

< Historian Uncovers The Racist Roots Of The 2nd Amendment

35-Minute Listen

DAVE DAVIES, HOST:

This is FRESH AIR. I'm Dave Davies in today for Terry Gross. In the 1990s, gun rights advocates, including the National Rifle Association, condemned federal authorities' assault on the Branch Davidian compound in Waco, Texas, asserting that law-abiding citizens had a Second Amendment right to own guns for their self-defense. But our guest historian, Carol Anderson, says those groups have been noticeably quiet when police shoot African Americans who are legally carrying firearms and presenting no threat to the officers involved.

In a new book, Anderson argues that sharp racial distinctions in Americans' treatment of gun ownership go back to the founding of the republic. The language of the Second Amendment itself, she writes, was crafted to ensure slave owners could quickly crush any rebellion or resistance from those they'd enslaved. And she says the right to bear arms, presumably guaranteed to all citizens, was repeatedly denied to African Americans with brutal consequences.

Carol Anderson is the Charles Howard Candler Professor and chair of African American Studies at Emory University. Her previous books include the bestseller "White Rage" and the 2018 book "One Person, No Vote: How Voter Suppression Is Destroying Our Democracy." Her new book is "The Second: Race And Guns In A Fatally Unequal America." She joins us from her home in Atlanta.

Carol Anderson, welcome to FRESH AIR.

CAROL ANDERSON: Oh, thank you so much for having me.

DAVIES: You know, you open the book by noting there are some distinctions in the outrage of the National Rifle Association and other gun rights advocates over citizens' possession of guns. You want to cite an example or two of this?

ANDERSON: Yes. And what drew me to this book was the killing of Philando Castile up in Minnesota. And here was a Black man who was pulled over by the police. And the police officer asked to see his identification. Philando Castile's using the NRA guidelines, alerts the officer that he has a licensed weapon with him. So he has a licensed gun. The police officer began shooting.

So here is a Black man who was gunned down for having a gun. And the NRA went virtually silent - virtually silent - and was only pushed and - to make what I call a non-statement statement - we believe that everybody should have the right to bear arms regardless of race - and nothing more after that except to say, well, you know, we can't really weigh in on this until after the investigation. But this is the same group that called federal officers jackbooted thugs for what happened in Waco and what happened at Ruby Ridge when federal officers were actually gunned down. And the question was, do Black people have Second Amendment rights? And that's what I went looking for - do we?

DAVIES: And you take us on a journey back to the days of colonial times and precolonial times. This is really fascinating stuff. You know, gun rights advocates cite the Second Amendment with, you know, an almost religious devotion, you know, talking about the right to bear arms. People forget the other part of the amendment that talks about a well-regulated militia.

There's interesting history. Let's just go back. In the mid-18th century, in the revolutionary era, what were the state militias? I mean, what did they do? When were they assembled? What was their function?

ANDERSON: The state militias, particularly the state militias in the South, their primary function was to put down slave revolts, to buttress the work of the slave patrols who were there to go into the slave cabins looking for contraband, looking for weapons, looking for books. We saw the role of the militia primarily when you had a massive slave uprising in Stono, S.C. It was called the Stono Rebellion in 1739. South Carolina responded with a law saying that if you found an enslaved person trying to get to Spanish Florida, scalp them - also responded with the 1740 Negro Act that defined who the enslaved were. They are absolute slaves, for now and for those not yet born, and that they do not have the right to - access to weapons nor to books - and so really setting up the parameters of slavery and what would be enforced by the militia and by the slave patrols.

DAVIES: So certainly in the South, African Americans didn't have access to firearms, and slave owners were very vigilant about suppressing any resistance or rebellion. Then comes the revolt against the crown of Great Britain. And there was a need to raise a continental army. And there weren't as many soldiers as the, you know, as the founders hoped they could get. And there was a question, what about African Americans' service - ability to serve in slave states and in non-slave states? What was the policy?

ANDERSON: And the policy in 1775 was that no African Americans, no Black people, would be able to serve in the Continental Army. But a series of British victories and the fact that the militias were proving not to be up to the task of fending off a professional army and that you weren't getting enough white men to enlist in the Continental Army, to volunteer to fight, really began to change that policy. So one of the things that you saw

happening in the North was being willing to emancipate their enslaved people, their enslaved men, if they were willing to fight for the patriots. That began to - and this - so this is one of the things - there was slavery in the North. You have Connecticut and you have, I believe, New Jersey that are saying, OK, fine. If you fight for us, you will be free.

DAVIES: And the British had their own offers, too, didn't they?

ANDERSON: Oh, absolutely. They realized that there was a large enslaved population here in the United States, or in the colonies, that wanted freedom. And so the British offered that any enslaved man who was owned by a rebel and would fight for the British would gain his freedom. And you had this mass exodus of enslaved folks running to fight for the British because of that offer of freedom.

And this was sending a panic through the colonists. There was this fear. I believe Benjamin Franklin was like, they're going to have our Negroes fighting armed against us. And you - again, the patriots had said, no, we are not going to have Black people fighting in the Continental Army. So when you have this mass of Black folks fighting for the British and you don't have enough white men fighting for the patriots in order to really staff the Continental Army and you've got the militia that's really not being able to fend off the British with any kind of level of effectiveness, they were having a personnel crisis of the first magnitude.

DAVIES: Right. And, you know, you're right that after the war, the sort of narrative was that African Americans had betrayed their country by all fleeing to the British and supporting the crown. The reality was something different, wasn't it?

ANDERSON: The reality was very different. After the patriots had opened up access to fighting is that you also had a wave of Black men then joining the

Continental Army and that they served longer terms. They had a lower AWOL rate than whites. And they were paid less. But they were willing to fight for this nation. And the Continental Army was an integrated army, something that we would not see - whew - until the Korean War.

DAVIES: Right. And what do they get for it?

ANDERSON: (Laughter) They got a narrative that they were the enemies within. They got a narrative that this was a nation conceived by and fought for by only white men.

DAVIES: You know, the Second Amendment was crafted after the constitutional convention as part of the Bill of Rights. And it, of course, talks about a right to bear arms. It also deals directly with militias, particularly state militias. How is this an expression of racism in its day?

ANDERSON: It was in response to the concerns coming out of the Virginia ratification convention for the Constitution, led by Patrick Henry and George Mason, that a militia that was controlled solely by the federal government would not be there to protect the slave owners from a enslaved uprising. And it was the way that James Madison crafted that language in order to mollify the concerns coming out of Virginia and the anti-Federalists, that they would still have full control over their state militias. And those militias were used in order to quell slave revolts.

DAVIES: Right. So the fear was that a Union which was dominated by northern states would simply not see those militias for the same purposes the South did. They would take them for - you know, draft them for other purposes, like from a foreign invasion, and leave the job of guarding against the slave revolt unfilled. So in the end, what happens is the South agrees to join the Union. In - but part of it was that they had an assurance that their own militias would be seen as independent, used for their own purposes,

i.e., suppressing slave revolts, right?

ANDERSON: Yes. Yes. In that, the Second Amendment really provided the cover, the assurances that Patrick Henry and George Mason needed that the militias would not be controlled by the federal government, but that they would be controlled by the states and at the beck and call of the states to be able to put down these uprisings.

DAVIES: We need to take a break here. Let me reintroduce you. We are speaking with Carol Anderson. She is a professor at Emory University. Her new book is "The Second: Race And Guns In A Fatally Unequal America." She'll be back to talk more after a short break. I'm Dave Davies. And this is FRESH AIR.

(SOUNDBITE OF DAN AUERBACH SONG, "HEARTBROKEN, IN DISREPAIR")

DAVIES: This is FRESH AIR. And our guest is historian Carol Anderson. Her new book about the sharp racial distinctions that have governed Americans' application of the Second Amendment right to bear arms is called "The Second: Race And Guns In A Fatally Unequal America."

In the early years of the Republic, so citizens were guaranteed a right to bear arms in the Second Amendment, right? And state militias were - their independence was enshrined by the Second Amendment. There was this unanswered question of who exactly is a citizen, you know, who have these rights. And Congress kind of addressed this in the Naturalization Act of 1790, right? What did they tell us?

ANDERSON: Basically, if you had white skin, you could be a citizen. And your children who were under the age of 21 when you got your citizenship, they could be citizens. But what that did, that Naturalization Act, it basically left free Blacks in this quasi space of denizen - not quite enslaved, but not a

citizen either, not with the full rights of citizenship.

DAVIES: So citizenship really out of their grasp at that point. So the South had gotten, you know, the independence of their militias. What rules governed the private possession of weapons as far as Black people in the South or the North after the revolution?

ANDERSON: You saw incredible restrictions being put in place about limiting access to arms. And this is across the board for free Blacks and, particularly, for the enslaved. And with each uprising, the laws became even more strict, even more definitive about who could and who could not bear arms. And so free Blacks were particularly proscribed. And so we see this, for instance, in Georgia, where Georgia had a law that restricted the carrying of guns. And in a court decision, the court ruled that that law violated the Second Amendment. But what the court did not do was to also overturn the Georgia law that prohibited free Blacks from carrying weapons. So that same court did not say that that law that prohibited free Blacks from carrying weapons, owning arms, that that violated their Second Amendment rights.

DAVIES: So this was a time when there was a lot of anxiety among ruling whites about the possibility of slave revolts. And part of this, of course, had to do with the fact that this was the age of revolution. I mean, there was the American revolt against the British crown, and after that, the French Revolution, you know, the idea of liberty, equality and fraternity. There was a concern that this was going to get into the heads of the enslaved Americans, right?

ANDERSON: Oh, absolutely. And really, what stoked that was the Haitian revolution. So when Haiti began to overthrow the French colonial masters, when Blacks were seizing that country for themselves, the violence of the

Haitian revolution, the existence of the Haitian revolution just sent, basically, an earthquake of fear throughout the United States. You had George Washington lamenting the violence. You had Thomas Jefferson talking about he was fearful that those ideas over there. If they get here, it's going to be fire. You had James Madison worried about the Haitian revolution.

And they're also worried because whites who were fleeing Haiti and were bringing their enslaved people with them, when they showed up in Virginia, it was like, oh, there are too many of them. And the ideas that these Black Haitians would have, that somehow those ideas of revolution, those ideas of racial justice, those ideas of freedom and democracy would just metastasize throughout Virginia's Black enslaved population and cause a revolt. You had that same fear coming out of Baltimore, that then began to open up the public armory to whites saying, you are justified in being armed because they're bringing too many of these Black Haitians, these enslaved Haitians, up here who have these ideas that Black people can be free.

DAVIES: You know, and you have a remarkable quote in here from Thomas Jefferson - I don't know that I'd ever heard this - where you said, quote, he could, quote, "see himself as the target of a justifiable revolution by his own slaves." Well, not just fear, but recognition of the - (laughter) of the oppression itself.

ANDERSON: Yes. And I think that that was also part of what was driving this fear, the sense of retribution. What had been happening to the Black folks in slavery - the burnings, the castrations, the - you know, the poking out of eyes, all of those things - the stealing of the labor, of their lives, that what freedom meant for Black people was retribution against whites. And that's how they interpreted what they saw in Haiti. As the reports were coming through, it was, oh, my gosh. Nobody white is safe. One man wrote to - believe it was to Jefferson or to Madison saying, you know, what they are

doing would make Nero blush.

DAVIES: Well, and, you know, the **fear of a slave revolt wasn't just theoretical**. I mean, there were several - there were revolts, and there were plots. And you describe how they were dealt with. I mean, maybe you want to take one of them. There was this - in 1800 in Virginia - a fairly elaborate plot that didn't quite come to fruition.

ANDERSON: Right. It was **Gabriel's revolt**. Gabriel had worked out an elaborate system that spread out over multiple counties and multiple cities that had a large number of enslaved folks and some free Blacks, and a couple of white men who were French who were plotting to overthrow the slave regime and create a multiracial, multi-ethnic republic. And on the night that the revolt was supposed to happen, there was a massive thunderstorm. And that blew the logistics out of the water about how they were supposed to meet up, take over the armory, take over - you know, set off fire to divert attention from where the treasury was so they would be able to arm and to pay the insurgents.

DAVIES: And so the plot failed. What kind of **retribution** did those who'd planned to do this face from whites?

ANDERSON: There were **mass public hangings**, sometimes three, four at a time. Gabriel was hung alone. By the time the hangings had reached the double digits, Monroe was getting squeamish. And he was asking Jefferson, OK, how much is enough? And finally, 27 people were hung for plotting this uprising.

DAVIES: You know, there's an interesting point of contrast here, because as we note that these rebellions that were put down with such ferocity by state militias whose independence had been guaranteed in the Second Amendment, there was also a rebellion of white people in 1794, the Whiskey

Rebellion in western Pennsylvania and other western areas of the republic, where it was against attacks on locally distilled alcohol. And there were armed people. They were tar and feathering federal agents. And militias were organized to put down this rebellion. I don't know. How tough was the retribution there?

ANDERSON: And, I mean, this is the one where, in fact, you have the president of the United States, George Washington, leading the troops to take on the Whiskey Rebellion. The retribution was minimal, minimal. Their sentences were commuted. Or they were pardoned. You didn't see beheadings and their heads put on pikes as a warning to whites about what happens when you take up arms against government authority. And you didn't see the kind of violence that rained down on Black people for fighting for their freedom. And you don't see the laws being put in place that say that white men must be disarmed - they cannot be trusted with weapons because they have attacked the government. You don't see that.

DAVIES: We need to take another break here. Let me reintroduce you. If you're just joining us, we're speaking with Carol Anderson. She is a professor at Emory University. Her new book is "The Second: Race And Guns In A Fatally Unequal America." We'll talk more after this short break. I'm Dave Davies. And this is FRESH AIR.

(SOUNDBITE OF BILL FRISELL'S "TWENTY YEARS")

DAVIES: This is FRESH AIR. I'm Dave Davies, in today for Terry Gross. Our guest today is historian Carol Anderson. Her new book explores the sharp racial distinctions that have governed Americans' application of the Second Amendment right to bear arms. She writes that the amendment was crafted to ensure slave owners could quickly suppress any slave rebellions and that throughout the nation's history, African Americans have been denied the

right to bear arms, often with brutal consequences. The book is "The Second: Race And Guns In A Fatally Unequal America."

You know, after the Civil War, obviously, slaves were eventually emancipated, and there were the 13th, 14th and 15th Amendments, you know, granting the rights of citizenship to the formerly enslaved and the right to vote. Obviously, those rights became sharply curtailed after the Reconstruction period. Did all of this leave African Americans with any different status in terms of the right to keep and bear arms?

ANDERSON: Not really. And, I mean, that's one of the things that I track. The legal status of African Americans does not have any significant impact on the right to bear arms, the right to self-defense or the right to a well-regulated militia. And the same holds true in this period after the Civil War. You know, we get the Black Codes. A key element in the Black Codes was to disarm African Americans. And this is why you - where you get the rise of these right-wing militias, domestic terrorist groups working with state governments in the South to do that work. You get the slaughter of Black folks, one right after the next. There's the Colfax massacre in 1873 where there is an election, and whites don't like the result of that election.

DAVIES: This is in Louisiana, right?

ANDERSON: In Louisiana. In Louisiana, yes. They don't like the results of that election, and so they're going to storm the courthouse, which is the seat of democracy in that area. Blacks are called in. A Black militia is called in to defend democracy. They are slaughtered - slaughtered. And there is a law, the Enforcement Act - the third Enforcement Act, that is against this kind of domestic terrorism. And the U.S. Supreme Court ruled that the law was unconstitutional or that it only applied to state actors, not to these private groups that commit mass murder, that commit acts of domestic

terrorism. President Ulysses S. Grant was beside himself at this because we have this mass violence happening. We have Black people trying to defend themselves against white domestic terrorism and basically being left vulnerable in the process.

DAVIES: Right. This is - I think this is really an important moment where you had African Americans defending a legal election and are attacked by white vigilantes, and there is a massacre. And in the end, the courts offered no sanctions against them. It, in effect, reinforced second-class citizenship, specifically as it comes to the right to bear arms.

ANDERSON: Yes, absolutely. And I've got to say one of the things that also made this so jarring was to, you know, to read about these assaults on democracy, these assaults on elections and that there were no consequences while we're dealing with the backdrop of the assaults here on democracy in the United States in this current moment.

DAVIES: If we move to modern times, after the civil rights legislation of the 1960s in which, you know, there were real improvements in public accommodation and voting rights, how much did things change in terms of African Americans' ability to bear arms?

ANDERSON: They were still severely constricted and restrained. And one of the things that I argue throughout this book is that it is just the - being Black that is the threat. And so when you mix that being Black as the threat with bearing arms, it heightens. It's exponential fear.

And I think about - that's why I cover in the book the role of the Black Panthers because what the Black Panthers were dealing with was massive police brutality, the just beating on Black people, killing Black people at will with impunity. And the Panthers decided that they would police the police. They knew Huey P. Newton, who was the co-founder of the Black Panthers,

along with Bobby Seale. Huey P. Newton knew the law. He knew what the law said about being able to open-carry weapons and the types of weapons you were able to openly carry and how far you had to stand away from the police arresting somebody or interrogating somebody - and so knew what the law was. And the police did not like having these aggressive Black men and women doing that work of policing the police. And the response was a thing called the Mulford Act. And the Mulford Act set out to ban open carrying of weapons. It was drafted by a conservative assemblyman in California with the support and help of an NRA representative and eagerly signed by Governor Ronald Reagan as a way to make illegal what the Panthers were legally doing.

DAVIES: You write about a number of more recent cases. I mean, you mentioned Philando Castile, who had told the police officer who stopped him at a traffic stop that he had a legal weapon and then, when he reached for his wallet, ended up getting shot. You had - there's the story of Tamir Rice, the young kid in Cleveland who had a toy gun, but police who arrived had not been told that it was a toy gun, and they shot and killed him - and any number of other cases. A striking contrast is the treatment that Kyle Rittenhouse, the 17-year-old white guy in Kenosha, Wis., got when he came to the protests there with a assault-style weapon. You want to just remind us what happened there?

ANDERSON: There were protests in Kenosha, Wis., because Jacob Blake, a Black man, had been shot in the back seven times by police officers. This is in the wave of uprisings coming out of the George Floyd killing. In these protests, Kyle Rittenhouse, a 17-year-old, crosses state lines with a weapon that he's not supposed to have. And he is greeted by police saying, oh, we really appreciate having you guys here. You want some water? And Rittenhouse ends up shooting three men, killing two of them and seriously wounding a third. As he walks toward police after the shootings, the killings,

he's got his hands up, and the police go right by him as if he's not - he's not a threat. And he crosses state lines. He goes back home. And then they realize, whew, yeah, OK. And so they arrest him.

But Rittenhouse becomes an avatar, as it were, for the Second Amendment. And you have this rallying around where his legal team argues that he was just being part of a well-regulated militia. He was just implementing his Second Amendment rights. And you have the right wing in American politics pouring in money for his bail and treating him as a savior. And I juxtaposed that treatment with what happened to Tamir Rice who was gunned down within two seconds of police's - the policeman's arrival as he's sitting in a empty pavilion with a toy gun. So he wasn't a threat to anyone, and Ohio is an open-carry state. And that didn't matter. What mattered was there was a Black child whom they said was 20 years old when he was actually 12. They saw threat. And as long as Black is the threat, the default threat - so how many times have we heard, I felt threatened. Or, you know, they shot a Black man because he had a cellphone, and they thought it was a gun. They strangled a Black man because he was big. He was a monster. As long as Black is the threat, the variations are just variations in scale, but not in terms of the way that it operationalizes, in terms of making Black lives really precarious in the United States.

DAVIES: Do you see hope in the recent protests and the movements for reform among police departments and among state and local laws?

ANDERSON: I see hope there because it is making visible what has been going on. Where I see the massive caution has been in the backlash against acknowledging slavery in textbooks, teaching about race and racism in our curriculum. If we don't understand the way that race and racism have operated in the United States, then being able to have real true policy reforms will fall through. Bad history helps create bad policies.

DAVIES: And you're in the history business here.

ANDERSON: Yes, I am (laughter).

DAVIES: Let me reintroduce you again. We are speaking with Carol Anderson. She is a professor at Emory University. Her new book is "The Second: Race And Guns In A Fatally Unequal America." We'll continue our conversation in just a moment. This is FRESH AIR.

(SOUNDBITE OF JEFF COFFIN AND THE MU'TET'S "LOW HANGING FRUIT")

DAVIES: This is FRESH AIR, and our guest is Emory University historian Carol Anderson. Her new book is about the sharp racial distinctions that have governed Americans' application of the Second Amendment right to bear arms. The book is "The Second: Race And Guns In A Fatally Unequal America."

You know, before I let you go, I want to ask you about your last book - 2018 book, "One Person, No Vote," which is about efforts to suppress voting, particularly among people of color. I mean, you know, voter ID laws, purges of voting rolls, other steps. And, you know, I think, if anything, we've seen an acceleration of that - those initiatives, particularly among state legislatures in recent times. Where do you think this is headed?

ANDERSON: We are at a crossroads in American democracy. One of the things that the 2020 election did is you had massive voter turnout and particularly massive voter turnout among African Americans, Hispanics, Asian American Pacific Islanders and Indigenous people. Native Americans turned out. And the response of our local governments, our state governments is not to embrace that democracy, not to embrace a thriving, multiracial, multiethnic democracy, but in fact, to figure out how to stop it,

how to clamp down on it while making it look legitimate, while making it look like it's improving democracy, enhancing democracy when, in fact, it's undermining and undercutting the citizenship rights of American citizens.

And we have a federal government - what we're seeing right now, we've got legislation sitting in the Senate that could deal with this. And it's being hogtied and hamstrung and any other metaphor I can think of right now by an archaic rule that had been used to block civil rights legislation, the filibuster. So we are in trouble as we watch over 40 states figure out, how do we stop American citizens from voting?

DAVIES: You know, there's - a lot of people believe there are way too many guns in this country, particularly powerful, you know, assault weapons and the like. I'm wonder (ph) - is that something that you thought about as you did your research and wrote this book?

ANDERSON: You know, I thought about it. And that's why I say this isn't an anti-gun or a pro-gun book. This is a book about African Americans' rights. I do believe that civilians should not have military-grade weaponry. That makes no sense to me that we would be really fine with AR-15s in the hands of civilians and that this language that we have where we hold up the Second Amendment as this hallowed ground, as untouchable, is part of what has led to this proliferation of these kinds of weapons and the inability to be rational and reasonable in terms of the way that we engage the prevalence of guns in American society. We treat the Second Amendment as hallowed when we need to treat it as we do the three-fifths clause.

DAVIES: In what way do you mean the three-fifths clause?

ANDERSON: The three-fifths clause, which was part of the bribe for Southern states in order to sign onto the Constitution and basically to sign on to being part of the United States of America. The Second Amendment

has that same foundational principle as part of the bribe to get the South to sign on.

DAVIES: You aren't, per se, defending the Second Amendment. You're pointing out how it's been applied differently to white and Black people?

ANDERSON: Yes. I mean, I am not defending the Second Amendment. As I said, I see the Second Amendment in the same way that I see the three-fifths clause - indefensible. And I see that our narrative has created this space of the Second Amendment as almost holy ground. And treating this amendment as holy ground has done enormous damage not only to African Americans, but to American society as well.

DAVIES: Carol Anderson, thank you so much for speaking with us.

ANDERSON: Thank you so much for having me.

DAVIES: Carol Anderson is a professor at Emory University. Her new book is "The Second: Race And Guns In A Fatally Unequal America."

Coming up, rock critic Ken Tucker reviews Allison Russell's debut album, which he says details traumatic childhood experiences with music that's often calm and beautiful. This is FRESH AIR.

(SOUNDBITE OF JASON MORAN'S "BIG STUFF")

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