally known, with historical or current evidence that the boundaries are legitimate, and a US Geological Survey map of the area depicting these boundaries must be provided.<sup>9</sup> Once the area has been established, no less than 75 percent of the grapes used to create the wine must be from the AVA labeled region.<sup>10</sup>

The establishment of AVAs both helps and hurts the wine industry. As a benefit, it provides products from specific areas with a label showing their uniqueness, ultimately helping the sales of most wines in an established AVA. Unfortunately, some existing wineries within newly designated AVAs are at a disadvantage. Older wineries with established ways of production now have a new set of rules that dictate their product.<sup>11</sup> In 2011, there was a revision of the American Viticultural Area regulations to help combat some of the negative issues caused by newly established AVAs. Notably, the TTB added grandfathering standards that allow the continuance of a brand label that had been in commercial use prior to the AVA petition.<sup>12</sup>

## Labeling Wine

Wine labels are an important source of information for consumers. The label is the only resource buyers have to evaluate the product before purchasing, so it comes as no surprise that great significance is assigned to this small piece of paper. The Federal Alcohol Administration Act sets regulations for the labeling of wine, requiring the TTB to review and approve all alcohol labels and advertising. This ensures that labeling and advertising of alcoholic beverages provides important product

information to the consumer, which helps prevent consumer deception. In 1988, Congress passed the Alcoholic Beverage Labeling Act to further help with the regulation of alcoholic marketing.<sup>13</sup> The Act requires the inclusion of a government warning to ensure that

the American public be informed about the health hazards that may result from the consumption or abuse of alcoholic beverages, and has determined that it would be beneficial to provide a clear, non-confusing reminder of such hazards, and that there is a need for national uniformity in such reminders in order to avoid the promulgation of incorrect or misleading information and to minimize burdens on interstate commerce.<sup>14</sup>

The Health Warning Statement must appear on all beverages containing 0.5 percent alcohol or higher. The law indicates how the label should appear on a bottle, including the exact language, color of text, and size of letters. It reads "GOVERNMENT WARNING: (1) According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects. (2) Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery, and may cause health problems."<sup>15</sup>

The general requirements for the label are also outlined in the *Code of Federal Regulations* (CFR). The label must be in English, except for that of the brand name, if applicable. The labels must be legible and in a font size of no smaller than two millimeters, and there is a required font size for all information other than the alcohol content. The CFR states, "the Alcoholic content statement shall not appear in script, type, or printing larger or more conspicuous than 3 millimeters nor smaller than 1 millimeter on labels of containers having a capacity of 5 liters or less and shall not be set off with a border or otherwise accentuated."<sup>16</sup> There is other mandatory labeling information that must appear on wine bottles that differentiates one bottle from another. This information indicates who produced the wine and where, the brand name, address of producer, and the viticultural area. The brand name, which identifies the winery, cannot mislead the consumer about the age, origin, or identity of the product. The name and address of the bottler must also appear of the container, as the regulation states, "A label on each container of American wine shall state either 'bottled by' or 'packed by' followed by the name of the bottler or packer and the address."<sup>17</sup> To further indicate how the wine was produced, the words "produced by" can only be used when no less than 75 percent of the wine was fermented at the address listed. The

same is true of the phrase “Vinted by,” which means that the wine was cellar treated on site.<sup>18</sup>

Additional information on a wine label informs buyers of alcohol content and varietal designations, or grape type. Alcohol content can be found on most labels and must be present on those containing 14 percent or more. There is explicit language and abbreviations that indicates alcohol content, and it must indicate percentage of alcohol by volume. The required phrasing is, “Alcohol \_\_\_ % by volume,’ or similar appropriate phrase; *Provided*, that if the word ‘alcohol’ and/or ‘volume’ are abbreviated, they shall be shown as ‘alc.’ (alc) and/or ‘vol.’ (vol), respectively.”<sup>19</sup> Varietal designations are often included on labels to indicate the grape type used, such as Merlot or Chardonnay, and Title 27 of the CFR states, “The names of one or more grape varieties may be used as the type designation of a grape wine only if the wine is also labeled with an appellation of origin.”<sup>20</sup> The grape variety must be previously approved by the TTB and needs to comprise 75 percent or more of the bottle contents. As with other aspects of regulation, this type of specific distinction adds to the quality assurance process.

## Conclusion

There is so much more to say about the many regulations and restrictions in the winemaking process, and this paper only provides a small introduction, focusing mainly on the contents of the wine bottle, where it came from, and what needs to be displayed on the bottle. There are even more regulations, which are not addressed here, including those that regulate which grapes can be used, the names of these grapes varieties, how much sugar can be added to the product, and when additives and sugars can be introduced during the winemaking process. There are also laws regarding taxes, sale, and importation/exportation of wine.

Wine is a complex product that many people love. It can be produced in countless ways in every country, each with its own unique flavor and experience. With each area of the world having different soil concentrations, and thus producing a different variety of grapes and wines, the intrigue of the drink is undeniable. There is something about wine that people love, causing them to obsess over collecting and tasting wines from different regions. Rules and regulations help maintain the character of each region, and assist in marketing each wine’s uniqueness to the public in a safe way. Without regulations, the wine industry would not be the quality driven, high class market we think of today.

**Angela Cooke** (acooke209@gmail.com), MSLIS  
Candidate, Pratt Institute School of Information

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# Investigating a Serial Killer

## The Development of the FBI's Role Told Through Public Documents

Kaylee Osowski

The number of serial killers, those who have murdered three or more people at separate times in the United States,<sup>1</sup> has declined from its peak 128 in 1987 to just 15 in 2015.<sup>2</sup> But people's fascination with them has not waned. The Netflix drama *Mindhunter* aired in October 2017 and gave true-crime fanatics a Hollywood view of the early days of the Federal Bureau of Investigation's (FBI) work on criminal profiling and its involvement with local law enforcement agencies on investigations.

However, the FBI can't take over a local police department's serial murderer case.<sup>3</sup> In order to investigate a potential serial killer, "a request by an appropriate state official is required," but that does not mean the FBI idly waits for police to ask for assistance. Government documents detail how the Bureau's role has developed.

### The Beginning

In its infancy, the FBI handled few violent crimes.<sup>4</sup> Whether the Bureau stepped in during the early 1900s primarily depended on the location of the crime. Government property, Native American reservations, and open water, for example, fall under the FBI's jurisdiction.

In the 1930s, a single kidnapping and murder case brought a change to the Bureau's role.<sup>5</sup> Around 9 p.m. on March 1, 1932, someone used a ladder to abduct toddler Charles Augustus Lindbergh Jr. (figure 1), son of famous aviator Charles Lindbergh, from a second-floor room of the Lindberghs' home. The day after the kidnapping, FBI Director J. Edgar Hoover told the New Jersey State Police the Bureau would provide any resources necessary for the case. A man accidentally found the boy's body on May 12, 1932. In the fall of 1933, the FBI was given authority to handle the "investigative features of the case." Examination of ransom notes, gold certificates, and the ladder led to the arrest, conviction, and 1936 execution of Bruno Richard Hauptmann for first-degree murder.

Around the time of the Lindbergh case, the Bureau also used any federal laws it could to arrest and convict gangsters



Figure 1. Charles Lindbergh Jr., who was kidnapped and murdered by Bruno Hauptmann in 1932. Source: Federal Bureau of Investigation, *Charles Lindbergh Baby*, (1930s), <https://multimedia.fbi.gov/?q=charles%20lindbergh&perpage=50&page=1&searchType=image>.

that contributed to a rise in violent crime in the 1920s and 1930s.<sup>6</sup> According to FBI, local police weren't equipped to handle gangsters in part because they couldn't cross jurisdictions. After its work in the Lindbergh case, The FBI continued to work on some violent crime cases with local agencies, including serial killer cases in the 1950s and 1960s.

### The Rise of Serial Killers

In the early 1970s, Americans saw an increase in the frequency of serial killers, a term that was just beginning to be used.<sup>7</sup> Using the 2005 FBI definition of a serial killer, "the unlawful killing of two or more victims by the same offender(s), in separate events," figure 2 shows the frequency of serial killers in the 1970s was 605, compared to 217 in the 1960s.<sup>8</sup> During this increase, FBI Special Agent Howard Teten and others began considering the psychological science of serial killers. They launched the Behavioral Science Unit in 1972, which was later renamed the Behavioral Analysis Unit (BAU). Agents

### Serial Killer Frequency by Decade (Decade of First Kill)

Decade	US	International	Total
1900	49	23	72
1910	52	23	75
1920	62	41	103
1930	55	31	86
1940	55	45	100
1950	72	41	113
1960	217	76	293
1970	605	160	765
1980	768	217	985
1990	669	322	991
2000	371	295	666
2010	117	113	230

Source: Radford University/FGCU Serial Killer Database

Updated 9/4/2016

Figure 2. Serial Killer Frequency by Decade. Source: M.G. Aamodt, *Serial Killer Statistics*, (2016), 4–5, [maamodt.asp.radford.edu/Serial%20Killer%20Information%20Center/Serial%20Killer%20Statistics.pdf](http://maamodt.asp.radford.edu/Serial%20Killer%20Information%20Center/Serial%20Killer%20Statistics.pdf).

John Douglas and Robert Ressler conducted interviews with thirty-six of the most notorious serial killers of that time.<sup>9</sup> Their techniques and findings have been shared with local agencies through training and case assistance.

Congress's view on the FBI's involvement in serial killer cases can be seen in legislation from the 1980s. At a 1983 hearing on serial murders, attendees discussed the plan for a National Center for the Analysis of Violent Crime (NCAVC), a resource center to help agencies deal with violent crimes by assisting with training, research, and criminal profiling.<sup>10</sup> NCAVC became a reality shortly after the hearing. At that same hearing, the Bureau introduced the concept for the Violent Criminal Apprehension Program (ViCAP)—a data information center to collect, analyze, and provide reports on violent crimes from local agencies.

Lawmakers heard about ViCAP again in 1986,<sup>11</sup> shortly after it was implemented. The goal of ViCAP is to make connections between agencies reporting similar patterns of violent crimes so law enforcement officials can better communicate and arrest a suspect. Agencies can send reports to the FBI to be analyzed and entered into ViCAP. The reporting agency is notified of the results or lack thereof. FBI Executive Assistant Director John Otto told members of Congress that statistics

from the past decade showed that violent crimes like serial murder “represent a serious challenge to the (local) law enforcement community.” Otto provided a 1974 example of such a serial killer. First, ten women in Washington state vanished in eight months. Then a similar case of disappearing women occurred in Utah. The killer, Ted Bundy, can be seen in figure 3. He twice escaped prison in Colorado and went on to kill three women in Colorado and three in Florida.<sup>12</sup> Authorities arrested Bundy in Florida for a stolen car, and he was tried and sentenced to death for murder. At the time of the 1986 hearing, he was believed to have killed twenty-four to thirty-six women. Before his execution, FBI agents interviewed Bundy while developing their criminal profiling techniques.<sup>13</sup>

According to Otto, the authorities in each affected state had no way of linking the crimes.<sup>14</sup> Jurisdictional boundaries hindered their ability to do so typically because the agencies were unaware of one another's cases. While the FBI has the authority to act in all jurisdictions, when it comes to violent crime, it is limited to being asked by local authorities to assist. “Because many serial criminals deliberately cross police jurisdictions in the conduct of their crime sprees,” Rep. Glenn English said, “I believe that the federal government owes an obligation to assist to the greatest extent possible in such cases.”<sup>15</sup> ViCAP became the FBI's solution to make connections between agencies that might be dealing with the same serial killer.

## The FBI's Developing Role with Technology

The 1990s saw more new initiatives, including the Violent Crime Control and Law Enforcement Act of 1994. The act directed the attorney general to expand training for state, tribal, and local agencies and create a pilot system to gather and analyze information from federal, state, and local agencies to support violent serial crime investigations.<sup>16</sup>

In the mid-1990s, the FBI formed the Child Abduction and Serial Killer Unit (CASKU), which sends agents into the field when children are kidnapped or murders occur. At a 1995 hearing about the new unit, attendees discussed an apparent lack of coordination between federal, state, and local agencies to solve serial killings.<sup>17</sup> FBI Critical Incident Response Group Special Agent in Charge Robin L. Montgomery said CASKU utilizes ViCAP, but to be most effective, state and local law enforcement need to report violent crimes quickly.<sup>18</sup> A statement from FBI Child Abduction and Serial Killer Unit Supervisory Special Agent William Hagmaier III noted that crimes between different jurisdictions can't be linked if agencies don't report cases to ViCAP.<sup>19</sup>

The FBI gathers and publishes crime stats as part of the Uniform Crime Reporting Program (UCR), which was conceived in 1929.<sup>20</sup> Today, more than 18,000 agencies throughout the United States participate in the program, providing crime data relating to many different crimes including murders. From when ViCAP launched in 1985 through 1993, law enforcement officers reported 198,287 murders to the UCR, and about 4.25 percent of those were reported to ViCAP. Along with reporting to ViCAP to find linkages between cases, agencies dealing with violent crimes and can ask the FBI to assist with their investigations. That assistance can include criminal profiling, crime analysis, investigative strategies, interview techniques, linkage possibilities, and prosecution guidance.<sup>21</sup>

Congress established the Morgan P. Hardiman Child Abduction and Serial Murder Investigative Resources Center (CASMIRC) under public law in 1998.<sup>22</sup> CASMIRC is managed by the FBI's NCAVC and other resource teams in field offices. It provides resources, advice, and training to local agencies working on cases of missing, kidnapped, or murdered children and serial murders. This extends to investigation support in the form of onsite assistance and coordination of other federal agencies. CASMIRC is also responsible for conducting related research and operating a central database for information from state and local law enforcement about these types of cases.

Along with managing the resources center, the NCAVC's role has changed since its implementation to include four Behavioral Analysis Units (BAU) and the Violent Criminal Apprehension Program.<sup>23</sup> These programs aid local police departments, most of which have not had experience with serial murder cases.<sup>24</sup> During a 2011 episode of an FBI podcast, Supervisory Special Agent and BAU-2 Unit Chief Mark Hiltz said, "The case remains their case. . . . We're there at their request and at their assistance. They're going to be the ones that actually solve the case."<sup>25</sup> When the FBI assists with a case, much of the agents' time is spent reading case documents prepared by local law enforcement. The BAU agents provide the local officers with their findings and advice, which the local department can then determine how to use.

The FBI's responsibilities to provide local agencies with behavioral analysis services, share criminal information, collect fingerprint cards and identification records, train state and local law enforcement officials, and operate the National Crime Information Center and the FBI laboratory are outlined in Title 28 of the *Code of Federal Regulations*.<sup>26</sup>

The DNA Identification Act of 1994 allowed the FBI to establish the National DNA Index System (NDIS),<sup>27</sup> which has DNA profiles from federal, state, and local laboratories. The Combined DNA Index System (CODIS) is the FBI's program

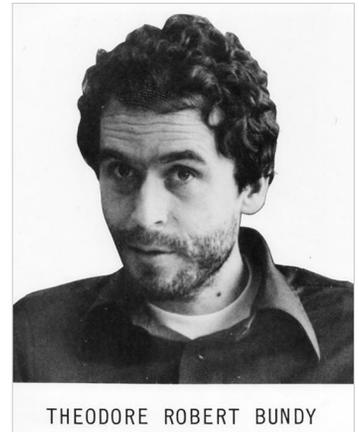
supporting local, state, and the national DNA databases. CODIS has helped link and solve cases by matching evidence to convicted offenders. When CODIS identifies a match, the involved laboratories are contacted, and the various law enforcement agencies can coordinate their investigation. As of June 2018, NDIS contained 13,413,029 offender profiles, 3,174,013 arrestee profiles, and 864,128 forensic profiles.<sup>28</sup> CODIS is credited with assisting in more than 409,788 investigations since it launched.

In 2004, the FBI launched the Highway Serial Killings Initiative to raise awareness of interstate serial killers.<sup>29</sup> The victims in these cases are commonly transients and the suspects are often long-haul truck drivers. In 2009, the FBI used ViCAP, which includes information on homicides, sexual assaults, missing persons, and unidentified human remains, to create a national listing of murder victims along or near highways and potential suspects. According to a 2017 FBI podcast, more than four hundred suspects and seven hundred victims have been identified since the initiative launched.<sup>30</sup>

The FBI also assists with information dissemination to the media.<sup>31</sup> In an interview with an Anchorage, Alaska, news station, criminal profilers explained that was part of the FBI's role for investigation into serial killer James Dale Ritchie, who murdered up to five people in Anchorage in 2016 before he was killed in a shootout with police. The profilers also provided police with suggestions about the investigation, including to consider the case from a behavioral view.

## Questioning Criminal Profiling

The FBI's role in serial killer and other violent crime cases has grown from that of handling issues in its own jurisdictions to providing direct assistance when asked by state or local agencies as well as providing laboratory, database, training, and other indirect services. One of the most controversial services is using the details of crimes to try to determine personality, behavioral, and lifestyle characteristics of an offender—in other words, creating a criminal profile.



THEODORE ROBERT BUNDY

**Figure 3. Serial killer Ted Bundy admitted to killing 36 people before he was executed in 1989. Source: Federal Bureau of Investigation, Serial Killer Ted Bundy, (Date range 1974-1978), multimedia.fbi.gov/?q=tred%20bundy&perpage=50&page=1&searchType=image.**

Supervisory Special Agent and Profiler Michael Yonder noted in the interview about the Ritchie case that FBI profilers used to rely on childhood precursors,<sup>32</sup> such as incidents that involved the suspect inflicting pain to other children or themselves while growing up. Yonder said there are “no common precursors,” and the FBI now looks at cases individually and specifically and then considers whether they are behaviorally or forensically linked.<sup>33</sup> However, current methods are still criticized, and research questions the success and science of criminal profiling.

The FBI uses crime scene and victim traits to determine a possible profile for a serial killer.<sup>34</sup> This is done by using known subjects and patterns of behavior and applying them to current cases. According to the Bureau, certain traits and personal characteristics appear to fall under either organized crimes—those that are done with a meticulous method—or disorganized crimes. However, nongovernment research has increasingly questioned this approach, noting the FBI doesn’t consider behavioral frequency across events,<sup>35</sup> female behaviors, behavior that falls between organized and disorganized,<sup>36</sup> or offenders that show both organized and disorganized characteristics.

Problems also arise when profiles are “overly specific” and stated with “overconfidence,” Criminologist Dan Kennedy said in an interview.<sup>37</sup> Some studies have concluded that evidence supporting the success of profiling is lacking and have noted that profilers are reluctant to cooperate with research. The FBI has pointed to the continued request of profiling as proof that it works. In the mid-1980s, local law enforcement requested FBI assistance on about six hundred cases annually.<sup>38</sup> In the 1990s it grew to about one thousand cases each year.<sup>39</sup> Kennedy cites numbers about profiling from a 1984 study by Pinizzotto.<sup>40</sup> In 192 cases using criminal profiling, Pinizzotto found that 88 were solved. Local police reported the profile had been somewhat helpful in 83 percent of the solved cases. However, they also reported that the profile helped to identify the suspect in only fifteen of the cases. Pinizzotto’s findings gave Kennedy “little confidence that profiling works.”<sup>41</sup>

## Information Access

Depending on the depth of information a researcher is interested in, they may find what they need on the FBI’s website. The site provides publications, webpages, and podcasts on some current programs as well as operation protocols. Some of these provide links or include the public laws that define the FBI’s role. Users can also find brief histories and a variety of key cases used in developing FBI practices for working on serial killer cases.

However, if researchers are interested in how the FBI’s role developed, congressional documents are key resources. Even with these, it can be hard to connect the dots between what occurred to lead to a change. Between the launch of ViCAP in 1985 and the implementation of the Violent Crime Control and Law Enforcement Act of 1994 and CASKU in the mid-1990s, information about serial killers and the FBI’s role is difficult to find. It could be that not much occurred in that time period as little reference is made to any changes in later documents. Information from 1994 to today is also challenging to locate. Most of the congressional documents relating to serial killers in the past twenty years deal with DNA. One reason that documents outside of those about DNA are difficult to find could be because serial killer frequency has decreased. In the 1990s the frequency of serial killers of two or more victims was 669.<sup>42</sup> In the 2000s it was 371. It may be the opinion of Congress and the FBI that the legislation and regulations from the 1980s and 1990s have been working, so nothing new has been needed.

Finding statistics in the form of digestible tables and charts also takes some digging. Some are built into FBI publications, but much of the more easily locatable data provides a bigger picture of violent crimes such as figures for all murders in a certain year and place instead of focusing on just serial murders. The FBI does publish homicide information it has collected from agencies that participate in the UCR. While these provide murder statistics, they do not specifically provide serial murder statistics.<sup>43</sup> The National Incident-Based Reporting System (NIBRS) launched in 1991 and collects more information on each crime reported providing circumstance and context details that UCR doesn’t, but it also doesn’t provide specific information on serial killer crimes.<sup>44</sup> *Homicide Trends in the United States*, a series from the Bureau of Justice Statistics, provides some information on multiple victims, but it is unclear if the victims were murdered at the same time or different events, which would determine if the murders were serial or not.<sup>45</sup>

What constitutes a serial killer further complicates locating information. In 2008 FBI behavioral analysts defined serial murder the same as they had in 2005, as “the unlawful killing of two or more victims by the same offender(s), in separate events.”<sup>46</sup> In public law, it is defined as three or more killings.<sup>47</sup>

Researchers interested in information that questions the FBI’s role or tactics in assisting with serial killer cases must look outside of government documents. Serial killers have fascinated people for decades, so there is no shortage of information in popular media. Some well-researched articles provide information and links to in-depth studies that take a critical look at the Bureau’s role, but many have a particular interest in profiling

and don't take a holistic view. These types of studies are also available directly primarily on psychology-focused databases.

## Conclusion

While Hollywood provides portrayals of FBI agents, they are not all necessarily accurate.<sup>48</sup> The FBI is at times shown as an agency that takes over when it comes to assisting with a case. Three former agents told *Business Insider* in 2016 that is not how it is done.<sup>49</sup> Government documents show that the Bureau's role has grown since it first started investigating serial murderers, but these documents do not show the whole story. It is hard to discern what works and what doesn't for different FBI tactics like criminal profiling or statistically how successful the FBI is when it becomes involved in a serial killer case. Even how often and to what degree the FBI gets involved in serial killer cases is also difficult to determine from government publications. This information should be available for public examination. Aside from the fascination of crime and criminal minds, people have an interest in the politics, methods, accuracy, and success or failure of the FBI's role in these cases. Increasing the availability of this information better informs the public providing a clearer lens through which people view the FBI's role instead of through the lenses of Hollywood cameras.

**Kaylee Osowski** (osowskik@uw.edu), MLIS Candidate,  
University of Washington, Seattle.

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