A Touch of Steel: Cold Weapons and Iowa's Constitutional Clash of Strict Scrutiny and Tradition

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ABSTRACT: Iowa's newly adopted constitutional right to bear arms was expressly aimed at firearms. The language, however, reaches all arms, including cold weapons like knives. With several cold weapons statutes extant at the time of amendment, their tradition is implicated in the right. At least three competing theories vie for how to apply strict scrutiny to defend that right. This Note argues that state history and tradition should inform the scope of the right, with a full-blooded strict scrutiny guarding the right's extent. Congruent with Iowa's traditions, that may now mean some statutes are unconstitutional.

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INTRODUCTION

In the nineteenth book of Homer's *Odyssey*, the conniving hero Odysseus has secretly returned home after many travels, and he schemes to murder the men trying to woo his wife.[1] Conscripting his son Telemachus to make the preparations, Odysseus devises a ruse to disarm the would-be homewreckers. He tells Telemachus to strip the area where the men intend to drink of weapons. If challenged in the act, Odysseus counsels his son to warn them of the allure of iron: "The blade itself incites to deeds of violence."[2] With this wisdom, Telemachus succeeds. Odysseus then slaughters his wife's many suitors.

The trickster's ironic justification has a magnetism of its own. Odysseus, in a sense, is the voice of the past—insight born of hard-won experience, though a touch contradictory. Telemachus had the choice to accept or reject his father's wisdom, to follow or to forge the judgment of the moment. If the myth is any guide, there were unpleasant trade-offs to either course. He chose to follow his forebear.

Iowa faces just this challenge. The state constitution's new Amendment 1A has enshrined a fundamental right to arms and set the guard by strict scrutiny.[3] The boundaries of that right are yet unclear, and the sentinel needs to know how and what to strike. Iowa must choose what role history and tradition shall play in the new scheme. This Note takes the position that one should listen to the past in identifying where judgment should be applied—but to decide with the full force of the moment. That is, tradition should inform the scope of the right, and a potent strict scrutiny should defend its substance. With cold iron to hand, not the roaring fire of rifle and cannon, Part I sets out the constitutional context relevant to Iowa. Part II journeys through the traditions and history Iowa has accrued, tarrying on islands of insight here and there. Part III, contemplating the suitors from the various schools of thought, urges that historical scope paired with a vigorous strict scrutiny should prevail.

I. COLD WEAPONRY IN CONTEXT

To understand cold weaponry's interplay with the law, this Part aims to clarify the relevant terminology and chart the competing constitutional forces in Iowa. First, Section I.A defines cold weaponry, its constituent categories, and other relevant terminology, emphasizing the unique features of cold weapons. Second, Section I.B explores the federal standard for arms analysis—

1. *See generally* HOMER, THE ODYSSEY bk. XIX (Ian Johnston trans., 2002) (c. 750 B.C.).

2. This particular rendition of line thirteen was popularized by JOE ABERCROMBIE, THE BLADE ITSELF 5 (Orbit 2015) (2006). Many translations emphasize the beckoning call of weaponry. *See, e.g.*, HOMER, *supra* note 1, at 336 ("For iron by itself / can draw a man to use it."); 2 HOMER, THE ODYSSEY bk. XIX, at 169 (George Musgrave trans., London, Bell & Daldy 2d ed. 1869) (c. 750 B.C.) ("[F]or the steel blade itself / Lures men to blood.").

3. IOWA CONST. art. I, § 1A.

text, history, and tradition—to illuminate the broader national pressure for a tradition-based test. Last, Section I.C follows the unusual course of Iowa's constitutional trajectory: from very little guidance to explicit strict scrutiny.

A. *Terms, Definitions, and Categories*

In common parlance, cold weaponry refers to non-firearm[4] weapons—predominantly muscle-powered implements—but the term can be ambiguous as to what forms of stored energy are permissible.[5] For the purposes of this Note, a cold weapon is any handheld, non-firearm weapon that does not use gunpowder or explosives as the principal means to induce its intended effects on the target.[6] This limited definition encompasses weapons that utilize stored mechanical energy, compressed gas, and electrical energy. With apologies to bats, cudgels, brass knuckles, and other implements of "skull crack[ing],"[7] the focus of this Note falls on pointed or bladed weapons and tools. Likewise, emphasis is placed on everyday carry items ("EDCs"). So, although stun-guns are relevant,[8] the situational nature of their use places them into a supporting role. In a similar vein, hunting aids like spears and

4. The Author takes no position whatsoever on firearms.

5. *See, e.g.*, Alby Butler, *Cold Weapon: Weapons that Do Not Involve Fire or Explosions*, MALEVUS (Oct. 25, 2023, 1:05 AM), https://malevus.com/cold-weapon [https://perma.cc/9DB5-NYXY] ("A cold weapon is a type of hand weapon that doesn't rely on fire, explosions, compressed gas, or electricity to operate. Instead, it works through direct muscular strength to produce its impact. Some examples include swords, daggers, polearms, hammers, crossbows, and bows."). In the legal context, the synonymous term "white arm" is occasionally used, especially in foreign jurisdictions. *E.g.*, CODE DE LA SÉCURITÉ INTÉRIEURE [C. SEC. INT.] [INTERNAL SECURITY CODE] art. R311-1 (Fr.) (« *Arme blanche : toute arme dont l'action perforante, tranchante ou brisante n'est due qu'à la force humaine ou à un mécanisme auquel elle a été transmise, à l'exclusion d'une explosion* » or roughly "White arm: any arm whose piercing, cutting, or destructive action is only from human force, or by a mechanism transmitting that force, excluding explosions"). *But see* Oren Gazal-Ayal & Ruth Kannai, *Determination of Starting Sentences in Israel—System and Application*, 22 FED. SENT'G REP. 232, 237 (2010) (translating an Israeli robbery study reporting that "[t]he use of a firearm adds about twelve months of imprisonment, compared with the use of cold weapons"); *CN114712831 (A) — 2022-07-08: Scoring System Suitable for Cold Weapon Fighting Sports*, ESPACENET, https://worldwide.espacenet.com/publicationDetails/biblio?FT=D&date=20220708&DB=EPODOC&locale=&CC=CN&NR=114712831A&KC=A&ND=1 [https://perma.cc/LT5T-ED2U] (documenting a Chinese patent application "disclos[ing] a scoring system suitable for cold weapon fighting sports, which comprises a telescopic reel, a conductive fencing suit, a transmitter and a long sword").

6. This definition deliberately tracks that of Iowa Code section 702.7. IOWA CODE § 702.7 (2025) ("Dangerous weapons include but are not limited to any offensive weapon, . . . dagger, razor, stiletto, switchblade knife, knife having a blade exceeding five inches in length, or any portable device or weapon directing an electric current, impulse, wave, or beam that produces a high-voltage pulse designed to immobilize a person.").

7. State v. Tusing, 344 N.W.2d 253, 254 (Iowa 1984) (quoting IOWA CODE § 695.2 (1977), a predecessor to IOWA CODE § 702.7).

8. *See* State v. Howse, 875 N.W.2d 684, 693 (Iowa 2016) (defining a stun gun as a per se dangerous weapon under IOWA CODE § 702.7).

bows, despite their fascinating and complex legal situation,[9] shirk the spotlight. Here, ubiquity, usefulness, and violent potential are key.

So, what makes the cut? Pocketknives, switchblades, ballistic knives, and blades generally, but also hatpins, hairpins, needles, and other piercing tools that one might conceivably carry or wear. Definitionally, a pocketknife is a tool with a mechanism to fold or retract the blade into the handle for storage and portability.[10] Pocketknives are contrasted with fixed-blade knives, which do not fold. Certain fixed-blades such as dirks, daggers, Arkansas toothpicks, and Bowie knives have particular legal significance, as from their length and functionality they form a natural class of weapon often associated with fighting.[11]

A switchblade is a pocketknife that uses stored energy to deploy the blade automatically after a button or catch is activated.[12] This release mechanism must be in the handle, as knives that merely use springs to assist the motion of the blade, or assisted knives, are not switchblades.[13] Legislation regulating switchblades can suffer from definitional and pragmatic difficulties; many knife mechanisms incorporate springs and release functions,[14] making for ambiguity in coverage. Under Iowa law, switchblades are considered more dangerous than other types of pocketknives, and misuse incurs steep penalties.[15] The combined ambiguity and penalties complicate life for people with

9. *See, e.g.*, IOWA CODE § 702.7 (2025) ("A '*dangerous weapon*' is any instrument or device designed primarily for use in inflicting death or injury upon a human being or animal, and which is capable of inflicting death upon a human being when used in the manner for which it was designed, *except a bow and arrow when possessed and used for hunting or any other lawful purpose*." (emphasis added)); *id.* § 481A.76 ("It is unlawful, except as otherwise provided, to use on or in the waters of the state any grabhook, snaghook, any kind of a net, seine, [or] trap . . . except that gaffhooks or landing nets may be used to assist in landing fish. The commission may permit designated fish to be taken by hand fishing, by snagging, *by spearing, by bow and arrow*, and with artificial light at the times and at the places as determined by rules of the commission." (emphasis added)).

10. *See Pocketknife*, MERRIAM-WEBSTER, https://www.merriam-webster.com/dictionary/pocketknife [https://perma.cc/LU76-75HQ].

11. *See, e.g.*, IOWA CODE § 702.7 (making every knife over five inches in blade-length a "dangerous weapon"); David Kopel, *Bowie Knife Statutes 1837-1899*, REASON: VOLOKH CONSPIRACY (Nov. 20, 2022, 12:53 PM), https://reason.com/volokh/2022/11/20/bowie-knife-statutes-1837-1899 [https://perma.cc/ED2T-WGY7] ("Among the 220 state or territorial statutes . . . . [a]lmost always, Bowie knives were regulated the same as other well-known knives that were well-suited for fighting against humans and animals–namely 'dirks' or 'daggers.' . . . About 98% of statutes on 'Bowie knives' treated them the same as other blade arms. Bowie knives did not set any precedent for a uniquely high level of control. They were regulated the same as a butcher's knife. Bowie knives and many others were often regulated like handguns. Both types of arms are concealable, effective for defense, and easy to misuse for offense.").

12. *See Switchblade*, MERRIAM-WEBSTER, https://www.merriam-webster.com/dictionary/switchblade%20knife [https://perma.cc/RJ3U-KZFX]; 15 U.S.C. § 1241(b) (2018).

13. *See* 15 U.S.C. §§ 1242, 1244(5).

14. *See Locking Mechanisms*, SPYDERCO, https://spyderco.com/pages/locking-mechanisms [https://perma.cc/RJY3-UP9A].

15. *See* IOWA CODE § 702.7 (treating switchblades—but not all pocketknives—as per se "dangerous weapons").

accessibility requirements, such as those with reduced limb function, who have a recognized need for self-deploying tools.[16]

Similar knives also receive legal attention. A balisong or butterfly knife is a blade with split, independently articulating handles—protecting the knife when closed, and enabling a distinctive flick-and-flip to open.[17] The less high-strung cousin of switchblades, gravity knives exploit "gravitic" acceleration (or inertia generally) to enable the blade to open one-handedly following operation of a release mechanism.[18] Both knives have been the subject of bans.[19] "A ballistic knife is a knife with a detachable blade [that] is propelled by a spring-operated mechanism, elastic material, or compressed gas."[20] The propulsion of a literal razor projectile and the potential energy within the device has led to the categorization of ballistic knives as intensely dangerous.[21] Consequently, they sometimes receive special treatment, incurring heightened penalties beyond those of other types of knives.[22]

Fundamentally, the purpose of a knife is to cut.[23] The law must contend with an item whose intrinsic nature makes it indispensable in daily life but that also lends itself to inflicting injury. The humble Swiss Army knife, for instance, can lance through rib bones.[24] Physically and perceptually, geometry and appearance matter. The shape of the blade and especially its edge has

16. *See* 15 U.S.C. § 1244(4) (excepting from application of switchblade prohibition "any individual who has only one arm"). The knife community also promotes automatic and assisted knives to those with reduced fine motor control. *See, e.g.*, Nick Shabazz, *The ProTech Knives Runt 5 Automatic Pocketknife: The Full Nick Shabazz Review*, YOUTUBE (Aug. 28, 2021), https://www.youtube.com/watch?v=2mgKPx-tfzw [https://perma.cc/GCV5-SBTM] (discussing, from 5:44 to 6:33, the benefits of a small switchblade to accessibility-minded individuals).

17. *See Glossary*, SPYDERCO, https://spyderco.com/pages/glossary [https://perma.cc/FR3D-GYAQ].

18. Mike Ableson, *Gravity Knives: What You Need to Know*, BLADE (Sept. 7, 2022), https://blademag.com/featured-knives/gravity-knives-what-you-need-to-know [https://perma.cc/V72W-XAQT].

19. David B. Kopel, Clayton E. Cramer & Joseph Edward Olson, *Knives and the Second Amendment*, 47 U. MICH. J.L. REFORM 167, 177 & n.56 (2013).

20. IOWA CODE § 724.1(1)(d).

21. *See id.* (defining a ballistic knife as an "offensive weapon"); *id.* § 724.3 (making knowing possession of an offensive weapon a class "D" felony).

22. For example, combine Iowa Code section 724.1(1)(d) ("An offensive weapon is any device or instrumentality of the following types: . . . . A ballistic knife."), with section 724.3 ("Any person, other than a person authorized in this chapter, who knowingly possesses an offensive weapon commits a class 'D' felony."), and contrast with section 702.7 ("Dangerous weapons include but are not limited to any offensive weapon, . . . dagger, razor, stiletto, switchblade knife, [or] knife having a blade exceeding five inches in length . . ."), and section 724.4 ("A person who goes armed with a dangerous weapon on or about the person, and who uses the dangerous weapon in the commission of a crime, commits an aggravated misdemeanor . . . .").

23. Edward Clayton, *Aristotle: Politics*, INTERNET ENCYC. PHIL., https://iep.utm.edu/aristotle-politics/#H5 [https://perma.cc/MN6J-5PX9] (illustrating the Aristotelian conception of *telos* for a knife in relation to the ultimate goal of cutting material).

24. Stephan A. Bolliger, Beat P. Kneubuehl, Michael J. Thali, Sebastian Eggert & Lea Siegenthaler, *Stabbing Energy and Force Required for Pocket-Knives to Pierce Ribs*, 12 FORENSIC SCI., MED. & PATHOLOGY 394, 396 (2016).

more impact on cutting potential than blade material alone.[25] Evidence suggests that the shape of a particular weapon impacts the way it is perceived.[26] More angular or pointed knives attract greater mental attention, whereas blunter implements do not trigger as heightened heed, with the difference theorized to be the result of increased response from the perceived threat.[27] Knives also receive more perceptual focus than other, similarly pointed objects.[28] For the lawmaker, these attributes likewise command attention, though not always rationally. Governments have banned features that are more cosmetic than functional, exemplified by the United Kingdom's recent prohibition on "zombie-style" knives that factors in, amongst other things, whether a knife has more than one hole in the blade.[29] Shape, sharpness, and societal expectation affect U.S. policy, too: Consider the Transportation Safety Administration's ("TSA") list of prohibited items in an airplane carry-on bag. Knitting[30] and sewing[31] needles, which can be quite large and keen, are acceptable, while ice picks are forbidden.[32] Similarly, the TSA segregates knives by blade material, geometry, and tip shape, with only plastic, rounded, and un-serrated knives passing through screening.[33]

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25. LARRIN THOMAS, KNIFE ENGINEERING: STEEL, HEAT TREATING, AND GEOMETRY 4–12 (2020); Aisling Ní Annaidh, Marie Cassidy, Michael Curtis, Michel Destrade & Michael D. Gilchrist, *A Combined Experimental and Numerical Study of Stab-Penetration Forces*, 233 FORENSIC SCI. INT'L 7, 13 (2013).

26. Wataru Oue, Yuji Hakoda & Natsuko Onuma, *The Pointed Shape of a Knife Influences Eyewitness Perception*, 3 ASIAN J. CRIMINOLOGY 193, 197–99 (2008).

27. *Id. But see* Hannes M. Körner, Franz Faul & Antje Nuthmann, *Is a Knife the Same as a Plunger? Comparing the Attentional Effects of Weapons and Non-Threatening Unusual Objects in Dynamic Scenes*, 9 COGNITIVE RSCH., no. 66, 2024, at 21–22 (finding both threat response and the unusualness of the object as salient factors in the complex interplay of weapon-related attentional dynamics).

28. Oue et al., *supra* note 26, at 197–99 ("[W]itnesses selectively direct attention to a pointed knife from amongst other pointed objects.").

29. HOME OFF., THE CRIMINAL JUSTICE ACT 1988 (OFFENSIVE WEAPONS) (AMENDMENT, SURRENDER AND COMPENSATION) ORDER 2024: GUIDANCE FOR SURRENDER OF 'ZOMBIE-STYLE' KNIVES AND 'ZOMBIE-STYLE' MACHETES AND CLAIMING COMPENSATION 2–3 (2024), https://assets.publishing.service.gov.uk/media/66a26887fc8e12ac3edb04e4/2024.06.18_Public_guidance_for_the_Zombie-Style_Knives_and_Machetes_Surrender_and_Compensation_Scheme_FINAL.pdf [https://perma.cc/7MSF-N29U]. In fairness, a lightened blade could have situational advantages.

30. *Knitting Needles*, TRANSP. SEC. ADMIN., https://www.tsa.gov/travel/security-screening/whatcanibring/items/knitting-needles [https://perma.cc/7636-CZ3N].

31. *Sewing Needles*, TRANSP. SEC. ADMIN., https://www.tsa.gov/travel/security-screening/whatcanibring/items/sewing-needles [https://perma.cc/RV8X-USKR].

32. *Ice Axes/Ice Picks*, TRANSP. SEC. ADMIN., https://www.tsa.gov/travel/security-screening/whatcanibring/items/ice-axesice-picks [https://perma.cc/CX45-2K8M]. One should note that the TSA bundles ice picks with ice axes so the agency may intend a different sort of implement than the humdrum ice cube persuader, though there is a catchall for any item posing a security concern. *Sharp Objects*, TRANSP. SEC. ADMIN., https://www.tsa.gov/travel/security-screening/whatcanibring/sharp-objects [https://perma.cc/2LQV-XD4X].

33. *Knives*, TRANSP. SEC. ADMIN., https://www.tsa.gov/travel/security-screening/whatcanibring/items/knives [https://perma.cc/F86V-XNTZ].

Of course, cold weaponry is a broader idea than just knives.[34] Hatpins and hairpins were once the frontline of distaff defense, with increasingly large needle-shafts used to fend off cads, scoundrels, and "mashers."[35] The decorated pins could reach lengths of thirty inches, effectively becoming a weapon akin to a rapier or smallsword.[36] Though much less common than they used to be, hairpins and hatpins as weapons have yet to completely fade from cultural awareness,[37] and, with the cyclical nature of fashion, they could well stage a comeback. Moreover, other improvised stabbing implements have made their mark: Cases in Iowa have even turned on whether a grilling fork is a dangerous weapon![38]

B. THE FEDERAL STANDARD: TEXT, HISTORY, AND TRADITION

In the landmark decision *District of Columbia v. Heller*, the Supreme Court discerned that the federal right embodied in the Second Amendment adheres to individuals[39] and every instrument constituting a bearable arm.[40] Although undoubtedly strengthened, the Court noted the right was limited by longstanding tradition.[41] The dissent raised the prescient argument that "a conclusion that the Second Amendment protects an individual right does not tell us anything about the scope of that right,"[42] stressing that the various uses of weaponry necessitated bespoke analysis.[43] In successor cases, the Court incorporated the

34. *Cf.* State v. Hill, 140 N.W.2d 731, 733 (Iowa 1966) (listing hammers, screwdrivers, ice picks, and chains as possible weapons). The term "cold weapon" itself is a product of military history and analysis. *See, e.g.*, HUGO STUMM, THE RUSSIAN CAMPAIGN AGAINST KHIVA IN 1873, at 157 (F. Henvey & P. Mosa trans., Calcutta, Foreign Dep't Press 1876) (highlighting the effectiveness of "the sword, or as the Russians call it 'the cold weapon' ['*khalodnoye orúdiye*,' as opposed to firearms '*agniovoye oridiye*']").

35. Natasha Frost, *Before Mace, a Hatpin Was an Unescorted Lady's Best Defense*, ATLAS OBSCURA (Oct. 10, 2017), https://www.atlasobscura.com/articles/hatpins-mashers-self-defense-history-women-hats-fashion [https://perma.cc/Z4TY-N2P5].

36. Elizabeth Greiwe, Opinion, *When Men Feared 'a Resolute Woman with a Hatpin in Her Hand,'* CHI. TRIB. (May 11, 2019, 9:08 AM), https://www.chicagotribune.com/2017/07/07/when-men-feared-a-resolute-woman-with-a-hatpin-in-her-hand [https://perma.cc/A96B-4JG3].

37. For instance, the hit anime and manga SPY X FAMILY features a female assassin whose murder instruments of choice are stilettos worn as hairpins. Hilary Leung, *Shonen Jump's Spy X Family: Plot, Characters & Where to Read*, CBR (Apr. 7, 2021), https://www.cbr.com/shonen-jump-spy-x-family-guide [https://perma.cc/4YVN-H7VY].

38. *See* State v. Sebern, No. 11-0266, 2011 WL 5391633, at *2–3 (Iowa Ct. App. 2011).

39. District of Columbia v. Heller, 554 U.S. 570, 595 (2008).

40. *Id.* at 582. *See generally* Eric Ruben, *Law of the Gun: Unrepresentative Cases and Distorted Doctrine*, 107 IOWA L. REV. 173 (2021) (exploring the doctrinal warping that results from guns constituting the mental default for what arms are).

41. *Heller*, 554 U.S. at 626–27.

42. *Id.* at 636 (Stevens, J., dissenting).

43. *Id.* at 636–39.

Second Amendment against the states[44] and further reinforced that the right pertained to all potentially bearable weaponry, not just firearms.[45]

In a second major decision, the Court in *New York State Rifle & Pistol Association v. Bruen* formally adopted a new test for Second Amendment analysis: text, history, and tradition.[46] Rejecting means-end scrutiny, the Court instituted a two-step analysis: first determining if a challenged law impacted conduct within the scope of commonly used arms encompassed by the right, then evaluating whether the challenged law was "consistent with this Nation's historical tradition of [arms] regulation."[47] Following on the heels of *Bruen*, the Court extended but loosened the text, history, and tradition test in *United States v. Rahimi*.[48] Focusing less on the sheer similarity between the law and its forebears, the Court emphasized the centrality of "[w]hy and how the regulation burdens the right."[49] Gone was the need for a historical near twin, and in was the requirement for an ancestral principle or analogue embodied in the tradition.[50]

Courts have now begun to apply the new doctrine to cold weapons.[51] In *Commonwealth v. Canjura*, a state supreme court performed the *Bruen* analysis on a statute that criminalized carrying switchblades.[52] Noting the ubiquity of small folding knives for self-defense in the colonial era, including some with springs, the court found that modern pocketknives generally fall under the aegis of the federal right as a defensive implement.[53] Without a single known regulation on folding knives in the nineteenth or eighteenth centuries, no discernable historical principle or analogue was forthcoming to meet the second prong.[54] Moving to assess the common-use aspect of the right's scope, the court identified that the physical properties of switchblades were not uniquely dangerous; knives by nature have the inherent ability to wound, and the deployment of the blade is tangential to that ability.[55] Consequently, the regulation could not be justified.[56]

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44. McDonald v. City of Chicago, 561 U.S. 742, 750 (2010).

45. Caetano v. Massachusetts, 577 U.S. 411, 412 (2016).

46. N.Y. State Rifle & Pistol Ass'n v. Bruen, 597 U.S. 1, 19 (2022). Though *Bruen* intensified the inquiry, prior Second Amendment analysis of cold weapons still heavily focused on history. *See* State v. DeCiccio, 105 A.3d 165, 187–97 (Conn. 2014).

47. *Bruen*, 597 U.S. at 17–19, 47.

48. United States v. Rahimi, 602 U.S. 680, 692 (2024).

49. *Id.*

50. *Id.*

51. *See, e.g.*, Teter v. Lopez, 76 F.4th 938, 951–54 (9th Cir. 2023), *reh'g en banc granted*, 93 F.4th 1150 (9th Cir. 2024), *and vacated as moot*, 125 F.4th 1301 (9th Cir. 2025); Commonwealth v. Canjura, 240 N.E.3d 213, 216–22 (Mass. 2024).

52. *Canjura*, 240 N.E.3d at 216–17.

53. *Id.* at 218–19.

54. *Id.* at 219–20.

55. *Id.* at 221–22.

56. *Id.* at 216.

The Ninth Circuit took a similar tack in *Teter v. Lopez*.[57] In a challenge to a total butterfly knife ban, the court zeroed in on the lack of a proper historical analogue.[58] Though bans on the concealed carriage of fixed-blade knives were demonstrable, the government could not show a like *mechanism*—a bar on possession, or the "how" inquiry.[59] Importantly, the historical tradition pointed to the time, place, and manner of carry as determinative of propriety, not the type of knife itself.[60] Moreover, the historical statutes displayed a trend of exempting pocketknives from concealed carry restrictions altogether.[61] Butterfly knives, primarily distinguished from pocketknives by their rotating split handles, did not present a unique danger or challenge in use as a weapon.[62] As such, departure from traditional methods to solve a familiar problem could not be upheld.[63]

Although contending with firearm laws, the Supreme Court of Hawaii made an intriguing conceptual move in the *Bruen* analysis: It split the state and federal traditions, drawing independent conclusions on each.[64] Eliciting forth the state's history, the court's reconstructed "spirit of Aloha clashe[d] with a federally-mandated lifestyle" and conception of arms rights.[65] Amalgamating an ancestral appreciation for "free movement without fear," total bans on weapon possession, and highly restrictive and punitive arms legislation,[66] the court found Hawaiian tradition totally devoid of a possessory right to weaponry.[67] On the federal claim, the court reiterated the limited nature of the Second Amendment articulated in *Bruen*, highlighting the respect shown for licensure in a concurrence.[68] Thus, the abbreviated federal analysis was supported by a "how" mechanical argument, and the state conclusions by a historical "why" rationale. This decoupling has implications for Iowa; like Hawaii, Iowa has an independent constitutional tradition of arms rights and a test to defend those rights that significantly clashes with the *Bruen* analysis.[69] A showdown looms.

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57. Teter v. Lopez, 76 F.4th 938, 951–54 (9th Cir. 2023), *reh'g en banc granted*, 93 F.4th 1150 (9th Cir. 2024), *vacated as moot*, 125 F.4th 1301 (9th Cir. 2025).

58. *Id.*

59. *Id.* at 951; *see* United States v. Rahimi, 602 U.S. 680, 692 (2024).

60. *Teter*, 76 F.4th at 952–53.

61. *Id.* at 953 & n.20.

62. *Id.* at 950.

63. *Id.* at 954.

64. State v. Wilson, 543 P.3d 440, 459 (Haw. 2024).

65. *Id.*

66. *Id.* at 456–57.

67. *Id.* at 459.

68. *Id.*

69. *See infra* Section I.C.

C. IOWA'S CONSTITUTION: THE ROAD TO STRICT SCRUTINY

To fully define its statehood, Iowa undertook constitutional conventions in 1844, 1846, and 1857.[70] These conventions, of course, occurred in the Iowa Territory, which had a body of law influenced by its forebears. The Iowa Territory's constitution inherited rights and privileges from the Wisconsin Territory,[71] which itself carried on those of the Michigan Territory,[72] which in turn derived its own from the Northwest Ordinance.[73] The Confederation Congress had protected several rights in the Northwest Territory, including religious freedom[74] and judicial safeguards,[75] but omitted weapons from its "articles of compact."[76] More, the Northwest Ordinance stated that while the rights agreed to between the people and the new states were intended to "forever remain unalterable," the people and states could by "common consent" modify their agreement.[77] Thus, although colonial conceptions of arms rights were certainly influential, the explicit language of the new compact of Iowa's constitution would implicitly override old understandings. But what were those ancestral rights? The Articles of Confederation did not directly address an individual right to arms, referring instead to the state militias.[78]

In the English tradition before the Articles, the seminal 1689 Bill of Rights guaranteed "[t]hat the Subjects which are Protestants may have Arms

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70. Steven C. Cross, *The Drafting of Iowa's Constitution*, 61 IOWA OFF. REG. 168, 168 (1985), https://www.legis.iowa.gov/docs/publications/REDBK/860919.pdf [https://perma.cc/S8WM-TUHZ].

71. *See* An Act to divide the Territory of Wisconsin and to establish the Territorial Government of Iowa, ch. 96, 5 Stat. 235, 239 (1838) ("[T]he inhabitants of the [Iowa] Territory shall be entitled to all the rights, privileges and immunities heretofore granted and secured to the Territory of Wisconsin and to its inhabitants; and the existing laws of the Territory of Wisconsin shall be extended over said Territory . . . .").

72. *See* An Act establishing the Territorial Government of Wisconsin, ch. 54, 5 Stat. 10, 15 (1836) ("The said inhabitants shall also be entitled to all the rights, privileges, and immunities, heretofore granted and secured to the Territory of Michigan . . . ."). Although Iowa as a polity descends from a chain of Territories, the Michigan Territory marks the first *de facto* government of Iowa, as the region was "practically uninhabited prior to 1830." BENJAMIN F. SHAMBAUGH, HISTORY OF THE CONSTITUTIONS OF IOWA 68 (1902).

73. *See* An Act to divide the Indiana Territory into two separate governments, ch. 5, 2 Stat. 309, 309 (1805) ("[T]he inhabitants thereof shall be entitled to . . . the rights, privileges, and advantages granted and secured to the people of the territory of the United States, northwest of the river Ohio, by the said ordinance.").

74. *See* An Ordinance for the Government of the Territory of the United States north-west of the River Ohio, ch. 8, 1 Stat. 51(a), 52 (1787), *reenacted as* An Act to provide for the Government of the Territory Northwest of the river Ohio, ch. 8, 1 Stat. 50 (1789) [hereinafter Northwest Ordinance]; *see also* Edward M. Mansfield & Conner L. Wasson, *Exploring the Original Meaning of Article I, Section 6 of the Iowa Constitution*, 66 DRAKE L. REV. 147, 150–52 (2018) (tracing the origins of article I, section 6 back to the Northwest Ordinance).

75. *See* Northwest Ordinance, *supra* note 74, art. II.

76. *See id.* arts. I–VI.

77. *See id.*

78. *See* ARTICLES OF CONFEDERATION OF 1781, art. VI, para. 4.

for their Defence suitable to their Conditions and as allowed by Law."[79] Iowa, able to modify the law, had much latitude to forge its own path.

Despite effort, the constitutional consensus on cold weapons would remain unclear. The records of the 1844 and 1846 debates survive only in fragments, with fleeting mention of bearing arms.[80] However, on the tenth day of the 1857 convention, the delegate Amos Harris, of Centerville, Iowa, called attention to the lack of a right to bear arms, relating his perceived deficiencies in the tentative Bill of Rights:

> I began to compare our Bill of Rights with the Bill of Rights in the constitutions of other States; and I suppose that was the reason why these constitutions were given to us, that we might have the opportunity of making these comparisons.
>
> . . . .
>
> The fourth section of the article on the Bill of Rights in the Ohio constitution reads:
>
> "The people have the right to bear arms for their defence and security; but standing armies in time of peace are dangerous to liberty, and shall not be kept up: and the military shall be in strict subordination to the civil power."
>
> If gentlemen will take the trouble to compare these two provisions, they will see that the privilege allowed to the people to bear arms and keep them for their own defence, forms no portion of our present Bill of Rights.
>
> . . . .
>
> . . . I have instituted this comparison between the Bill of Rights in Ohio and this State to show that there is need of amendment here.[81]

The next day, Mr. Harris proposed an expressly individual right to bear arms in self-defense:

> "The people have the right to bear arms in defence of their persons, property, and the State, but all standing armies, in time of peace, are dangerous to liberty, and shall not be kept up. The military shall be in strict subordination to the civil power, and in time of war,

79. Bill of Rights 1688, 1 W. & M. c. 2, § 7 (Eng.) (becoming law in 1689). The right encapsulated therein has been held to apply individually and the statute is recognized as the core forerunner to arms rights in the United States. District of Columbia v. Heller, 554 U.S. 570, 593 (2008).

80. *See* BENJAMIN F. SHAMBAUGH, FRAGMENTS OF THE DEBATES OF THE IOWA CONSTITUTIONAL CONVENTIONS OF 1844 AND 1846, at 66–67 (Benjamin F. Shambaugh ed., 1900) (discussing regulation of the militia).

81. 1 W. BLAIR LORD, THE DEBATES OF THE CONSTITUTIONAL CONVENTION; OF THE STATE OF IOWA, ASSEMBLED AT IOWA CITY, MONDAY, JANUARY 19, 1857, at 98 (Davenport, Luse, Lane & Co. 1857) [hereinafter "1 DEBATES"].

> no appropriation for a standing army shall be for a longer time than two years."
>
> This is one of the amendments which I think are needed in the Bill of Rights, and to which I referred yesterday.[82]

The amendment did not succeed.[83] The remaining mention of cold weapons in the debate would be limited to remarks on the "very fine pen-knife furnished [to each delegate] by the State." [84] The resulting Iowa Constitution would leave the matter open, preserving the inalienable right of "defending life and liberty"[85] and commanding that the "enumeration of rights shall not be construed to impair or deny others, retained by the people."[86]

In the period between convention and amendment, the militia recurred as a major theme in the constitutional consideration of arms. In the federal context, the prefatory clause of the Second Amendment—"[a] well regulated Militia, being necessary to the security of a free State"[87]—associates the bearing of arms with military and militia service, though not dispositively.[88] In Iowa, too, Mr. Harris's proposed but rejected arms right had ties to the militia, being offered as a supplement to the constitution's military section.[89] The state militia comprises a large body, drafting every male from eighteen to forty-five years of age, conscientious objectors excluded,[90] so a sizeable subset of the people would have arms by default. Many would presumably also have simple tools like knives, and some colonial militias "required their militiamen to carry a jackknife."[91] The Northwest Territory, Iowa's lineal ancestor, mandated each militiaman muster with "a sufficient bayonet" or, for officers, "a sword or hanger, and espontoon."[92] In much later legislation, cold weapons received unique treatment in regard to the militia; until its broadening in 2002, the Iowa Code section governing militia-like entities made explicit

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82. *Id.* at 126.

83. *Id.*

84. 2 W. BLAIR LORD, THE DEBATES OF THE CONSTITUTIONAL CONVENTION; OF THE STATE OF IOWA, ASSEMBLED AT IOWA CITY, MONDAY, JANUARY 19, 1857, at 991 (Davenport, Luse, Lane & Co. 1857).

85. IOWA CONST. art. I, § 1.

86. *Id.* § 25. These reservations of rights did not create the impression of an individual right. *See* Op. Iowa Att'y Gen., No. 01-10-1, 2001 WL 1651437 (Oct. 2, 2001) (replying to Dan Boddicker).

87. U.S. CONST. amend. II.

88. *See* District of Columbia v. Heller, 554 U.S. 570, 580–81 (2008).

89. *See* 1 DEBATES, *supra* note 81, at 126.

90. IOWA CONST. art. VI, §§ 1–2.

91. State v. Delgado, 692 P.2d 610, 613 (Or. 1984).

92. THEODORE CALVIN PEASE, THE LAWS OF THE NORTHWEST TERRITORY, 1788–1800, at 419 (Theodore Calvin Pease ed., 1925); *accord* An Act concerning the militia of the territory of Michigan, ch. 19, 1 Laws of the Territory of Michigan 47, 47 (1805) (mustering the 1805 militia with bayonet, sword, hanger, or espontoon); IOWA TERR. REV. STAT. tit. VII, § 6 (1843) (requiring "sufficient" swords and bayonets).

allowance for mass-carrying of swords,[93] perhaps signaling the legislature's comparative lack of concern about either the particular sort of weapon or the particular sort of group liable to port about swords.[94]

More than a century after the conventions, the Iowa Legislature added the individual right Mr. Harris argued for.[95] Spurred by the national arguments about the Second Amendment, the impetus of adoption explicitly centered on firearms and worries over potential judicial erosion of their federal constitutional protection.[96] Proponents contextualized the proposed amendment in the pre-federal constitutional tradition: "U.S. courts have long recognized that the right to keep and bear arms is a fundamental right that preexisted the Constitution and which is protected—not granted—by the Second Amendment."[97] Opponents stressed that longstanding laws on felon arms ownership and the permitting process would be uprooted.[98] Both camps can claim some support in tradition. Evoking the spirit of the 1689 Bill of Rights, proponents harken back to the individual access to arms, whereas opponents emphasize the conditions and laws affecting ownership.[99] With the matter decided by vote, Iowa finally has clarity about the constitutional protection of cold weapons in the newly minted Amendment 1A: "The right of the people to keep and bear arms shall not be infringed. The sovereign state of Iowa affirms and recognizes this right to be a fundamental individual right. Any and all restrictions of this right shall be subject to strict scrutiny."[100]

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93. *See* 2002 Iowa Acts 226 (changing the permissible carriage of "swords" in IOWA CODE § 29A.31 to that of "equipment" generally).

94. On the other hand, the executive permits the public visiting the capitol grounds to carry concealed pistols, but not knives, which is perhaps telling. *See* IOWA ADMIN. CODE r. 11-100.2 (2025). Nonetheless, the legislature has long understood the capabilities of cold weapons. *See* 1838 Iowa Acts 154 (defining the crime of mayhem as, in part, to "unlawfully cut or bite off the ear or ears, or cut out or disable the tongue, put out an eye, or slit, cut, or bite off the nose or lip, or in anywise injure either of the members aforementioned, with intent to maim or disfigure such person, or . . . cut, bite, or disable, any limb or member of any person, . . . or stab with any weapon, with voluntary purpose to maim or injure").

95. IOWA CONST. art. I, § 1A.

96. *In re* N.S., 13 N.W.3d 811, 826–27 (Iowa 2024). *See generally* Todd E. Pettys, *The N.R.A.'s Strict-Scrutiny Amendments*, 104 IOWA L. REV. 1455 (2019) (evaluating the potential legal effects of the National Rifle Association's not-yet-adopted strict scrutiny amendment to the Iowa Constitution).

97. Tom Barton, *Iowa Gun Rights Amendment: What a 'Yes' or 'No' Vote Could Change*, SE. IOWA UNION (Sept. 29, 2022, 12:34 PM), https://www.southeastiowaunion.com/pioneer-republican/iowa-gun-rights-amendment-what-a-yes-or-no-vote-could-change [https://perma.cc/SMF8-RGWA] (quoting a statement by the Iowa Firearms Coalition).

98. Stephen Gruber-Miller, *Iowa Legislature Approves Putting Pro-Gun Constitutional Amendment in Front of Voters*, DES MOINES REG. (Jan. 29, 2021, 11:36 AM), https://www.desmoinesregister.com/story/news/politics/2021/01/28/iowa-legislature-pro-gun-keep-and-bear-arms-constitutional-amendment-2022-ballot/4291697001 (on file with the *Iowa Law Review*).

99. *See supra* note 79 and accompanying text.

100. IOWA CONST. art. I, § 1A.

II. TRACING TRADITION, SEEING SCOPE

With a quite permissive constitutional context, Iowa's legislature had near free reign over its cold weapon laws. This Part tracks the key developments in legislation and regulation, following historical trends from early Iowa to the current legal landscape. When assembled, these developments reveal the core aspects of the tradition writ large. Thereafter, the first application of strict scrutiny in Amendment 1A is elucidated. Case law limns strict scrutiny's strength, and Iowa binds that exertion to a consideration of tradition, setting the stage for either a blurring or brawl of the federal and state rights tests.

A. COLD WEAPON REGULATION IN IOWA

Constitutional amendments are understood in the context of their time of adoption, and for Amendment 1A, that fateful day was November 8, 2022.[101] Longstanding precedent and legislation fleshes out that understanding, helping to demarcate the boundaries the public intended for the right.[102] The combination of ubiquity, lethality, portability, and concealability has long troubled the constitutional analysis of arms.[103] In regard to cold weapons, the most salient Iowa statutes are section 702.7, covering dangerous weapons,[104] and section 724.1, covering offensive weapons.[105] Each has an intriguing and intertwined history. But their tale begins well into Iowa's experience with weaponry, and so we start with the territory.

The Iowa common law began with the throw of an axe. Absalom Dollarhide, viking-adjacent hurler, missed "one Jasper Koons" but hit a conviction in 1841 for assault with a deadly weapon with intent to inflict injury.[106] When the prosecution neglected to allege the axe was a weapon, Dollarhide set sail for the Territorial Supreme Court, seeking a procedural pillaging.[107] In a poetic opinion, the court parted ways with the broader currents of common law and

101. *In re N.S.*, 13 N.W.3d at 826–27 (citing N.Y. State Rifle & Pistol Ass'n v. Bruen, 597 U.S. 1, 34 (2022)).

102. *See id.* at 826–31.

103. *See* Andrews v. State, 50 Tenn. 165, 169–70 (1871) ("These cases strike out the true principle that it is the bearing of arms, not for private broils and purposes of blood, but in defense of a common cause; as citizen soldiers bearing arms for the defense, in common with each other; not commonly; i. e., on ordinary occasions. . . . It was this great political right that our fathers aimed to protect; *not the claims of the assassin and the cut-throat to carry the implements of his trade.*" (emphasis added)).

104. IOWA CODE § 702.7 (2025).

105. *Id.* § 724.1.

106. Dollarhide v. United States, Morris 233, 233 (Iowa Terr. 1843); *cf.* 1839 Iowa Acts 155 ("An assault with a deadly weapon, instrument, or other thing, with an intent to inflict upon the person of another a bodily injury, where no considerable provocation appears, or where the circumstances of the assault show an abandoned and malignant heart, shall be adjudged to be a high misdemeanor, and any person who shall be duly convicted thereof shall be fined in any sum not exceeding one thousand dollars, and imprisoned for a term not exceeding three years.").

107. *Dollarhide*, Morris at 234.

charted a position in common sense—the use and deadly capacity of the axe made it the required weapon:

> [T]here are some weapons and instruments which we think the court, from its knowledge of the English language, may judicially know to be of a deadly character without a distinct averment to that effect. If the allegation had been that the assault had been made with a drawn sword, or with a gun loaded with powder and ball, would it be necessary to aver that these were deadly weapons? We think not.
>
> An axe when hurled by one man at another is scarcely less a deadly weapon than a drawn sword or loaded gun and the court is equally qualified to judge of its character in this respect. It is true that either of these instruments might have been so constructed as to shape, size, and material, as not to be a deadly weapon, but the language of an indictment ought not to be tortured into an unnatural meaning even in favor of the accused. Nothing, it is true, should be left to inference, but words should receive their ordinary interpretation; and where a distinct and unequivocal meaning is thus conveyed, further precision is not necessary. Such we think is the case in the present instance.
>
> This perhaps may be thought a deviation from the ordinary current of judicial argument, but if it be so we think it a deviation on the side of reason. Courts should accommodate their decisions, as far as is compatible with justice, to the common sense of mankind, if they would secure for the law its ablest guardian–public respect. There is some reason to apprehend that criminal justice has been already in some instances so disguised by technical refinements and subtleties as to become a subject of ridicule to men whose minds are unbiased by their peculiar education or interests. This feeling ought not to be increased by increasing the cause; but on the contrary, where the current of authority is not too strong, we should seize all occasions to bring back the rules of decision to such a standard as the common reason of mankind may sanction and approve.[108]

With boats and hopes torched, Dollarhide's conviction stuck.[109] The case did too, even making its way into the 1860 Iowa Code books as the defining opinion on deadly weapons.[110] As a theme-setter, *Dollarhide* exemplifies Iowa's

108. *Id.* at 234–35.

109. *Id.* at 235. For the curious, to burn one's boats was a five-year offense. IOWA CODE § 2603 (1851).

110. *See* IOWA CODE ch. 165 annot. (1860); *see also* J.C. DAVIS, IOWA CRIMINAL CODE AND DIGEST AND CRIMINAL PLEADING AND PRACTICE 29 (1879) (noting *Dollarhide* eliminates the necessity to plead the deadliness of an "ax, pistol or knife").

periodic iconoclasms—and the sprouting judicial emphasis on actual use and capacity for violence in determining what makes a weapon.[111]

Early Iowa legislators obsessed about concealed weapons. Post-partum, the laws of Michigan immediately struck a blow against the perceived implements of the assassin and rogue.[112] The laggard Iowa made up for tardiness with enthusiasm on all levels. The Iowa Legislature had outright banned the concealed carry of any weapon by 1873,[113] and the great cities of Iowa warred against a laundry list of martial implements. Council Bluffs laid siege in 1887 to the "slungshot, brass knuckles, . . . sand bag, air guns of any description, dagger, bowie knife, or instrument for cutting, stabbing or striking."[114] Des Moines joined the fray in 1900, adding dirks and slings to that list.[115] Sioux City attacked the concealed "razor, billy, dirk, dirk-knife, or dagger, or any knife resembling a dirk-knife or bowie-knife" in 1894.[116] The more pragmatic Iowa City simply smote concealed weapons generally in 1898,[117] and Davenport had repeated the assault by 1911.[118] Dubuque held out against the greater tide in 1868 but succumbed by 1919 and clubbed "knuckles of lead, brass or other metal or material."[119]

Into this froth was born the primordial section 702.7. Contextualizing the drive for another statewide statute in the greater national movement against concealed weapons, Iowans took to the legislature in 1913.[120] Out would

111. *Cf.* State v. Roan, 97 N.W. 997, 998 (Iowa 1904) ("It is insisted that an ordinary penknife is not a deadly weapon, and that the court was in error in giving this portion of its charge. Manifestly this is unsound. A penknife may or may not be a deadly weapon. If the weapon is such that from the manner of its use it is likely to produce death, it is, of course, a deadly weapon."). *Roan*'s influence was felt as far as the treatment of weapons in the Code revision of the 1970s. *See* JOHN P. ROEHRICK, THE NEW IOWA CRIMINAL CODE: A COMPARISON 14 (1975) (calling attention to "the case law set forth under *State v. Hill* . . . and *State v. Roan*" in interpreting the new statutes).

112. 2 REV. STAT. MICH. ch. 1, § 16 (1838) ("If any person shall go armed with a dirk, dagger, sword, pistol, or other offensive and dangerous weapon . . . [they may] be required to find sureties for keeping the peace . . . .").

113. IOWA CODE § 3879 (1873).

114. COUNCIL BLUFFS, IOWA, COMPILED ORDINANCES, MISDEMEANORS & VAGRANCY § 105 (1887); *see also* 1887 Mich. Pub. Acts 144 (similar); CEDAR RAPIDS, IOWA, COMPILED ORDINANCES tit. VIII, ch. LXX, § 600 (1906) (similar).

115. DES MOINES, IOWA, REV. ORDINANCES tit. IV, ch. 1, § 209 (1900). Des Moines also banned the carelessly thrown stick. *Id.* § 211.

116. SIOUX CITY, IOWA, GEN. ORDINANCES, PUB. SAFETY § 4 (1894).

117. IOWA CITY, IOWA, REV. ORDINANCES no. 41, § 14 (1898).

118. DAVENPORT, IOWA, COMPILED ORDINANCES ch. 38, § 18 (1911).

119. DUBUQUE, IOWA, REV. ORDINANCES tit. 17, no. 78, § 584 (1919); *see* DUBUQUE, IOWA, REV. ORDINANCES ch. 30 (1869).

120. *See, e.g.*, *License to Carry Weapons*, DENISON REV., June 11, 1913, at 3 (on file with the *Iowa Law Review*) ("This new piece of Iowa legislation is in line with what has been passed by a good many states."). The early section 702.7 appears to draw from Michigan law. *See* 1887 Mich. Pub. Acts 144 ("[I]t shall be unlawful for any person, except officers of the peace and night-watches legitimately employed as such, to go armed with a dirk, dagger, sword, pistol, air-gun, stiletto, metallic knuckles, pocket-billie, sand-bag, skull-cracker, slung-shot, razor, or other offensive and dangerous weapon or instrument concealed upon his person."). Additional impetus may have

come a primigenial statute that decidedly focused on cold weaponry: "It shall be unlawful for any person . . . to go armed with and have concealed upon his person a dirk, dagger, sword, pistol, revolver, stiletto, metallic knuckles, pocket billy, sand bag, skull cracker, slung-shot, or other offensive and dangerous weapons or instruments concealed upon his person."[121] The act would be revised several times—the modern section 702.7 has a long pedigree. It has shifted code sections and undergone numerous major changes.[122] Some iterations, such as the 1935 incarnation replete with an exemption for hunting knives, perhaps reflect greater underlying concerns about cold weapons law.[123]

What was the weapons-world of the early twentieth century like to draw so much passion? For that, we take a brief detour through the unexpected history of the hatpin—"a long straight pin with an ornamented head that is used to keep a hat in place."[124] Today, hatpins are forgotten weapons, but they were vividly present in the early 1900s. At pinpoint was done maiming,[125]

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been provided by the contemporaneous Sullivan Act, the star of *Bruen*. *See* 1911 N.Y. Laws 442 (prohibiting carriage of "blackjack, slungshot, billy, sandclub, sandbag, metal knuckles or bludgeon" (footnotes omitted)). In any event, the Iowa legislature had a tumultuous debate over cold weapons: "[T]he original draft prohibited the carrying of a razor—[Representative Stipes asked a] question. Was a 'Safety' meant?—and that he offered an amendment to strikeout the word 'razor.' A hot discussion lasting several hours ensued before the amendment was adopted." *Against Concealed Weapons*, LEON REP., May 29, 1913, at 3 (on file with the *Iowa Law Review*).

121. 1913 Iowa Acts 307. The shift in focus from specific weapons to general principles in how to ascertain weapon status is a striking development over time. *Compare* IOWA CODE § 12935-g1 (1935) ("[Unlawful intent to go armed with a] dagger, dirk, razor, stiletto, or knife having a blade of three inches in length or other dangerous or deadly instrument . . . ."), *with* IOWA CODE § 702.7 (1981) ("A '*dangerous weapon*' is any instrument or device designed primarily for use in inflicting death or injury upon a human being or animal, and which is capable of inflicting death upon a human being when used in the manner for which it was designed. Additionally, any instrument or device of any sort whatsoever which is actually used in such a manner as to indicate that the defendant intends to inflict death or serious injury upon the other, and which, when so used, is capable of inflicting death upon a human being, is a dangerous weapon. Dangerous weapons include, but are not limited to, any offensive weapon, pistol, revolver, or other firearm, dagger, razor, stiletto, or knife having a blade of three inches or longer in length.").

122. IOWA CODE § 702.7 (2025). For the truly legislatively inclined, some key events are: establishment by 1913 Iowa Acts 307; a recoding to IOWA CODE § 12936 (1924); modification by 1935 Iowa Acts 171–72 (creating section 12936-g1 and carving out an exemption for "hunting knives adapted and carried as such"); a split in the 1935 Code into sections 12935.1 (with a notable three-inch blade threshold for felony intentional use) and 12936; a shift again to sections 695.1 and 695.2 in the 1946 Code; and recombination into section 702.7 by 1976 Iowa Acts 550 (losing the hunting knife exception and, regrettably, skull crackers). The same act limited section 702.7 to dangerous weapons rather than the dangerous and offensive language of its ancestors. 1976 Iowa Acts 550.

123. 1935 Iowa Acts 172 (carving out protections for a popular activity that usually entails stealthily carrying deadly weaponry).

124. *Hatpin*, MERRIAM-WEBSTER, https://www.merriam-webster.com/dictionary/hatpin [https://perma.cc/77XC-4FZZ].

125. *Fight with Hatpins*, MUSCATINE NEWS-TRIB., Dec. 25, 1896, at 6 (on file with the *Iowa Law Review*) (chronicling police responses to the threat of concealed hatpins and the tendency of

murder,[126] and massacre.[127] Indeed, "[n]o list of weapons would be complete without mention of the hatpin. Every policeman knows the dangers of this dagger."[128] In recognizable language, some Iowans vehemently demanded legislation:

> [I]f the deplorable hatpin habit is to continue . . . some action on the part of bodies legislating in the interest of public safety is in order. Next thing we know, hatpins will be exhibited in the show windows of sporting goods houses, along with guns and other accessories of the violently inclined. It might seem an incongruous condition of affairs that would compel a woman to register her name in a book open to police inspection, whenever she makes purchase . . . or perhaps require her to get a police permit in order to keep her headpiece from taking to aviation. Nevertheless, it is proper to safeguard the public against dangerous weapons.
>
> That the hat[p]in is a dangerous weapon can no longer be subject to doubt. One constitutional advantage, though which women have who use hatpins for their original purpose exclusively is that, as usually worn, they are not concealed weapons. This fact however, merely, complicates the problem for the city councils and legislators who may feel it imperative to do something to curb those who handle the hatpin as a machine of destruction.[129]

The concession of legal nuance in the open manner of carry and the common nature of the implement is notable.[130] Of course, public demand did

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wielders to aim for the eyes); BAYARD NEWS, Dec. 26, 1912, at 2 (on file with the *Iowa Law Review*) ("[T]here has of late been an epidemic of stabbing with hatpins. . . . '[Staff] frequently come to me bleeding from wounds in their legs. I have seen cases where the hatpin has been thrust in as far as it would go. That is not far removed from attempted murder.'").

126. *Verdict Rendered in Hatpin Murder Case*, SIOUX CITY J., Jan. 21, 1914, at 1 (on file with the *Iowa Law Review*) (reporting a finding of justifiable homicide).

127. *Town Is Turned into Shambles*, MARBLE ROCK J., July 5, 1917, at 1 (on file with the *Iowa Law Review*) (highlighting the participation of women wielding hatpins in a racial massacre in Missouri).

128. *Weapons of Defense and People Who Use Them*, WATERLOO DAILY COURIER, Jan. 18, 1902, at 9 (on file with the *Iowa Law Review*) (vulgarly stereotyping groups and remarking that hatpins were the tool of "a woman of the streets"). *But see, e.g.*, *"Votes Fer Wimmin,"* CEDAR RAPIDS EVENING GAZETTE, Dec. 17, 1912, at 4 (on file with the *Iowa Law Review*) ("Purse snatchers are making life a burden for women in some cities. The woman who goes shopping with many valuables in her purse, should keep a good grip on her handbag and be ready to grab a hatpin, in order that the bandit may have the right kind of a reception."). This is not to suggest women alone wielded hatpins; dastards consigned to the haberdasher also poked and prodded. *Hat Pin His Weapon*, REG. & LEADER (Des Moines), Apr. 27, 1909, at 3 (on file with the *Iowa Law Review*) ("After acquiring an excess amount of joy water, John Swarts attempted to amuse himself around the corner of Sixth avenue and Walnut street yesterday afternoon by jabbing a hat pin into the anatomy of each pedestrian passing that corner. . . . His barbarous weapon was taken away and will be introduced in evidence this morning.").

129. *The Deadly Hatpin*, MO. VALLEY TIMES, May 20, 1909, at 3 (on file with the *Iowa Law Review*).

130. *See id.*

not result in hatpins becoming a per se dangerous weapon under section 702.7's forebear,[131] though the family line would ultimately reach the millinery murder-sticks by common law.[132] Similarly, it is highly unlikely the Iowa legislature had Iowa's hatpin tradition in mind during the constitutional amendment process.[133] And more, the legislature eliminated the aggravated misdemeanor of "go[ing] armed with a dangerous weapon concealed on or about the person" in 2021, shifting to a use-based inquiry and breaking from the traditional concern with concealment in the amendment's critical period.[134] So why the focus?

One point is that some concerns are simply universal and timeless: Iowa has compelling interests in preventing violence and suicide.[135] Fairfield and Pella, Iowa, are a little over an hour apart, and a little over a century apart were Fairfield's 1921 murder by cheese-knife[136] and Pella's 2024 kitchen-knife stabbing.[137] Likewise, weapons and suicide have historically made the papers.[138] When a dalliance with her beau was discovered, a Des Moines girl decided she would rather die by the hatpin than accept her parents' decision to send her to Catholic school in Davenport.[139] After the girl's jailhouse suicide attempt—enabled by snatching the Police Matron's own headpiece—was thwarted, the girl's sweetheart, who was very careful not to identify himself to the police, talked her out of further attempts.[140] More rural Iowans made do with less complicated arrangements.[141]

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131. *See supra* note 121 and accompanying text.

132. State v. Hill, 140 N.W.2d 731, 733 (Iowa 1966).

133. *See supra* note 96 and accompanying text.

134. 2021 Iowa Acts 65; *see also* IOWA CODE § 708.8 (2025) ("A person who goes armed with any dangerous weapon with the intent to use without justification such weapon against the person of another commits a class 'D' felony. The intent required for a violation of this section shall not be inferred from the mere carrying or concealment of any dangerous weapon itself, including the carrying of a loaded firearm, whether in a vehicle or on or about a person's body.").

135. *In re* N.S., 13 N.W.3d 811, 831 (Iowa 2024).

136. *Scott Case Goes to Jury Monday*, REG. & LEADER (Des Moines), Apr. 17, 1921, at M-9.

137. José Mendiola, *14-Year-Old Pella Middle School Stabbing Suspect Charged with Attempt to Commit Murder*, DES MOINES REG. (Nov. 28, 2024, 8:57 AM), https://www.desmoinesregister.com/story/news/crime-and-courts/2024/11/21/pella-iowa-middle-school-stabbing-suspect-charged/76488286007 (on file with the *Iowa Law Review*).

138. *See, e.g.*, *Attempts Suicide with a Hat Pin*, REG. & LEADER (Des Moines), May 29, 1904, at 6 (on file with the *Iowa Law Review*). In something of a cold weapon juxtaposition, the next full column was a story about an attempted murder by jack-knife (a type of large folding knife). *Fatally Wounded in a Saloon Row*, REG. & LEADER (Des Moines), May 29, 1904, at 6 (on file with the *Iowa Law Review*) ("[The attacker] plunged a jack knife into the back of [the victim] four times, calmly closed the blade, and with Officer Charles Miller at his heels, ran nearly three blocks before giving himself up.").

139. *Deserted Woman Attempts Suicide*, REG. & LEADER (Des Moines), June 19, 1906, at 10 (on file with the *Iowa Law Review*).

140. *Id.*

141. *Iowa Items*, IOWA STATE REG., Jan. 11, 1878, at 4 (on file with the *Iowa Law Review*) ("Mrs. W. M. Alexander, of Oskaloosa, while under a temporary aberration of mind, New Year's day,

A second consideration is that hatpins elicit the "ghost-of-weapon-past" in the same sense that electromagnetic accelerators are the "ghost-of-weapon-yet-to-come."[142] A constitution cannot account for every weapon and technology.[143] Despite the perennial knife and axe, weapons bloom and wither. Erecting a trebuchet in one's backyard does not generally cause the neighbors to stock their larders in preparation for a siege.[144] A court faces the specters three of: (1) weighing the scope of historical legislation, with the demands of that period thrust upon it; against (2) the broader tradition, with its principles refined over time; while (3) still entreating with the spirit-of-weapon-present.

Third, the judicial difficulty in separating ordinary objects from dangerous weapons does not change.[145] Like pocketknives, hatpins occupy a liminal space: weapon and not.[146] The common law of knives is a series of edge-cases. Iowa courts taxonomically cut their teeth on straight razors (per se dangerous weapons);[147] box cutters (tools, though transformable through use);[148] machetes (weapons);[149] knives with blades over five inches (weapons);[150] balisongs and

attempted suicide by stabbing herself with a butcher-knife. Assistance was prompt and she will recover.").

142. *See, e.g.*, *EMG-02*, ARCFLASH LABS, https://arcflashlabs.com/product/emg-02 [https://perma.cc/AH7G-F3CL] (offering for sale a Gaussian accelerator, a type of non-firearm gun). The effectiveness of these weapons is quite real. *See* Forgotten Weapons, *ArcFlash Labs EMG-02 CoilGun: Making SciFi Weapons into Reality*, YOUTUBE (Aug. 6, 2022), https://www.youtube.com/watch?v=EwHRjgVWFno [https://perma.cc/XS3J-CDLN]. My apologies to Charles Dickens and *A Christmas Carol*.

143. *See* M'Culloch v. Maryland, 17 U.S. (4 Wheat.) 316, 407 (1819).

144. Some concern may flare over the safety of one's pumpkins, however. Carol Johnk, *DIY for the Weekend: Build Your Own Trebuchet!!*, U. IOWA (Oct. 16, 2015), https://blog.lib.uiowa.edu/eng/diy-for-the-weekend-build-your-own-trebuchet [https://perma.cc/T939-MRBK] ("A trebuchet is a medieval engine of war with a sling for hurling missiles. As Halloween comes around, wouldn't you like to spend your weekend building your very own pumpkin-launching trebuchet?").

145. *See* State v. Delgado, 692 P.2d 610, 614 (Or. 1984) ("[K]nives have played an important role in American life, both as tools and as weapons. The folding pocketknife, in particular, since the early 18th century has been commonly carried by men in America and used primarily for work, but also for fighting."); Kopel et al., *supra* note 19, at 170–71. The usefulness of knives dictates that even in situations where the potential of use as a weapon is incredibly salient, they still historically appear. *See, e.g.*, *Knives Stolen at Prison Found*, DES MOINES REG., Aug. 21, 1979, at 8A (on file with the *Iowa Law Review*) (reporting on the chagrined prison staff stating, post-theft, that "[w]e'll have to see if it's possible to run a prison kitchen without knives").

146. State v. Hill, 140 N.W.2d 731, 733 (Iowa 1966) ("It is manifest there are many articles and instruments other than those specifically named in the section which might properly come within the scope of an 'offensive or dangerous weapon' if they were used or carried for use as weapons, i.e., *pocket knives*, razors, hammers, screwdrivers, ice picks, *hatpins*, chains, and many others, which are manufactured and generally used for peaceful and proper purposes." (emphases added)); *cf.* Ruben, *supra* note 40, at 193 ("[T]he line between purposely-designed weapons and 'improvised' weapons is exceedingly thin.").

147. State v. Ortiz, 789 N.W.2d 761, 765–66 (Iowa 2010) (echoing earlier caselaw).

148. *Id.* at 767.

149. State v. Franklin, 368 N.W.2d 716, 719 (Iowa 1985) (noting, however, the predominant use as an agricultural tool).

150. State v. Poyner, 306 N.W.2d 716, 718 (Iowa 1981).

butterfly knives (weapons);[151] and steel shards (object).[152] More bluntly, nunchakus,[153] brass knuckles,[154] and metal pipes[155] can also qualify as dangerous weapons depending on use. When called to adjudicate the status of stun-guns (weapons),[156] the Iowa Supreme Court distilled the body of dangerous weapon precedent and legislation into three approaches.[157] The first examines the design purpose and capacity of an instrument—a dangerous weapon intentionally inflicts death when used as expected.[158] The second analyzes intent—a dangerous weapon is an instrument capable of inflicting death and is actually and deliberately used for that end.[159] The last simply looks at whether an implement meets the definition of a dangerous weapon enumerated by statute.[160] The dangerous weapons tradition teaches that purpose, capability, and recognition matter.

Offensive weapons are a subset of dangerous weapons[161] that the legislature marks out as especially baleful.[162] Ballistic knives are the only cold weapon currently deemed an offensive weapon under Iowa law.[163] Showing their intertwined nature, the same 1988 act that made switchblades a dangerous weapon added ballistic knives to the offensive weapons roster.[164]

Recall that ballistic knives use stored energy to launch the blade as a projectile, which can occur unexpectedly.[165] Naturally, the public in the late 1980s weighed in on the device—gauging, at least, the battlefield of the opinion page of the *Des Moines Register*—with the paper itself inveighing against ballistic knives:

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151. *In re* F.A.B., No. 03-1638, 2004 WL 434008, at *2 (Iowa Ct. App. 2004). *But see id.* at *2–3 (Sackett, C.J., dissenting) ("In the case where a knife is the weapon at issue, however, I believe it must meet the minimum blade-length requirements of sections 702.7 and 724.4(3) to qualify as a dangerous weapon. . . . Both sections 702.7 and 724.4 expressly include as dangerous weapons knives with blades measuring more than five inches. No mention is made of knives with blades of shorter length. Under th[e] principle [of *expressio unius est exclusio alterius*] they should be deemed excluded.").

152. State v. Greene, 709 N.W.2d 535, 537–38 (Iowa 2006).

153. State v. Mitchell, 371 N.W.2d 432, 434 (Iowa Ct. App. 1985).

154. State v. Tusing, 344 N.W.2d 253, 254–55 (Iowa 1984).

155. *See* State v. Lambert, 612 N.W.2d 810, 814–15 (Iowa 2000).

156. State v. Howse, 875 N.W.2d 684, 693 (Iowa 2016).

157. *Id.* at 689–93.

158. *Id.*; *see also* State v. Eaton, No. 14-1309, 2015 WL 3884354, at *2 (Iowa Ct. App. June 24, 2015) (holding that the dearth of evidence the specific pair of metallic knuckles was capable of inflicting death, though designed to do so, failed the design prong, and without active (mis)use or per se enumeration the knuckles lacked dangerous weapon status under section 702.7).

159. *Howse*, 875 N.W.2d at 689–93.

160. *Id.*

161. IOWA CODE § 702.7 (2025) ("Dangerous weapons include but are not limited to any offensive weapon . . . .").

162. *See id.* § 724.1.

163. *See id.*

164. 1988 Iowa Acts 277.

165. *See supra* notes 20–22 and accompanying text.

> Among the nastier weapons now available to the crazies of society is the ballistic knife, powered by a heavy spring that shoots the knife a considerable distance. Officials of the Iowa Department of Public Safety tested one by firing it some 15 to 20 feet into a hollow-core door; the blade penetrated nearly an inch.
>
> . . . .
>
> Encouraged by the safety department, the Legislature is wasting no time in outlawing the ballistic knives, a wise move.
>
> . . . .
>
> Ballistic knives should indeed be outlawed; a police officer holding a knife-wielding criminal at bay should have some assurance that distance ensures his own safety.[166]

The equally fiery pushback stressed that, functionally, a knife is a knife:

> The editorial of April 13, which lumped ballistic knives and handguns into one ignominious category, illustrates the literary phenomenon that lack of knowledge of the subject does not inhibit prose.
>
> A person skilled with a knife can swiftly bury a throwing knife to the hilt within the blink of an eye versus a "nasty" ballistic knife which, according to the author, only penetrated one inch into a hollow-core door. . . .[167]

Though there is not a developed body of Iowa case law on ballistic knives,[168] one may observe that, consistent with the general dangerous weapon themes of purpose and capability, the enhanced ability to strike from afar gives rise to a need to evaluate whether the weapon-class offers a fundamental change in capacity to harm. The legislature has answered that in the affirmative, and, so far, ballistic knives remain offensive weapons.[169]

In the broad sweep, the tradition fundamentally grapples with the problem of how to identify when instrumentalities cross the threat threshold into weapons. It has looked to the balance of purpose and capability to make that determination. To illustrate, concealability is, at root, a balance of purpose (intent to deceive) and capability (the object can be practically concealed). An object with capacity, but not usually purpose, has been judged by actual use—a car can make an excellent weapon, but that is not normally the design

166. Editorial, *Banning a Nasty Weapon*, DES MOINES REG., Apr. 13, 1987, at 6A (on file with the *Iowa Law Review*).

167. Chuck Fillenworth, Letter to the Editor, DES MOINES REG., May 4, 1987, at 9A (on file with the *Iowa Law Review*).

168. There do not appear to be any Iowa Supreme Court or Iowa Court of Appeals cases addressing ballistic knives.

169. *See* IOWA CODE § 724.1(1)(d) (2025).

intent.[170] And in weighing those two key qualities, a court sets the scope of what a weapon is.

B. STRICT SCRUTINY AND SCOPE

Selecting strict scrutiny to ward against the expected encroachment of a right[171] logically presupposes that, when applied, strict scrutiny will be a potent mechanism to strike down offending acts and legislation. There are certainly signs to that effect; the Iowa Supreme Court has imbued even rational basis review with substantial bite, sticking to its guns despite the U.S. Supreme Court's direct input on a case,[172] or clear political and social headwinds.[173]

But the Iowa application of strict scrutiny incorporates tradition.[174] In *The N.R.A.'s Strict-Scrutiny Amendments*, an *Iowa Law Review* essay that would shape the Iowa Supreme Court's thinking on the Iowa Constitution's new Amendment 1A,[175] Professor Todd Pettys illustrated that the predicate scope of the right might well counteract an intent to enlarge the right's protected extent.[176] When in synchrony, the tradition inherited from a constitutionally permissive environment for legislation, the judicial reluctance to eliminate existing legislation without clear-cut constitutional deficiencies, and the squishy nature of the historical record conspire together to narrow the scope of the right to be maintained.[177] Consequently, strict scrutiny alone may not deliver the maximalist results proponents hoped for.[178]

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170. *See* State v. Oldfather, 306 N.W.2d 760, 763–64 (Iowa 1981) ("It is clear that an automobile, if it is used in such a manner as to indicate an intent to inflict death or serious injury, may be a 'dangerous weapon' . . . .").

171. *See supra* note 96 and accompanying text.

172. *See* Racing Ass'n of Cent. Iowa v. Fitzgerald, 675 N.W.2d 1, 3 (Iowa 2004) (upholding the Iowa Supreme Court's previous decision regarding gambling taxes under Iowa law after receiving remand from the U.S. Supreme Court).

173. *See* Varnum v. Brien, 763 N.W.2d 862, 905–06 (Iowa 2009) (concluding that rational basis review could not permit disparate treatment of gay persons). The three justices up for retention election would all be resultingly defeated because of the political firestorm. Grant Schulte, *Iowans Dismiss Three Justices*, DES MOINES REG. (Nov. 3, 2010), https://wayback.archiveit.org/all/20101227135753/http://www.desmoinesregister.com/article/20101103/NEWS09/11030390/Iowans-dismiss-three-justices [https://perma.cc/96N4-MEW3].

174. State v. Wright, 961 N.W.2d 396, 402 (Iowa 2021) (outlining Iowa constitutional analysis with explicit consideration of "text, history, meaning, and purpose." (quoting State v. Crooks, 911 N.W.2d 153, 167 (Iowa 2018))).

175. *See In re* N.S., 13 N.W.3d 811, 826–27, 835 (Iowa 2024); *id.* at 836–37 (McDonald, J., concurring); *id.* at 842 (McDermott, J., dissenting).

176. Pettys, *supra* note 96, at 1474–75 (stating that the article's "purpose is simply to show how readily one can use regulatory histories of the sort one finds in Iowa to try to demonstrate that citizens have a narrow conception of the fundamental firearms right that a strict-scrutiny amendment would protect").

177. *Id.* at 1480.

178. *See id.*

In re N.S. was the Iowa Supreme Court's first outing with Amendment 1A,[179] and it is an opinion deeply riven by the role of scope. Divided two, two, and three on the appropriate constitutional analysis,[180] the Court has left much uncertain about how to approach the new right. The case centers around a challenge to section 724.31, Iowa's statute for restoration of firearm rights post-mental health commitment.[181] N.S. was disqualified under 18 U.S.C. § 922(g)(4), which bars individuals involuntarily committed to a mental health institution from possessing firearms.[182] N.S. applied for reinstatement of rights under section 724.31, then appealed the denial of that petition—arguing that once the necessary evidence is produced, any further burden on the petitioner to show they no longer pose a danger to the public violated Amendment 1A.[183] Thus, the case turned on who bears the burden of *persuasion*: the State to show continued disqualification, or N.S. to show fitness for restoration.[184]

Justice Waterman, writing for the Court, approached the case's core constitutional issue by focusing on the arms right's necessary limitations.[185] "[A] *fundamental* individual right to keep and bear arms [is] not an *absolute* right."[186] From the few other states with strict scrutiny arms provisions, the preponderance of case law had rejected a presumptive invalidity to statutes existing at the time the public adopted their amendments.[187] Noting the trend, the opinion followed suit and found no good cause to part ways with Iowa's established laws.[188] Because the issue of how strict scrutiny applies to arms laws is generally unsettled, it followed that the job of the court was to delineate the right's limits.[189]

Under the weight of strict scrutiny, the burden fell on the State to prove narrow tailoring, the least restrictive means, to achieve a compelling interest.[190] The justices identified the compelling interest as "preventing gun violence and suicide," which mental illness exacerbates when paired with firearms.[191] The tailoring proved more contentious.[192] Rejecting a perfect tailoring standard, Justice Waterman emphasized that the tailoring need only refrain from

179. *In re N.S.*, 13 N.W.3d at 815–16 (majority opinion).
180. *Id.*
181. *Id.*; IOWA CODE § 724.31 (2022).
182. *In re N.S.*, 13 N.W.3d at 815–16.
183. *Id.*
184. *See id.*
185. *Id.* at 826.
186. *Id.*
187. *Id.* at 826–28.
188. *Id.*
189. *Id.*
190. *Id.* at 828.
191. *Id.* at 831–33.
192. *See id.* at 841–42 (McDermott, J., dissenting).

"unduly harm[ing] members of any . . . group."[193] As the ban only lingered on those who could not show they were no longer dangerous, and since showing could be attempted regularly, section 724.31 passed strict scrutiny.[194]

Faulting the dissent for over-rigidity in evaluating the challenged statute's burden-shifting, the opinion further stressed the practicalities of administration and legislative common sense: "If the same Iowa legislators who approved Amendment 1A saw section 724.31 'as part of the problem they were aiming to solve . . . why didn't they repeal the legislation, rather than launch the cumbersome amendment process and leave the objectionable law's fate to the vagaries of future litigation?'"[195]

In partial concurrence, Justice McDonald raised the predicate issue of whether Amendment 1A was even implicated.[196] Adhering strongly to the meaning of "infringement," the concurrence concluded that, absent the challenged statute's reinstatement provisions, the scope of the right would naturally diminish.[197] Federal law prevails as supreme over the state constitution, and without the legislation explicitly permitted by federal authority, more Iowans would be unable to exercise the right at all.[198] Consequently, it could not be an infringement of the state right, only an expansion of it.[199] It therefore followed that strict scrutiny was inapplicable, as the statute was outside the scope of the right.[200]

In dissent, Justice McDermott questioned the faithfulness of the majority's application of strict scrutiny.[201] Per the Iowa Supreme Court's recent precedent in *Planned Parenthood v. Reynolds*,[202] the burden of justifying the law lay squarely on the State.[203] Though applicants might properly bear the burden of production to justify the reinstatement of their right to arms, the burden of persuasion to sustain the constitutionality of the law could not be shifted—the statute should not be imbued with a presumption of validity.[204] Indeed, "[w]ho bears the burden of persuasion necessarily matters because in close cases, the burden-bearer *necessarily loses*."[205] Discharging that burden onto the wrong party concordantly meant the statute should fail strict scrutiny. Moreover, diluting the potency of strict scrutiny in this manner poisons its application in other spheres, imperiling

193. *Id.* at 831 (majority opinion) (quoting Grutter v. Bollinger, 539 U.S. 306, 341 (2003)).

194. *Id.* at 833.

195. *Id.* at 833–35 (quoting Pettys, *supra* note 96, at 1471).

196. *Id.* at 836–37 (McDonald, J., concurring).

197. *Id.* at 837.

198. *Id.* (citing U.S. CONST. art. VI, cl. 2).

199. *Id.*

200. *Id.*

201. *Id.* at 838 (McDermott, J., dissenting).

202. Planned Parenthood of the Heartland, Inc. v. Reynolds *ex rel.* State, 975 N.W.2d 710, 731 (Iowa 2022) (reviewing the constitutionality of an abortion law).

203. *In re N.S.*, 13 N.W.3d at 838.

204. *Id.* at 839–41.

205. *Id.* at 841.

other rights.[206] "Honor[ing] the will of the people" required more than a "bloodless," performative strict scrutiny, especially when trailblazing states had successfully shouldered similar burdens.[207]

Though divided, the justices unearthed several foundational concerns within *In re N.S.* Justice McDermott mined the import of uniformity of application of strict scrutiny and of faithfulness to the amendment's text.[208] Justice McDonald delved through the vital threshold inquiry of the right's scope, and the indispensability of the direction along which legislation propels the right.[209] Justice Waterman burrowed into the necessity of principled limitation, stability, and workability.[210] A viable approach to Amendment 1A must aggregate these interests.

Later cases show these fissures run deep. Federal supremacy would recur in *State v. Kieffer*, curtailing the remit of the state right.[211] In *State v. Woods*, a plurality of the Iowa Supreme Court displayed an immense reluctance to reexamine laws on the books at the passage of the amendment.[212] Noting no settled method to apply strict scrutiny to arms laws, the Court focused on the predicate scope of the right, finding no protection for unlawful purposes.[213] Illegitimate acts simply fall outside the reach of the fundamental right.[214]

Not reticent, however, were the concurrence and dissents. Justice McDermott faulted the plurality's inability to distinguish "dangerous and nondangerous activities," leaving the opinion unmoored from historical tradition.[215] The watering down of strict scrutiny and the plurality's unwillingness

206. *Id.* at 842. This fear appears to be well-founded, as weapons statutes have on occasion distorted a court's analysis. *See* Andrew Willinger, *Does* Bruen *Herald the End of Constitutional Strict-Scrutiny Amendments?*, DUKE CTR. FOR FIREARMS L. (Aug. 26, 2022), https://firearmslaw.duke.edu/2022/08/does-bruen-herald-the-end-of-constitutional-strict-scrutiny-amendments [https://perma.cc/JH3Y-RMBQ] (examining gun cases).

207. *In re N.S.*, 13 N.W.3d at 842.

208. *See supra* notes 201–07 and accompanying text.

209. *See supra* notes 196–200 and accompanying text.

210. *See supra* notes 179–95 and accompanying text.

211. State v. Kieffer, 17 N.W.3d 651, 666–67 (Iowa 2025); *see also* Stephen P. Carroll, *The Gun Bog: Iowa Supreme Court Finds Some Solid Ground in the Supremacy Clause*, DUKE CTR. FOR FIREARMS L. (May 23, 2025), https://firearmslaw.duke.edu/2025/05/the-gun-bog-iowa-supreme-court-finds-some-solid-ground-in-the-supremacy-clause [https://perma.cc/AQC4-58Y3] (detailing *Kieffer* and an Iowa trial court decision emphasizing the federal tradition in assessing the scope of Amendment 1A).

212. State v. Woods, 23 N.W.3d 258, 275 (Iowa 2025) ("In determining whether a law infringes or restricts the state constitutional right to keep and bear arms, we tread carefully. We presume that the general assembly, in twice approving the amendment before submitting it to the people for a referendum, did not intend the amendment to overturn the numerous laws on the books imposing more serious sanctions for crimes committed with the use of firearms and other dangerous weapons.").

213. *Id.*

214. *Id.*

215. *Id.* at 287 (McDermott, J., dissenting). Specifically, Justice McDermott found no connection between danger and illegality in the abstract. *See id.* at 297 ("If we're concerned about safety, it

to seriously consider invalidating existing legislation made the right an "empty promise."[216] Concurring with the plurality, Justice Oxley nonetheless took them to task for an overly simplistic analysis of scope.[217] The weapon must have a nexus to the illegality before it can be properly excluded from the defined scope of the right.[218] Naturally, Justice May disagreed: Unlawful purpose, not a nexus to illegality, was the proper scope-setter.[219]

Thoroughly divided, the Court is seeking a workable method to define the scope of the right. The keystone constitutional issue cannot be left uncertain: What is the proper role of history and tradition in the application of strict scrutiny by Iowa's right to bear arms?

III. THE SHOWDOWN

The Iowa Supreme Court has recognized a clash between the schools of analysis favoring tradition and those of strict scrutiny.[220] This Part first puts forth that the best synthesis of the competing forces is a historical analysis into the scope of the right, emphasizing the distilled principles of tradition, followed by a full-throated strict scrutiny. Then, that thesis is put to the test, comparing results across the schools for particular cold weapons.

A. HISTORICAL SCOPE, SANGUINE STRICT SCRUTINY

Iowa courts should adopt an analytical method for Amendment 1A that uses tradition to help delineate the boundaries of the right, but not in the adjudication of its core protections, which is properly the domain of compelling interests and narrow tailoring. The amendment is rooted in anxiety about unwanted change, be it judicial or legislative.[221] It is quintessentially a restraint on future action, a tying to the mast to resist siren-song. With courteous respect to Professor Pettys, the instillation of a right, rather than the repeal of an offending statute,[222] is exactly the sort of measure designed to assuage fears of unpleasant future developments: It offers a reasonably effective means to police future action from the past, in a future where one is presumed to have lost significant sway.

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doesn't matter whether an act happens to violate a criminal statute; what matters is whether the act is dangerous. The element of danger in personal-use possession of marijuana is absent.").

216. *Id.* at 297.

217. *Id.* at 278 (Oxley, J., concurring).

218. *Id.* at 283 ("There must be a nexus between the firearm and the criminal conduct before the plurality's underlying premise—that the fundamental constitutional right to carry a firearm for self-protection does not extend to carrying the firearm for an illegal purpose—kicks in.").

219. *Id.* at 298–99 (May, J., dissenting).

220. *In re* N.S., 13 N.W.3d 811, 830 n.6 (Iowa 2024) ("But Second Amendment precedent provides only limited guidance for our strict-scrutiny review of Amendment 1A challenges because federal courts have moved away from intermediate or strict scrutiny in favor of the 'text, history, and tradition' test.").

221. *See supra* note 96 and accompanying text.

222. *See supra* note 195.

Iowa voters adopted Amendment 1A specifically to forestall federal shifts in jurisprudence from adversely eclipsing the state right.[223] *Bruen*,[224] *Rahimi*,[225] and their federal kin that apply text, history, and tradition as the operative test represent just what the people of Iowa sought to reject, for good or ill. Although the federal and Iowa constitutions share roots tapping deep past the Founding,[226] the Iowa Supreme Court understands its duty is to articulate a distinct course where the pair disagree.[227] That course, however, cannot entirely navigate around the principled undercurrents of tradition: Iowa courts place an emphasis on tradition while engaging in strict scrutiny analysis.[228]

Iowa's cold weapon tradition teaches the importance of categorically tailored assessments of purpose and capacity in the absence of express recognition,[229] forming a natural complement to the strict scrutiny analysis. A right to weapons must fundamentally understand what weapons are to be understandable as a fundamental right. To that end, strict scrutiny without guidance from state tradition lacks an intelligible boundary. Tradition as the dispositive test alone drives a dagger into the plain meaning of Amendment 1A.[230] The path forward is to put each into their best position: tradition the guide, strict scrutiny the algorithm.

B. TESTS AND OUTCOMES

What outcomes might this proposed test reach? As the compelling interest of preventing (unlawful) violence is omnipresent with weaponry, the differences between the methods lie in tradition and tailoring. A challenge to one of section 702.7's per se dangerous weapons is nigh inevitable, so let us start there.

Switchblades are a likely target. In *Canjura*, a state supreme court applying the federal text, history, and tradition test has already found little reason to keep them banned.[231] The same result is probable under the proposed method. Beginning with the historical scope, to qualify as a traditional arm, one must demonstrate switchblades have the purpose, capacity, or recognition of a weapon. The 1988 addition of switchblades to section 702.7 is comparatively

223. *See supra* note 96 and accompanying text; *see also* Quinn Yeargain, *Ratifying* Bruen *in the States*, 57 ARIZ. STATE L.J. 687, 693–94 (2025) (chronicling the amendment atmosphere).

224. *See generally* N.Y. State Rifle & Pistol Ass'n v. Bruen, 597 U.S. 1 (2022) (creating the test).

225. *See generally* United States v. Rahimi, 602 U.S. 680 (2024) (refining *Bruen*).

226. *See supra* Part I.

227. *In re* N.S., 13 N.W.3d 811, 830 n.6 (Iowa 2024) ("A text, history and tradition test would be easier to apply here because legislators and voters were aware of Iowa firearm laws on the books in 2022 at the time of Amendment 1A's enactment. But the amendment itself mandates we apply strict scrutiny.").

228. *See supra* note 174 and accompanying text.

229. *See supra* Section II.A.

230. *See supra* note 227.

231. *See supra* notes 52–56 and accompanying text. *Compare* State v. Delgado, 692 P.2d 610, 614 (Or. 1984) (protecting switchblades under the state constitution), *with* Lacy v. State, 903 N.E.2d 486, 490–93 (Ind. Ct. App. 2009) (finding switchblades not protected).

recent, perhaps undermining the seriousness of the recognition.[232] On the other hand, forty years of explicit status as a dangerous weapon would make it difficult to argue they are not, in fact, arms reached by Amendment 1A. An *Iowa* traditionalist might take umbrage with that: Iowa's dangerous weapon tradition values capacity and purpose.[233] Here, capacity is in question, as a switchblade primarily departs from unrestricted knives by the addition of a spring and a button. It cuts just the same as any pocketknife of like dimension, and the category arguably should not even be regarded as a weapon at all. An Iowa court could plausibly conclude that switchblades rightly fall outside the scope of the right as popularly understood. But a reasonable court would probably not take that tack. The power to determine what is inside a boundary is the same as determining what is outside it. To permit a non-weapon to fester as a weapon per se would rankle a court concerned with uniformity, and under the like-capacity observation, strict scrutiny could be fatal to the legal restriction, as it so often is.[234]

In contrast, Iowa's offensive weapons legislation restricting ballistic knives would likely pass muster under the proposed test. In historical scope, ballistic knives share their temporal passage into forbidden status with switchblades; both were classified as dangerous weapons in 1988.[235] That imparts the same contentions about how longstanding a tradition their regulation is, but unlike switchblades, the greater potential capacity for swift and remote violence firmly places ballistic knives into the traditionalist's camp of weapons. Although that raises the prospect of strict scrutiny, the Iowa Supreme Court has nevertheless acknowledged a compelling interest in preventing that exact sort of unpleasantness.[236] Likewise, limiting possession of an intensely dangerous object to authorized persons exhibits a restraint that might well clear the narrow tailoring requirement.[237]

The liminal weapons, however, would naturally vex any test. Even venerable institutions conflate various distinct categories of cold weapons.[238]

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232. *See supra* note 164 and accompanying text.

233. *See supra* Section II.A.

234. *See* State v. Woods, No. 24-0261, 2025 WL 1774280, at *29 (Iowa June 27, 2025) (McDermott, J., dissenting) ("[S]trict scrutiny, by design, cuts with a sharp blade."). The legal cognizance that automatic knives aid accessibility may also lend weight to a charge of over-inclusive tailoring and unwarranted imposition on a particular group. *See supra* notes 14–16, 193 and accompanying text.

235. *See supra* note 164 and accompanying text.

236. *In re* N.S., 13 N.W.3d 811, 831 (Iowa 2024) ("We likewise hold the State has a compelling interest in preventing gun violence and suicide.").

237. Things get a little murkier with the inchoate nature of offensive weapons, as unassembled parts count as the weapon itself. IOWA CODE § 724.1(1)(e) (2025); *accord* Bondi v. VanDerStok, 145 S. Ct. 857, 868–69 (2025).

238. *Ike Signs Ban on 'Flip' Knives*, DES MOINES REG., Aug. 13, 1958, at 12 (on file with the *Iowa Law Review*) ("President Eisenhower Tuesday signed into law a bill to outlaw switchblade knives. They have a blade which flips open by touch of a button or by gravity."). Legal tests based on a knife's ease of deployment and not on its operating mechanism have also blurred the

Consider a hypothetical statute banning long-pin brooches on public safety grounds. A federal traditionalist might point to bans on hatpins of certain lengths in major cities like Chicago as solid foundation for constitutionality.[239] An Iowa traditionalist could conjure the antiquated dangerousness of hatpins[240] but may stumble on the nature of a brooch's purpose and use. In capacity, a pin is much like any other. For the proposed test, things may go a tad better; the tradition can identify the object as similar to past weapons.[241] That would presumably trigger a greater inquiry into tailoring, though if any law is going to pass strict scrutiny with an interest in stopping violence, the "you can't wear literal knives" law has a fighting chance. Perhaps the most intriguing takeaway is that sartorial splendor, if sufficiently sword-like, may be constitutionally protected.

In short, the proposed method is flexible yet fierce. Longstanding laws are not immune, but the traditional scope inquiry insulates most. It is respectful of the past without developing obsequious devotion to the old—molecules of water are not a current. But it is a compromise, and its restrained scope will cage strict scrutiny's rabid bite (a beast which needs to keep its fangs). In mirror, to attack the established is to invite instability, and it is unpleasant when the heavens genuinely fall. So too is there the sorrow of thwarted change. Even so, that is what the people chose. Amendment 1A is an Iowa iconoclasm, "a deviation from the ordinary current of judicial argument,"[242] breaking from the national test and some of Iowa's own longstanding traditions.[243] Nothing prevents it from being a deviation on the side of reason.

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categories. *See, e.g.*, Zamir Ben-Dan, *Law and Order Without Justice: A Case Study of Gravity Knife Legislation in New York City*, 21 CUNY L. REV. 177, 183–85 (2018) (outlining New York's "wrist-flick" test to see if the blade can deploy by imparted inertia).

239. Greiwe, *supra* note 36; Frost, *supra* note 35. The hatpin's colorful history as an explicit personal defense weapon extends nationwide. *See, e.g.*, *Plea for Big Hatpins*, BENNINGTON EVENING BANNER (Vermont), Mar. 4, 1910, at 3 (on file with the *Iowa Law Review*) ("I always feel safe going home late at night with a hatpin available for protection. Before leaving a street car I always carry a hatpin ready in my hand until I am safe within the door of my home. Many a time it has proved its need. Thousands of other women undoubtedly can speak from their experience of how a stout hatpin has been an effective defense in time of danger."); *The Vanishing Open Berth*, COUNCIL BLUFFS NONPAREIL, Nov. 25, 1945, at 4 (on file with the *Iowa Law Review*) ("The history of sleeping cars is long, varied and humorous, and the upper berth has become a footnote to American folklore of both drawingroom and washroom variety. Railroad historians are enchanted with the details of the first lady occupants of transcontinental Pullmans who retired fully dressed, armed against aggression with a lethal hatpin.").

240. *See supra* Section II.A.

241. *See supra* Section II.A.

242. Dollarhide v. United States, Morris 233, 233 (Iowa Terr. 1843).

243. *See supra* Section II.A.

CONCLUSION

En route to the proverbial Ithaca, Iowa, the prairie seafarer needs to make choices about swords and sodbusters.[244] To send the suitors packing, Iowa courts have to adopt a test that can satisfy both the intent of the public—to insulate Iowa law from federal constitutional influence—and the undeniably shared traditions between the great documents. The influence of history is a potent thing. Yet, Iowa's highest court has recognized it has duties that it cannot set aside, and it must find a solution that promotes restraint, potency, and a threshold consideration of breadth. The best path forward reconciles these competing aims into an inquiry of traditional scope and full-blooded strict scrutiny, honoring Iowa's inheritance and its will.

244. A farmer's folding knife. *Cf. Sodbuster*, MERRIAM-WEBSTER, https://www.merriam-webster.com/dictionary/sodbuster [https://perma.cc/2Y2W-VP55]. The simple style draws fans (who perhaps indulge in its apocrypha). *See, e.g.*, Laurence Ruggiero, *The Sodbuster: An Appreciation*, IKNIFECOLLECTOR (Dec. 4, 2013, 3:15 PM), https://iknifecollector.com/profiles/blogs/the-sodbuster-an-appreciation [https://perma.cc/7625-K68X].