



Right-To-Carry 2012

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Right-to-Carry 2012

41 RTC States – Violent Crime at 37-Year Low

Self-defense is a fundamental right. The U.S. constitution, the constitutions of 44 states, common law, and the laws of all states recognize the right to use arms in self-defense. RTC laws respect the right to self-defense by allowing individuals to carry firearms for protection.

The Supreme Court, striking down the District of Columbia's handgun ban in *District of Columbia v. Heller* (2008), ruled that "the inherent right of self-defense has been central to the Second Amendment right," and that the amendment protects "the individual right to possess and carry weapons in case of confrontation. This meaning is strongly confirmed by the historical background of the Second Amendment." In *Beard v. U.S.* (1895), the court approved the common-law rule that a person "may repel force by force" in self-defense, and that, when attacked, a person "was entitled to stand his ground and meet any attack made upon him with a deadly weapon," as needed to prevent "great bodily injury or death." In the Gun Control Act (1968) and Firearms Owners' Protection Act (1986), Congress said that it did not intend to "place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to . . . personal protection, or any other lawful activity."

With Wisconsin's adoption of an RTC law in 2011, by landslide votes of 68-27 in the Assembly and 25-8 in the Senate, there are now 41 RTC states. Thirty-eight of them have "shall issue" laws, requiring that carry permits be issued to applicants who meet uniform standards established by the state legislature.¹ Three of the "shall issue" states also allow carrying without a permit, but maintain their permit systems for purposes of permit reciprocity² with other states. In addition to the "shall issue" states, Alabama and Connecticut have fairly-administered discretionary-issue carry permit systems. Another, Vermont, does not require a permit to carry. Eight of the nine non-RTC states have restrictively-administered discretionary-issue systems.³ Only Illinois and the District of Columbia⁴ do not have permit systems and prohibit carrying altogether.

More RTC, less crime: Since 1991, when violent crime peaked in the U.S., 24 states have adopted "shall issue" laws, replacing laws that prohibited carrying or that issued carry permits on a very restrictive basis; many other federal, state, and local gun control laws have been eliminated or made less restrictive; and the number of privately-owned guns has risen by about 100 million.⁵ The numbers of gun owners and firearms, RTC states, and people carrying firearms for protection have risen to all-time highs. Through 2010, the nation's murder rate has decreased 52 percent to a 47-year low, and the total violent crime rate has decreased 48 percent to a 37-year low.⁶ The FBI preliminarily has reported that violent crimes decreased another 6.4 percent in the first half of 2011, translating into a seven percent decrease in the total violent crime per capita rate.⁷

RTC reduces crime: Studying crime trends in every county in the U.S., economist John Lott and David Mustard concluded, "allowing citizens to carry concealed weapons deters violent crimes. . . . [W]hen state concealed handgun laws went into effect in a county, murders fell by 8.5 percent, and rapes and aggravated assaults fell by 5 and 7 percent."⁸

RTC success: Florida has issued the most carry permits—nearly 2 million—but revoked only 168 (0.008 percent) due to gun crimes by permit-holders.⁹ Former Colorado Asst. Atty. Gen. David Kopel: "Whenever a state legislature first considers a concealed carry bill, opponents typically warn of horrible consequences.... But within a year of passage, the issue usually drops off the news media's radar screen, while gun-control advocates in the legislature conclude that the law wasn't so bad after all."¹⁰ An article on Michigan's RTC law: "Concerns that permit holders would lose their tempers in traffic accidents have been unfounded. Worries about risks to police officers have also proved unfounded.... National surveys of police show they support concealed handgun laws by a 3-1 margin.... There is also not a single academic study that claims Right to Carry laws have increased state crime rates. The debate among academics has been over how large the benefits have been."¹¹

Background: Before 1987 there were 10 RTC states: Ind. Me., N.H., N.D., S.D. and Wash. had "shall issue" laws. Ala. and Conn. had fairly-administered discretionary-issue systems. Georgia's law was interpreted as being "shall issue" in only some jurisdictions. Vermont allowed carrying without a permit. In 1987, Florida enacted a "shall issue" law that has since become a model for laws adopted in other states. Through 1992, Florida's murder rate decreased 23 percent, while the U.S. rate rose nine percent; thereafter, murder decreased nationally and in Florida.¹² Then-Florida Licensing Division Director John Russi

noted, "Florida's concealed weapon law has been very successful. All major law enforcement groups supported the original legislation....[S]ome of the opponents of concealed weapon legislation in 1987 now admit the program has not created the problems many predicted."¹³ In a 1995 letter to state officials, Dept. of Law Enforcement Commissioner James T. Moore wrote, "From a law enforcement perspective, the licensing process has not resulted in problems."

31 RTC states since 1987: 21 had prohibited carrying, nine (*) previously had discretionary-issue systems, and one (**) was interpreted varying within the state. 1989: Oregon, Penna. (Phila. added in 1995), and West Virginia (also in 1989, a judicial ruling enforced "shall issue" in Georgia**); 1990: Idaho and Mississippi; 1991: Montana; 1994: Alaska, Arizona, Tennessee, and Wyoming; 1995: Arkansas, Nevada*, North Carolina, Oklahoma, Texas, Utah,* and Virginia*; 1996: Kentucky, Louisiana,* and South Carolina*; 2001: Michigan*; 2003: Colorado*; New Mexico, Minnesota,* and Missouri; 2004: Ohio; 2006: Kansas and Nebraska; 2010: Iowa,* and 2011: Wisconsin.

Citizens can defend themselves: Analyzing National Crime Victimization Survey data, criminologist Gary Kleck concluded "robbery and assault victims who used a gun to resist were less likely to be attacked or to suffer an injury than those who used any other methods of self-protection or those who did not resist at all."¹⁴ In the 1990s, Kleck and Marc Gertz found guns were used for self-protection between 2.1-2.5 million times annually.¹⁵ The late Marvin E. Wolfgang, self-described as "as strong a gun-control advocate as can be found among the criminologists in this country," said, "The methodological soundness of the current Kleck and Gertz study is clear. I cannot further debate it. . . . I cannot fault their methodology."¹⁶ An earlier study for the Justice Department found 34 percent of felons had been "scared off, shot at, wounded or captured by an armed victim," and 40 percent had not committed crimes, fearing victims were armed.¹⁷

The right to self-defense has been recognized for centuries: Cicero said 2,000 years ago, "If our lives are endangered by plots or violence or armed robbers or enemies, any and every method of protecting ourselves is morally right." English jurist Sir William Blackstone observed that the English Bill of Rights recognized "the right of having and using arms for self-preservation and defense" as intended "to protect and maintain inviolate the three great and primary rights," the first of which is "personal security."¹⁸ Sir Michael Foster, judge of the Court of King's Bench, wrote in the 18th century, "The right of self-defense . . . is founded in the law of nature, and is not, nor can be, superseded by any law of society."¹⁹

Police aren't required to protect you: In *Warren v. District of Columbia* (1981), the D.C. Court of Appeals ruled, "police personnel and the government employing them are not generally liable to victims of criminal acts for failure to provide adequate police protection [A] government and its agents are under no general duty to provide public services, such as police protection, to any particular citizen." In *Bowers v. DeVito* (1982), the Seventh Circuit Court of Appeals ruled "[T]here is no constitutional right to be protected by the state against being murdered by criminals or madmen."

National RTC reciprocity: Rep. Cliff Stearns (R-Fla.) H.R. 822, the "National Right-to-Carry Reciprocity Act of 2011" proposes that a person with any state's carry permit be allowed to carry in other states, as follows: In a state that issues permits, its laws would apply. In states that don't issue permits, a federal standard would permit carrying in places other than police stations; courthouses; public polling places; meetings of state, county, or municipal governing bodies; schools; passenger areas of airports; etc.

Brady Campaign (formerly Handgun Control, Inc.): Sarah Brady: "the only reason for guns in civilian hands is for sporting purposes." The late Pete Shields: "put up no defense - give them what they want." Dennis Henigan: self-defense is "not a federally guaranteed constitutional right."²⁰ In 1999, HCI claimed that between 1991 and 1997, violent crime declined less in RTC states than in other states.²¹ HCI incorrectly categorized 31 states as having RTC during the period; only 17 had RTC in 1992. HCI calculated crime trends from 1992 to under-represent the impact of RTC laws; by 1992, many states had RTC for many years and had already experienced decreases in crime. HCI misclassified Alabama and Connecticut as "restrictive," and credited restrictive laws for crime decreasing in some states, though states that had restrictive laws had them for many years, and crime did not begin declining in those states until the 1990s, when crime decreased nationally.

Violence Policy Center: In 1995, VPC claimed Florida's RTC law "puts guns into the hands of criminals" and that "criminals do apply for concealed carry licenses."²² However, the law permits a person to carry, not acquire, a firearm. And "to set the record straight," then-Florida Secy. of State, Sandra B. Mortham, said, "As of November 30, 1995, the Department had denied 723 applications due to criminal history." She added, "the majority of concealed weapon or firearm licensees are honest, law-abiding citizens exercising their right to be armed for the purpose of lawful self-defense."²³ In 2001, VPC claimed more women are murdered with handguns, than criminals killed in self-defense.²⁴ However, the value of handguns for self-defense is not in how many criminals are killed, but in how often people use handguns to prevent crimes, and how often criminals don't attack, fearing potential victims are armed. VPC also undercounted the number of criminals killed in self-defense by counting only those noted in police reports, thus excluding defensive homicides later determined to have been justified. VPC claims that permit-holders have committed crimes, but those listed by the group were mostly crimes not involving guns, crimes committed with guns for which a permit was not required, crimes committed in locations in which a permit was not required to possess a firearm, and instances in which no crime was committed.

McDowell Math: In 1995, anti-gun researcher David McDowell claimed that gun homicide rates increased in Miami, Jacksonville and Tampa after Florida's RTC law.²⁵ But homicide rates had fallen 10, 18 and 20 percent, respectively, in

those metropolitan areas from 1987 until 1993, the most recent data at the time.²⁶ To show an "increase," McDowell calculated Jacksonville and Tampa trends from the early 1970s, when rates were lower than in 1993, but calculated Miami's from 1983, since earlier rates were higher and suggested crime had decreased. None of McDowell's homicides was committed by a carry permit holder, and he didn't indicate which homicides had occurred in situations where a permit would have been required to carry a gun. McDowell once claimed D.C.'s murder rate decreased after its 1977 handgun ban; in fact the rate tripled.²⁷

The 43:1 claim: Based upon a small study of King's County, Washington, gun control supporters claim a gun at home is "43 times more likely" to be used to kill a family member than a criminal.²⁸ The ratio undercounts defensive gun uses by counting only instances in which criminals were killed. Kleck has called the 43:1 ratio and its variants "the most nonsensical statistic in the gun control debate."²⁹

Notes:

1. Ala., Alas., Ark. Ariz., Colo., Conn., Fla., Ga., Idaho, Ind., Ia., Kans., Kent., La., Maine, Mich. Minn., Miss., Mo., Mont., Neb., Nev., N.H., N.M., N.C., N.D., Okla., Ohio, Ore., Pa., S.C., S.D., Tenn., Texas, Utah, Va., Vt., Wash., W.V., Wis. and Wyo.
2. Alas., Ariz. And Wyo. "Permit reciprocity" is the term given to a law that allows a person to carry a firearm within a state, if he has a carry permit issued by another state, and such permit meets the requirements of the state in which the firearm is carried.
3. Calif., Del., Hi., Md., Mass., N.J., N.Y. and R.I.
4. D.C. had a restrictive permit system before Heller. Thereafter, D.C. abolished its system to avoid a legal challenge over its restrictiveness.
5. BATFE, firearm manufacturing, export, and import reports, www.atf.gov/firearms/stats/index.htm.
6. See FBI www.fbi.gov/stats-services/crimestats, BJS www.ucrdatatool.gov/Search/Crime/Crime.cfm, and NRA-ILA www.nraila.org/Issues/FactSheets/Read.aspx?ID=128.
7. FBI, Preliminary Semiannual Uniform Crime Report, January-June 2011," table 1, www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2011/preliminary-annual-ucr-jan-jun-2011/data-tables/table-1.
8. Lott, "Crime, Deterrence, and Right To Carry Concealed Handguns," 1998.
9. Florida Division of Licensing, Monthly Statistical Report (http://licqweb.doacs.state.fl.us/stats/cw_monthly.html).
10. David Kopel, "The Untold Triumph of Concealed-Carry Permits," Policy Review, July-Aug. 1996, p. 9.
11. "Should Michigan keep new concealed weapon law? Don't believe gun foe scare tactics," Detroit News, 1/14/01.
12. Note 6, BJS.
13. Testimony before the Michigan House of Representatives Judiciary Committee, 12/5/95.
14. Targeting Guns, Aldine de Gruyter, 1997, p. 171.
15. "Armed Resistance to Crime," Journal of Criminal Law and Criminology, Fall 1995, pp. 150-187.
16. "A Tribute to a View That I Have Opposed," Journal of Criminal Law and Criminology, Fall 1995, pp. 188-192.
17. J. Wright and P. Rossi, Armed and Considered Dangerous: A Survey of Felons and Their Firearms, 1986, p. 155.
18. Stephen P. Halbrook, That Every Man Be Armed, The Independent Institute, 1994, pp. 17, 54.
19. Dowlut, Knoop, "State Constitutions and The Right to Keep and Bear Arms," Okla. City Univ. Law Review, 1982, p. 183.
20. Brady: Tom Jackson, "Keeping the battle alive," Tampa Tribune, 10/21/93; Then-HCI Chair Shields, Guns Don't Die - People Do, N.Y.: Arbor House, 1981; Henigan: USA Today, 11/20/91.
21. Handgun Control, Inc., "Concealed Truth." (www.bradycampaign.org/facts/research/?page=conctruth&menu=qvr).
22. "Concealed Carry: The Criminal's Companion."
23. St. Petersburg Times, 1/11/96.
24. "A Deadly Myth: Women, Handguns, and Self-Defense."
25. "Easing Concealed Firearm Laws: Effects on Homicide in Three States."
26. Note 6, BJS.
27. Ibid.
28. A. L. Kellermann, "Protection or Peril?, New England Journal of Medicine, 1986.
29. Note 12, pp. 177-178.

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