

**S B**

**2 3 7**

These sites are  
available to satisfy  
for SB 237:

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1. Bannock
2. Jain Lok
3. Katchuk
4. Konaak
5. Roady Creek
6. Bannock

02/09/94  
09:12:30

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM  
PARTICIPANT LIST (ALL PARTICIPANTS)  
TCN: 40247 SCHEDULED FOR: 02/09/94 09:00 TO 11:00  
PUBLIC HEARING SENATE STATE AFFAIRS

LTN1150  
BY:ANC  
FOR:ANC

LOCATION: ANCHORAGE  
SB 237

LAURA JANE WINEINGER

TESTIFY

02/09/94  
09:06:18

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM  
PARTICIPANT LIST (ALL PARTICIPANTS)  
TCN: 40247 SCHEDULED FOR: 02/09/94 09:00 TO 11:00  
PUBLIC HEARING SENATE STATE AFFAIRS

LTN1150  
BY:KOD  
FOR:KOD

LOCATION: KODIAK  
SB 237

MR. MIKE

MCARTHY

KOD JUV. TASK FOTESTIFY

02/09/94  
09:07:39

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM  
PARTICIPANT LIST (ALL PARTICIPANTS)  
TCN: 40247 SCHEDULED FOR: 02/09/94 09:00 TO 11:00  
PUBLIC HEARING SENATE STATE AFFAIRS

LTN1150  
BY:FBX  
FOR:FBX

LOCATION: FAIRBANKS  
SB 237  
SB 237

OLIVER BURRIS  
TOM SCARBOROUGH

TESTIFY  
TESTIFY

Anchorage Offnet

1st Sgt. Randy Crawford

02/09/94  
09:03:12

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM  
PARTICIPANT LIST (ALL PARTICIPANTS)  
TCN:40247 SCHEDULED FOR:02/09/94 09:00 TO 11:00  
PUBLIC HEARING SENATE STATE AFFAIRS

LTN1150  
BY:KTN  
FOR:KTN

LOCATION:KETCHIKAN  
SB 237 MR.

SCOTT

CORYELL

TESTIFY

**DIVISION OF LEGAL SERVICES**  
**LEGISLATIVE AFFAIRS AGENCY**  
**STATE OF ALASKA**

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101


130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

**MEMORANDUM**

February 9, 1994

**SUBJECT:** Draft CSSB 237 (State Affairs) (Work Order No. 8-LS1365\R)

**TO:** Senator Loren Leman, Chair  
Senate State Affairs Committee  
ATTN: Portia Babcock

**FROM:** Jack Chenoweth  
Legislative Counsel 

The draft committee substitute amends and adds to the body of criminal law relating to weapons, amends the delinquency laws to require an automatic waiver of juvenile jurisdiction, with subsequent trial as an adult, of certain recidivist minors and to add a required penalty to be imposed on minors who are adjudicated delinquent based on a weapons possession offense, and establishes a permit system to permit the carrying of concealed weapons.

**AMENDMENTS AND ADDITIONS TO AS 11.61, CRIMINAL LAWS RELATING TO DANGEROUS INSTRUMENTS AND WEAPONS:**

Bill section 1: To a prosecution for sale of a firearm or a defensive weapon to a person under 18 years of age under the statute defining the offense of misconduct in the fourth degree. AS 11.61.210(a)(6) <sup>1/</sup>, the material enacted in bill section one adds

---

<sup>1/</sup> AS 11.61.210(a)(6), part of the definition of the crime of misconduct involving weapons in the fourth degree, a class A misdemeanor, provides:

(a) A person commits the crime of misconduct involving weapons in the fourth degree if the person

\*\*\*  
(6) knowingly sells a firearm or a defensive weapon to a person under 18 years of age.

(1) the defense <sup>2/</sup> that, at the time of sale, the minor was accompanied by a parent or legal guardian; and

(2) the affirmative defense <sup>3/</sup> that, at the time of sale, the minor was an emancipated minor.

Bill section 2: The amendment made by this section is to that part of the definition of the offense of misconduct involving weapons in the fifth degree, a class B misdemeanor, that speaks to possession of dangerous instruments. The changes delete reference to the maximum age of an unemancipated minor (set at 16 in other law) who may violate the element of this provision that relates to possession of a firearm without consent of parent or guardian, thereby raising the age to 18.

Bill section 3: AS 11.61.220(b) sets out affirmative defenses to the charge of carrying a concealed deadly weapon. The amendment in this bill section would extend the affirmative defense to certain concealed deadly weapon carried with a permit.

Bill section 5: The provision sets out exclusions, a defense, and punishments for conviction for the offense of minor in possession, AS 11.61.210(a)(3). Under subsection (h), a minor could not be prosecuted if possession of the firearm occurred in one of the instances identified in the paragraphs of that subsection. Subsection (i) allows the minor to raise a defense that, at the time of the possession of the firearm, the minor was accompanied by an adult. Subsection (j) increases the penalty for a second and subsequent violation of a minor in possession conviction from a class B to a class A misdemeanor.

Bill section 4 inserts an exception related to the augmentation of the punishment imposed for a second or subsequent violation by a minor in possession of a firearm.

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<sup>2/</sup> Under AS 11.81.900(b)(15),

(15) "defense", other than an affirmative defense, means that

(A) some evidence must be admitted which places in issue the defense; and

(B) the state then has the burden of disproving the existence of the defense beyond a reasonable doubt;

<sup>3/</sup> Under AS 11.81.900(b)(1),

(1) "affirmative defense" means that

(A) some evidence must be admitted which places in issue the defense; and

(B) the defendant has the burden of establishing the defense by a preponderance of the evidence;

AMENDMENT OF THE DELINQUENCY LAWS, AS 47.10:

Bill section 7: The addition of a new subsection, (e), to AS 47.10.010 amends the delinquency laws to require an automatic waiver of juvenile jurisdiction and subsequent trial as an adult of a minor at least 14 years of age who commits a second or subsequent offense using a firearm, having once been convicted as an adult or adjudicated a delinquent.

Bill section 8: The addition of a new paragraph, (7), to AS 47.10.080(b) would allow the court to revoke a minor's driving privilege for one year (first offense) or for two years (second and subsequent offense) if the minor is found to have violated AS 11.61.220(a)(3), relating to a minor in possession of a dangerous instrument or a firearm.

MATERIAL RELATING TO CONCEALED WEAPONS:

Bill section 6: The bill section, adding new sections to AS 18.65, sets out specific requirements that would permit persons to possess concealed weapons. Specifically -

-- AS 18.65.700 directs the Department of Public Safety to issue a permit to a person who meets the qualifications of this section, sets a time limit on issuing the permit, and gives the permit a life of five years.

-- AS 18.65.705 describes the substantive qualifications for persons who are eligible to receive a permit.

-- AS 18.65.710 prescribes the content of the concealed weapons permit application.

-- AS 18.65.715 sets a schedule of the fees for the permit, its renewal, and its replacement.

-- AS 18.65.720 prescribes the process applicable to a permit's renewal.

-- AS 18.65.725 authorizes permit replacements.

-- AS 18.65.730 prescribes situations under which the Department of Public Safety may act to suspend a concealed weapons permit.

-- AS 18.65.735 identifies situations in which a concealed weapons permit may be revoked, authorizes appeals under the Administrative Procedure Act of revocation decisions, and sets a five year period during which a person whose permit was revoked by reason of a criminal conviction may not re-apply.

-- AS 18.65.740 disclaims any department liability for issuing a permit to carry a concealed weapon.

-- AS 18.65.750 requires the permittee to carry the permit at all times the permittee carries the concealed weapon.

-- AS 18.65.755 sets out a list of places in which a concealed weapon may not be taken.

-- AS 18.65.760 directs the department to maintain a list of permittees and to make that list available to peace officers, and not to others.

Senator Loren Leman  
February 9, 1994  
Page 4

-- AS 18.65.765 authorizes the department to adopt regulations and sets limits on the content of the regulations and action that may be taken under them.

-- AS 18.65.770 bars a municipality from enacting ordinances in conflict with the provisions of the proposed chapter.

-- AS 18.65.775 supplies definitions for key terms.

\*

An applicability section, bill section 9, gives prospective effect to those sections of the bill that involve convictions of minors and adjudications of delinquency.

JBC:gc  
94-110.glc

Enclosure



# Alaska State Legislature

Session:  
State Capitol  
Juneau AK 99801-1182

Interim:  
716 W 4th Avenue  
Anchorage AK 99501-2133

## MEMORANDUM

TO: Jack Chenoweth, Legal Counsel  
Legislative Legal Services

FROM: Senator Loren Leman, Chairman  
Senate Committee on State Affairs *Loren*

DATE: February 12, 1994

RE: New SSTA Work Draft CS for Work Draft CSSB 237 (STA)

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Please make the following changes to SSTA work draft 8-LS1365/R  
(2/3/94):

Page 4, line 18:

REPLACE: "one" with "two" sets of fingerprints

Page 5, line 18:

Following: "controlled substance" ADD. "for at least the five years  
immediately preceding the application."

Page 6, line 4:

Following "weight" ADD "race"

Page 6, line 23 and 24:

DELETE all of (8)

Senate Committee on State Affairs  
Draft CS Request for SB237: 2/12/94  
Page 2

Page 8, line 15:

REPLACE: "department" with "state or a political subdivision of the state"

Page 8, lines 25, 26 27:

Following: "courtroom;" DELETE: "an office or building housing state or federal offices or the offices of a political subdivision of the state;"

Page 10, line line 7:

Following: "as a result of" DELETE: "another offense", and REPLACE with: " an offense that, in this or another jurisdiction, involved the use of a firearm in the commission of the offense."

In addition, please ADD a section, where appropriate,(maybe page 8, line 21) requiring a concealed carry permit holder to notify a peace officer of possession of a weapon and a permit to carry a concealed weapon when contact is made with a peace officer.

Also, please make a statutory distinction between bars and restaurants with liquor licenses. What we are trying to do is to allow concealed carry permit holders to enter eating establishments that may have a liquor license and serve alcohol, but not to allow them to carry in "bars." The language in AS 11.61.2109(a)(2) seems to cover both bars and restaurants that serve alcohol. We would like an exemption for eating establishments, but not for bars.

Thank you. If you have any questions or need clarification, please call Portia at 4522.

**DIVISION OF LEGAL SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA**

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

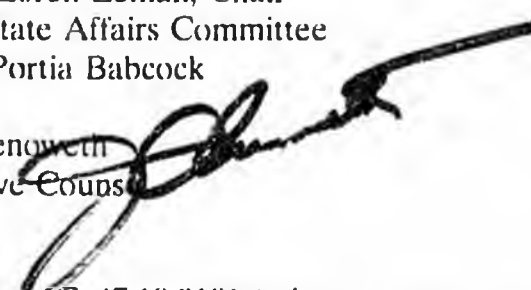
MEMORANDUM

February 14, 1994

**SUBJECT:** Draft CSSB 237 (State Affairs) (Work Order No. 8-LS1365U)

**TO:** Senator Loren Leman, Chair  
Senate State Affairs Committee  
ATTN: Portia Babcock

**FROM:** Jack Chenoweth  
Legislative Counsel



Section 8 of this draft, adding AS 47.10.010(e), incorporates your suggested language--"as a result of an offense that . . . involves the use of a firearm in the commission of an offense"--but the "involves the use of" language of that provision strikes me as rather vague. If, in commission of the offense, the defendant had a firearm in personal possession--tucked in a belt or in a handbag--but the firearm was not material to the commission of the offense--wasn't pointed at a victim at the time of a threat--is the juvenile jurisdiction of the minor automatically waived? Couldn't we try to be a little clearer--perhaps

-- "used or threatened to use a firearm to commit the offense" (if actual use or threat of use is contemplated);

-- "possessed on or about oneself a firearm during the commission of an offense" (see AS 11.56.310(a)(1)(C) and (a)(2)) (if access to a firearm during commission of the offense is contemplated); or

-- "was armed with a firearm during the commission of the offense" (if possession but not necessarily use of the firearm during commission of the offense is contemplated).

In addition to that concern, AS 18.65.735 needs attention.

AS 18.65.735(a)(1) is a disqualification provision intended to operate after a permit has been issued. Unfortunately, by merely cross-referencing AS 18.65.705, it

Senator Loren Leman, Chair

February 14, 1994

Page 2

improperly incorporates reference to activity that occurred during a five-year period preceding an initial application for a permit. The disqualification under AS 18.65.705 for obtaining a permit won't work as a condition to disqualify someone from retaining a permit. AS 18.65.735(a)(1) should be redrafted.

AS 18.65.735(c) includes reference to "date of conviction." However, paragraph (a)(4) of the section makes no reference to a "conviction." It relates back to reference to "a revocation" in the lead-in material of subsection (a). Consequently, AS 18.65.735(c) should add, at the conclusion, "or revocation, whichever is later."

JBC:mi

94-030.mai



# SENATOR LOREN LEMAN

Northwest Anchorage

716 W 4th Ave, Ste 540, Anchorage AK 99501

258-8189

Session: State Capitol, Juneau AK 99801 465-2095

## SPONSOR STATEMENT SB237

I introduced this bill to address the problem law enforcement agencies are experiencing with juvenile weapons possession and with the misuse of weapons by juveniles.

SB 237 requires parental permission for the possession of a firearm by juveniles under 18 years of age and that the minor be accompanied by a parent or guardian when purchasing a firearm.

New penalties for weapons possession violations by juveniles include drivers license suspension for one year on the first offense and two years suspension and 100 hours of community service for the second offense.

Exceptions are delineated for shooting competitions, marksmanship programs, gun safety courses, official rifle ranges, hunting and other lawful outdoor activities, and on private property with the consent of the property owner.

The proposed committee substitute for SB 237 includes changes to the procedures regarding juveniles who commit crimes with firearms. If the juvenile is charged with an offense involving a firearm and has been previously adjudicated as a delinquent or convicted as an adult, then the juvenile will be treated in the same manner as an adult.

In addition, it establishes a state permitting system for the carrying of concealed weapons by qualified, law-abiding citizens for personal protection. Thirty-three states in the U.S. have concealed-carry permitting systems in place today.

SB 237 implements important changes to our juvenile weapons possession statutes to assist law enforcement and enacts new penalties that have been an effective deterrent to juvenile offenses in other states. Additionally, it will allow Alaskans the opportunity to better protect themselves.

# FISCAL NOTE

**STATE OF ALASKA**  
**1994 LEGISLATIVE SESSION**

**BILL NO: CSSR 237(JUD)**

Revision Date: 04/28/94 Dept. Affected: Public Safety  
 Title: Weapons Possession/Sale by/to Minors BRU: Alaska State Troopers/Motor Vehicles  
 Component: Detachments/Driver Services  
 Sponsor: Senator Leman  
 Requestor: (S) Finance COMPONENT SERIAL NO. 799/500

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL EXPENDITURES</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CHANGE IN REVENUES ( )</b>	-0-	-0-	-0-	-0-	-0-	-0-
<small>Revenue Code</small>						

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

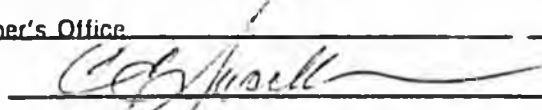
Estimate of current year (FY 94) impact: \$ \_\_\_\_\_

**POSITIONS:**

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

**ANALYSIS: (Attach a separate page if necessary.)**

No fiscal impact on the Department of Public Safety is anticipated.

Prepared By: Lee Ann Lucas Phone: 465-4322  
 Division: Commissioner's Office Date: 04/28/94  
 Approved by Commissioner:  Date: 04/28/94  
 Agency: Richard L. Burton, Dept. of Public Safety

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8-LS136NR  
Chenoweth  
2/3/94

CS FOR SENATE BILL NO. 237(STA)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered:  
Referred:

Sponsor(s): SENATORS LEMAN, Phillips

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the possession of firearms by minors, offenses involving  
2 weapons, and permits for the carrying of concealed weapons."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 \* Section 1. AS 11.61.210 is amended by adding new subsections to read:

5 (d) In a prosecution under (a)(6) of this section involving the sale of a firearm,  
6 it is a defense that, at the time of the sale, the person under 18 years of age was  
7 accompanied by the person's parent or guardian.

8 (e) In a prosecution under (a)(6) of this section involving the sale of a firearm,  
9 it is an affirmative defense that the sale was made to a person under 18 years of age  
10 as to whom, at the time of the sale, the disabilities of minority had been removed  
11 under AS 09.55.590 or under AS 25.20.020.

12 \* Sec. 2. AS 11.61.220(a) is amended to read:

13 (a) A person commits the crime of misconduct involving weapons in the fifth  
14 degree if the person

1 (1) knowingly possesses a deadly weapon, other than an ordinary  
2 pocketknife or a defensive weapon, that is concealed on the person;

3 (2) knowingly possesses a loaded firearm on the person in any place  
4 where intoxicating liquor is sold for consumption on the premises;

5 (3) being an unemancipated minor [UNDER 16 YEARS OF AGE],  
6 possesses a firearm without the consent of a parent or guardian of the minor;

7 (4) knowingly possesses a firearm

8 (A) or a defensive weapon within the grounds of or on a  
9 parking lot immediately adjacent to a public or private preschool, elementary,  
10 junior high, or secondary school without the permission of the chief  
11 administrative officer of the school or district or the designee of the chief  
12 administrative officer, except that a person 21 years of age or older may  
13 possess

14 (i) an unloaded firearm in the trunk of a motor vehicle  
15 or encased in a closed container in a motor vehicle;

16 (ii) a defensive weapon; or

17 (B) within the grounds of or on a parking lot immediately  
18 adjacent to a center, other than a private residence, licensed under  
19 AS 47.35.010 - 47.35.075 or recognized by the federal government for the care  
20 of children; or

21 (5) possesses or transports a switchblade or a gravity knife.

22 \* Sec. 3. AS 11.61.220(b) is amended to read:

23 (b) In a prosecution under (a)(1) of this section, it is an affirmative defense  
24 that the defendant, at the time of possession, was

25 (1) in the defendant's dwelling or on land owned or leased by the  
26 defendant appurtenant to the dwelling; [OR]

27 (2) actually engaged in lawful hunting, fishing, trapping, or other lawful  
28 outdoor activity that necessarily involves the carrying of a weapon for personal  
29 protection; or

30 (3) the holder of a permit to carry a concealed weapon under  
31 AS 18.65.700 - 18.65.775 and the deadly weapon was not a shotgun, a rifle, or a

1 prohibited weapon as defined in AS 11.61.200.

2 \* Sec. 4. AS 11.61.220(g) is amended to read:

3 (g) Except as provided in (i) of this section, misconduct [MISCONDUCT]  
4 involving weapons in the fifth degree is a class B misdemeanor.

5 \* Sec. 5. AS 11.61.220 is amended by adding new subsections to read:

6 (h) The provisions of (a)(3) of this section do not apply to a person under 18  
7 years of age in possession of a firearm if the person possesses the firearm

8 (1) at an established and lawfully operated range or target concession  
9 for the purpose of firing at targets at the range or concession;

10 (2) while in attendance at a hunter safety course or firearm safety  
11 course for the purpose of using the firearm in conjunction with lessons presented  
12 during that course;

13 (3) while engaged in organized competition involving use of the  
14 firearm, or while practicing for an organized competition in which the person plans to  
15 participate;

16 (4) on premises owned by or leased by another with the consent of the  
17 owner or lessee of those premises;

18 (5) while actually engaged in lawful

19 (A) hunting; or

20 (B) fishing, trapping, or other lawful outdoor activity if the  
21 fishing, trapping, or other lawful outdoor activity necessarily involves the  
22 carrying of a weapon for personal protection; or

23 (6) while traveling to or from any activity described in (1) - (5) of this  
24 sub section.

25 (i) A person convicted under (a)(3) of this section is guilty of a

26 (1) class B misdemeanor if the conviction is the person's first  
27 conviction of the offense described in (a)(3) of this section and the person had not  
28 been previously convicted under a law or ordinance of another jurisdiction with  
29 elements substantially similar to those of an offense described in (a)(3) of this section  
30 or adjudicated a delinquent minor under AS 47.10.010 - 47.10.142 for a violation of  
31 (a)(3) of this section;

1 (2) class A misdemeanor if, within the preceding seven years, the  
2 person was convicted under (a)(3) of this section or under a law or ordinance of  
3 another jurisdiction with elements substantially similar to those of an offense described  
4 in (a)(3) of this section, or the person was adjudicated a delinquent minor either under  
5 AS 47.10.010 - 47.10.142 if the delinquency finding is based upon a violation of (a)(3)  
6 of this section or under a law of another jurisdiction authorizing adjudication of  
7 delinquency for the violation of a law or ordinance of that jurisdiction with elements  
8 substantially similar to those of an offense described in (a)(3) of this section.

9 \* Sec. 6. AS 18.65 is amended by adding new sections to read:

10 ARTICLE 9. PERMIT TO CARRY A CONCEALED WEAPON.

11 Sec. 18.65.700. PERMIT TO CARRY A CONCEALED WEAPON. (a) The  
12 department shall issue a permit to carry a concealed weapon to a person who

13 (1) applies in person at an office of the Alaska State Troopers;

14 (2) qualifies under AS 18.65.705;

15 (3) submits a completed application on a form provided by the  
16 department, that provides the information required under AS 18.65.705 and 18.65.710  
17 and is executed under oath;

18 (4) permits the Alaska State Troopers to take one set of fingerprints of  
19 the person and, on a blank permit, a print of one finger of each hand; and

20 (5) pays the application fee required by AS 18.65.715.

21 (b) The department shall either approve or reject an application for a permit to  
22 carry a concealed weapon within 45 days of receipt of the application. The department  
23 shall notify the applicant in writing of the reason for a rejection.

24 (c) A permit issued under this section is valid for five years from the date of  
25 issue.

26 Sec. 18.65.705. QUALIFICATIONS TO OBTAIN A PERMIT. A person is  
27 qualified to receive and hold a permit to carry a concealed weapon if the person

28 (1) is 21 years of age or older;

29 (2) is eligible to own or possess a firearm under the laws of this state  
30 and under federal law;

31 (3) is not currently charged under a complaint, information, indictment,

1 or presentment with a violation of AS 11.41 or a similar law of another jurisdiction;  
2 (4) has not been voluntarily or involuntarily committed to a treatment  
3 facility for a mental illness, unless the person presents to the department a sworn  
4 statement of

5 (A) an official in charge of the facility certifying that the person  
6 has been released from the facility for at least the five years immediately  
7 preceding the application and that at the time of release the person was not  
8 suffering from the condition that led to the commitment; and

9 (B) a psychiatrist who has treated the person certifying that the  
10 person has not suffered from the condition that led to the commitment during  
11 the five years immediately preceding the application;

12 (5) has not been adjudicated as mentally incapacitated by a court of this  
13 state, another state, territory, or jurisdiction, or of the United States, unless the  
14 guardianship or similar arrangement has been closed or terminated and five years have  
15 elapsed since the closure or other termination;

16 (6) is a resident of the state and has been for the 12 months  
17 immediately preceding the application for a permit;

18 (7) has not been convicted of an unlawful use of a controlled substance;

19 (8) has not been discharged from the armed forces of the United States  
20 under dishonorable conditions;

21 (9) is not an alien who is residing in the United States illegally or a  
22 former citizen of the United States who has renounced the person's citizenship;

23 (10) is not now in and has not previously entered an alcohol treatment  
24 program, unless the person presents the department with a sworn statement of a  
25 medical or psychological professional that the person has undergone treatment for  
26 alcohol abuse and has demonstrated freedom from alcohol impairment for the five  
27 years immediately preceding the application; and

28 (11) has not been convicted of two violations of AS 28.33.030,  
29 28.33.031, AS 28.35.030, or 28.35.032 or similar laws of another jurisdiction within  
30 the five years immediately preceding the application.

31 Sec. 18.65.710. APPLICATION FOR PERMIT TO CARRY A CONCEALED

1 WEAPON. (a) The application for a permit to carry a concealed weapon must, at a  
2 minimum, include

3 (1) the applicant's name, address, place and date of birth, physical  
4 description, including height, weight, hair color, and eye color, and social security  
5 number;

6 (2) a statement that the applicant qualifies under AS 18.65.705;

7 (3) a statement that the applicant has been furnished with a copy of  
8 AS 18.65.700 - 18.65.775, has read those sections, and understands them;

9 (4) a statement that the applicant desires a permit to carry a concealed  
10 weapon for a lawful purpose, which may include lawful self-defense;

11 (5) a sworn statement by the applicant that all statements, answers, and  
12 attachments to the application are true and complete;

13 (6) a conspicuous warning that the application is executed under oath  
14 and that an applicant who supplies a false statement, answer, or document, in  
15 connection with the application which the applicant does not believe to be true, may  
16 be prosecuted for perjury under AS 11.56.200 and, if found guilty, may be punished  
17 for violation of a class B felony, and that in such cases the permit shall be revoked  
18 and the applicant may be barred from any further application for a permit;

19 (7) a statement that the applicant understands that a background  
20 investigation may be conducted as a part of the application process, that this may  
21 involve computerized records searches, and that the applicant authorizes the  
22 investigation; and

23 (8) any other information determined by the department to be  
24 necessary.

25 (b) As a part of an application under (a) of this section, the department may  
26 not inquire of an applicant as to any firearms owned by the applicant.

27 Sec. 18.65.715. FEES. (a) The department shall charge a nonrefundable fee  
28 of \$100 for application for and initial issuance of a permit.

29 (b) The department shall charge a fee of \$15 for the renewal of a permit under  
30 AS 18.65.720.

31 (c) The department shall charge a fee of \$15 for replacement of a permit under

1 AS 18.65.725.

2 Sec. 18.65.720. PERMIT RENEWAL. (a) A permittee shall apply for  
3 renewal of a permit to carry a concealed weapon within 90 days before the expiration  
4 of the permit on a form provided by the department. The renewal form shall be  
5 submitted under oath and must include

6 (1) any change in the information originally submitted under  
7 AS 18.65.710;

8 (2) a statement that the person remains qualified to receive and hold  
9 a permit to carry a concealed weapon under AS 18.65.705; and

10 (3) the renewal fee required under AS 18.65.715.

11 (b) A renewal of a permit to carry a concealed weapon submitted on or after  
12 the expiration date is subject to a late fee of \$15. The department may not accept a  
13 renewal for a permit that is submitted more than 90 days after the expiration date of  
14 the permit. Nothing in this subsection prohibits the holder of an expired permit from  
15 applying for a new permit.

16 Sec. 18.65.725. REPLACEMENT OF PERMIT. The department may replace  
17 a permit that the permittee certifies under oath has been lost, stolen, or destroyed.

18 Sec. 18.65.730. SUSPENSION OF PERMIT. The department shall  
19 immediately suspend a permit to carry a concealed weapon if a permittee is arrested  
20 for or formally charged with a crime that would disqualify the permittee under  
21 AS 18.65.705(3) from being eligible to hold a permit to carry a concealed weapon.  
22 A suspension of a permit remains in effect until the permit is revoked under  
23 AS 18.65.735 or the department has been notified of a disposition favorable to the  
24 defendant or the defendant has been released from custody without being charged. In  
25 this section, "disposition favorable to the defendant" means an adjudication by a court  
26 other than a conviction or a dismissal by the prosecutor.

27 Sec. 18.65.735. REVOCATION OF PERMIT; APPEAL. (a) A permit to  
28 carry a concealed weapon shall be immediately revoked by the department when the  
29 permittee

30 (1) becomes disqualified to receive and hold a permit under  
31 AS 18.65.705, other than AS 18.65.705(3);

1 (2) is convicted of three violations of AS 18.65.750 or 18.65.755 within  
2 a five-year period;

3 (3) is convicted of violating AS 28.33.030, 28.33.031, AS 28.35.030,  
4 or 28.35.032 and was carrying a concealed weapon at the time of the violation; or

5 (4) with intent to mislead the department or its employees, supplied a  
6 false or fraudulent answer, statement, or document, or made a material misstatement  
7 or omission, in connection with an application for a permit or renewal of a permit.

8 (b) A person whose permit is revoked under this section may appeal the  
9 revocation decision to the commissioner. A person may seek judicial review of the  
10 decision of the commissioner under AS 44.62.560 - 44.62.570.

11 (c) A person whose permit is revoked under (a)(2) - (4) of this section may  
12 not apply for a new permit until at least five years have elapsed since the date of the  
13 last conviction.

14 Sec. 18.65.740. NO LIABILITY FOR ISSUANCE OF PERMIT. The  
15 department is not liable by virtue of having issued a permit to carry a concealed  
16 weapon for damage or harm caused by the permittee.

17 Sec. 18.65.750. POSSESSION AND DISPLAY OF PERMIT. (a) A permittee  
18 shall carry the permit at all times the permittee carries a concealed weapon. The  
19 permittee shall display both the license and other proper identification when asked to  
20 do so by a peace officer at any time.

21 (b) A person who violates (a) of this section is guilty of a violation and shall  
22 be punished by a fine of \$25.

23 Sec. 18.65.755. PLACES WHERE PERMITTEE MAY NOT POSSESS A  
24 CONCEALED WEAPON. (a) A permittee may not carry a concealed weapon into  
25 a law enforcement or correctional facility; a courthouse or a courtroom; an office or  
26 building housing state or federal offices or the offices of a political subdivision of the  
27 state; a passenger loading or unloading area of an airline terminal; or a vessel of the  
28 Alaska marine highway system.

29 (b) In addition to any other penalty provided by law, a person who violates  
30 this section is guilty of a class B misdemeanor.

31 Sec. 18.65.760. COMPILATION AND MAINTENANCE OF LIST OF

1 PERMITTEES; ACCESS TO LIST. (a) The department shall compile and maintain  
2 a list of permittees in a manner that allows immediate access to the information by  
3 peace officers.

4 (b) Except for access by peace officers under (a) of this section, the list of  
5 permittees compiled and maintained under (a) of this section is confidential and may  
6 not be inspected by the public.

7 Sec. 18.65.765. REGULATIONS. The department shall adopt regulations to  
8 implement AS 18.65.700 - 18.65.775. This section does not delegate to the department  
9 the authority to regulate or restrict the issuing of permits beyond those provisions  
10 contained in AS 18.65.700 - 18.65.775. Subjective or arbitrary actions or regulations  
11 that encumber the issuing process by placing burdens on the applicant beyond those  
12 sworn statements and specified documents detailed in AS 18.65.700 - 18.65.775 or that  
13 create restrictions beyond those specified or specifically authorized in AS 18.65.700 -  
14 18.65.775 are prohibited.

15 Sec. 18.65.770. PROHIBITION ON CERTAIN ORDINANCES. A  
16 municipality may not enact an ordinance that conflicts with or imposes stricter  
17 standards than the requirements of this chapter.

18 Sec. 18.65.775. DEFINITIONS. In AS 18.65.700 - 18.65.775,

19 (1) "commissioner" means the commissioner of public safety;

20 (2) "concealed weapon"

21 (A) means a deadly weapon, as defined in AS 11.81.900, that  
22 is covered or enclosed in any manner so that an observer cannot determine that  
23 it is a weapon without removing it from that which covers or encloses it or  
24 without opening, lifting, or removing that which covers or encloses it;

25 (B) does not include

26 (i) a deadly weapon that is a prohibited weapon as  
27 defined in AS 11.61.200; or

28 (ii) a shotgun or rifle;

29 (3) "department" means the Department of Public Safety;

30 (4) "permit" means a permit to carry a concealed weapon issued under  
31 AS 18.65.700 - 18.65.775.

1 \* Sec. 7. AS 47.10.010 is amended by adding a new subsection to read:

2 (e) The procedures prescribed in AS 47.10.020 - 47.10.090 and the Alaska  
3 Delinquency Rules do not apply when a minor who is at least 14 years of age at the  
4 time of the alleged offense is charged with an offense, the minor is alleged to have  
5 used a firearm in the commission of the offense, and the minor has been previously  
6 adjudicated as a delinquent or convicted as an adult, in this or another jurisdiction, as  
7 a result of another offense. The minor shall be charged, prosecuted, and sentenced in  
8 the superior court in the same manner as an adult. In this subsection, "firearm" has  
9 the meaning given in AS 11.81.900.

10 \* Sec. 8. AS 47.10.080(b) is amended to read:

11 (b) If the court finds that the minor is delinquent, it shall

12 (1) order the minor committed to the department for a period of time  
13 not to exceed two years or in any event extend past the day the minor becomes 19,  
14 except that the department may petition for and the court may grant in a hearing (A)  
15 two-year extensions of commitment that do not extend beyond the child's 19th  
16 birthday if the extension is in the best interests of the minor and the public; and (B)  
17 an additional one-year period of supervision past age 19 if continued supervision is in  
18 the best interests of the person and the person consents to it; the department shall place  
19 the minor in the juvenile facility that the department considers appropriate and that  
20 may include a juvenile correctional school, juvenile work camp, detention home, or  
21 detention facility; the minor may be released from placement or detention and placed  
22 on probation on order of the court and may also be released by the department, in its  
23 discretion, under AS 47.10.200;

24 (2) order the minor placed on probation, to be supervised by the  
25 department, and released to the minor's parents, guardian, or a suitable person; if the  
26 court orders the minor placed on probation, it may specify the terms and conditions  
27 of probation; the probation may be for a period of time, not to exceed two years and  
28 in no event extend past the day the minor becomes 19, except that the department may  
29 petition for and the court may grant in a hearing

30 (A) two-year extensions of supervision that do not extend  
31 beyond the child's 19th birthday if the extension is in the best interests of the

1 minor and the public; and

2 (B) an additional one-year period of supervision past age 19 if  
3 the continued supervision is in the best interests of the person and the person  
4 consents to it;

5 (3) order the minor committed to the department and placed on  
6 probation, to be supervised by the department, and released to the minor's parents,  
7 guardian, other suitable person, or suitable nondetention setting such as a family home,  
8 group care facility, or child care facility, whichever the department considers  
9 appropriate to implement the treatment plan of the predisposition report; if the court  
10 orders the minor placed on probation, it may specify the terms and conditions of  
11 probation; the department may transfer the minor, in the minor's best interests, from  
12 one of the probationary placement settings listed in this paragraph to another, and the  
13 minor, the minor's parents or guardian, and the minor's attorney are entitled to  
14 reasonable notice of the transfer; the probation may be for a period of time, not to  
15 exceed two years and in no event extend past the day the minor becomes 19, except  
16 that the department may petition for and the court may grant in a hearing

17 (A) two-year extensions of commitment that do not extend  
18 beyond the child's 19th birthday if the extension is in the best interests of the  
19 minor and the public; and

20 (B) an additional one-year period of supervision past age 19 if  
21 the continued supervision is in the best interests of the person and the person  
22 consents to it;

23 (4) order the minor to make suitable restitution in lieu of or in addition  
24 to the court's order under (1), (2), or (3) of this subsection;

25 (5) order the minor committed to the department for placement in an  
26 adventure based education program established under AS 47.21.020 with conditions  
27 the court considers appropriate concerning release upon satisfactory completion of the  
28 program or commitment under (1) of this subsection if the program is not satisfactorily  
29 completed; [OR]

30 (6) in addition to an order under (1) - (5) of this subsection, if the  
31 delinquency finding is based on the minor's violation of AS 11.71.030(a)(3) or

1 11.71.040(a)(4), order the minor to perform 50 hours of community service; for  
2 purposes of this paragraph, "community service" includes work

3 (A) on a project identified in AS 33.30.901; or

4 (B) that, on the recommendation of the city council or  
5 traditional village council, would benefit persons within the city or village who  
6 are elderly or disabled; or

7 (7) in addition to an order under (1) - (5) of this subsection, if the  
8 delinquency finding is based on the minor's violation of AS 11.61.220(a)(3), revoke  
9 the minor's driver's license, privilege to drive, or privilege to obtain a driver's  
10 license for a period of

11 (A) one year, if the delinquency finding is based on the  
12 minor's first violation of AS 11.61.220(a)(3); and

13 (B) two years and, in addition, order the minor to perform  
14 100 hours of community service, if the delinquency finding is based on the  
15 minor's second or subsequent violation of AS 11.61.220(a)(3); for purposes  
16 of this subparagraph, "community service" includes work described in  
17 (6)(A) - (B) of this subsection.

18 \* Sec. 9. APPLICABILITY. (a) Sections 1 - 5, 7, and 8 of this Act apply to offenses  
19 committed on or after the effective date of this Act.

20 (b) In

21 (1) AS 11.61.220(i), added by sec. 5 of this Act, reference to previous  
22 convictions or adjudications of delinquency under AS 47.10.010 - 47.10.142 does not include  
23 convictions or adjudications of delinquency under AS 11.61.220(a)(3) as it read before its  
24 amendment by sec. 2 of this Act;

25 (2) AS 47.10.010(e), added by sec. 7 of this Act, reference to previous  
26 convictions or adjudications of delinquency does not include convictions or adjudications of  
27 delinquency involving the minor that occurred before the effective date of this Act;

28 (3) AS 47.10.080(b)(7), added by sec. 8 of this Act, reference to the minor's  
29 second or subsequent violation of AS 11.61.220(a)(3) does not include a violation of  
30 AS 11.61.220(a)(3) as it read before its amendment by sec. 2 of this Act.

8-LS1365U/  
Chenoweth  
2/14/94

CS FOR SENATE BILL NO. 237(STA)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered:  
Referred:

Sponsor(s): SENATORS LEMAN, Phillips

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the possession of firearms by minors, offenses involving  
2 weapons, and permits for the carrying of concealed weapons."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 \* Section 1. AS 11.61.210 is amended by adding new subsections to read:

5 (d) In a prosecution under (a)(6) of this section involving the sale of a firearm,  
6 it is a defense that, at the time of the sale, the person under 18 years of age was  
7 accompanied by the person's parent or guardian.

8 (e) In a prosecution under (a)(6) of this section involving the sale of a firearm,  
9 it is an affirmative defense that the sale was made to a person under 18 years of age  
10 as to whom, at the time of the sale, the disabilities of minority had been removed  
11 under AS 09.55.590 or under AS 25.20.020.

12 \* Sec. 2. AS 11.61.220(a) is amended to read:

13 (a) A person commits the crime of misconduct involving weapons in the fifth  
14 degree if the person

1 (1) knowingly possesses a deadly weapon, other than an ordinary  
2 pocketknife or a defensive weapon, that is concealed on the person;

3 (2) knowingly possesses a loaded firearm on the person in any place  
4 where intoxicating liquor is sold for consumption on the premises;

5 (3) being an unemancipated minor [UNDER 16 YEARS OF AGE],  
6 possesses a firearm without the consent of a parent or guardian of the minor;

7 (4) knowingly possesses a firearm

8 (A) or a defensive weapon within the grounds of or on a  
9 parking lot immediately adjacent to a public or private preschool, elementary,  
10 junior high, or secondary school without the permission of the chief  
11 administrative officer of the school or district or the designee of the chief  
12 administrative officer, except that a person 21 years of age or older may  
13 possess

14 (i) an unloaded firearm in the trunk of a motor vehicle  
15 or encased in a closed container in a motor vehicle;

16 (ii) a defensive weapon; or

17 (B) within the grounds of or on a parking lot immediately  
18 adjacent to a center, other than a private residence, licensed under  
19 AS 47.35.010 - 47.35.075 or recognized by the federal government for the care  
20 of children; or

21 (5) possesses or transports a switchblade or a gravity knife.

22 \* Sec. 3. AS 11.61.220(b) is amended to read:

23 (b) In a prosecution under (a)(1) of this section, it is an affirmative defense  
24 that the defendant, at the time of possession, was

25 (1) in the defendant's dwelling or on land owned or leased by the  
26 defendant appurtenant to the dwelling; [OR]

27 (2) actually engaged in lawful hunting, fishing, trapping, or other lawful  
28 outdoor activity that necessarily involves the carrying of a weapon for personal  
29 protection; or

30 (3) the holder of a permit to carry a concealed weapon under  
31 AS 18.65.700 - 18.65.775 and the deadly weapon was not a shotgun, a rifle, or a

1 prohibited weapon as defined in AS 11.61.200.

2 \* Sec. 4. AS 11.61.220(d) is amended to read:

3 (d) In a prosecution under (a)(2) of this section, it is a defense that the  
4 defendant, at the time of possession, [WAS]

5 (1) was on business premises owned by or leased by the defendant;

6 [OR]

7 (2) was on business premises in the course of the defendant's  
8 employment for the owner or lessee of those premises; or

9 (3) held a valid permit issued under AS 18.65.700 - 18.65.775 to  
10 possess a concealed weapon and, while carrying the concealed weapon and the  
11 permit for its possession, was in a restaurant or eating place licensed under  
12 AS 04.11.100 to sell beer and wine for consumption on the licensed premises.

13 \* Sec. 5. AS 11.61.220(g) is amended to read:

14 (g) Except as provided in (i) of this section, misconduct [MISCONDUCT]  
15 involving weapons in the fifth degree is a class B misdemeanor.

16 \* Sec. 6. AS 11.61.220 is amended by adding new subsections to read:

17 (h) The provisions of (a)(3) of this section do not apply to a person under 18  
18 years of age in possession of a firearm if the person possesses the firearm

19 (1) at an established and lawfully operated range or target concession  
20 for the purpose of firing at targets at the range or concession;

21 (2) while in attendance at a hunter safety course or firearm safety  
22 course for the purpose of using the firearm in conjunction with lessons presented  
23 during that course;

24 (3) while engaged in organized competition involving use of the  
25 firearm, or while practicing for an organized competition in which the person plans to  
26 participate;

27 (4) on premises owned by or leased by another with the consent of the  
28 owner or lessee of those premises;

29 (5) while actually engaged in lawful

30 (A) hunting; or

31 (B) fishing, trapping, or other lawful outdoor activity if the

1 fishing, trapping, or other lawful outdoor activity necessarily involves the  
2 carrying of a weapon for personal protection; or

3 (6) while traveling to or from any activity described in (1) - (5) of this  
4 subsection.

5 (i) A person convicted under (a)(3) of this section is guilty of a

6 (1) class B misdemeanor if the conviction is the person's first  
7 conviction of the offense described in (a)(3) of this section and the person had not  
8 been previously convicted under a law or ordinance of another jurisdiction with  
9 elements substantially similar to those of an offense described in (a)(3) of this section  
10 or adjudicated a delinquent minor under AS 47.10.010 - 47.10.142 for a violation of  
11 (a)(3) of this section;

12 (2) class A misdemeanor if, within the preceding seven years, the  
13 person was convicted under (a)(3) of this section or under a law or ordinance of  
14 another jurisdiction with elements substantially similar to those of an offense described  
15 in (a)(3) of this section, or the person was adjudicated a delinquent minor either under  
16 AS 47.10.010 - 47.10.142 if the delinquency finding is based upon a violation of (a)(3)  
17 of this section or under a law of another jurisdiction authorizing adjudication of  
18 delinquency for the violation of a law or ordinance of that jurisdiction with elements  
19 substantially similar to those of an offense described in (a)(3) of this section.

20 \* Sec. 7. AS 18.65 is amended by adding new sections to read:

21 ARTICLE 9. PERMIT TO CARRY A CONCEALED WEAPON.

22 Sec. 18.65.700. PERMIT TO CARRY A CONCEALED WEAPON. (a) The  
23 department shall issue a permit to carry a concealed weapon to a person who

24 (1) applies in person at an office of the Alaska State Troopers;

25 (2) qualifies under AS 18.65.705;

26 (3) submits a completed application on a form provided by the  
27 department, that provides the information required under AS 18.65.705 and 18.65.710  
28 and is executed under oath;

29 (4) permits the Alaska State Troopers to take two sets of fingerprints  
30 of the person and, on a blank permit, a print of one finger of each hand; and

31 (5) pays the application fee required by AS 18.65.715.

1 (b) The department shall either approve or reject an application for a permit to  
2 carry a concealed weapon within 45 days of receipt of the application. The department  
3 shall notify the applicant in writing of the reason for a rejection.

4 (c) A permit issued under this section is valid for five years from the date of  
5 issue.

6 Sec. 18.65.705. QUALIFICATIONS TO OBTAIN A PERMIT. A person is  
7 qualified to receive and hold a permit to carry a concealed weapon if the person

8 (1) is 21 years of age or older;

9 (2) is eligible to own or possess a firearm under the laws of this state  
10 and under federal law;

11 (3) is not currently charged under a complaint, information, indictment,  
12 or presentment with a violation of AS 11.41 or a similar law of another jurisdiction;

13 (4) has not been voluntarily or involuntarily committed to a treatment  
14 facility for a mental illness, unless the person presents to the department a sworn  
15 statement of

16 (A) an official in charge of the facility certifying that the person  
17 has been released from the facility for at least the five years immediately  
18 preceding the application and that at the time of release the person was not  
19 suffering from the condition that led to the commitment; and

20 (B) a psychiatrist who has treated the person certifying that the  
21 person has not suffered from the condition that led to the commitment during  
22 the five years immediately preceding the application;

23 (5) has not been adjudicated as mentally incapacitated by a court of this  
24 state, another state, territory, or jurisdiction, or of the United States, unless the  
25 guardianship or similar arrangement has been closed or terminated and five years have  
26 elapsed since the closure or other termination;

27 (6) is a resident of the state and has been for the 12 months  
28 immediately preceding the application for a permit;

29 (7) has not been convicted of an unlawful use of a controlled substance  
30 during the five-year period immediately preceding submission of the application;

31 (8) has not been discharged from the armed forces of the United States

1 under dishonorable conditions;

2 (9) is not an alien who is residing in the United States illegally or a  
3 former citizen of the United States who has renounced the person's citizenship;

4 (10) is not now in and has not previously entered an alcohol treatment  
5 program, unless the person presents the department with a sworn statement of a  
6 medical or psychological professional that the person has undergone treatment for  
7 alcohol abuse and has demonstrated freedom from alcohol impairment for the five  
8 years immediately preceding the application; and

9 (11) has not been convicted of two violations of AS 28.33.030,  
10 28.33.031, AS 28.35.030, or 28.35.032 or similar laws of another jurisdiction within  
11 the five years immediately preceding the application.

12 Sec. 18.65.710. APPLICATION FOR PERMIT TO CARRY A CONCEALED  
13 WEAPON. (a) The application for a permit to carry a concealed weapon must, at a  
14 minimum, include

15 (1) the applicant's name, address, place and date of birth, physical  
16 description, including height, weight, race, hair color, and eye color, and social security  
17 number;

18 (2) a statement that the applicant qualifies under AS 18.65.705;

19 (3) a statement that the applicant has been furnished with a copy of  
20 AS 18.65.700 - 18.65.775, has read those sections, and understands them;

21 (4) a statement that the applicant desires a permit to carry a concealed  
22 weapon for a lawful purpose, which may include lawful self-defense;

23 (5) a sworn statement by the applicant that all statements, answers, and  
24 attachments to the application are true and complete;

25 (6) a conspicuous warning that the application is executed under oath  
26 and that an applicant who supplies a false statement, answer, or document, in  
27 connection with the application which the applicant does not believe to be true, may  
28 be prosecuted for perjury under AS 11.56.200 and, if found guilty, may be punished  
29 for violation of a class B felony, and that in such cases the permit shall be revoked  
30 and the applicant may be barred from any further application for a permit; and

31 (7) a statement that the applicant understands that a background

1 investigation may be conducted as a part of the application process, that this may  
2 involve computerized records searches, and that the applicant authorizes the  
3 investigation.

4 (b) As a part of an application under (a) of this section, the department may  
5 not inquire of an applicant as to any firearms owned by the applicant.

6 Sec. 18.65.715. FEES. (a) The department shall charge a nonrefundable fee  
7 of \$100 for application for and initial issuance of a permit.

8 (b) The department shall charge a fee of \$15 for the renewal of a permit under  
9 AS 18.65.720.

10 (c) The department shall charge a fee of \$15 for replacement of a permit under  
11 AS 18.65.725.

12 Sec. 18.65.720. PERMIT RENEWAL. (a) A permittee shall apply for  
13 renewal of a permit to carry a concealed weapon within 90 days before the expiration  
14 of the permit on a form provided by the department. The renewal form shall be  
15 submitted under oath and must include

16 (1) any change in the information originally submitted under  
17 AS 18.65.710;

18 (2) a statement that the person remains qualified to receive and hold  
19 a permit to carry a concealed weapon under AS 18.65.705; and

20 (3) the renewal fee required under AS 18.65.715.

21 (b) A renewal of a permit to carry a concealed weapon submitted on or after  
22 the expiration date is subject to a late fee of \$15. The department may not accept a  
23 renewal for a permit that is submitted more than 90 days after the expiration date of  
24 the permit. Nothing in this subsection prohibits the holder of an expired permit from  
25 applying for a new permit.

26 Sec. 18.65.725. REPLACEMENT OF PERMIT. The department may replace  
27 a permit that the permittee certifies under oath has been lost, stolen, or destroyed.

28 Sec. 18.65.730. SUSPENSION OF PERMIT. The department shall  
29 immediately suspend a permit to carry a concealed weapon if a permittee is arrested  
30 for or formally charged with a crime that would disqualify the permittee under  
31 AS 18.65.705(3) from being eligible to hold a permit to carry a concealed weapon.

1 A suspension of a permit remains in effect until the permit is revoked under  
2 AS 18.65.735 or the department has been notified of a disposition favorable to the  
3 defendant or the defendant has been released from custody without being charged. In  
4 this section, "disposition favorable to the defendant" means an adjudication by a court  
5 other than a conviction or a dismissal by the prosecutor.

6 Sec. 18.65.735. REVOCATION OF PERMIT; APPEAL. (a) A permit to  
7 carry a concealed weapon shall be immediately revoked by the department when the  
8 permittee

9 (1) becomes disqualified to receive and hold a permit under  
10 AS 18.65.705, other than AS 18.65.705(3);

11 (2) is convicted of three violations of AS 18.65.750 or 18.65.755 within  
12 a five-year period;

13 (3) is convicted of violating AS 28.33.030, 28.33.031, AS 28.35.030,  
14 or 28.35.032 and was carrying a concealed weapon at the time of the violation; or

15 (4) with intent to mislead the department or its employees, supplied a  
16 false or fraudulent answer, statement, or document, or made a material misstatement  
17 or omission, in connection with an application for a permit or renewal of a permit.

18 (b) A person whose permit is revoked under this section may appeal the  
19 revocation decision to the commissioner. A person may seek judicial review of the  
20 decision of the commissioner under AS 44.62.560 - 44.62.570.

21 (c) A person whose permit is revoked under (a)(2) - (4) of this section may  
22 not apply for a new permit until at least five years have elapsed since the date of the  
23 last conviction.

24 Sec. 18.65.740. NO LIABILITY FOR ISSUANCE OF PERMIT. The state is  
25 not liable by virtue of having issued a permit to carry a concealed weapon for damage  
26 or harm caused by the permittee.

27 Sec. 18.65.750. POSSESSION AND DISPLAY OF PERMIT. (a) A permittee  
28 who is carrying a concealed weapon shall

29 (1) carry the permit at all times the permittee carries the concealed  
30 weapon;

31 (2) whenever contact is made with a peace officer, notify the peace

1 officer that the permittee possesses the concealed weapon and a permit to carry the  
2 weapon: and

3 (3) display both the permit and other proper identification when asked  
4 to do so by a peace officer at any time the permittee is carrying the concealed weapon.

5 (b) A person who violates (a) of this section is guilty of a violation and shall  
6 be punished by a fine of \$25.

7 Sec. 18.65.755. PLACES WHERE PERMITTEE MAY NOT POSSESS A  
8 CONCEALED WEAPON. (a) A permittee may not carry a concealed weapon into  
9 a law enforcement or correctional facility; a courthouse or a courtroom; a passenger  
10 loading or unloading area of an airline terminal; or a vessel of the Alaska marine  
11 highway system.

12 (b) In addition to any other penalty provided by law, a person who violates  
13 this section is guilty of a class B misdemeanor.

14 Sec. 18.65.760. COMPILATION AND MAINTENANCE OF LIST OF  
15 PERMITTEES; ACCESS TO LIST. (a) The department shall compile and maintain  
16 a list of permittees in a manner that allows immediate access to the information by  
17 peace officers.

18 (b) Except for access by peace officers under (a) of this section, the list of  
19 permittees compiled and maintained under (a) of this section is confidential and may  
20 not be inspected by the public.

21 Sec. 18.65.765. REGULATIONS. The department shall adopt regulations to  
22 implement AS 18.65.700 - 18.65.775. This section does not delegate to the department  
23 the authority to regulate or restrict the issuing of permits beyond those provisions  
24 contained in AS 18.65.700 - 18.65.775. Subjective or arbitrary actions or regulations  
25 that encumber the issuing process by placing burdens on the applicant beyond those  
26 sworn statements and specified documents detailed in AS 18.65.700 - 18.65.775 or that  
27 create restrictions beyond those specified or specifically authorized in AS 18.65.700 -  
28 18.65.775 are prohibited.

29 Sec. 18.65.770. PROHIBITION ON CERTAIN ORDINANCES. A  
30 municipality may not enact an ordinance that conflicts with or imposes stricter  
31 standards than the requirements of this chapter.

1                   Sec. 18.65.775. DEFINITIONS. In AS 18.65.700 - 18.65.775,

2                   (1) "commissioner" means the commissioner of public safety;

3                   (2) "concealed weapon"

4                   (A) means a deadly weapon, as defined in AS 11.81.900, that  
5 is covered or enclosed in any manner so that an observer cannot determine that  
6 it is a weapon without removing it from that which covers or encloses it or  
7 without opening, lifting, or removing that which covers or encloses it;

8                   (B) does not include

9                   (i) a deadly weapon that is a prohibited weapon as  
10 defined in AS 11.61.200; or

11                   (ii) a shotgun or rifle;

12                   (3) "department" means the Department of Public Safety;

13                   (4) "permit" means a permit to carry a concealed weapon issued under  
14 AS 18.65.700 - 18.65.775.

15 \* Sec. 8. AS 47.10.010 is amended by adding a new subsection to read:

16                   (e) The procedures prescribed in AS 47.10.020 - 47.10.090 and the Alaska  
17 Delinquency Rules do not apply when a minor who is at least 14 years of age at the  
18 time of the alleged offense is charged with an offense, the minor is alleged to have  
19 used a firearm in the commission of the offense, and the minor has been previously  
20 adjudicated as a delinquent or convicted as an adult, in this or another jurisdiction, as  
21 a result of an offense that, in this or another jurisdiction, involves the use of a firearm  
22 in the commission of the offense. The minor shall be charged, prosecuted, and  
23 sentenced in the superior court in the same manner as an adult. In this subsection,  
24 "firearm" has the meaning given in AS 11.81.900.

25 \* Sec. 9. AS 47.10.080(b) is amended to read:

26                   (b) If the court finds that the minor is delinquent, it shall

27                   (1) order the minor committed to the department for a period of time  
28 not to exceed two years or in any event extend past the day the minor becomes 19,  
29 except that the department may petition for and the court may grant i.i a hearing (A)  
30 two-year extensions of commitment that do not extend beyond the child's 19th  
31 birthday if the extension is in the best interests of the minor and the public; and (B)

1 an additional one-year period of supervision past age 19 if continued supervision is in  
2 the best interests of the person and the person consents to it; the department shall place  
3 the minor in the juvenile facility that the department considers appropriate and that  
4 may include a juvenile correctional school, juvenile work camp, detention home, or  
5 detention facility; the minor may be released from placement or detention and placed  
6 on probation on order of the court and may also be released by the department, in its  
7 discretion, under AS 47.10.200;

8 (2) order the minor placed on probation, to be supervised by the  
9 department, and released to the minor's parents, guardian, or a suitable person; if the  
10 court orders the minor placed on probation, it may specify the terms and conditions  
11 of probation; the probation may be for a period of time, not to exceed two years and  
12 in no event extend past the day the minor becomes 19, except that the department may  
13 petition for and the court may grant in a hearing

14 (A) two-year extensions of supervision that do not extend  
15 beyond the child's 19th birthday if the extension is in the best interests of the  
16 minor and the public; and

17 (B) an additional one-year period of supervision past age 19 if  
18 the continued supervision is in the best interests of the person and the person  
19 consents to it;

20 (3) order the minor committed to the department and placed on  
21 probation, to be supervised by the department, and released to the minor's parents,  
22 guardian, other suitable person, or suitable nondetention setting such as a family home,  
23 group care facility, or child care facility, whichever the department considers  
24 appropriate to implement the treatment plan of the predisposition report; if the court  
25 orders the minor placed on probation, it may specify the terms and conditions of  
26 probation; the department may transfer the minor, in the minor's best interests, from  
27 one of the probationary placement settings listed in this paragraph to another, and the  
28 minor, the minor's parents or guardian, and the minor's attorney are entitled to  
29 reasonable notice of the transfer; the probation may be for a period of time, not to  
30 exceed two years and in no event extend past the day the minor becomes 19, except  
31 that the department may petition for and the court may grant in a hearing

1 (A) two-year extensions of commitment that do not extend  
2 beyond the child's 19th birthday if the extension is in the best interests of the  
3 minor and the public; and

4 (B) an additional one-year period of supervision past age 19 if  
5 the continued supervision is in the best interests of the person and the person  
6 consents to it;

7 (4) order the minor to make suitable restitution in lieu of or in addition  
8 to the court's order under (1), (2), or (3) of this subsection:

9 (5) order the minor committed to the department for placement in an  
10 adventure based education program established under AS 47.21.020 with conditions  
11 the court considers appropriate concerning release upon satisfactory completion of the  
12 program or commitment under (1) of this subsection if the program is not satisfactorily  
13 completed; [OR]

14 (6) in addition to an order under (1) - (5) of this subsection, if the  
15 delinquency finding is based on the minor's violation of AS 11.71.030(a)(3) or  
16 11.71.040(a)(4), order the minor to perform 50 hours of community service; for  
17 purposes of this paragraph, "community service" includes work

18 (A) on a project identified in AS 33.30.901; or

19 (B) that, on the recommendation of the city council or  
20 traditional village council, would benefit persons within the city or village who  
21 are elderly or disabled; or

22 (7) in addition to an order under (1) - (5) of this subsection, if the  
23 delinquency finding is based on the minor's violation of AS 11.61.220(a)(3), revoke  
24 the minor's driver's license, privilege to drive, or privilege to obtain a driver's  
25 license for a period of

26 (A) one year, if the delinquency finding is based on the  
27 minor's first violation of AS 11.61.220(a)(3); and

28 (B) two years and, in addition, order the minor to perform  
29 100 hours of community service, if the delinquency finding is based on the  
30 minor's second or subsequent violation of AS 11.61.220(a)(3); for purposes  
31 of this subparagraph, "community service" includes work described in

1                   (6)(A) - (B) of this subsection.

2           \* Sec. 10. APPLICABILITY. (a) Sections 1 - 6, 8, and 9 of this Act apply to offenses  
3 committed on or after the effective date of this Act.

4           (b) In

5                   (1) AS 11.61.220(i), added by sec. 6 of this Act, reference to previous  
6 convictions or adjudications of delinquency under AS 47.10.010 - 47.10.142 does not include  
7 convictions or adjudications of delinquency under AS 11.61.220(a)(3) as it read before its  
8 amendment by sec. 2 of this Act;

9                   (2) AS 47.10.010(e), added by sec. 8 of this Act, reference to previous  
10 convictions or adjudications of delinquency does not include convictions or adjudications of  
11 delinquency involving the minor that occurred before the effective date of this Act;

12                   (3) AS 47.10.080(b)(7), added by sec. 9 of this Act, reference to the minor's  
13 second or subsequent violation of AS 11.61.220(a)(3) does not include a violation of  
14 AS 11.61.220(a)(3) as it read before its amendment by sec. 2 of this Act.



## FLORIDA DEPARTMENT OF STATE

Jim Smith

Secretary of State

## DIVISION OF LICENSING

Post Office Box 6687

Tallahassee, Florida 32314-6687

CONCEALED WEAPONS/FIREARMS LICENSE  
 STATISTICAL REPORT FOR  
 PERIOD 10/01/87 - 10/31/93

		TOTAL
o Applications Received:		189,776
New	136,785	
Renewal	52,991	
o Licenses Issued:		177,722
New	126,249	
Renewal	51,473	
o Licenses Valid		103,088
o Applications Denied:		948
Criminal History	551	
Incomplete Application	397	
o License Revoked:		341
Clemency Rule Change or Legislative Change	66	
Illegible Prints With No Response	10	
Crime Prior To Licensure	72	
- Firearm Utilized --4		
Crime After Licensure	175	
- Firearm Utilized --17		
Other	18	
Reinstated		50*

\*Statistics regarding number of licenses reinstated were not maintained prior to January 1990.

**The Department of Public Safety's recommended changes to:**

**Sec. 18.65.700 PERMIT TO CARRY A CONCEALED HANDGUN.** (a) The department shall issue a permit to carry a concealed handgun to a person who

Reasoning:

Weapon as defined in AS.11 is far too broad, it includes knives, metal knuckles, explosives, etc.

- (1) applies in person at an office of the Alaska State Troopers;
- (2) qualifies under AS 18.65,705:
- (3) submits a completed application on a form provided by the department, that provides the information required under AS 18.56.705 and 18.65.710 and is executed under oath;
- (4) submits two completed FBI applicant fingerprint cards that are of sufficient quality to process;

Reasoning:

This language change is required to maintain consistency with other statues and two sets are required of processing.

- (5) provides two frontal view color photographs of the person to include their head and shoulders, which was taken within the preceding 30 days, and as required by regulation; and

Reasoning:

This language is required to provide uniformity in the photographs that submitted and so that they will fit on the permit and to allow for changes in form and technology.

- (6) pays the application fee required by AS 18.65.720.

- (b) The Department shall either approve or reject an application for a permit to carry a concealed handgun within 120 days of receipt of a completed application. The department shall notify the applicant in writing of the reason for a rejection.

*all the way*

*FBI turnaround avg = 43 days*

Reasoning:

"completed" application, the department should have the 120 days from the time it receives all the necessary information, 120 days are need to ensure a turn a round from the FBI on the fingerprint check.

*30 days after clearance by the FBI*

- (c) A permit issued under this section will specify the class of the concealed handgun the permittee is authorized to carry as defined by regulation.

Reasoning:

Persons should not be able to demonstrate competence with a .22 and be able to carry a .44 magnum, or demonstrate competence with a revolver and carry a semi - auto. Specifying the class of handgun on the permit will prevent this. Types class could be 1 - revolver less than .38 caliber; 2 - revolver .38 caliber to .40 caliber; 3 - revolver greater than .40 caliber; 4 - semi auto less than .38 caliber; etc.

- (d) A permit issued under this section is valid for three years from the date of issue.

Reasoning:

Three years is a reasonable time for these permits.

**Sec. 18.65.705. QUALIFICATIONS TO OBTAIN A PERMIT.** A person is qualified to receive and hold a permit to carry a concealed handgun if the person

- (1) is 21 years of age or older;
- (2) is eligible to own or possess the concealed handgun under the laws of this state and under federal law;
- (3) does not have a conviction for or is not currently charged under a complaint, information, indictment, or presentment of any felony violation of this or another jurisdiction, or with a violation of AS 11.41.100 - 11.41.530, AS 11.56.300 - 11.56.830, AS 11.61.190 - 11.61.250, AS 11.71.010 - 11.71.900, AS 11.73.010

- AS 11.73.099, AS 28.33.030, AS 28.33.031, AS 28.35.033, AS 28.35.032, or is the subject of a injunctive relief writ as specified in AS 25.35.010 or 020.

Reasoning:

This bill is for "law abiding" citizens, a person who violates these statutes is not a "law abiding" citizen. AS 11.41 are crimes against the person: Murder, rape, assault, kidnapping, robbery; AS 11.56 are crimes such as escape, resisting arrest, public administration, judicial proceedings; AS 11.61 are the weapons offenses; AS 11.71 are the drug statutes (selling some drugs can be misdemeanor); AS 11.73 are the designer drug statutes; AS 28 are the DWI statutes.

- (4) has not been voluntarily or involuntarily committed to a treatment facility for the mental illness, unless the person presents to the department a sworn statement of
  - (A) an official in charge of the facility certifying that the person has been released from the facility for at least the five years immediately preceding the application and that at the time of release the person was not suffering from the condition that led to the commitment; and
  - (B) a psychiatrist who has treated the person certifying that the person has not suffered from the condition that led to the commitment during the five years immediately preceding the application;
- (5) has not been adjudicated as mentally incapacitated by a court of this state, another state, territory, or jurisdiction, or of the United States, unless the

guardian<sup>ship</sup> or similar arrangement has been closed or terminated and five years have elapsed since the closure or other termination;

(6) is a resident of the state and has been for the 12 months immediately preceding the application for the permit;

(7) has not been discharged from the armed forces of the United States under dishonorable conditions;

(8) is not an alien who is residing in the United States illegally or a former citizen of the United States who has renounced the person's citizenship;

X (9) is not now in and has not previously entered an alcohol treatment program, unless the person presents the department with a sworn statement of a medical or psychological professional that the person has undergone treatment for alcohol abuse and has demonstrated freedom for alcohol impairment for the five years immediately preceding the application;

*include the  
discharge prog  
from entering the  
programs?*

X (10) is not now in and has not previously entered a substance abuse treatment program, unless the person presents the department with a sworn statement of a medical or psychological professional that the person has undergone treatment for substance abuse and has demonstrated freedom for substance impairment for the five years immediately preceding the application;

Reasoning:  
This section only <sup>e</sup>seems logical following #9.

*Safety, competency, legal use.*

✓ (11) successfully completes a competence with handguns course as specified in AS 18.65.715.

Reasoning:  
The permitte<sup>l</sup> should be required to show that they can safely handle the weapon and that they know the law relating to the use of force.

∠ (12) provides the department with good cause for being issued a permit; →

Reasoning:  
Many, if not most states require a showing of good cause to receive such a permit.

(13) and the person is physically and mentally capable to carry a concealed handgun safely.

Reasoning:  
Nothing more than we ask of our drivers.

**Sec. 18.65.710. APPLICATION FOR PERMIT TO CARRY A CONCEALED**

**HANDGUN.** (a) The application for a permit to carry a concealed handgun must at a minimum include

- (1) the applicant's name, residence and mailing address, place and date of birth, physical description, including height, weight, hair color, and eye color, and a Alaska Drivers license number or Alaska Identification number;

Reasoning:

The residence address is required to possibly prevent incidents like that of the New York subway killer who gave California officials a shelter address. The mailing address is necessary to correspond with the applicant. The two ID numbers are the numbers the state uses to track criminal histories.

- (2) a statement that the applicant qualifies under AS 18.65.705;
- (3) a statement that the applicant has been furnished with a copy of AS 18.65.700 - 18.65.780, has read those sections and understands them;
- (4) a statement demonstrating the applicants good cause for the permit to be issued;

Reasoning:

Most state require a "good cause" for the issuance of a permit. Examples of good cause should be spelled out in regulation so that we can keep up with changing situations. Some examples of good cause would be occupational, bank couriers, people who carry large sums of money; personal, documented threats or DV writs outstanding, works late a night in secluded area.

- (5) a sworn statement by the applicant that all statements, answers, and attachments to the application are true and complete;
- (6) a conspicuous warning that the application is executed under oath and that an applicant who supplies a false statement, answer, or document, in connection with the application which the applicant does not believe to be true, may be

prosecuted on perjury under AS 11.56.200 and, if found guilty, may be punished for violation of a class B felony, and that in such cases the permit shall be revoked and the applicant may be barred from any further application for a permit;

(7) a statement that the applicant understands that a background investigation may be conducted as a part of the application process, that this may involve computerized records searches, and that the applicant authorizes the investigation; and

(8) any other information determined by the department to be necessary.

(b) As a part of an application under (a) of this section the department may not inquire of an applicant as to any firearms owned by the applicant, beyond the information required for AS 18.65.700 (c).

**Reasoning:**

The additional language is necessary to comply with the section to place the class or classes of handguns on the permit.

**Sec. 18.65.715. DEMONSTRATION OF COMPETENCE WITH HANDGUNS.** (a) The applicant must provide a certificate of successful completion of a handgun course that is approved by the Department of Public Safety. The certificate will specifically describe the handguns the person demonstrated competence with.

*DPS -  
request  
of firearm  
training  
agency*

(b) The Department shall adopt regulations that establish the curriculum of such handgun courses, the qualifications required of the instructor(s), and reasonable standards for establishing successful completion of the course.

- (1) A course approved by the department will include safe handling of the handgun to be carried and knowledge of the statutes relating to use of force and weapons laws.
- (2) The department will maintain a list of approved courses and provide the list on request to the public.

**Reasoning:**

The regulation process is the proper vehicle for this section as the organizations named in the bill may cease to exist, or may not be available in some areas of the state, or their courses may not meet the requirements of the statute. The type of requirements that the department would be looking at would be the number of hours spent on certain topics (safety and law), the testing procedures used to demonstrate competence, the qualifications of the instructors.

**Sec. 18.65.720. FEES.** (a) The department shall charge a nonrefundable fee for the processing the application and initial issuance of the permit, renewal of the permit, replacement of a permit, or adding additional handguns to the permit.

- (b) The department shall adopt regulations that adopt reasonable fees to cover the processing required in section (a).

**Reasoning:**

The costs may change and changing the statute may require too long a period of time, the goal to remain revenue neutral.

why?

**Sec. 18.65.725. PERMIT RENEWAL.** (a) A permittee shall apply for renewal of a permit to carry a concealed handgun within a minimum 90 days before the expiration of the permit on a form provided by the department. The renewal for shall be submitted under oath and must include

- (1) any change in the information originally submitted under AS 18.65.710;
  - (2) a statement that the person remains qualified to receive and hold a permit to carry a conceal handgun under AS.18.65.715.
- (b) The permittee submits the fee required by AS 18.65.720.
- (c) A renewal of a permit to carry a concealed handgun submitted on or after the expiration date is subject to a late fee of \$15. The department may not accept a renewal for a permit that is submitted more than 30 days after the expirations date of the permit. Nothing in this section prohibits the holder of an expired permit from applying for a new permit.

Reasoning:

30 days is long enough of an extension when the permit should be renew prior to expiring.

**Sec. 18.65.730. REPLACEMENT OF PERMIT.** The department may replace a permit that the permittee certifies under oath has been lost, stolen, or destroyed, after the permittee submits the fee required is section 18.65.720.

**Sec. 18.65.735. MISUSE OF A PERMIT.** The holder of a permit issued under this section is prohibited from:

- (1) altering the permit;
- (2) allowing another person to use the permit;
- (3) or possessing or displaying a suspended or revoked permit.

Reasoning:

This is nothing more than we require of drivers and is necessary to prevent the misuse of a permit.

**Sec. 18.65.740. RESPONSIBILITIES OF THE PERMITEE.** The holder of a permit issued under this section is required to:

- (1) keep the handgun concealed at all times when in a public place or a private place which is not owned or leased by the permittee;
- (2) notify the department of a change in the permittee's address within 30 days; and
- (3) immediately report a lost, stolen, or damaged permit to the department.

Reasoning:

This is nothing more than we require of drivers and is necessary to prevent the misuse of a permit.

**Sec. 18.65.745. SUSPENSION OF PERMIT.** (a) The department shall immediately suspend a permit to carry a concealed handgun if a permittee is arrested for or formally charged with a crime that would disqualify the permitted under AS 18.65.705(3) from being eligible to hold a permit to carry a concealed handgun. A suspension of a permit remains in effect until the permit is revoked under AS 18.65.740 or the department is notified of a disposition favorable to the defendant or the defendant has been released from custody without being charged. In this section, "disposition favorable to the defendant" means an adjudication by a court other than a conviction, a suspended imposition of sentence, or a dismissal by the prosecutor.

(b) A person whose permit is suspended under this section will immediately surrender the permit to the nearest peace officer. A peace officer who receives such a permit will forward it to the department.

(c) When the department receives a permit surrendered under this section it will retain the permit until the permit is revoked or returned to the permittee.

**Reasoning:**

If the computer lists are not available a person may present a suspended permit and the officer would not know.

**Sec. 18.65.750. REVOCATION OF PERMIT.** (a) A permit to carry a concealed handgun shall be immediately revoked by the department when the permittee

(1) no longer meets the qualifications to hold a permit under AS 18.65.705, other than AS 18.65.705(3);

- (2) is convicted of a violations specified in AS 18.65.705(3);
  - (3) alters the permit or allows another person to use his permit;
  - (4) supplied a false or fraudulent answer, statement, or document, or made a material misstatement or omission, in connection with an application for a permit or renewal of a permit.
- (b) A person whose permit is revoked under this section will immediately surrender the permit to the nearest peace officer. A peace officer who receives such a permit will forward it to the department.
- (c) A person whose permit is revoked under this section may appeal the revocation decision to the commissioner. A person may seek judicial review of the decision of the commissioner under AS 44.62.560 - 44.62.570.
- (d) A person whose permit is revoked may not apply for a new permit until at lest five years have elapsed.

**Reasoning:**

If the computer lists are not available a person may present a revoked permit and the officer would not know.

**Sec. 18.65.755. NO LIABILITY FOR ISSUANCE OF PERMIT.** The state is not liable by virtue of having issued a permit to carry a concealed handgun for damage or harm caused by the permittee.

**Sec. 18.65.760. POSSESSION AND DISPLAY OF PERMIT.** (a) A permittee shall carry the permit at all times the permittee carries a concealed handgun. When a permittee is carrying a concealed handgun and is contacted by a peace officer for any reason the permittee will immediately advise the officer that he holds a permit and is in possession of a concealed handgun. The permittee shall display both the permit and other proper identification when asked to do so by a peace officer at any time.

- (b) A peace officer may take possession of the handgun for the duration of the contact if the officer determines that such action is necessary for the safety of all persons, including the officer, present at the time.
- (c) A person who violates (a) of this section is guilty of a class B misdemeanor.
- (d) A person who resists a peace officer in carrying out (b) of this section is guilty of a class A misdemeanor.

ror (b) is the safety of all persons, if the officer responds to a domestic situations and is informed the one of the parties has a handgun he should be allowed to secure it. Even traffic stops can be emotionally charged situations some times. While the officer has the right to protect himself this language clearly puts the permittee on notice that this might occur and hopefully avoid the situation where the officer asks for the handgun and permittee says that they have a permit and has a "right" to have the handgun.

**Sec. 18.65.765. PLACES WHERE A PERMITTEE MAY NOT POSSESS A**

**CONCEALED HANDGUN.** (a) A permittee may not carry a concealed weapon into a law enforcement or correctional facility; a courthouse or courtroom; an office or building housing state or federal offices or the offices of a political subdivision of the state; a passenger loading or unloading area of an airline terminal; a vessel of the Alaska marine highway system; or any other place where possession of a firearm is prohibited by law.

(b) In addition to any other penalty provided by law, a person who violates (a) of this section is guilty of a class B misdemeanor.

**Reasoning:**

A person should not be allowed to take a weapon in bars and schools.

**Sec. 18.65.770. COMPILATION AND MAINTENANCE OF LIST OF PERMITTEES;**

**ACCESS TO LIST.** The department shall compile and maintain a list of permittees in a manner that allows immediate access to the information by peace officers and shall be subject to public disclosure under AS 09.25.

**Reasoning:**

The department would release the name of the permittee, but other information about the permittee made confidential by statute would remain confidential.

**Sec. 18.65.775. REGULATIONS.** The department shall adopt regulations to implement AS 18.65.700 - 18.65.785.

Reasoning:

The current language of this section would essentially take away the departments ability to enact any regulations, because the sections restricts regulations beyond the statute.

**Sec. 18.65.780. PROHIBITION ON CERTAIN ORDINANCES.** A municipality may not enact an ordinance that conflicts with or imposes stricter standards than the requirements of this chapter.

It our recommendation that this section be deleted.

**Sec. 18.65.785. DEFINITIONS.** In AS 18.65.700 - 18.65.785.

- (1) "commissioner" means the commissioner of the Department of Public Safety;
- (2) "concealed handgun"
  - (A) means a pistol or revolver whether loaded or unloaded, operable or inoperable designed for discharging a projectile of .22 caliber or greater, capable of causing death or serious physical injury and is covered or enclosed in any manner so that an observer cannot determine that it is a handgun without removing it from that which covers or encloses it or without opening, lifting, or removing that which cover or encloses it;

(B) does not include

(i) a deadly weapon that is prohibited weapon as defined in AS

11.61.200; or

(ii) a shotgun, a rifle, or a derringer;

Reasoning:

This language is necessary because weapon is too broadly defined in statute and this language would prevent the use of some "Saturday night" specials and very small firearms which are very inaccurate, i.e. derringers.

(3) "department" means the Department of Public Safety;

(4) "permit" means a permit to carry a concealed handgun issued under AS

18.65.700 - 18.65.780.

# Alaska State Legislature

Legislative Research Agency



P.O. Box Y  
Juneau, AK 99811-3100  
Phone: (907) 165-3991  
Fax: (907) 163-3331

March 7, 1991

## MEMORANDUM

TO:

FROM: Christine M. Cheff  
Legislative Analyst

RE: Concealed Weapon Permits  
Research Request 91.164

You asked for samples of state laws regarding the licensing and permitting of concealed weapons and for information about the effect of such laws on states in which they have been adopted.

## CONCEALED WEAPONS LAWS

Thirty-three states require an individual who wishes to carry a concealed weapon to obtain a permit or license.<sup>1</sup> We reviewed the laws of California, Florida, Hawaii, Minnesota, New York, Utah, Washington and Wyoming (Attachments A-H). In most of these states the laws specifically apply to concealed firearms, pistols or revolvers. However, Florida law defines a concealed weapon as a "handgun, electronic weapon or device, tear gas gun, knife, or billie . . ."

Authority for approval of concealed weapons applications in the states is variously given to the Department of State (Florida), the county sheriff or head of a municipal police department, a licensing officer, the Department of Public Safety, or the judge of a court of record. Permits or licenses are issued for periods of time ranging from one year (Minnesota, Hawaii and California) to four years (Washington). Some states (Utah and Washington) will issue a temporary permit if the applicant can prove an emergency need or extenuating circumstances.

The basic license or permit requirements which applicants must meet are: good moral character; minimum age of 18 to 21; county/state residency; no felony convictions; and certification of competency if previously confined because of mental illness or substance abuse. Most of the laws also include a requirement

---

<sup>1</sup>Residents in Alaska are not permitted to carry concealed weapons. According to the law, "A person commits the crime of misconduct involving weapons in the third degree" if they knowingly carry a concealed weapon (AS 11.61.220).

**Research**

to prove "need" or "good cause" for carrying a concealed weapon, however the terms are not specifically defined. "Lawful self defense" is sufficient reason for licensing in Florida, while a Hawaii applicant must prove fear of injury to person or property (Attachment C). All of the states recognize occupational, vocational or recreational protection as valid reasons to apply for a concealed weapons permit or license. Additionally, travelers in Washington and Wyoming can apply for permits as long as they meet state requirements.

Four of the eight states whose laws we reviewed require that applicants prove their ability to handle weapons safely. Florida and Minnesota laws specify the form of the proof, i.e., a firearms safety certificate from a training course or class, the results of a law enforcement supervised test, or evidence of equivalent experience with firearms through participation in organized shooting competitions or the military. In Hawaii the chief of police for the permit-issuing county is responsible for setting up procedures to determine an applicant's safe handling ability.

#### EFFECTS OF CONCEALED WEAPONS LAWS

We contacted government agencies and national organizations in an effort to obtain information about the effects of concealed weapons laws on states which have adopted them.<sup>2</sup> Unfortunately there is little information available. One of the reasons, according to Michael Beard at the National Coalition to Ban Handguns, is that the issue of concealed weapons is only a small part of the larger handgun control issue.

Jane Clarenbach, assistant director to law enforcement at Handgun Control, Inc., says there have been a number of debates during recent years over "changing [existing] state laws" and passing controversial new ones. A National Rifle Association (NRA) draft bill was recently passed in Florida. According to Ms. Clarenbach, law enforcement organizations oppose the bill because it does not include the requirement for proving "need." Instead it requires that the Florida Department of State issue a license unless the applicant is "a prohibited person," i.e., under 21 years of age, physically or mentally incapacitated, or a substance abuser. Ms. Clarenbach says other debates about concealed weapons have focused on permit restrictions with respect to time and place (business hours, after working hours, weekends, bank deliveries, outside the city, etc.) and penalties for violations of restrictions.

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<sup>2</sup>The California Peace Officers' Association, the Congressional Research Service, the Florida Criminal Information Bureau, the Florida Department of State, the Florida Police Chiefs Association, Handgun Control, Inc., the National Coalition to Ban Handguns, the National Conference of State Legislatures, the National Institute of Justice, and the National Rifle Association.

March 7, 1991  
Page 3

"Smoking Gun: The Case for Concealed Weapon Permit Reform," was published by the California Assembly Office of Research (AOR) in 1986 (Attachment i). The report is "based upon a survey [conducted in 1985-86] of California's police chiefs and sheriffs regarding the issuance of permits to carry concealable weapons," and reflects unfavorably on California laws "which have not been significantly revised since the 1920s..."

The only concealed weapon licensing requirements defined by the California law are that an individual be of good moral character, have good cause for obtaining a license, and be a resident of the issuing county. With so few guidelines, there is no uniformity in law enforcement. Because county sheriffs and police chiefs issue the licenses, there were approximately 500 concealed weapons licensing authorities in the state in 1986. Each of the issuing agencies is responsible for establishing its own licensing policy. As a result, some of the least populated areas issue the most licenses and some counties do not issue any licenses. Unless the local authority imposes location restrictions for the applicant's use of a license, it is valid throughout the state and the weapon can be carried into any county regardless of that county's licensing policy. The AOR survey also found that few of the licensing authorities perform thorough investigations of an applicant's background or require proof of an applicant's competency to handle a weapon.

The AOR report recommended that California concealed weapons laws be clarified and uniformly applied. To date there have been no changes to the law as it existed in 1986.

We are awaiting the results of a research request made to the Congressional Research Service through Senator Murkowski's office in Washington, D. C., and will forward relevant material to you as soon as it arrives.

I hope this information will be useful. Please do not hesitate to call if we can be of further assistance on this or any other matter.

Attachments



Compiled by the NRA Institute for Legislative Action

The following chart lists the main provisions of state handgun laws as of May 1990. In addition to the state provisions, the purchase, sale and, in certain circumstances, the possession and interstate transportation of firearms is regulated by the Federal Gun Control Act of 1968 as amended by the Firearms Owners' Protection Act. Also, cities and localities may have their own handgun ordinances in addition to federal and state restrictions. Details may be obtained by contacting local law enforcement authorities or by consulting your state's firearms law digest compiled by the NRA Institute for Legislative Action.

SINCE STATE LAWS ARE SUBJECT TO FREQUENT CHANGE, THIS CHART IS NOT TO BE CONSIDERED AS LEGAL ADVICE OR A RESTATEMENT OF THE LAW.

NOTE: State constitutional provisions on firearms vary considerably. The Connecticut constitution serves as an example of the basic features contained in the constitutions of many states: "Every citizen has a right to bear arms in defense of himself and the state" (Article I Section 15)

STATE	PURCHASE				CARRYING			OWNERSHIP		
	APPLICATION AND WAITING PERIOD	LICENSE OR PERMIT TO PURCHASE	REGISTRATION	RECORD OF SALES SENT STATE OR LOCAL GOVT	CARRYING OPENLY PROHIBITED	CARRYING CONCEALED PROHIBITED	CLASS TO CARRY OPENLY	LICENSE TO CARRY CONCEALED	OWNER LICENSING OR ID CARDS	CONSTITUTIONAL PROVISION
ALABAMA	1			1		1	1			1
ALASKA										
ARIZONA						1				1
ARKANSAS					1	1				1
CALIFORNIA	1			1		1		1		1
COLORADO						1		1		1
CONNECTICUT	1			1		1		1		1
DELAWARE						1		1		1
FLORIDA	1						1	1		1
GEORGIA							1	1		1
HAWAII	1	1	1	1			1	1		1
IDAHO						1		1		1
ILLINOIS	1	1	1	1		1		1		1
INDIANA	1			1			1	1		1
IOWA		1		1			1	1		1
KANSAS	1	1	1			1				1
KENTUCKY						1				1
LOUISIANA						1		1		1
MAINE						1		1		1
MARYLAND	1			1			1	1		1
MASSACHUSETTS		1		1			1	1	1	1
MICHIGAN		1	1	1			1	1		1
MINNESOTA	1	1		1			1	1		1
MISSISSIPPI						1		1		1
MISSOURI		1		1		1		1		1
MONTANA						1		1		1
NEBRASKA						1		1		1
NEVADA	1		1			1		1		1
NEW HAMPSHIRE				1		1		1		1
NEW JERSEY		1		1			1	1		1
NEW MEXICO				1		1		1		1
NEW YORK		1	1	1			1	1	1	1
NORTH CAROLINA		1		1		1		1		1
NORTH DAKOTA				1	1			1		1
OHIO	1	1		1		1		1		1
OKLAHOMA					1			1		1
OREGON	1			1		1		1		1
PENNSYLVANIA				1			1	1		1
RHODE ISLAND				1			1	1		1
SOUTH CAROLINA				1			1	1		1
SOUTH DAKOTA				1	1			1		1
TENNESSEE				1	1	1		1		1
TEXAS				1		1		1		1
UTAH				1	1			1		1
VERMONT				1	1			1		1
VIRGINIA	1	1		1				1		1
WASHINGTON	1			1			1	1		1
WEST VIRGINIA				1			1	1		1
WISCONSIN				1			1	1		1
WYOMING				1			1	1		1
DISTRICT OF COLUMBIA		1	1		1			1		1

HANDGUNS

1 License to carry in a vehicle either openly or concealed.  
 2 License prohibits carrying with a purpose to employ it to a person against a person. Tennessee prohibits carrying with the intent to employ it.  
 3 Chicago only.  
 4 Loaded.  
 5 Handguns must be delivered to the city chief of police or county sheriff to obtain a certificate of inspection.  
 6 Prohibited to carry concealed may be granted by county sheriff or other appropriate authority.

Handguns prohibited in Transition Gun Free Zones, Major Grade, Amateurs, Amateurs, and Highway 200.  
 7 Some municipalities control the possession, sale, transfer or carrying of handguns. e.g. Cleveland and Columbus require a police permit for purchase. Toledo requires a handgun owners ID. Cincinnati requires application for purchase in addition to some form of the possession and sale of handguns with a certain magazine capacity (more than 20 rounds or more).  
 8 Handgun carrying is allowed in the home or on the premises of a business.  
 9 Carrying in public places.  
 10 Carrying in public places.  
 11 Carrying in public places.  
 12 Carrying in public places.  
 13 Carrying in public places.  
 14 Carrying in public places.  
 15 Carrying in public places.

# Alaska State Legislature

Legislative Research Agency



130 Seward Street, Suite 218  
Juneau, Alaska 99801-2196

Phone: (907) 465-3991  
Fax: (907) 463-3351

February 17, 1993

## MEMORANDUM

TO: Representative Peter Kott

FROM: Christine M. Cheff *Cheff*  
Legislative Analyst

RE: Weapons Permits Issued - Florida, Georgia, Oregon and Washington  
Research Request 93.122

You asked for the following information concerning concealed weapons permits:

- the number of permits issued in the states of Florida, Georgia, Oregon and Washington during the last five years, and
- a copy of the Multnomah County, Oregon case that forced compliance with the state law to issue concealed weapons permits.

The agencies and authorities responsible for issuing weapons permits or licenses are different in each of the four states you asked about. For instance, licenses may be issued by the courts in one state, in another by the sheriffs' departments, and in yet another by a state agency. Therefore, depending upon state licensing procedures and data collection methods, the numbers presented below may not reflect the statewide total of permits issued.

Although we were unable to find a Multnomah County case which pertains to compliance with the weapons license law, a 1984 Attorney General opinion does address the issue (Attachment A).<sup>1</sup>

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<sup>1</sup>An electronic search was performed in the WESTLAW legal database service and we contacted the Oregon Attorney General's office.

## Florida

Weapons licenses in Florida are issued by the State Division of Licenses and are valid for three years. According to Susan Harrell, license issuance administrator, during the last five fiscal years the following number of licenses were issued:

1992-92 - 26,419  
1990-91 - 34,858  
1989-90 - 17,884  
1988-89 - 17,884  
1987-88 - 33,451

## Georgia

The county probate courts are responsible for issuing weapons permits in Georgia. There are 159 counties in the state. Atlanta alone encompasses portions of 10 counties. Because there is no statewide compilation of statistics on the numbers of permits issued, we chose Fulton County, the most populous, to serve as the state's model county.

For the past five years the Fulton County Probate Court issued permits (which are valid for five years as follows:

1992 - 2,160  
1991 - 2,603  
1990 - 3,722  
1989 - 3,127  
1988 - 2,280

## Oregon

The sheriffs' departments in Oregon's 36 counties are responsible for issuing weapons permits. As in Georgia, statewide statistics are not compiled. Therefore, we contacted three county sheriffs' offices to obtain a representative sample of permits issued in the state. According to Pat Dawley, Lane County licensing supervisor, the number of licenses issued by the county has increased since a new concealed weapons law went into effect in 1990 (ORS 166.291). She believes the increase is due to the specificity of the new law concerning reasons for which an application may be denied. Prior to 1990, the county sheriffs had greater latitude in deciding whether or not to issue a license.

Representative Kott  
February 17, 1993  
Page 3

The departments primarily keep track of the number of licenses which are current in the county, therefore, the following numbers are only approximate cumulative totals of the number of permits issued after 1990, including renewals:

- Lane County (Eugene area) - 2,000,
- Multnomah County (Portland area) - 6,255, and
- Marion County (Salem area) - 2,028.<sup>2</sup>

### Washington

Concealed weapons permits, which are good for four years, are issued by city police departments and county sheriffs departments in Washington. To obtain a permit, it is not necessary to be a resident of the county or city in which an application is made. In fact, according to Jill Kincade of the King County Sheriff's Department, the way the law is written, state residency is not a requirement either.

The current number of valid permits statewide is 206,000. During the last five years, the Seattle Police Department (ID Division) and the King County Sheriff's Department issued the following number of concealed weapons permits, including renewals:

<b>City of Seattle:</b>	1992 - 4,987	<b>King County:</b>	1992 - 5,905
	1991 - 3,616		1991 - 3,985
	1990 - 2,866		1990 - 2,942
	1989 - 3,587		1989 - 4,654
	1988 - 3,832		1988 - 5,366

I hope this information will be useful. Please let us know if we can be of further assistance on this matter.

Attachment

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<sup>2</sup>Since the 1990 law took effect: approximately 100 of the 2,128 applications filed in Marion County were denied, renewed, or transferred to other counties; 117 applications were denied and 77 licenses revoked in Multnomah County.

ATTACHMENT A  
State of Oregon - Attorney General Opinion  
ORS 166.290  
Volume 44, p. 350 (1984)

Act to the extent outlined herein, the public contracting law, the Oregon Tort Claims Act, or the statutes governing uncollectible claims or acquisition of data processing equipment. General institutional inconvenience is not enough to render legislation constitutionally defective. *Circuit Court v. AFSCME, supra.*

DAVE FROHNMAYER  
Attorney General

DF:PSH:JEM:JMM

<sup>1</sup>See, e.g., Secretary of State Audit Report on Oregon State Bar dated March 12, 1984, for the fiscal period January 1, 1982 to December 31, 1982 (pp 9-11); Secretary of State Audit Report on Oregon State Bar dated December 19, 1984, for the fiscal period January 1, 1983 to December 31, 1983 (pp 8-9).

<sup>2</sup>*Sadler v. Oregon State Bar*, 275 Or 279, 560 P2d 1218 (1976).

<sup>3</sup>26 Op Atty Gen 246 (1954).

<sup>4</sup>Letter of advice dated June 30, 1983 to Deputy Secretary of State C. Gregory McMurdo (OP-5525); see also 1982 memorandum of law referenced to in 26 Op Atty Gen 246 (1954).

<sup>5</sup>Letter of advice dated June 16, 1976 to Accounting Division Administrator Neal R. Fisher (OP-4257).

<sup>6</sup>26 Op Atty Gen 246 (1954) rejecting statements to the contrary in 21 Op Atty Gen 46 (1942).

<sup>7</sup>We have not ignored *Tongue v. State Board of Agriculture*, 55 Or 61, 63, 105 P 250 (1909), where the court held that the State Board of Agriculture, created by the legislature to provide for an annual fair, was a corporation and not a branch of state government for the administration of state affairs. The issue there was whether the board could be sued. The court found the statute which created the board authorized it to make contracts. The court held the board could be sued over a contract issue as a necessary incident to its contracting powers. In dicta, the court focused on the legislative labeling of the department as a "public corporation" and its nonaccountability to the state for the moneys at issue in the case.

<sup>8</sup>This conclusion only relates to the Bar, the Board of Bar Governors and the Bar's employees. Neither the burdens nor the benefits of the OTCA are visited upon the attorney members of the Bar solely for reasons of being attorneys.

<sup>9</sup>ORS 293.225 was enacted by Amended Engrossed SB 120 by the 1965 Legislative Assembly. We have examined the Senate Natural Resources Committee Minutes and the House Committee on Natural Resources Minutes for that bill and find nothing therein bearing upon this conclusion.

No. 8162

January 4, 1985

The Honorable Chuck Bennett  
State Representative

#### FIRST QUESTION PRESENTED

ORS 166.290 provides that a sheriff "may" issue a license to carry a concealed weapon if certain circumstances exist. Does the

word "may" mean "shall," thus imposing a duty on the sheriff to issue licenses?

#### ANSWER GIVEN

Yes.

#### SECOND QUESTION PRESENTED

Are the provisions in ORS 166.290, that a person applying for a license to carry a concealed weapon be of "good moral character" and that "good cause exists" for issuance of a license, impermissibly vague in granting discretion to the sheriff to determine whether to issue a license?

#### ANSWER GIVEN

No.

#### THIRD QUESTION PRESENTED

ORS 166.260 provides exemptions from the general prohibition against carrying a concealed weapon without a license. Does the reference in subsection (5) to organizations which are authorized to purchase or receive weapons from the United States or this state include persons who are members of clubs enrolled in the United States government's marksmanship program under the Director of Civilian Marksmanship?

#### ANSWER GIVEN

No. It applies only to the clubs themselves, and club members come under the exemption only when the club's weapons are in use in the club's organized marksmanship training program.

#### DISCUSSION

##### I. Sheriff Must Issue License Under Certain Circumstances

ORS 166.290(1) provides in part:

"The sheriff of a county, upon proof before him, that the person applying therefor is of good moral character, and that good cause exists for the issuance thereof, may issue to such person a license to carry concealed a pistol, revolver or other firearm. . . ." (Emphasis added.)

The normally permissive "may" and the normally mandatory "shall" have a long history of being interchanged in the interpretation of various statutes in order to carry out the intention of the legislative body which used the term. See *Local 1724B v. Bd. of Cty. Com., Lane Cty.*, 5 Or App 81, 482 P2d 764 (1971). If

necessary to carry out legislative intent, "may" is construed to mean "shall." In *Dilger v. School District 24CJ*, 222 Or 108, 352 P2d 564 (1960), for example, the court, in construing a released time statute for public school students, concluded that legislative intent required that "may be excused" be interpreted to mean "shall be excused" by the school administrator upon proper application by the student. The court stated that although the administrator had discretion in adjusting the hours of release, the statute was mandatory in that the child had to be released if the application met the statutory requirements. *Id.*, 222 Or at 117-118. See also *Hübner v. Hübner*, 67 Or 557, 136 P 667 (1913); *Real Estate Assn. v. Portland*, 23 Or 199, 31 P 482 (1892); *McLeod v. Scott*, 21 Or 94, 24 P 1061 (1891); *Kohn & Co. v. Hinshaw*, 17 Or 308, 20 P 629 (1889); *Springfield Milling Co. v. Lane Co.*, 5 Or 265 (1874). We address a similar issue in construing ORS 166.290.

ORS 166.290 first appeared as section 8 of chapter 260, Oregon Laws 1925,<sup>1</sup> and remained substantially unchanged until 1973. Oregon Laws 1973, chapter 391, section 1 amended ORS 166.290 to delete authorization for other local authorities to issue concealed weapon licenses, changed the fee schedule, and added a provision for non-liability to run in favor of a sheriff issuing a license. Chapter 391 inserted the word "may" in place of "have authority to." The 1973 amendment made no substantive change in the character of the sheriff's duty to issue licenses.

In seeking to determine legislative intent, we have previously relied upon the rule of statutory construction that permissive language is construed to be mandatory when it is used to define a public officer's powers and duties "in the performance of which the public or third parties have an interest." 16 Op Atty Gen 565, 566 (1934). On the basis of this rule of statutory construction or for other reasons, courts in Maine and Florida have construed "may" in concealed weapons licensing statutes similar to ORS 166.290 as "shall," in order most reasonably to effectuate legislative intent. In *Schwanda v. Bonney*, 418 A2d 163, 167 (Me 1980), the court stated:

"... True, the language . . . is couched in terms of the ordinarily permissive 'may,' but as stated in *Collins v. State*, 161 Me. 443, 213 A.2d 835 (1965), it is an accepted principle of statutory construction that, when the word 'may' is used in imposing a public duty upon public officials in the doing of something for the sake of the public good, and the public or third persons have an interest in the exercise of the power, then the word 'may' will be read 'shall,' the exercise of the power being deemed imperative by legislative intent."<sup>2</sup>

See also *Iley v. Harris*, 345 So2d 336 (Fla 1977);<sup>3</sup> cf. *Salute v. Fitchess*, 61 Cal App3d 557, 132 Cal Rptr 345 (1976).<sup>4</sup>

We also conclude that "may" as used in ORS 166.290 should be understood to mean "shall." We have found no cases that suggest a contrary interpretation. Under ORS 166.290, if a firearm license applicant can show "good moral character" and if "good cause exists," a sheriff *must*, upon payment of the fee, issue a license to carry a concealed firearm. We note, however, that a sheriff has

considerable discretion to set "good cause" standards for a particular county, upon due consideration of the objectives of the statute. (See discussion of "good cause" in answer to second question, *infra*.)

## II. "Good Moral Character" and "Good Cause" are not Impermissibly Vague Terms<sup>5</sup>

### A. "Good Moral Character"

The term "good moral character" most commonly is used in various statutory contexts as a qualification for a person to pursue a particular profession or occupation.<sup>6</sup> ORS 166.290 neither defines "good moral character" nor specifies how "good moral character" is established.<sup>7</sup> Whatever the term means in ORS 166.290, the legislature apparently assumed "good moral character" had enough inherent meaning that one could offer "proof" before the sheriff to establish it.

If this phrase were used in legislation directly commanding or forbidding conduct at the risk of penalty, its vagueness could be considered incompatible with due process of law under the Fourteenth Amendment to the United States Constitution. The addressee arguably would not have fair notice of what conduct would incur or avoid the penalty, that judgment being left to a prosecutor, a jury, or a court after the fact. *Anderson v. Feden*, 284 Or 313, 324, 587 P2d 59 (1978), citing *Parachristou v. City of Jacksonville*, 405 US 156 (1972) and *State v. Hodges*, 254 Or 21, 457 P2d 491 (1969). But ORS 166.290 is legislation which delegates authority to sheriffs to make decisions regarding future behavior rather than determinations to sanction past or present conduct. The issue is not lack of fair notice, but whether the legislature's political responsibility for choosing at least the general direction of public policy among competing alternatives has been abdicated without guidance to administrative officials.

In a case also involving delegation of authority to local elected officials,<sup>8</sup> the Oregon Supreme Court said:

"There is no constitutional requirement that all delegation of legislative power must be accompanied by a statement of standards circumscribing its exercise . . ." *Warren v. Marion County*, 222 Or 307, 313, 353 P2d 257, 261 (1960); accord *Knight v. Department of Revenue*, 293 Or 297, 646 P2d 1243 (1982).

The Oregon Supreme Court has recently reaffirmed that neither state nor federal constitutional principles require the standards for civil delegations of authority to meet those required for penal laws. *Megdal v. Board of Dental Examiners*, 288 Or 293, 605 P2d 273 (1980). Although imprecise, "good moral character" and "good cause" are not devoid of content for purposes of delegating administrative authority, even if a standard were required.

An attack on the vagueness of "good moral character" in ORS 166.290 can have a constitutional footing only if the risk of *ad hoc* policymaking grants to some "citizen or class of citizens privileges, or immunities, which, upon the

same terms [do] not equally belong to all citizens." Or Const Art I, § 20. As the Oregon Supreme Court has said,

"... That risk is real in all discretionary administration. But an attack based on this premise must show that in fact a policy unlawfully discriminating in favor of some persons against others either has been adopted or has been followed in practice." *Anderson v. Peden, supra*, 254 Or at 320 (1975)

Oregon Constitution Article I, section 20 long has been construed to reach forbidden inequality in the administration of laws under delegated authority as well as in legislative enactments. *State v. Clark*, 291 Or 231, 239, 630 P2d 810 (1981), citing *White v. Holman*, 44 Or 180, 74 P 933 (1904). It reaches both standardless administration in which the procedure chosen is ad hoc without striving for consistency among similar cases, as well as impermissible classifications. *State v. Freeland*, 295 Or 367, 374, 667 P2d 509 (1983).

We have no information on practices or guidelines used by sheriffs to dispense concealed weapons licenses. We therefore, cannot further analyze potential Article I, section 20 issues.

Use of the broad term "good moral character" fulfills the legislature's constitutional obligation to exercise the responsibility of giving at least the general direction of public policy. However, this conclusion necessarily interrelates with questions of interpretation of the sheriff's assignment under the law. For example, we believe that a sheriff is constrained under the terminology, "good moral character," to base his or her decision upon factors which may reasonably be considered to be relevant to "fitness" to carry a firearm. When the legislature couples a particular licensing power with a "good moral character" requirement, the subject matter of the license gives a partial definition of the standard itself. For example, under a statute requiring a certificate of "good moral character" as a prerequisite to taking the state bar examination, the Virginia Supreme Court held that an applicant could not be denied admission to the bar as not being of "good moral character" because she was living with a man to whom she was not married. Such "conduct bears no rational connection to her fitness to practice law." *Cord v. Gibb*, 219 Va 1003, 254 SE2d 71, 73 (1979)."

Here, a sheriff's discretion in interpreting "good moral character" must be done within the context of fitness to carry a firearm.

#### B. "Good Cause"

ORS 166.290 also requires that "good cause exists" for issuance of a license to carry a concealed weapon. ORS 166.290(2) requires an applicant to state "reason[s] for desiring a license to carry the weapon." "Good cause" in the context of ORS 166.290 is no more impermissibly vague or unconstitutional than "good moral character." Again, however, the sheriff's discretion in determining "good cause" is circumscribed to some extent by the firearm context of the delegation and the mandatory nature of ORS 166.290. For example, in

*Salute v. Pitchess*, *supra* at 560, several private investigators had been denied licenses to carry concealed weapons because it was the sheriff's policy to issue such licenses only to judges and other public officeholders who expressed a concern for their personal safety. The statute involved was similar to ORS 166.290. The court said:

"While a court cannot compel a public officer to exercise his discretion in any particular manner, it may direct him to exercise that discretion. We regard the case at bench as involving a refusal of the sheriff to exercise the discretion given him by the statute. . . . To determine, in advance, as a uniform rule, that only selected public officials can show good cause is to refuse to consider the existence of good cause on the part of citizens generally and is an abuse of, and not an exercise of, discretion.

"The petition before us alleges that petitioners are of good moral character and are residents of Los Angeles County. It is admitted that no inquiry into the existence of good cause has ever been made in connection with the application of these petitioners, or of any other applicant outside the limited group of public officials. It is the duty of the sheriff to make such an investigation and determination, on an individual basis, on every application. . . ."

Within the above limits, a sheriff has extensive authority to determine in individual cases what constitutes "good cause." In this regard, a sheriff's function is not unlike that of the Employment Division which under ORS 657.176 is given the responsibility to determine an applicant's ineligibility for unemployment compensation if the individual voluntarily left work "without good cause." As the Oregon Supreme Court said "the phrase 'good cause' . . . calls for completing a value judgment that the legislature itself has only indicated: evaluating what are 'good' reasons for giving up one's employment and what are not." *McPherson v. Employment Division*, 285 Or 541, 550, 591 P2d 1381 (1979). ORS 166.290 and its history only shows that some range of responsibility is given sheriffs to define on a case-by-case basis "good cause." Within the firearm context of ORS 166.290 and its mandatory nature, it is left to the sheriff in the first instance to determine what reasons validly are included within the "good cause" standard. Further, given ORS 166.290's delegation to the chief law enforcement officers of Oregon's 36 counties, it is apparent that the legislature contemplated that local conditions from county to county may influence the determination of whether "good cause exist" for issuance of a concealed weapon license. Local standards need not be promulgated as rules in order to be defensible under Article I, section 20, *State v. Clark*, *supra*, 291 Or at 246, and each local sheriff remains free in the absence of statute to choose the standards most suitable to local circumstances and experience, *State v. Freeland*, *supra*, 295 Or at 273.

### III. Interpretation of ORS 166.260(5)

ORS 166.260 contains a list of exemptions from its general prohibition of the carrying of a concealed weapon without a license issued under ORS 166.290. ORS 166.260(5) exempts:

"Organizations which are by law authorized to purchase or receive weapons described in ORS 166.256 from the United States, or from this state." (Emphasis added.)

We are asked whether this exemption applies to persons who are members of clubs enrolled in the United States government's civilian marksmanship training program.

Federal law, 10 USC section 4307, authorizes the appointment of a "director of civilian marksmanship:"

"The President may detail a commissioned officer of the Army or of the Marine Corps as director of civilian marksmanship, to serve under the direction of the Secretary of the Army."

A civilian marksmanship training program is established by title 32 of the Code of Federal Regulations, part 543, entitled "Promotion of Rifle Practice."<sup>13</sup> Under subpart A, 32 CFR section 543.5 provides:

"The Director of Civilian Marksmanship (DCM) has management control of the program and provides support and assistance to civilian shooting clubs participating in the program."

Subpart B of 32 CFR section 543, entitled "Organization and Enrollment of Shooting Clubs," sets forth eligibility requirements for clubs to be enrolled in the marksmanship program. Subpart C, "Provision of Arms, Ammunition, Targets, and Related Equipment," provides in 32 CFR section 543.10(a):

"General. Clubs that are affiliated and continue to comply with the provisions of this regulation may be issued marksmanship training materials. All issues are subject to limitations of available resources and may be reduced or suspended at any time. All Government property is issued to affiliated clubs, not to individuals, and is to be used solely for supporting the club's organized marksmanship training program. Club leaders and officials will insure that the property is used only for this purpose. Sale, barter, exchange, or private use of Government property issued under this regulation is prohibited." (Emphasis added.)<sup>14</sup>

Under 32 CFR section 543.10(a), the United States issues weapons to clubs enrolled in the marksmanship programs administered by the Director of Civilian Marksmanship. The clubs are "[o]rganizations which are by law authorized to . . . receive weapons . . . from the United States," and they fall within the exemption provided in ORS 166.260(5). But the exemption applies only to the organizations; it does not refer to individuals who are members of the organizations. In this respect ORS 166.260(5) differs from the other subsections of the statute that exempt certain individuals and members of certain groups, viz:

"(1) *Sheriffs, constables, marshals policeman, whether active or honorably retired, or other duly appointed peace officers.*

"(2) *Any person summoned by any such officer to assist in making arrests or preserving the peace, while said person so summoned is actually engaged in assisting the officer.*

"(3) *The possession or transportation by any merchant of unloaded firearms as merchandise.*

"(4) *Members of the Army, Navy or Marine Corps of the United States, or of the National Guard, when on duty.*

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"(6) Duly authorized military or civil organizations while parading, or the members thereof when going to and from the places of meeting of their organization.

"(7) Members of any club or organization, for the purpose of practicing shooting at targets upon the established target ranges, whether public or private, while such members are using any of the firearms referred to in ORS 166.260 upon such target ranges, or while going to and from such ranges.

"(8) Licensed hunters or fishermen while engaged in hunting or fishing, or while going to or returning from a hunting or fishing expedition.

"(9) A corrections officer while transporting or accompanying an individual convicted of or arrested for an offense and confined in a place of incarceration or detention while outside the confines of the place of incarceration or detention." (Emphasis added.)

The limitation of the exemption in subsection (5) to "[o]rganizations" is also distinguished from the exemption in subsection (6) for "military or civil organizations while parading" which goes on to add "or the members thereof when going to and from the places of meeting of their organization." The difference is significant. It cannot be attributed to varying styles of draftsmanship. All of ORS 166.260 except subsection (9) was enacted as Oregon Laws 1925, chapter 260, section 6.

The ultimate question is when are club members acting as an "organization" and thus within the exemption of ORS 166.260(5). Although 32 CFR section 548.10(a), quoted earlier, refers only to property (including weapons) issued by the federal government and not to weapons which may be privately owned by club members, we believe the regulation necessarily defines the official scope of a club's activities. It provides that such property "is to be used solely for supporting the club's organized marksmanship training program." We accordingly conclude that club members will come under the exemption provided in ORS 166.260(5) only when they are using the club's weapons in the club's organized marksmanship training program. Whether the weapons are being so used will be a question of fact. However, given the language in ORS 166.260(6) and (7) the exemption of subsection (5) does not include the period of time when members are going to and from club meetings.

DAVE FROHNMAYER  
Attorney General

DF:JEM:THD:SFP:JMM:WTL

"It shall be lawful for the sheriff of a county, and the board of police commissioners, chief of police, city marshal, town marshal, or other head of the police department of any city, county, town, or other municipal corporation of this state, upon proof before said board, chief, marshal or other police head, that the person applying therefor is of good moral character, and that good cause exists for the issuance thereof, to issue to such person a license to carry concealed a pistol, revolver or other firearm for a period of one year from the date of such license. All applications for such licenses shall be filed in writing, signed by the applicant, and shall state the name, occupation, residence and

business address of the applicant, his age, height, weight, color of eyes and hair, and reason for desiring a license to carry such weapon. Any license issued upon such application shall set forth the foregoing data and shall, in addition, contain a description of the weapon authorized to be carried, giving the name of the manufacturer, the serial number and the caliber thereof. When such licenses are issued by a sheriff a record thereof shall be kept in the office of the county clerk; when issued by police authority such record shall be maintained in the office of the authority by whom issued. Such applications and licenses shall be uniform throughout the state, upon forms to be prescribed by the attorney general." Or Laws 1925, ch 260, section 6.

<sup>2</sup> In *Schwanda v. Borney*, *supra* at 164, the court considered a statute which provided that no person shall carry a concealed weapon except that

"... the chief of police or city marshal of any city or the selectmen of any town may upon written application therefor issue to any legal resident of such city or town of good moral character, a certificate setting forth that such person has been duly licensed to carry such weapon mentioned in the certificate . . . ." (Emphasis added.)

Oregon's statute, unlike Maine's, contains a "good cause" requirement.

<sup>3</sup> In *Hay v. Harris*, *supra* at 246, the statute reads:

"The county commissioners of the respective counties of this state may at any regular or special meeting grant a license to carry a pistol, Winchester or other repeating rifle, only to such persons as are over the age of 21 years and of good moral character, for a period of 2 years, upon such person giving a bond payable to the Governor of the State in the sum of \$100 . . . ." (Emphasis added.)

Florida's statute also lacks a "good cause" prerequisite for issuance.

<sup>4</sup> In *Salute v. Pitchess*, *supra* at 559, the statute provided:

"The sheriff of a county or the chief or other head of a municipal police department of any city or city and county, upon proof that the person applying is of good moral character, that good cause exists for the issuance, and that the person applying is a resident of the county, may issue to such person a license to carry concealed a pistol, revolver, or other firearm: . . . ." (Emphasis added.)

The court in *Salute* compelled the sheriff to exercise his discretion, but did not tell him how to do so. The sheriff was ordered to consider applications and to make a determination whether the "good cause" and other requirements were met.

<sup>5</sup> The opinion requester referred to Article I, section 27 of the Oregon Constitution as a possible basis for concern. That section provides:

"The people shall have the right to bear arms for the defence [sic] of themselves, and the State, but the Military shall be kept in strict subordination to the civil power."

ORS 165.290 only regulates the manner of carrying certain types of weapons (together with ORS 168.250 which prohibits possession of a concealed weapon without a permit). The Oregon Supreme Court in discussion of Article I, section 27 in *State v. Kessler*, 239 Or 359, 370, 614 P2d 94 (1990), noted that "many courts have upheld statutes prohibiting the carrying of concealed weapons." See also *State v. Blanner*, 221 Or 255, 268, 530 P2d 824 (1981). Most recently, the Supreme Court has stressed that its decisions do "not mean individuals have an unfettered right to possess or use constitutionally protected arms in any way they please. The legislature may, if it chooses to do so, regulate possession and use." *Oregon v. Delgado*, 258 Or 395, 403, 692 P2d 610 (1984).

<sup>1</sup> "Good moral character" is necessary for one to be an attorney (ORS 9.220), a member of the state police (ORS 181.250), a notary public (ORS 194.010), a counselor of a juvenile department (ORS 419.604), a psychologist (ORS 475.030) or psychologist associate (ORS 675.065), a practitioner of medicine (ORS 677.100), a podiatrist (ORS 677.920), a nursing home administrator (ORS 678.730), a speech pathologist or audiologist (ORS 681.260), an optometrist (ORS 683.040), a chiropractor (ORS 684.040), a naturopath (ORS 685.070), a veterinarian (ORS 686.045), a physical therapist (ORS 688.050) or physical therapist assistant (ORS 688.055), a pharmacist (ORS 689.255), and a hearing aid dealer (ORS 694.055).

ORS 342.143 provides that the Teacher Standards and Practices Commission may require an applicant for a teaching certificate to furnish satisfactory evidence of good moral character.

<sup>2</sup> In the case of a notary public "good moral character" is defined. ORS 194.005(2) provides that as used in ORS 194.010 "good moral character" means

"... character other than that which reflects moral turpitude and conduct which would cause a reasonable person to have substantial doubts about an individual's honesty, fairness and respect for the rights of others and for the laws of the state and the nation. To be relevant to deciding whether a person is of 'good moral character,' conduct of questionable good moral character must be rationally connected to the applicant's fitness to be a notary public."

Prior to 1983, "good moral character" was defined for purposes of qualifying as an applicant for admission as an attorney. However, the definition literally means the opposite of what was probably intended. ORS 9.220 then read in part:

"... 'good moral character' means conduct not restricted to those acts that reflect moral turpitude, but rather extending to acts and conduct which would cause a reasonable person to have substantial doubts about the individual's honesty, fairness and respect for the rights of others and for the laws of the state and the nation."

<sup>3</sup> In the case of a naturopath, the statute does specify how "good moral character" shall be established. ORS 685.070 provides that affidavits of two reputable citizens of the state attesting the good moral character of the applicant for examination shall be filed with the application for an examination for a license to practice naturopathy.

<sup>4</sup> We recognize that not all Oregon sheriffs are elected; however, by far, the majority of them are.

<sup>5</sup> The court in *Warren v. Marion County*, *supra*, did, however, go on to say that:

"... (T)he important consideration is not whether the statute delegating the power expresses standards, but whether the procedure established for the exercise of the power furnishes adequate safeguards to those who are affected by the administrative action." 322 Or at 314. (Emphasis in original.)

<sup>6</sup> Likewise, the Oregon Court of Appeals has held that a school's rule governing the length of hair of male students was beyond the statutory delegation of authority to schools to govern student conduct. The court interpreted the pertinent statutes to mean that such rules must "have some reasonable connection with the educational process." *Newhaus v. Federico*, 12 Or App 314, 319, 506 P2d 939 (1973).

<sup>7</sup> The California statute required that an applicant for a license to carry a concealed weapon be a resident of the county. The Oregon law contains no such requirement. See *Watson v. McNamara*, 9 Or App 448, 497 P2d 682 (1972).

Subpart F of 32 CFR section 543 also establishes a program of "Civilian Use of Government Rifle Ranges" in accordance with provisions in 10 USC sections 4309 and 4310 for establishing rifle ranges and for instructors at such ranges for training civilians in the use of rifles. 10 USC section 4311 says that the Secretary of the Army may provide for the issue of rifles for rifle practice at the ranges where instructors have been detailed, but 32 CFR section 543.23 states:

"Civilian organizations will furnish their own arms and ammunition."

We note that subsection (7) of ORS 160.260 provides an exemption under certain circumstances for "members" of target range practice shooting organizations, unlike subsection (5) which only provides an exemption for "organizations" which purchase or receive weapons from the United States or this state.

The source for this regulation is cited as 10 USC section 4308(a) which provides in part:

"The Secretary of the Army, under regulations approved by him upon the recommendation of the National Board for the Promotion of Rifle Practice, shall provide for —

"(3) the promotion of practice in the use of rifled arms, the maintenance and management of matches or competitions in the use of those arms, and the issue of the arms, ammunition, targets, and other supplies and appliances, necessary for those purposes;

"(5) the sale to members of the National Rifle Association, at cost, and the issue to clubs organized for practice with rifled arms, under the direction of the National Board for the Promotion of Rifle Practice, of the arms, ammunition, targets, and other supplies and appliances necessary for target practice; . . ."

The limitation of sale to members of the National Rifle Association was held unconstitutional in *Covert v. Alexander*, 477 F Supp 1036 (DC DC, 1979).

No. 8163

January 4, 1985

Mr. Ed Zajonc  
Director  
Division of State Lands

FIRST AND SECOND QUESTIONS PRESENTED

What do the terms "forfeiture," "escheat" and "accrue to the state" in Article VIII, section 2(1)(b) of the Oregon Constitution mean?

ANSWER GIVEN

"Forfeiture" refers to specific property (other than a fine) which comes to the state because the property is associated with wrongs which are prohibited by law. Property which "escheats" is that to

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**FIREARMS AND VIOLENCE, 1986:**

An Analysis of the FBI's  
Uniform Crime Reports  
and Other Data

By Paul H. Blackman, Ph. D.,  
and the  
Research & Information Division  
NRA Institute for Legislative Action  
January 1988

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**SUMMARY:**  
**Firearm Involvement in Crime**

Violent crime rose sharply between 1985 and 1986, with gun-related crime up as well, but not quite so much. Firearm involvement in robbery fell; in aggravated assault, it remained unchanged; and in homicide, although reported handgun involvement remained the same, overall firearm involvement rose slightly, according to data in the FBI Uniform Crime Reports' Crime in the United States, 1986.

Since 1980, the gun-related and handgun-related homicide rates have fallen 20% and 26%, respectively; non-gun homicide rate dropped only 5%. Overall, firearms -- which were reportedly used in over one-third of violent crimes in 1975, and over 30% of those reported to police in 1980 -- were involved in just over one-quarter of 1986's reported violent crimes. Handguns -- the media symbol for crime -- are now used in less than one of five violent crimes reported to police, and in only about 1/15th of such crimes reported to government survey teams (the National Crime Surveys, or victimization surveys of the Bureau of Justice Statistics).

	Percentage Rate Change	
	1976-1986	1980-1986
VIOLENT CRIME	+34%	+6%
GUN RELATED VIOLENT CRIME	+9	-10
HOMICIDE	-2	-16
Handgun homicide	-12	-26
Firearm homicide	-10	-20
ROBBERY	+15	-8
Firearm Robbery	-8	-21
Aggravated Assault	+51	+19
Firearm Assault	+36	+6
PROPERTY CRIME	+1	-9
Burglary	-7	-19
Larceny-theft	+3	-5
Motor-vehicle theft	+14	+3
FIREARMS OWNED	+24	+6
Handguns owned	+38	+11
CRIMINALS IMPRISONED	+120	+65

Although uneven but dramatic drops in crime during the 1980s have been noted by the media, little emphasis is placed on the decline in gun-related crime. The encouraging 10% drop in the gun-related crime rate between 1980 and 1986 came despite a 6.5% increase in violent crime overall, during a period when population rose about 7%.

One response of anti-gunners, desperate to explain why gun-related crime is going down, has been to claim that the market for guns is down. Nonetheless, the number of privately owned firearms has risen over 12% during the decade and the number of privately owned handguns has risen over 18%, nearly two and three times faster, respectively, than the population.

The other anti-gun response has been to claim that gun laws passed during the 1960s and 1970s -- supplemented by a few restrictive ordinances passed in the 1980s (such as Morton Grove's handgun ban, Chicago's freeze, and some South Florida waiting periods) -- are suddenly working. Giving the lie to that argument is the fact that during the 1980s, the NRA has succeeded in adding or strengthening the right to keep and bear

the violent crime rate has fallen 32%; and the homicide rate, while fluctuating throughout the four-year period, by 1986 was virtually identical to the 1982 rate. In 1987, however, it rose to 36.4 per 100,000, some 35% higher than when handguns were banned in 1976.

Chicago, on the other hand, preferred to imitate the D.C. handgun freeze in 1982. It has seen its violent crime rate increase a walloping 157% and its homicide rate defy the national and state trends by increasing 12%. Instead of accounting for 50% of the Illinois's violent crime and 66% of its killings, Chicago now accounts for 73% of both.

Broward County, Fla., adopted a two-week waiting period and background check in 1984. Since then, its violent crime rate has risen 25%, with a 7% rise in homicide. Neighboring Dade County, which already has a three-day wait without a background check, and has been considering and rejecting tougher gun laws each of the past few years, recorded an 11% rise in violent crime along with a 9% decrease in murder. Curiously, Dade County anti-gunners, jealous of Broward's "success," were pushing for an imitative law until Florida preempted such local ordinances in 1987.

Three South Florida counties -- Dade, Broward, and Palm Beach -- were the source for most restrictions in the state, and for most opposition to statewide preemption laws. During the past 10 years, those counties have not only accounted for most statewide and local calls for restrictions, but for most of the crime problem in Florida. Even though the rest of Florida was growing faster than those counties, the number of homicides increased over 75% between 1975 and 1986 in South Florida and half that in the rest of the state, as the homicide rate fell 2% outside of those anti-gun areas while rising 33% in those three counties. No wonder the Florida legislature decided preempting and limiting local restrictions was an idea whose time had come!

During that time, neighboring Georgia liberalized its gun laws, making it easy for law-abiding citizens to obtain licenses to carry concealed firearms but establishing a mandatory penalty for misusing guns in violent crimes. There, the homicide rate fell 19% between 1975 and 1986.

Mandatory penalties in general continue to work, particularly reducing murder and robbery rates relative to states with less interest in such effective crime-control techniques. Adopted at various times during the past 15 years, the mandatory penalties coincided with such drops in the murder rate as 28% in Maryland and 29% in Delaware (1972-1986), 28% in Arkansas (1974-1986), 41% in South Carolina, 38% in Virginia (1975-1986), and 13% in West Virginia (1978-1986).

Allowing citizens to carry guns for protection is also associated with lower rates of violent crime, particularly the sorts of crime handguns can be used to prevent, robbery and murder. States that allow citizens to carry openly for protection, or that readily issue permits to carry concealed weapons, have a robbery rate just over half that of the rest of the country and a homicide rate almost 25% lower than the more restrictive areas. Scholarly studies using previously collected FBI data have indicated that street robbery is particularly reduced and that gun involvement in all violent crimes is lower in the freer states. And, contrary to anti-gun propaganda, there is no increase in gun use in assaults; honest citizens do not use their guns to commit crimes; states where freedom prevails, but robbers are deterred.

The FBI crime reports, along with survey data on gun ownership, show too that crime in general is more common where guns are less common. Household gun, and handgun, ownership is lowest in big cities (over 500,000 population), where survey data

FYE  
WALton

# Concealed Carry for Citizens

## A Law Enforcement Perspective

by John Chapman,  
LEAA Board Member

*Editor's note: The following was written by LEAA Board Member John Chapman in response to a letter by a fellow Texas police officer questioning why LEAA supports CCW for citizens. When the letter was written, the Texas legislature was considering a citizen CCW Bill--HB 1776. Since then, HB 1776 passed both the Texas senate and house, but was vetoed by Governor Ann Richards, who is vehemently opposed to entrusting law-abiding citizens with the means to protect themselves.*

Dear Captain Crawford:

You may not have ever expected a response to your letter, but I felt that it was important to explain LEAA's position on HB 1776.

First of all let me say that I hope you do not discount this letter, as it is a sincere response, one cop to another.

I am a police officer with a municipality in Central Texas. I have been a police officer for over 14 years. I have a degree in Criminal Justice and possess my Advanced and Instructor's certificate from TCLEOSE. I also instruct in our Regional Police Academy.

In consideration of Concealed Carry in Texas (HB 1776), I too became concerned when I thought of everybody carrying handguns in the routine course of their day. It frightened me to think of some citizens carrying handguns, but then I started to think about how many people I knew that it would relieve me to know that they would be armed.

I know that under the Code of Criminal Procedure and Penal Code my authority as a Peace Officer is derived from the very citizens we swear to protect--yet at times cuss.

As a street cop, it's easy to get caught up in the ideology of "It's us against them", forgetting that we deal

with less than 1/2 of 1% of our population on a daily basis.

And I have to confess that at times I too felt that "citizens" are all dangerous--"us against them".

Then something happened which galvanized my belief about this issue.

You see, I was the first uniformed officer to arrive at Luby's Cafeteria on October 16, 1991. The second actual unit to respond. It took me 1 minute and

*"As a street cop, it's easy to get caught up in the ideology of "it's us against them," forgetting that we deal with less than 1/2 of 1% of our population on a daily basis."*

41 seconds from the time I acknowledged my response to going 10-23. I had perimeter responsibility on the north side of the building.

As officers advanced from the south, I listened to the perpetrator as he summarily executed people before he was engaged. I believe that an armed citizen would have stopped it.

The same way that an armed citizen stopped a similar event in Anniston, Alabama on December 17, 1991. Two months after Luby's, three armed gunmen tried to do something similar there. Result, one dead gunman, one wounded gunman, one fleeing gunman, NO in-

jured patrons, employees or police officers.

Armed citizens intervene in criminal incidents nearly one million times a year and a shot is fired in less than 2% of all the incidents.

I also find that those who argue this point use supposition instead of facts. The blood bath the doom sayers and nay sayers predicted has not materialized. In fact it has gone the other way in all 31 states that have concealed carry.

According to UCT, the national average of violent crime increased 14%. In Florida, Oregon and Virginia, the most recent and visible states to have concealed carry, violent crime decreased 20%. That's a 34% decrease in my books.

Also citizens have a better record of keeping their weapons than police officers do. Just look at your quarterly FBI summary or the Texas Peace Officer

*"How many Texans are you willing to allow to be victimized to prevent CCW?"*

killed summary to support that. How many Officers are shot with their own weapon? Just look at the Lunsford shooting. Someone may try to use that for justification to disarm the Police!

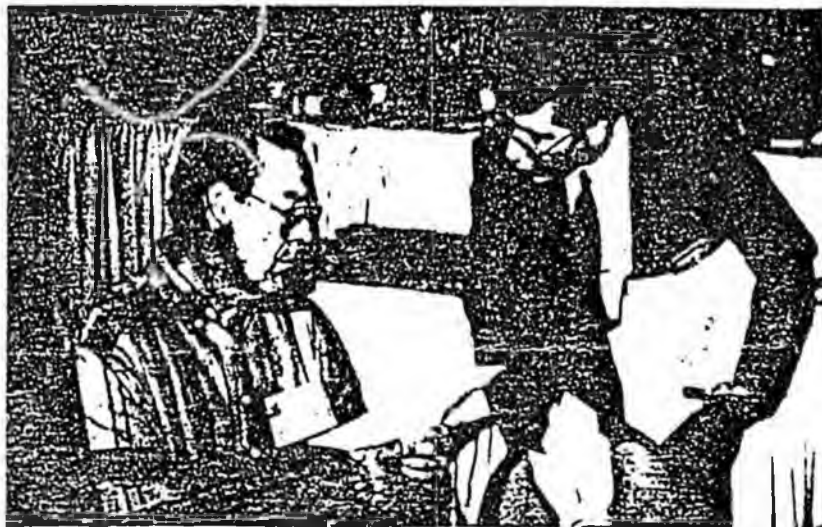
Some say we will regress to the Wild Wild West, well look at the numbers. We are more violent now than the 1800's ever thought of being. Texans alone are being victimized more than

*continued on page 33*

# Southern States PBA Crime Control Landmark Law Enforcement Survey Shows Rare



Southern States PBA President Jack Roberts answers reporters' questions about the survey at July 9 press conference at Southern States PBA headquarters in Atlanta, Georgia.



LEAA Operations Director Ted Gogol explains significance of Southern States PBA gun control survey to a state legislator during the Southern Legislative Conference luncheon titled, "Gun Control: Southern Style" held in Mobile Alabama on July 11. Before HCI's Sarah Brady spoke at the luncheon, LEAA made sure every legislator and guest in attendance received a copy of the survey. In addition, LEAA officials explained why rank-and-file officers do not support gun control, and answered questions from legislators and the media.



LEAA Member Todd Pipkin (far left), a law enforcement officer with the Alabama Department of Conservation, discusses the Southern States PBA gun control survey with LEAA Executive Director Jim Fotis (center) and Spectrum Resources, Inc. President Scott Maddox prior to LEAA press conference on July 11 in Mobile, Alabama during the Southern Legislative Conference.



LEAA Executive Director Jim Fotis explains why law enforcement does not support restrictive gun control laws to CBS affiliate News Center Five reporter Kristen McFann at LEAA press conference in Mobile, Alabama on July 11 during Southern Legislative Conference.

# and Gun Control Survey Results

## and-File Officers DO NOT Support Gun Control

In a comprehensive effort to find out how its nearly 11,000 law enforcement members really feel about gun and crime control, Southern States Police Benevolent Association became the nation's first major law enforcement group to conduct a professional, scientific survey of its membership.

Southern States PBA has traditionally maintained a neutral position on gun control, but decided to poll its membership to resolve the controversy over claims by pressure groups on both sides of the issue as to the position of law enforcement.

"We simply had enough of every special interest group, including a number of national police organizations, claiming they spoke for rank-and-file officers on the subject of gun control," said Southern States PBA President Jack Roberts. "The only way to know how law enforcement feels about gun control is to ask them. And that's exactly what we did. What our members told us may be quite an eye-opener for some people, but it won't be to anyone who is in touch with street cops."

To ensure that the survey would accurately reflect its members views, a professional research firm, Spectrum Resources, Inc., of Tallahassee, Florida, was employed. "Our survey methodology was configured to preserve the objectivity of the Southern States PBA and to elicit accurate sentiments of the officers polled," Scott Maddox, president of the firm, said.

The results found that law enforcement officers resoundingly reject gun control laws as effective measures in deterring violent crime, and strongly support the right of citizens to own firearms.

*Editor's Note: The survey was conducted in June of 1993. Out of 10,614 surveys mailed, 3,824 total responses were received, which is a response rate of 36%. Copies of the entire analysis of the survey (nearly 100 pages) including charts, graphs, cross tabulations, etc., are available from either LEAA or Southern States PBA. To obtain a copy, write to either organization and enclose a note requesting the survey with your name and address and include a \$5.00 check to cover printing and postage. LEAA's address is on the table of contents page.*

1) In general, what do you think is the most pressing cause of violent crime in the United States today?			2a) How effective has the U.S. Congress been in dealing with violent crime? Has Congress been very effective, somewhat effective, only minimally effective, or not effective at all in dealing with violent crime?		
No. of Resp.	Percentage		3812	99.7%	Totals
3641	95.2%	TOTALS	3	0.1	Very Effective
1637	45.0	Drugs	246	5.6	Somewhat Effective
386	10.6	Family Values/ Decline Of Family	1796	47.1	Only Minimally Effective
151	4.1	Courts, Inadequate Sentencing	1751	45.9	Not Effective At All
370	10.2	Early Release/ Lack Of Punishment	48	1.3	Not Sure
39	1.1	Alcohol	2b) Please indicate which of the following options would be least effective in reducing violent crime? (pick only one option)		
62	1.7	Punishment Does Not Fit The Crime	3798	99.3%	Totals
139	3.8	Breakdown Of Criminal Justice System	435	11.5	Stop Early Release
35	1.0	Lack Of Education/ Ignorance	230	6.1	The Death Penalty
38	1.0	Federal Judges/ Politicians	188	4.9	More Police On The Streets
51	1.4	Television	226	6.0	Tougher Judges And Sentences
72	2.0	Crack Cocaine	2481	65.3	Stricter Gun Control Laws
80	2.2	Lack Of Religion/ Attention To God	238	6.3	Not Sure
28	0.8	Money	2c) There should be an immediate criminal background check on all handgun purchases right at the gun shop.		
31	0.9	Youthful Offenders	3818	99.8%	Totals
21	0.6	Racial/Ethnic Problems	1813	47.5	Strongly Agree
40	1.1	Guns/Firearms	1330	34.8	Agree
117	3.2	No Fear Of Being Caught Or Punished	448	11.7	Disagree
156	4.3	Unemployment/ U.S. Economy	141	3.7	Strongly Disagree
54	1.5	Liberalism/ Criminal Rights Favored	86	2.3	Not Sure
134	3.7	Other			

continued on page 32

## Southern States PBA Crime Control and Gun Control Survey Results Continued from Page 31

<i>3b) Other than for police and military, all guns should be outlawed</i>			<i>3i) Based on my own experience, if the laws on handgun ownership were stricter than they are now, the overall number of violent crimes would be reduced</i>		
3820	99.9%	Totals	3817	99.8%	Totals
69	1.8	Strongly Agree	284	7.4	Strongly Agree
64	1.7	Agree	653	17.1	Agree
1069	28.0	Disagree	1380	36.2	Disagree
2591	67.8	Strongly Disagree	1324	34.7	Strongly Disagree
27	0.7	Not Sure	176	4.6	Not Sure
<i>3c) The entire criminal justice system needs major reform</i>			<i>3j) A gun is not an assault weapon if it fires only one bullet each time the trigger is pulled.</i>		
3821	99.9%	Totals	3807	99.6%	Totals
2283	59.7	Strongly Agree	893	23.5	Strongly Agree
1138	29.8	Agree	981	25.8	Agree
313	8.2	Disagree	1039	27.3	Disagree
25	0.7	Strongly Disagree	734	19.3	Strongly Disagree
62	1.6	Not Sure	160	4.2	Not Sure
<i>3d) The U.S. Constitution guarantees every law-abiding citizen the right to own a gun.</i>			<i>4) All things considered, which of the following two options would you prefer -- a bill requiring a five-day waiting period on the purchase of handguns, or a bill requiring an immediate criminal background check at the time of the sale?</i>		
3820	99.9%	Totals	3811	99.7%	Totals
2249	58.9	Strongly Agree	881	23.1	Waiting Period
1190	31.2	Agree	2430	63.8	Instant Check
222	5.8	Disagree	213	5.6	Neither
94	2.5	Strongly Disagree	80	2.1	No Opinion/ Not Sure
65	1.7	Not Sure	207	5.4	Both
<i>3e) People should have the right to own a gun for self-protection.</i>			<i>5) Aside from your department-issued sidearm, do you have guns of any kind in your home?</i>		
3819	99.9%	Totals	3805	99.5%	Totals
2540	66.5	Strongly Agree	3247	85.3	Yes
1140	29.9	Agree	329	8.6	Refuse To Answer
91	2.4	Disagree	229	6.0	No
19	0.5	Strongly Disagree			
29	0.8	Not Sure			
<i>3f) A waiting period to purchase handguns will only affect law-abiding citizens -- criminals will still be able to obtain handguns illegally whenever they want.</i>			<i>6) How many years have you served in law enforcement?</i>		
3798	99.3%	Totals	3818	99.8%	Totals
2201	59.5	Strongly Agree	248	0.5	0-2 Years
1024	27.0	Agree	811	21.2	2-5 Years
382	10.1	Disagree	1015	26.6	5-10 Years
92	2.4	Strongly Disagree	1744	45.7	10 Years or more
39	1.0	Not Sure			
<i>3g) The Federal government should take legal action to curb the amount of violence on television.</i>			<i>7) Are you a sworn or non-sworn employee?</i>		
3818	99.8%	Totals	3806	99.5%	Totals
962	25.2	Strongly Agree	3687	96.9	Sworn
1468	38.4	Agree	119	3.1	Non-Sworn
939	24.6	Disagree			
224	5.9	Strongly Disagree			
225	5.9	Not Sure			
<i>3h) A Federal law should be passed allowing qualified law enforcement officers to carry a concealed firearm anywhere in the United States.</i>			<i>8) In general, do you serve in a rural or in an urban area?</i>		
3814	99.7%	Totals	3804	99.5%	Totals
2852	74.8	Strongly Agree	1237	32.5	Rural
742	19.5	Agree	2440	64.1	Urban
129	3.4	Disagree	127	3.3	Mixed Urban/Rural
27	0.7	Strongly Disagree			
64	1.7	Not Sure			

*continued from page 29*

1,000,000 times a year according to a report from Morgan O. Reynolds, University of Texas, "Crime in Texas". Violent crime strikes a Texan every 22 seconds. Are our 45,000 Texas peace officers going to stop that? Not hardly. How many Texans are you willing to allow to be victimized to prevent CCW?

Texas CCW will prohibit those with class B arrests and include Disorderly Conduct and Public Lewdness as disqualifiers. It will be valid for only two years as opposed to four and will require 15 hours of training. The background check will be conducted by DPS who will require \$130.00 non-refundable fee, who will then contact the local agency for input. Applicants must be registered voters, which by itself eliminates a lot of folks.

Do Police Officers really understand this bill? Most of them who disagree believe it is a blanket carry bill, but when it is explained to them, they tend to change positions. More Police Officers than you think support this bill. Texas Municipal Police Officers Association and Texas State Troopers Association have publicly supported it. *Police Magazine* polled its readers and as reported in their January 1993 issue, more than 85% support concealed carry.

This is why LEAA and I support CCW. You know, when I think of CCW, I stop to think about those law-abiding citizens who will back me up when the stuff gets deep. My Department just recently awarded seven civilians for coming to the aid of a police officer. There are many citizens who will help out a cop in a jam, more than we think. Some of them may be Rambo or John Wayne, but did you know that in Florida after they enacted their CCW that they have had 16 total arrests for weapons violations over a three year period-- and one of those was for a lady who carried her pistol into a library!

The supposition has not happened. The media hype has not occurred. CCW will probably not increase the number of weapons already on the street that much. Those who are predisposed to carry are already carrying. Those who aren't, won't. Besides, we should be treating

everyone we deal with as if they were armed. In every contact we make there is a gun involved, our own.

Also in considering this issue you might ask yourself these three questions that I now ask other officers who respond negatively to CCW.

1. Does your wife carry?
2. Will you carry when you retire?
3. Do you know someone, who is not a police officer that is carrying a handgun, that you as a police officer have done nothing about?

If you answer any of these questions with a yes, then you should support CCW!

If you have any questions or comments please feel free to contact me at home by phone or mail. I am usually available during the evenings. Also let me solicit an invitation to address your area POA, I'OP lodge or similar organization. I think I could find my way to Ector County, Midland-Odessa.

Sincerely,  
John Chapman

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...Responsible  
...Confident  
...Prepared  
All The Time.**

You're off duty but the job is never done.

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# Love may be bomb

## Friends say suspect had crush on wife

By NATALIE PHILLIPS  
and MARILEE ENGE  
Daily News reporters

James Wheeler said he paid an accomplice to place a remote-controlled explosive in Robert "Hank" Dawson's pickup truck three weeks ago because he was in love with Dawson's wife, Terri, and couldn't stand the thought of the couple in bed together, according to the Alaska State Troopers.

Wheeler, 62, made his in-

criminating statements in recorded conversations with "someone who was cooperating with the troopers," said Lt. Dennis Casanovas. Wheeler also told the informant that the explosive, which has not been identified, was made by a hired accomplice and detonated with a remote-controlled device, according to documents filed in Palmer court.

Dawson, 50, was killed Oct. 18 when his truck ex-

ploded just after he drove through the gate of the Anchorage National Guard Armory in Wasilla, where he worked as a supply specialist.

Wheeler, a retiree who lived across the street from the Dawsons, was arrested at noon Tuesday outside the Windbreak Cafe in Wasilla and charged with first-degree murder. He was arraigned in Palmer court Wednesday afternoon and

# Florida kids lose right to have gun

## Parents face punishment if children carry firearms

By WILLIAM BOOTH  
The Washington Post

MIAMI — The Florida Legislature, reacting to a juvenile crime wave that included shooting tourists, has voted without dissent to make it illegal for juveniles to carry firearms and to make parents responsible if their children are caught with one.

The legislation, which was passed Tuesday night, mirrors similar measures approved in Colorado and proposed in Arizona, and is similar to a provision Congress has included in its omnibus bill.

In Tallahassee, lobbyists for the National Rifle Association supported the bill, which allows those younger than 18 to have firearms only for hunting and marksmanship competition.

"This is not a gun-control bill," NRA lobbyist Marion Hammer said. "This bill does what I have walked these halls for a decade and a half trying to do. This bill deals with punishing juvenile offenders for unlawfully using firearms."

Gov. Lawton Chiles, who called a special legislative session to consider juvenile gun possession and other matters, said he would sign the measure.

"The bill gives law enforcement officers the tools to take guns away from kids," Chiles said, "and it gives us the tools to say

## YES, IT'S NOVE



Victor Escutia of Big Green Lawn Mower Anchorage. Escutia said he normally is st

Hunt and her husband, Howard "Mike," met Jim Wheeler and his wife, Esther, at a miners' meeting in Anchorage. Over the years they have been partners in more than two dozen mining claims on Gold Creek, in the Nelchina basin.

"We're not heavy-duty miners," Carol Hunt said. "We're prospectors. It's a hobby."

Wheeler had retired from the Air Force at Elmendorf Air Force Base as a master sergeant in 1972. Hunt said he worked for a while for either the state or federal fish and wildlife department while Esther worked as a secretary on the base. She said they had one son, Gary, who is a state trooper.

In Anchorage, they lived near Cheney Lake and spent their weekends cruising ga-

Wheeler moved back to Alaska and bought a house on Goldendale Drive in Wasilla, across the street from the Dawsons. One of the first things he did was build a garage.

"Doy, was that a place to visit," Hunt said. "He had so many tools. And it was really, really neat. Mike and I would marvel at it. He was such a perfectionist. It looked like he had 100 different screwdrivers, all in various lengths. It was wild. Nobody could use that many tools."

Wheeler was a homebody who kept his place immaculate, Hunt said. In recent months, he developed heart trouble and put on a lot of weight.

Sometime last summer, Hank and Terri Dawson started having marital prob-

her. Sometime in late September or early October, Hank Dawson moved home. The Dawsons had been back together only a few weeks when he was killed.

The last time the Hunts talked to Wheeler was Oct. 24, the day they celebrated their 30th wedding anniversary. That night, Mike Hunt asked Wheeler how it was going with his "girlfriend."

"He acted really funny," Carol said. "He didn't seem to want to talk about it."

When they asked if Terri's husband had moved back in, Wheeler said, "yes."

Dawson had been dead for a week.

□ Daily News reporter Peter Goodman contributed to this story.

age attorney, stunted out by arguing the state ethics law does not prohibit legislators from "attempted" violations. Because Jacko was rejected in all of the incidents, Stockler argued, nothing more than the attempts could be proved.

From there, Stockler went to work on Jacko's accusers — trying to shatter their credibility by exposing contradictions in their testimony.

Then, during more than six hours of testimony over the last two days, Jacko flatly denied all of the allegations against him. He said his accusers — and the witnesses who support their stories — were either lying or had misunderstood his actions.

All the while, Stockler raised suggestions of politi-

responsibility on any charge that he did?" Spann asked.

Stockler, meanwhile, summed up Jacko's defense by urging the committee to ignore public pressure.

"Don't go back to your deliberations and say, 'Look, we've got to find him guilty of something or the public will lose their trust,'" Stockler told the panel.

Earlier Wednesday, Jacko weathered more than four hours of sometimes blistering cross-examination by Spann and committee members.

For example, in testimony Tuesday, Jacko said he had been separated from his wife for the past four or five years. And he said he had been romantically involved with legislative aide Heath-

traversy erupted early this year.

Jacko responded that he had undergone treatment partly to offset what he said were inaccurate public perceptions caused by the media.

In interviews, neither Spann nor Stockler would elaborate on the reference to an accusation against Jacko by Sarah Munson, Munson, a former Senate page, graduated in 1981 from West Anchorage High School.

If the subcommittee finds Jacko guilty, it can recommend sanctions to the Senate. Spann made no recommendation, and Stockler urged the panel to go light. He said expulsion from the Senate, the most severe punishment, should be reserved for the most severe crimes.

## KIDS AND GUNS: Florida lawmakers unanimous in vote to keep firearms from minors

Continued from Page A-1

we can punish the people who sell or deliver a gun to a kid."

Under the new law, young people found guilty of carrying a gun would be sentenced to 100 hours of community service and lose their driver's license for one year. A second offense would mean as many as 250 hours of community service and a two-year loss of driver's license.

The most controversial part of the bill deals with parental responsibility. Judges would have the discretion to send offenders' parents to special classes and, after a second offense, to order them to perform community service with their children.

Many legislators said they assume the parental-responsibility provisions will be challenged as unconstitutional. Tough new measures in Colorado face a constitutional challenge after lawyers for a teenager caught with a gun argued that the law

presumes guilt and presumes offenders are a danger to themselves or the community.

Selling or providing a gun to a minor now would become a felony, no longer a misdemeanor. A widely ignored federal law already prohibits gun sales to minors.

The measures passed 36 to 0 in the Florida Senate and 112 to 0 in the House.

Legislators debated for a week the proper punishment, with some calling for mandatory sentences that could have cost millions of dollars. The legislature compromised and

provided \$4.6 million to open another 400 beds in Florida's overloaded juvenile detention system.

Advocates for children, however, cautioned that the new law is not a panacea.

"The youth crime wave didn't begin this year," said Jack Levine, executive director of the Florida Center for Children & Youth. "The flood of juvenile crime over the years is due to a steady flow of neglect, which is now drowning us in violence."

# Voice of The Times

## Bill to allow concealed weapons a good idea

By PAUL JENKINS

Before Rep. Jeannette James gets savaged by a certain newspaper in one of its rapacious, anti-gun tizzies, let me put in a good word for her. She's done a good thing.

The North Pole Republican has introduced sane, common sense legislation, HB351, that would allow residents 21 and older to apply to the Alaska State Troopers for a three-year, renewable permit to carry a concealed weapon.

Alaska would join some 30 or so other states where responsible, law-abiding people can apply for such permits.

This bill — introduced in part, James says, as an effort to combat attacks on women — is not aimed at resurrecting the Wild West. You eventually will hear that lame, end-of-the-world lament from its opponents. They used it in Florida when that state issued concealed weapons permits a few years back. The gunfights and slaughter predicted there never materialized, and the 170,000 or so people who received the permits have not been a problem for the police.



Jenkins

No, this bill is about letting rational, trained people legally have at hand a means to defend themselves outside their homes. Among other things, it requires permit holders to acquire training and sets stringent conditions that would deny such licenses to felons, those accused of felonies, the mentally ill, or those with alcohol or drug problems.

"People have a right to protect themselves," says James, vice chairman of the House Judiciary Committee. "The police can't do it. I have not had one person call me and say they opposed it. Not one single one."

Not surprisingly, some police, including administrators and chiefs, have problems with the bill. In summary: They worry armed citizens will not know when to legally defend themselves; they will not know how to shoot without injuring themselves or an innocent bystander; they worry that it will put more guns on the street.

Brian Porter, former Anchorage police chief and now chairman of the Judiciary Committee, says he also opposes the bill,



but will take a look. The bill needs his support to get through the committee.

He says police tell him there have been few incidents where a citizen being armed with a concealed weapon would have affected the outcome. He says he worries the state would not ensure that the mandated training is comprehensive and updated to inform permit holders of the latest interpretation of the law and the use of deadly force.

"More than likely, most of those people would have the wrong perception about when they could use deadly force," he says. "In a life-threatening scenario, by the time it got to the point where you could establish threat of death or serious bodily injury, you've gone past the point where a normal civilian could draw and fire anyway."

With all due respect to the police and Mr. Porter, the arguments against this bill so far are the same tired arguments trotted out before. I have a hard time imagining ordinary citizens cannot be taught the whens, wheres and whys of legal self-defense. They have managed nicely elsewhere.

It boils down to this: The police cannot provide each of us a bodyguard in this increasingly dangerous world to ensure we go about our lives in one piece. They should not work to prohibit us the means to legally take care of ourselves until they can arrive.

If there is a problem with Ms. James' bill, it's that it does not go far enough.

It already is legal for hunters, campers, fishermen and others legally engaged in outdoor activities outside municipalities to carry weapons. That should remain unchanged. But there should be companion legislation making the carrying of concealed weapons without a permit in a municipality a felony. That's right. A felony.

When Johnny Badboy decides to pack in town to impress his little buddies, he should face the full wrath of the law when some police officer has to put his life on the line to bag him. Nowadays, Johnny is guilty of only a lousy misdemeanor.

What all this would do is put weapons — weapons already carried illegally by many good people who have made the decision to get home each night — in the hands of people dedicated enough to get training for the awesome responsibilities of carrying a gun.

It has worked well elsewhere. Why not here? Police and prosecutors should be working with the bill's proponents to ensure that it works well here, too.

If you want to let James or Porter or any other legislator know what you think, call the Legislative Information Office at 258-8111 and send them a free 50-word message. And be nice.

James has taken a good first step. We should help her.

Paul Jenkins is an editor of The Anchorage Times.

## Armed Citizens

continued from pg. 48

armed resisters preceded their resistance: "For cases involving both robbery and attack, forceful self-protection actions never preceded attack . . . even among the minority of cases where forceful self-protective acts were accompanied by attacks on the victim, few incidents support the contention that the victim's defensive action provoked the attack."

In addition to preventing injury to the intended victim of a violent crime, the data Dr. Kleck analyzed "show that victims who resisted robbers with guns or with weapons other than guns or knives were less likely to lose their property than victims who used any other means of resistance or who did nothing." As Dr. Kleck puts it in his study: "When victims use guns to resist crimes, the crimes usually are disrupted and the victims are not injured."

Criminologists generally believe, Dr. Kleck notes, that "punishment deters as its certainty, severity and celerity (promptness) increase," and "the maximum potential severity of citizen self-help is far greater than legal system responses to crime." And, obviously, the promptness of punishment, in the form of being shot, is much faster than the criminal justice system: "victims almost always use guns defensively within minutes . . . , the average celerity of even arrest is much lower than for citizen gun use, while the celerity of conviction and punishment is lower still."

Dr. Kleck believes that the well-known Wright-Rossi survey of armed felons underestimates the number of criminals who admit that they had avoided committing some crimes for fear that their intended victims were armed or carrying guns. According to Dr. Kleck, "given that being 'scared off' by a victim is not the sort of thing a violent criminal is likely to want to admit, incidents of this nature may well have been underreported, if misreported at all. . . . These results, therefore, may reflect a minimal baseline picture of the deterrent potential of victim gun use."

Looking at instances where publicity over gun purchases and training was associated with dramatic declines in crime, Dr. Kleck writes that "these natural quasi-experiments . . . do support the argument that routine gun ownership and defensive use by civilians has an ongoing impact on crime, . . . an impact which is intensified at times when prospective criminals' awareness of potential victims' gun possession is dramatically increased. Gun training programs are just one source of increased awareness; publicity surrounding citizen gun use against criminals would be another." And he notes how

crime dropped dramatically following Bernhard Goetz's shooting of four robbers in the New York subways—a "quasi-experiment" whose results were muddied by the fact that, in addition to a well-publicized gun use, there was also an increase in police manpower on the subway trains.

Burglars devote considerable effort to avoid occupied dwellings at least partly because so many residences in the United States are armed, according to Dr. Kleck. He quotes from a study which found that several burglars "reported they avoided late-night burglaries because it was too difficult to tell if anyone was home, explaining, 'That's the way to get shot.'" In addition, Dr. Kleck notes that victimization surveys in at least three other countries "indicate that in countries with lower rates of gun ownership than the United States, residential burglars are much more likely to enter occupied homes, where confrontation with a victim is possible."

There are several advantages to the American burglar's fear of confrontation. Most importantly, "The nonconfrontational nature of most [American] burglaries at least partly accounts for the infrequency of associated deaths or injuries. . . . Because victim gun ownership is partly responsible for the nonconfrontational nature of burglary, it is therefore to be credited with reducing deaths and injuries by its deterrent effects. The benefit is enjoyed by all potential burglary victims, not just those who own guns, since burglars are rarely in a position to know exactly which households have guns and thus must attempt to avoid confrontations in all their burglaries."

Dr. Kleck's conclusions address the implications of his research for crime-control policy. He, basically, suggests that policies aimed at reducing gun ownership among the law-abiding would be good for criminals but bad for the country generally. Dr. Kleck argues persuasively that "gun use by private citizens against violent criminals and burglars is common and about as frequent as arrests, is a more prompt negative consequence of crime than legal punishment, and is more severe, at its most serious, than legal system punishments. Victim gun use in crime incidents is associated with lower rates of crime completion and of victim injury than any other defensive response, including doing nothing to resist. Serious predatory criminals say they perceive a risk from victim gun use which is roughly comparable to that of criminal justice system actions, and this perception appears to influence their criminal behavior in socially desirable ways."

Nonetheless, Dr. Kleck adds "We cannot precisely calculate the social control impact of gun use and ownership any more than we can do so for the operations

of the legal system . . . rates of commercial robbery and residential burglary might be far higher than their already high levels were it not for the dangerousness of the prospective victims."

In conclusion, Florida State University's Kleck believes that "[M]easures applying equally to criminal and noncriminals are almost certain to reduce gun possession more among the latter than the former . . . there would be little direct crime control benefit to be gained by reductions in gun possession among noncriminals. . . . Consequently, one has to take seriously the possibility that 'across-the-board' gun control measures could decrease the crime-control effects of non-criminal gun ownership. . . ."

Just as Professors Wright and Rossi were forced to conclude that some restrictive gun laws might make things worse by spurring criminals to commit more and more dangerous robberies without guns, or more dangerous assaults using potentially deadlier large handguns (instead of the so-called "Saturday Night Special") or with long guns instead of handguns, so Professor Kleck's study leads him to conclude that restricting guns among the law-abiding may simply encourage criminals, particularly burglars, and limit the beneficial impact of the armed citizen on crime control in the United States. ■

### NRA's Program For Personal Protection

THE NRA Personal Protection program was established to answer the needs of the many law-abiding American citizens who today are purchasing handguns for self-protection.

The 12-hr. handgun familiarization course was developed by experts in the fields of law enforcement, criminal law, firearms and marksmanship instruction and is designed primarily for those who are not normally involved in formal or recreational shooting. This comprehensive course will:

Provide useful insight into the selection of various handguns and ammunition and how they work;

Explain and demonstrate the safe handling and use of handguns and provide range experience and instruction;

Examine marksmanship fundamentals in an easy-to-understand format;

Highlight federal, state and local laws pertaining to the purchase, use and transportation of firearms; and

Provide practical advice on avoiding or controlling a criminal attack.

Individuals wishing to attend a regularly scheduled course, or groups interested in sponsoring a course, should contact an NRA-certified Personal Protection Program Instructor. For a listing of NRA-certified instructors, contact the Education & Training Div., 1600 R.I. Ave. N.W., Washington, D.C. 20036.

### **Florida CCW**

I am a physician in Miami and recently obtained a CCW for self-defense purposes. I feel more comfortable on the street or in my office now and I was curious just how many other law-abiding citizens have exercised their right to keep and bear arms.

I did some research with the Dept. of State and submitted a list of questions. Applications received for CCW permits to date are 128,615 Floridians. Only 777 applications were denied licensure for various reasons. Out of all those legally licensed, only 83 individuals had their licenses revoked due to crime-related activity, and only 15 of those involved the use of a firearm.

These statistics are extremely commendable by any standard. Considering Americans thwart over 600,000 violent crimes annually according to renowned FSU criminologist, Gary Kleck, it seems appropriate that other states should consider Florida a model state for a viable CCW program.

Prof. Kleck additionally states, "People who use guns for self-protection in robberies and assaults are less likely to have the crime completed against them."

With events like the L.A. riots taking place, it appears obvious that the need for other states to adopt a successful CCW program is long overdue.

Dr. R.J. Goldstein  
Miami, Fla.

*American Handgunner*

*March / April 1993*

## Local charged with assault

A local man was charged with assault after ramming his truck into a neighbor's occupied vehicle Jan. 21 about 8:30 p.m. after becoming angry at them for snowplowing near a second vehicle, which officers stated belonged to the suspect.

Police were called to a house on Country View Drive at the request of both the suspect and the victims. An officer stated that the victim and his wife were snowplowing their driveway and the street in a Chevrolet Blazer when Edward Scott Coleman, 45, rammed into their vehicle twice, causing about \$1000 worth of damage to the Blazer.

The victim said he removed an unloaded weapon from his glove box and pointed it into the air, pulling the trigger several times. Coleman said the accuser held the gun to his head prior to him ramming the Blazer.

The driver of the Blazer said the Coleman ran inside his house, at which time he told his wife to call the police because he feared the suspect might be returning with a weapon. Coleman

stated he ran inside to call the police because he feared the driver of the Blazer was going to shoot him.

The driver of the Blazer waited in his vehicle for police to arrive. He told officers that he and Coleman had had several arguments about Coleman's second vehicle parked on the roadway. He stated the vehicle, an Oldsmobile Cutlass, was not being used and was blocking the street making it difficult for snowplows to plow the road properly. He stated he had been plowing the snow near the Cutlass when Coleman rammed his Blazer.

Police stated Coleman's version of the incident was inconsistent and they believed the accusers were telling the truth. Police said Coleman did not seem upset that he was charged with assault, but was upset his neighbors were not charged with anything. Part of the police report was on tape and not available to the press, so it is not clear whether any charges were brought against the driver of the Blazer for having a concealed weapon in his vehicle.

*Chugizh/Eagle River Star*

*1/28/93*

# Concealed carry law is good idea

On Oct. 16, 1992, an armed, homicidal maniac drove his pickup truck through the front window of a cafeteria in Killeen and murdered 22 people before killing himself.

Two months later, in Anniston, Ala., two armed robbers took more than two dozen patrons and employees hostage in a restaurant. One of the robbers, surprised by one patron he found hiding under a table, shot at the patron.

The patron, armed with a .45-caliber pistol that he carried under a concealed weapons permit, shot the attacker and suffered a superficial wound from the other robber before killing him as well.

The people who died in Killeen might be as alive as the two dozen patrons in the Anniston restaurant if Texas had a "concealed carry" law.

Suzanna Gratia, a young chiropractor who often carried a pistol in her car, was in the Killeen restaurant the day of the attack. But fearing prosecution and possible loss of her license and livelihood, she left her gun in the car as she went to have lunch with her parents. She watched helplessly as Thomas Hennard murdered both of them.

Gratia believes if she had been allowed to carry her gun legally into the cafeteria she could have stopped Hennard.

"I was down on the floor; this guy is standing up; everybody else is down on the floor," she said later. "I had a perfect shot at him. It would have been clear. I had a place to prop my hand. The gun was not ever aware of what we were doing. I'm not saying I could have saved anybody in there, but I would have had a chance."

• • •

The Legislature has before it two bills that would allow Texans to carry concealed weap-

ons by permit, House Bill 46 and House Bill 100.

House Bill 46 is by far the better legislation. It would grant to anyone 21 or older who had no history of crime or mental illness the right to carry concealed a specific weapon the permit applicant had mastered in a certified instruction program.

HB 46, introduced by Rep. Ron Wilson, D-Houston, would require a \$125 fee; House Bill 100, introduced by Rep. Bill Carter, R-Haltom City, a \$150 charge.

Critics say that granting the right to concealed carry would make Texas more dangerous, increase accidents and add to crime, but the record in other states with concealed carry laws is quite the contrary.

From enactment of Florida's concealed carry law until November 1992, only 147,113 people — less than 2 percent of the state's gun owners — even applied for permits instead of the half million naysayers expected. Of those 137,845 received permits, only 246 revocations have taken place.

Florida's homicide rate, 11.7 per 100,000 population in 1986, dropped 20 percent to 9.4 per 100,000 in 1991. The national average increased 14 percent in the same period.

Crime rates in New York and Washington, D.C., which have the strictest gun laws in the world prove that lawless people always will have guns.

Law-abiding citizens who prove their understanding of the law and their skill with the weapon they would carry have a right to protect themselves when the police can't.

No law can prevent another Thomas Hennard from starting a bloodbath in a public place in Texas. Enactment of a concealed carry law for law-abiding citizens could make the outcome much different.

Beaumont  
Enterprise

3/9/93

Beaumont, TX

17

Raleigh W.C.

# Pistol-packing debate heats up

## Some push to repeal ban on concealed weapons

BY ROB CHRISTENSEN  
STAFF WRITER

Concern about crime has grown enough that even a well-known Chapel Hill liberal is wishing he could pack a pistol in his glove compartment.

"I've never owned a gun personally," state Sen. Howard Lee, a former Chapel Hill mayor, said Tuesday. "I've been thinking I need something while I travel around lonely roads at night."

But Lee doesn't want to break state law, which permits only law enforcement officers and military personnel to carry concealed weapons. So he is lining up support for a bill to make it legal to carry a concealed weapon under certain circumstances.

The idea is beginning to generate debate as public officials grapple with ways to fight crime.

Appearing on his monthly radio

Legislators consider taking away driver's licenses of students who take weapons to school. > 2A

call-in show Monday night, Gov. Jim Hunt said he is open-minded about the idea. He said the state has become "much more crime-ridden," and new approaches should be examined.

"I have not taken a position on that," Hunt said in response to a Havelock caller's question on the issue. "But I can certainly understand why a lot more people think they need to have guns — and need to have them available where they can use them if they have to have them."

"I am very concerned about the crime. And I have had it get real close to me and my family and my neighbors. I can see where a lot of

people now would be saying 'Hey, we ought to change that law.' I haven't thought that through completely."

One of Hunt's daughters, Elizabeth, reported that her apartment was ransacked and her car was stolen in January. She is a graduate student at the University of North Carolina at Chapel Hill.

The man behind the push to legalize concealed weapons is Tom Bayliss, 48, who owns an electrical supply business in New Bern. Bayliss said he decided he needed to pack a gun when he and his wife were confronted by a man wielding a .38-caliber gun in a shopping mall parking lot.

"To tell you truth, it scared me to death," Bayliss said in a telephone interview Tuesday.

Bayliss said most of the bus-

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## GUNS

CONTINUED FROM PAGE 1A

nessmen he knows carry guns. Even a secretary who worked for him carried a revolver in her purse.

"I don't believe in breaking the law," Bayliss said. "But I know many businessmen who carry concealed weapons when they leave their business at night. They know they are breaking the law. They feel they need to protect their lives, their wives and their kids."

For two years, Bayliss has been appearing before law enforcement groups selling them on the idea of changing the law. Bayliss said he has picked up the support of some, but not all.

He said 31 states allow citizens to carry concealed weapons under some circumstance.

But such a move is expected to draw opposition from those who think there should be more restrictions on handguns, not fewer.

"Having people drive around with a gun in their glove compartment will make highways more dangerous and make people more afraid," said Jeff Muchnic, legislative director of the Coalition to Stop Gun Violence based in Washington.

Lee, the state senator, said he has patterned his bill after a 1987 Florida law. That law — regarded as among the most permissive in the country — makes concealed handguns legal for anyone except convicted felons, confirmed alco-

holics, diagnosed drug addicts and mental patients.

Initial studies, Lee said, suggest that the Florida law has not led to an increase in violent crimes. Lee said his measure would require people to show they are proficient in the use of handguns.

In Lee's view, police officers should not be placed at greater risk, because motorists already can carry handguns in open view on their car seats.

"I am not a gun enthusiast," Lee said. "The only time I possessed a gun was when I was in the military. But if a law-abiding citizen wants to carry a gun, he shouldn't be considered a criminal because he has a weapon in the glove compartment of his car."

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## OTHER VIEWS

2000 Law Center

# Laws permitting carrying of concealed weapons not dangerous when responsibly enforced by all

Speaking as a woman and from a concerned citizen's point of view, I see a great need for the carry/conceal law in Missouri, as well as every other state.

Just because the law would be on the books doesn't mean every person would be carrying a concealed handgun. There should be criteria that should be met before a person would be issued a permit to carry a concealed weapon. A charge of \$500 to purchase a permit is too excessive. This would make a hardship for a most people who need a permit.

There should definitely be an extensive training course required before a permit is is-

sued. There are liabilities and responsibilities that should and would go along with the permit. People should be responsible for their own actions.

Florida passed the carry/conceal law several years ago. Of the 126,000 permits issued, only six were revoked — from non-violent technical violations such as walking through metal detectors into restricted areas. No violent gun crimes have yet been committed by Florida licensees.

A criminal is not going to go through the requirements to get a permit to carry a concealed handgun. Neither is he or she going to

a gun shop and fill out a federal form and go to the sheriff's department to get a permit to purchase a handgun. There is already a five-day waiting period for an individual to obtain a permit to purchase a handgun in Greene County. The Missouri state statute says a sheriff's office is required to issue or decline a person's application for a permit within seven working days. We don't need more gun laws; we need to enforce the laws already on the books.

*Peggy M. Siler is co-owner of Ozark Shooters Sport Complex and an NRA-certified "women's protection" instructor.*

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*Stable*

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LIBRARY.

# Bill Would Limit Charge Bargaining in Firearms Cases

→ Rep. Charles Key thinks it's silly to have tough laws keeping felons from buying guns when prosecutors routinely plea bargain felonies down to misdemeanors.

So the Oklahoma City Republican has introduced House Bill 1358 that would prohibit district attorneys or their assistants from bargaining for a lower charge on any felony in which a firearm was used.

"It still lets them bargain on the time to be served, and they could even agree to probation if they wanted to," Key said. "It would just prevent them from changing a felony into a misdemeanor."



Key

Too often a person who had a felony plea changed to a misdemeanor ends up getting a gun and committing another crime, Key said. He said that was true of a California sniper who opened fire on a crowded school yard.

"He had six felonies reduced to misdemeanors, and two of them were felonies that involved firearms," Key said. "If the charges had remained as felonies, he would not have been able to buy those guns."

As drafted, the bill would make prosecutors liable for any damages should a person who had a felony bargained down to a misdemeanor commit another crime with a gun.

"I'll take that out if I have to to get the bill passed," Key said.

Key said "there is a lot of support out there for the bill" but that district attorneys opposed it.

Oklahoma County District Attorney Bob Macy said, however, that passage of the bill "wouldn't change the way we do business. I don't let our prosecutors bargain down a felony in which a firearm was used. . ."

## Legal Beat



Rogers



McCormick

Address mail reservations to Janice Nowka, Crowe & Dunlevy, 1800 Mid-America Tower, 20 No. Broadway, Oklahoma City 73102, or call the receptionist at Crowe & Dunlevy. Cost is \$10 for members and students currently enrolled in legal assistant programs, \$15 for non-members and \$5 for attorneys. . .

Michael Paul Kirschner, senior member of the law firm Hastie and Kirschner, has been appointed independent mediator by the United States Bankruptcy Court for the Western District of Texas, Austin Division.



Kirschner

Kirschner will be assisting in the resolution of the Chapter 11 bankruptcy proceedings filed by El Paso Electric Company. EPE serves about 250,000 customers in El Paso, Texas. Kirschner has been practicing law in Oklahoma since 1968 and concentrates in bankruptcy, commercial law, litigation, banking and appellate proceedings. . .

*Journal Record 2-16-93*

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*2/16/93*

Tulsa World 2/16/93

4 SECTION A

## Concealed Weapons Bill Appears Dead in Senate

By Chuck Ervin  
World Capitol Bureau

OKLAHOMA CITY — A bill authorizing private citizens to carry concealed weapons under certain conditions appeared dead Monday.

The bill by Sen. Frank Shurden, D-Henryetta, currently is in the Senate Rules Committee. Thursday is the deadline for committee action on pending measures; Shurden's bill is not scheduled for a hearing when the committee meets Wednesday.

"The bill is dead for the session," said Sen. Penny Williams, D-Tulsa, the committee chairman.

Shurden's bill would allow private citizens to be licensed by the Oklahoma State Bureau of Investigation to carry concealed weapons.

They would first have to submit to fingerprinting and a back-

ground check and would be denied a license if they have a criminal record, history of mental illness or drug and alcohol violations.

Shurden said anyone seeking a concealed weapon license also would have to pass a gun safety course.

His measure has the support of the National Rifle Association. But it is opposed by the Senate leadership.

Senate President Pro Tem Bob Cullison, D-Skiatook, recently told an NRA lobbyist he would support the bill, "if my gun adviser says it's OK."

"Who's your gun adviser?" the lobbyist asked.

"Mike Synar," Cullison said, tongue in cheek.

The NRA poured tens of thousands of dollars into the campaign against U.S. Rep. Mike Synar last year in an unsuccessful attempt to defeat the Muskogee Democrat.

Shurden could attempt to insert his proposal as an amendment to another bill during floor action.

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# Paths of Texas Gun Bills Follow Myths Not Polls

By ROSS E. MILLOY

Special to The New York Times

WACO, Tex., March 31 — Far from the urban caldron that is modern-day Texas, Leo Bradshaw and his army of regulars gather in the back room of Used Guns and Other Keen Stuff, sip coffee muddier than the nearby Brazos River and swap stories about their mutual hobby — guns.

There is a retired bank president, anxious to sell 104 antiques from his inventory and a grizzled military historian who fashions First Empire Napoleon figurines. A courthouse lawyer, an off-duty police officer and an elderly sports buff wander casually in and out. They get together late most afternoons to talk, and these days there is plenty to talk about.

Two pieces of gun legislation currently before the State Legislature in Austin have become the focus of a spirited debate that stands, like many contentious matters in this state, at the crossroads of myth and fact. One bill would ban assault rifles while the other would allow people to obtain permits to carry weapons, including concealed weapons, in public. Carrying guns in public has been banned since Texas passed its first gun law in 1866.

## Typical Texas Surprise

Typically for Texas, it is a debate that is not going the way one might expect, considering that Federal agents and members of a religious sect are still squared off beyond rifle range, barely 90 miles from the state Capitol. The bill making it easier to carry concealed weapons was approved unanimously by a legislative committee last week, but the assault weapon measure faces "an uphill fight," in the sponsor's own estimation.

Texas, with its rural past, has long been identified with guns. From the Alamo to John Wayne movies to the assassination of John F. Kennedy, Texas and guns have always appeared in the eyes of the outside world to have a special link.

"Unless you've lived your whole life down here, you can't understand," says Mr. Bradshaw, 58, the owner of Used Guns and Other Keen Stuff. "It's not a macho thing. The openness, the vast expanse of the state, has something to do with it. Texans enjoy their guns and owning them. It's a tradition. It's a heritage. It's a way of life. It's the way people were brought up here."

In the nearly 40 years Mr. Bradshaw has been selling guns Texas has moved

from a rural to a predominately urban society and less than half of its 18 million residents were actually born here. Despite that migratory shift, studies show that 4 of every 10 Texans still own more than two guns. The Texas Rifle Association estimates that there are 68 million guns here, almost four for every man, woman, and child in the state.

## Average of 4 Guns

Surrounded by mounted trophies of caribou, mule deer and elk, Mr. Bradshaw says: "That sounds just about right. Your average gun owner has four guns — a handgun, a .22, a shotgun for birds, and a rifle for hunting deer. I don't have any customers who have just one. Most have from 5 to 20 apiece."

While Mr. Bradshaw points out that farmers and ranchers need protection from wild boar, snakes, coyotes, wild dogs and an occasional mountain lion, violent crime has replaced four-footed predators as the major concern of gun-owning Texans. Waco, with its rural setting and 209 churches, would ordinarily seem worlds away from such concerns. But events like the Luby's cafeteria massacre in which 23 people died about 45 miles away in Killeen in 1991 and the shootout on Feb. 28 with Mr. Koresh's followers that killed 6 dead and wounded 17, have brought home the problems of gun ownership in Texas. Mr. Bradshaw sold three Ruger Mini-14 rifles and a .22-caliber pistol to Mr. Koresh and his followers.

Both events changed local attitudes, Mr. Bradshaw says, but again, not in the ways one would expect. The Killeen incident stimulated the sale of "purse pistols" to women, he said. The shootout at the Branch Davidian compound has 10 miles from here led to a decrease in the number of people selling used guns.

"That tells me people are afraid they won't be able to replace their guns," Mr. Bradshaw said.

## Fearing Rash of Laws

What he and the regulars fear is a rash of gun laws proposed by what they consider to be misguided advocates of gun control.

"There's big money to be made in the anti-gun movement," asserts the retired bank president. "Those people aren't doing it for the good of the country. They're doing it for big mon-

ey."

The sponsor of the bill to allow Texans to carry concealed weapons is Ron Wilson, a Democrat from one of Houston's most crime-ridden districts.

"Our heritage tells us we need a fast horse and a good gun," Mr. Wilson said. "Urban life in my district has become a jungle because of crack and gangs. It's a war zone. The new gun owners now do not come from an agrarian society. They want to protect their families."

## Bill Requires Courses

Mr. Wilson's bill requires those who want a license to carry a conceal weapon to take a 15-hour course on the safe handling of weapons, dispute resolution and the legal consequences of using deadly force. According to him, 37 oth-

er states have such laws and one — Florida, with over 130,000 gun permits issued — has seen a 20 percent overall reduction in murders. "It's the best crime deterrent going next to a Doberman pinscher," Mr. Wilson said recently.

To those who would argue that allowing concealed weapons will only result in more guns on the street, Representative Bill Carter, chairman of the committee whose seven member unanimously approved the bill last Thursday, responds: "The guns are already on the street, and they're going to stay on the street. We need a licensing process, education, and safety training. It would be naive to think there are not a lot of guns in purses and automobiles."

Though both Mr. Wilson and Mr. Carter insist that the bill has wide-ranging support and will easily overcome a threatened veto by Gov. Ann Richards, a recent Mason-Dixon Poll released by the Texas Police Chiefs Association showed that 70 percent of Texans opposed the legislation.

## 'In an Ivory Tower'

Mr. Carter questioned the impartiality of the poll and the motives of the police chiefs who sponsored it. "They live in an ivory tower," he said. "They are not elected officials. And they are not really addressing the volatile situation we're in today."

It is assault-style weapons that Texans do not need, at least in the opinion of State Senator Royce West of Dallas.

"Texans seem to love their guns as much as their cattle," said Mr. West, a freshman Democrat who represents a high-crime area in the state's second largest city. "My colleagues tell me privately they're for the bill but that it would be political suicide for them to support it."

Mr. West contends there is no sporting purpose to assault weapons and describes them as "people-killers, plain and simple."

But at Used Guns and Other Keen Stuff, amid the rifles, shotguns and silvery antique knives, Leo Bradshaw insists "There is a very legitimate need for a semi-automatic rifle to hunt medium-to-large game." In heavily wooded areas a deer moves quickly out of vision, he says, if a hunter misses the first shot. "A lot of people like the semi-automatic because you have that second or third shot immediately available."

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Rod Ayoclette for The New York Times

"Texans enjoy their guns and owning them," said Leo Bradshaw. "It's a tradition. It's a heritage. It's a way of life." He worked on a Model 1873 Winchester at his Used Guns and Other Keen Stuff shop in Waco.

Though some of Mr. Bradshaw's regulars might oppose the assault weapons ban as more mettlesome government interference in their harmless hobby, recent poll data shows most Texans do not agree.

"Texans do have different levels of gun acceptance than residents of other states," said Candice Windel of the Texas Poll. Her figures indicate that while half of all Texans own at least one gun and 4 of 10 ten have at least two, their affections do not extend to assault rifles. "Even a majority of gun owners favor a ban on assault weapons," she says, and nearly 90 percent favor a mandatory waiting period prior to their purchase.

Despite apparent popular support and the enthusiastic backing of Governor Richards, Mr. West's bill will probably never even emerge from committee for a floor vote, he says, while the measure allowing Texans to carry concealed weapons currently has enough legislative support to overcome a threatened gubernatorial veto if it passes the Senate.

It is a situation which, with the Branch Davidian drama still stumbling toward resolution in the background, has stilled even Governor Richards's well-known wit. Bill Cryer, Ms. Richards's spokesman, had only this comment: "We're not finding anything very funny about guns around here right now."

# House panel debates concealed-gun bills

By Sylvia Moreno

Assistant Bureau of The Dallas Morning News

AUSTIN — Giving Texans the right to carry concealed weapons would promote violence and increase the use of guns, law enforcement officials said Thursday in opposition to bills legalizing pistol-packing.

"My concern is somebody settling an

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argument in a parking lot or someone who sees what looks like a life-and-death situation that isn't," said Tommy Britt, legislative director for the Houston Police Officers Association.

## Law groups oppose pistol permits

"Carrying a shotgun in your car and walking through Memorial Park Mall in Houston with a pistol on your hip are two different things," Mr. Britt said.

The testimony before the House Public Safety Committee centers on bills by Reps. Ron Wilson, D-Houston, and Bill Carter, R-Fort Worth. The measures were referred to a subcommittee for study.

Mr. Wilson, who has tried since 1987 to win passage of his bill, said he understands police officers' concerns. But, he said, "If they were able to be everywhere

within the one-minute response time, we wouldn't need this. People ought to have the right to protect themselves."

The proposals would allow Texans to obtain gun licenses and to carry the weapons in public after taking a test on the use of guns and deadly force and lessons on how to resolve disputes peacefully.

Those convicted of a felon and certain misdemeanors in the last five years would not be eligible for a license. Applicants would be required to pay a \$125 license fee under Mr. Wilson's proposal.

Both bills would require background criminal checks of the license applicant. The licensed weapons would be prohibited in schools, polling places, courthouses, bars, racetracks, airports, sporting events and at government meetings.

Thirty-seven states have some form of right-to-carry gun laws.

In dramatic testimony, one of the survivors of Luby's cafeteria massacre 1991 in Killeen told the committee that she felt totally helpless as George Hennard methodically killed lunchgoers, including her

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parents.

Suzanna Gratia said she had been given a .38-caliber revolver for protection but always left it in her car for fear of being arrested and losing her chiropractor's license.

"I can't tell you how much I'd rather be sitting in a jail with a felony offense and have my parents alive," said the Copperas Cove woman. "Please do something to make it legal for me."

Mr. Carter said guns already are out on the streets. He said his bill would simply allow law-abiding citizens to carry them legally.

"All we're setting up is a permitting process and training," Mr. Carter said. He also said legalized concealed weapons would help deter crime.

"There is a deterrent if somebody might be able to protect themselves," he said.

But a Dallas Police Department official said the bill presented a significant threat to police officers,

## BILL HOTLINE

Information on bills in the Texas Legislature, committee schedules and lawmakers' phone numbers can be obtained by calling the Legislative Reference Center, 1-800-253-9693. Callers may ask about bills by subject or by the sponsor's name.



*The Dallas Morning News*

mainly because training and criminal checks would not gauge the mental stability of a person who gets a gun license.

"The emotional stability and mindset of a person who decides to use deadly force is very hard to gauge," Deputy Chief Richard Hatler said in an interview before his committee appearance.

Regarding Ms. Gratia's testimony, he said, "My heart goes out to her. I sincerely feel for her. Her appeal is very emotional. But we will have more incidents of violence if this bill goes through."

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# Brady assails Texas gun bills

DALLAS MORNING NEWS 2-18-93

## Rathburn calls plans giant step backward'

By Todd J. Gillman

Staff Writer of The Dallas Morning News

Former presidential press secretary James Brady, who barely survived an attempt on Ronald Reagan's life, joined Dallas Police Chief Bill Rathburn Wednesday in denouncing proposals to allow Texas to carry concealed handguns.

"Even though the president and I were surrounded by the most highly trained and experienced Secret Service men — who were armed with high-powered concealed handguns — we still became victims," said Mr. Brady, speaking from his wheelchair at Midway Hills Christian Church in northwest Dallas.

"I don't hear anybody arguing that every law-abiding citizen in the crowd outside that hotel been packing a pistol that John Hinckley would have been stopped any more quickly."

On Thursday, a state House committee will hear testimony on bills by state

Please see BRADY on Page 30A.



The Dallas Morning News Richard Michael Press

Former White House press secretary James Brady (seated) speaks at a Dallas news conference Wednesday against proposals to allow Texas to carry concealed handguns. Behind him (from left) are the Rev. Eric Brown of Denley Drive Christian Church, Holsey Hickman of the Greater Dallas Community of Churches, Dallas Police Chief Bill Rathburn, state Sen. Royce West, Joanne Schaefer of the National Victim Center and Mary Roberts of the Dallas Independent School District.

Dallas Morning News 2/18/93

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Continued from Page 25A.

Reps. Bill Carter, R-Fort Worth, and Ron Wilson, D-Houston, to ease restrictions on concealed weapons.

Mr. Brady, who suffered brain injuries in the shooting 12 years ago by Mr. Hinckley, a former Dallas-area resident, urged Texans to fight to keep concealment of guns illegal.

"Texas already has the dubious distinction of being the first state to lose more residents to gun injuries than to automobile injuries," he said, reading from a prepared text in a halting voice.

Chief Rathburn called the idea of legalizing concealed weapons "a giant step backward." Passage of any of the proposals would increase accidental shootings and crimes of passion, he said.

"The level of violence, the loss of life will increase," he said.

Mr. Wilson dismissed the arguments of Mr. Brady and Chief Rathburn as tantamount to saying "the ordinary citizen can't be trusted."

"Neither one of them lives in an inner-city, predominantly minority area" such as southeast Houston, which Mr. Wilson represents, the legislator said by phone from Austin. "They don't have to worry about the elements of crime touching their lives every day."

"We already have guns on the street in Texas," Mr. Wilson said. "You're not going to stop gang members from carrying guns. I don't care how many laws you passed. . . . Citizens ought to be able have the right to protect themselves."

Also speaking out against the concealed-gun proposal were Mary Roberts, an area director for the Dallas Independent School District, and Dr. James Carrico, chief of surgery at University of Texas Southwestern Medical Center in Dallas. The news conference was hosted by the Rev. Tom Plumbley, chairman of the pastor and police committee of the Greater Dallas Community of Churches.

Mr. Brady, a spokesman for Handgun Control Inc., the group that his wife, Sarah, founded, focused on Mr. Carter's legislation, House Bill 100.

The bill would allow anyone 21 or older who has no felony convictions and no Class A or Class B misdemeanor convictions within the previous five years to carry a concealed handgun. It would require such gun owners to pass a 15-hour course in gun safety and "dispute resolution."

Because of that training, said Roger Starkey, Mr. Carter's legisla-

tive director, accidents would be minimized and life in Texas would be safer.

Officials from two law enforcement groups — the 2,000-member Texas State Trooper Association and the 4,000-member Texas Municipal Police Association — will testify Thursday in favor of the bill, Mr. Starkey said.

Texans may legally carry rifles in public but they must keep handguns at home unless they are traveling across a county line. Thirty-seven other states now have some type of concealed weapon permits, Mr. Starkey said.

He called the arguments against the bill "very simplistic" and said Texans should be allowed a "fighting chance" when faced with an armed criminal.

One lawmaker who opposes the concealed-handgun bills, freshman state Sen. Royce West, D-Dallas, said at the news conference that instead of making it easier to carry weapons in public, the Legislature should impose criminal background checks and a waiting period on gun buyers — proposals he has submitted in Austin.

Given the level of violence on the state's streets, Mr. West said, a concealed-gun bill is "basically taking a match and throwing it on gasoline."

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serve account. Republicans claim the majorities in both the House and Senate.

"When you are in the majority it is up to you to come up with a budget plan," said House Minority Leader Fran Ulmer, a Juneau Democrat.

Please turn to Fix, Page A-6

# Winter takes rain check

Lucinda Dunaway takes time to pet dog-team member Hazel, who doesn't seem to mind that there was not enough firm snow for the sled rides scheduled during yesterday's Winterfest events at the

University of Alaska Southeast. Events planned for today include a pancake feed from 10 a.m. to 1 p.m. at Mourant Hall, snow sculpture judging and a golf tournament.

# s sights on weapons

Democratic applause when he lled for the ban in his State of e Union message last week, lling a joint session of Congress: "There is no sporting purpose on earth that should stop e United States Congress from nishing assault weapons that itgun police and cut down children."

The ban was approved by a 43 vote as part of a broader mate bill that was passed late st year. The Senate then ssed the Brady handgun-control bill, something it had never ne before, ending a 7-year-long awl.

The assault-weapons measure, introduced by Sen. Dianne einstein, D-Calif., would stop e manufacture, sale and new

# Bill would allow concealed weapons

By IAN MADER

THE ASSOCIATED PRESS

Roger Day of North Pole says his bluff thwarted a roadside robbery attempt Christmas Eve when he slipped his hand under his jacket and told the two assailants he had a gun.

Day had no concealed weapon, but he told the House State Affairs Committee at a recent hearing that he should have the right to carry one in the future.

"People should not have to be intimidated by the very low percentage of the population that I would call lowlifes," Day told a reporter Friday.

Alaskans can carry concealed weapons only if they are law officers, or when they are hunting, hiking or in their own home or business.

But people could get licenses to carry concealed handguns in many other situations under a bill introduced recently by Rep. Jeannette James, R-North Pole.

"We need this for self defense because the police can't be everywhere," James said. "And they usually react to crimes after the fact anyway."

James said she introduced the bill mostly for the protection of women in Alaska, where fed-



REP. JEANNETTE JAMES

eral statistics show the rape rate is highest in the nation. "They need to be able to carry a concealed weapon in their purse."

The law enforcement community generally opposes expanding opportunities for the public to carry guns.

C.E.

Swackhammer, deputy commissioner of public safety, said police and state troopers would be in greater danger when responding to emotionally charged conflicts.

Palmer Chief of Police Ron Otte agreed. "I've seen too many incidents where people solved what would have been otherwise a fairly innocuous dispute with a handgun, just because a handgun is there."

Otte said more people would carry guns if they could conceal them. He also said such a law would allow guns to get into places where

they are prohibited, like bars and banks.

"Let's be practical, if you're carrying a gun and you walk into a building where by law you can't carry it, I don't think people are necessarily going to disarm themselves.

"There's kind of a last frontier mentality in Alaska. I think the instances of people arming themselves, just because they can, will certainly increase. That would increase instances of people needlessly being shot."

Cindy Smith of the Network on Domestic Violence said she does not buy the argument that more concealed weapons in the state would protect women from rape.

"It's been our experience that the presence of weapons is not always a benefit to the victim. Most often they're used against people."

Under House Bill 351, requirements for applicants to carry concealed weapons would include that they have completed gun-training courses and have no felony or drug-use convictions.

Current bans on carrying weapons in banks, bars and other places would apply to concealed weapons. They also would not be allowed in court rooms, state ferries, state and federal offices and airport terminals.

# British marriage comes in from Cold War

War II convoy duties and based in Archangel, just south of the Arctic Circle. She was a bookkeeper.

"She and her brother had missed their last tram home and we jokingly got involved in a snowball fight," he recalled. "It was love at first sight."

She didn't speak English. He hardly spoke Russian, but it didn't matter. They went to the cinema, the picnic, dinner with

The day before Greenhalgh sailed for Britain, he married Alexandra Alexandrovna Rasheva, whom he calls "Shura," in a civil ceremony with no friends or relatives. They had a one-night honeymoon.

The next day, Greenhalgh stood on deck, peering through borrowed binoculars at Shura, who stood on a hill waving and smiling. They were both 19 years old and cur-

In 1946, Greenhalgh received a note from her saying she still loved him. He also learned she had been sentenced to 15 years in a Siberian labor camp for staying in Moscow without permission. Until 1951, he kept pressing the Foreign Office for information, but there was no news.

"I thought, well, that's the end," he said in an interview Friday.

Even after the Soviet Union collapsed, he

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# ARMED CITIZENS & CRIME CONTROL

BY PAUL H. BLACKMAN, Ph.D.



ONE of the most popular features in the *American Hunter* is "The Armed Citizen" column, a listing of a tiny fraction of the incidents in which citizens use their privately owned firearms for protection. Only those incidents reported to the police, and covered in local newspapers, are highlighted in the column.

How widespread is the use of firearms by citizens for their self-defense? Data from diverse studies indicate that firearms—particularly, handguns—are used for protection in hundreds of thousands of incidents each year. Now, after years of research, a criminologist from Florida State University has published the most thorough estimates on the prevalence of defensive use of guns by Americans. The study—"Crime Control Through the Private Use of Armed Force" by Professor Gary Kleck—was published as the lead article in the February 1988 issue of *Social Problems*.

Dr. Kleck notes that although criminologists have long ignored the issue of guns for protection, they do study how "routine activities" may impact on crime and crime control. He notes that, with half of all American households and a quarter of retail businesses keeping firearms, "gun ownership must surely be considered a very routine aspect of American life and of obvious relevance to the activities of criminals." Nonetheless, Dr. Kleck adds, "victimology scholars have largely ignored victim gun ownership and use. [Yet] victim gun use may be one of the most serious risks a criminal faces."

Dr. Kleck's study focuses on: (1) the frequency and nature of private citizens' defensive uses of firearms against criminals; (2) the effectiveness versus risk of such actions; and (3) the potential deterrent impact on crime of defensive gun ownership and use.

Primary sources for the study are national and state surveys on gun ownership and use, on victimization and protective measures taken, and on local studies on "jus-

tifiable" and "excusable" (self-defense) homicides. Dr. Kleck also weighs what he calls "quasi-experimental" cases of deterrence, such as the well-known example of Orlando, Florida, where women purchased firearms and attended safety classes on gun use in response to an increase in rapes. As a result, incidences of rape and burglary dropped dramatically.

Although several national surveys all suggest relatively small percentages of the nation's 60 million gun owners are using their firearms for protection, Dr. Kleck notes that the figures represent a "large number of actual uses." He estimates that "there were about 645,000 defensive uses of handguns against persons per year, excluding police or military uses." In addition, Dr. Kleck made projections on the uses of long guns, based on the numbers of households keeping long guns vs. handguns primarily for protection. Added together, Dr. Kleck estimates "that guns of all types are used for defensive purposes about one million times a year," and that "guns of all types are used substantially more often defensively than criminally." Most of these uses do not involve firing the gun, much less injuring the criminal.

"Although shootings of criminals represent a small fraction of defensive uses of guns, Americans shoot criminals with a frequency that must be regarded as remarkable by any standard," says Dr. Kleck. The criminologist notes that the FBI's so-called "justifiable homicide" data miss most killings of criminals by civilians because of technical reporting reasons. Using those data as suggestive and local studies as a means of estimating how many *actually* occur, Dr. Kleck estimates that annually, "gun-wielding civilians in self-defense or some other legally justified cause" kill between about 1,500 and 2,800 felons—or 2½ to seven times as many criminals as are shot dead by police.

Insofar as citizens protect themselves from criminals,



### EDITOR'S NOTE

Dr. Gary Kleck is an associate professor at the Florida State University School of Criminology in Tallahassee. His research has focused on firearms for a dozen years, since he was a University of Illinois graduate student working with Professor David J. Bordua on patterns of firearms ownership, use and regulation in Illinois and on his dissertation, "Homicide, Capital Punishment, and Gun Ownership."

A specialist in research methodology, Dr. Kleck has authored or co-authored several articles on firearms and the "gun control" issue. His studies generally undermine the various assumptions of advocates of restrictive firearms laws and include a definitive academic rebuttal of the myth of the so-called "Saturday Night Special." He is currently working with Dr. Bordua on a study of private firearms ownership in the U.S.

Even though his research does not show restrictive firearms laws to be either necessary or beneficial, Dr. Kleck supports a "permissive" licensing system for all firearms on the assumption it would not interfere with private ownership. He is opposed to gun schemes directed exclusively at handguns, including licensing.

Attack, Injury and Crime Completion Rates in Robbery and Assault Incidents, by Self-Protection Method

Method of Self-Protection	Robbery				Assault		
	Percent Completed	Percent Attacked	Percent Injured	Number Times Used <sup>(a)</sup>	Percent Attacked	Percent Injured	Estimated Number Times Used <sup>(a)</sup>
Used gun	30.9%	25.2%	17.4%	89,009	23.2%	12.1%	386,083
Used knife	35.2	55.6	40.3	59,813	46.4	29.5	123,062
Used other weapon	28.9	41.5	22.0	104,700	41.4	25.1	454,570
Used physical force	50.1	75.6	50.8	1,653,880	82.8	52.1	6,638,823
Tried to get help or frighten offender	63.9	73.5	48.9	1,516,141	55.2	40.1	4,383,117
Threatened or reasoned with offender	53.7	48.1	30.7	955,398	40.0	24.7	5,743,008
Nonviolent resistance, including evasion	50.8	54.7	34.9	1,539,895	40.0	25.5	8,935,738
Other measures	48.5	47.3	26.5	284,423	36.1	20.7	1,451,103
Any self-protection	52.1	60.8	38.2	4,603,671	49.5	30.7	21,801,957
No self-protection	88.5	41.5	24.7	2,686,960	39.9	27.3	6,154,763
Total	65.4	53.7	33.2	7,290,631	47.3	29.9	27,956,719

Notes: (a) Separate frequencies in these columns do add to totals in "Any self-protection" row since a single crime incident can involve more than one self-protection method. Sources: Analysis of Incident Files of 1979-1985 National Crime Survey public use computer tapes (ICPSR, 1987b).

Robbery and assault victims who used firearms for protection were less likely to be attacked or injured than victims who responded in any other manner. Only 17% of those using guns to resist a attempted robbery and 12% using guns to resist assault suffered any kind of injuries. 25% of robbery victims and 27% of assault victims who did not resist were injured anyway.

Dr. Kleck estimates "there were about 8,700-16,600 non-fatal, legally permissible woundings of criminals by gun-armed civilians" annually, and "the rest of the one million estimated defensive gun uses, over 98% involved neither killings nor woundings but rather warning shots fired or guns pointed or referred to."

National gun prohibitionists claim that firearms owned for protection are "generally useless and even dangerous to the victim . . ." Using victimization surveys commissioned by the U.S. Department of Justice, Dr. Kleck puts that contention to rest, finding that "for both robbery and assault, victims who used guns for protection were less likely either to be attacked or injured than victims who responded in any other way, including those who did not

resist" at all. Only 12% of gun resisters in assault and 17% in robberies suffered any kind of injury. After gun resistance, the course of action least likely to be associated with injury is doing nothing at all, i.e., not resisting. However, passivity is not a completely safe course either since 25% of robbery victims and 27% of assault victims who did not resist were injured anyway."

Significantly, Dr. Kleck notes that the victimization surveys actually exaggerated the association of injury with gun-resistance since the surveys generally fail to ask whether the injury occurs after and because of resistance or whether the injury occurred first. In a supplemental questionnaire, however, it was found that most injuries to

# HOLD YOUR FIRE

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## Gun Control Won't Stop Rising Violence

DAVID B. KOPEL

As deaths from rampant gun violence mount, and city-dwellers from Boston to Los Angeles learn to distinguish the pop of a Smith & Wesson pistol from the blast of a Winchester shotgun, Americans insist on action to combat the national crime epidemic.

Although the per-capita murder rate remains below the record set in 1980, the actual number of homicides reached an all-time high of 24,703 in 1991; most of these murders were committed with guns. Most disturbing of all is the rise in violent crimes committed by gun-wielding teenagers. Able to acquire illegal weapons with ease, in spite of a nationwide prohibition on firearms sales to minors, teenage thugs display a disregard for human life that would have shocked the criminals of earlier generations. The latest urban terror, "carjacking," is the seizure at gunpoint of automobiles from their drivers, usually women.

As armed gangs settle turf disputes over drug-selling territory through mortal combat, they kill not only each other, but also innocent bystanders caught in the crossfire. Firearms violence, once thought to be the problem of the inner city, is spreading into the suburbs and beyond. And with depressing frequency, newspapers report stories of children dying in senseless gun accidents. In Louisiana last October, a Japanese exchange student was mistakenly shot when he entered the wrong house on the way to a Halloween party, and, not understanding the war, continued to advance toward the homeowner despite an order to "Freeze!"

To some well-meaning Americans, the antidote to gun crime is gun control. Senator John Chafee (R-RI) calls for the confiscation of all handguns. Other voices, such as Handgun Control, Inc.'s Sarah Brady, urge a national waiting period on handgun purchases, and a ban on assault weapons. The national media's insistent message is that we must "do something" about guns.

Meanwhile, the National Rifle Association adds tens of thousands of members every month—membership is at a record three million—and continues to stymie gun control at nearly every turn. Although the 99th, 100th, and 101st Congresses passed some minor gun controls, the 102nd Congress went home without enacting any new gun-control measures. The New Jersey legislature is

ready to overturn its assault-weapon ban the moment the legislative leadership schedules a vote on the issue.

Critics of gun control believe that it violates the right to keep and bear arms guaranteed by the Second Amendment of the United States Constitution and by 43 state constitutions. In the American political tradition, the right to own a gun is seen as intimately related to the natural right of self-defense, to what John Locke described as the natural right to control and protect one's body and property. Millions of Americans consider an armed citizenry to be one of the principal safeguards against possible tyranny by the state.

The constitutional argument against laws that infringe on gun ownership was strengthened by the 1990 Supreme Court decision in *United States v. Verdugo-Urquidez*. There, Chief Justice Rehnquist observed that the phrase "right of the people" occurs several times in the Bill of Rights, specifically the Second Amendment's "right of the people to keep and bear arms," the First Amendment's "right of the people peaceably to assemble," and the Fourth Amendment's "right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures." In all cases, the Court said, the phrase "right of the people" was used as a "term of art" that referred to individual Americans.

But critics of gun control do not base their opposition on political principles alone. They also cite a large body of recent social science research, much of which has been produced by scholars who formerly believed that gun control was an obvious solution to crime.

### Jimmy Carter's Shocker

When gun control first became an important national issue in the 1960s, there was almost no research worth noting on the subject. Partisans on both sides of the debate had hardly more ammunition than intuitions and

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DAVID B. KOPEL is director of the Second Amendment Project at the Independence Institute, a Golden Colorado think-tank, and is the author of *The Samurai*, *The Mountie*, and *The Cowboy: Should America Adopt the Gun Controls of Other Democracies?*



AP/Wide World Photos

As armed gangs settle turf disputes through mortal combat, innocent bystanders are caught in the crossfire.

bumper-sticker slogans.

The man most responsible for the change in the intellectual terms of the gun debate was Jimmy Carter, or, more precisely, the grant-review team that Carter appointed to the National Institute of Justice. Intending to build the case for comprehensive federal gun restrictions, the Carter administration handed out a major gun-control research grant in 1978 to sociology professor James D. Wright and his colleagues Peter Rossi and Kathleen Daly. Wright was already on record as favoring much stricter controls, and he and his colleagues were highly regarded sociologists. Rossi, a University of Massachusetts professor, would later become president of the American Sociology Association. Wright, who formerly served as director of the Social and Demographic Research Institute at the University of Massachusetts, now teaches at Tulane. Daly is now at the University of Michigan.

Wright and his colleagues were asked to survey the state of research regarding the efficacy of gun control, presumably to show that gun control worked and that America needed more of it. But when the researchers produced their report for the National Institute of Justice in 1982, they delivered a document quite different from the one they had expected to write. Carefully reviewing all existing research, the three scholars found no persuasive scholarly evidence that America's 20,000 gun-control laws had reduced criminal violence. For example, the federal Gun Control Act of 1968, which banned most interstate gun sales, had no discernible impact on the criminal acquisition of guns from other states. Washington, D.C.'s ban on the ownership of handguns that had not already been registered in the District

was not linked to any reduction in gun crime. Even Detroit's law providing mandatory sentences for felonies committed with a gun was found to have no effect on gun-crime patterns, in part because judges would often reduce the sentence for the underlying offense in order to balance out the mandatory two-year extra sentence for use of a gun.

#### What Criminals Say About Gun Control

The most thorough subsequent study of the efficacy of gun control has been performed by Florida State University's Gary Kleck, who analyzed data for all 170 U.S. cities with a population over 100,000, testing for the impact of 19 different types of gun controls, and looking for the controls' effects on suicides, accidents, and five different crimes. Kleck, a liberal Democrat and ACLU member, found that gun controls did reduce gun suicide, but not the overall suicide rate. The only control that reduced crime was a strict penalty for carrying an illegal gun, which seemed to lower the robbery rate. Waiting periods, various licensing systems, and registration appeared to have no statistically discernible impact. Kleck's analysis was based on data for the years 1979-1981, and is included in his recent book, *Point Blank*, which contains the best single-volume overview of gun-control research.

Wright and Rossi produced another study for the National Institute of Justice, this one involving the habits of America's felons. Interviewing felony prisoners in 10 state correctional systems in 1981, Wright and Rossi found that gun-control laws had no effect on criminals' ability to obtain guns. Only 12 percent of criminals, and only 7 percent of the criminals specializing in handgun

crime, had acquired their last crime handgun at a gun store. Of those, about one quarter had stolen the gun from a store; a large number of the rest, Wright and Rossi suggested, had probably procured the gun through a legal surrogate buyer, such as a girlfriend with a clean record. For the few remaining felons who actually did buy their own guns, the purchase might have been lawful because the purchaser as yet had no felony record.

The survey further indicated that 56 percent of the prisoners said that a criminal would not attack a potential victim who was known to be armed. Seventy-four percent agreed with the statement that "One reason burglars avoid houses where people are at home is that they fear being shot during the crime." Thirty-nine percent of the felons had personally decided not to commit a crime because they thought the victim might have a gun, and 8 percent said the experience had occurred "many times." Criminals in states with higher civilian gun-ownership rates worried the most about armed victims.

Since criminals can never be entirely sure which burglary targets may or may not contain a homeowner with a gun, or which potential robbery or rape victims may be carrying a concealed firearm, the ownership of firearms by half of American households provides a general deterrent to crime that benefits the entire population.

#### How Guns Prevent Crime

Consistent with the reports of criminals, ordinary citizens also report that gun ownership plays an important role in preventing crime. Professor Kleck estimates that handguns are used approximately 645,000 times for defense against an attacker every year in the United States.

The figure, ironically, is based on data from a survey conducted on behalf of the pro-control National Alliance

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## Carter's researchers found no persuasive evidence that any of America's gun-control laws had reduced criminal violence.

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Against Violence (NAAV). NAAV hired Peter Hart, a leading Democratic pollster, to survey Americans on guns, asking, among other things: "Within the past five years, have you yourself or another member of your household used a handgun, even if it was not fired, for self-protection or protection of property at home, work, or elsewhere, excluding military service or police work?" Six percent answered "yes." Follow-up questions revealed that 3 percent of the respondents had used the handgun against a person, 2 percent against an animal, and 1 percent against both. That 4 percent said "yes" to defensive gun use against persons meant that about 18 percent of households where a handgun was owned for protec-

tion had actually used the handgun for protection.

Kleck's analysis started with the 4-percent "yes" from Hart's data. Kleck made the conservative assumption that each "yes" related to only one gun usage in the last five years—that no household used a firearm for self-defense two or more times in the five years. Thus, 3,224,880 households reported self-defense usage. Kleck then divided by five (since the question had asked about usage in the last five years) to arrive at an estimate for the annual number of uses of a handgun for self-defense: 644,976—or roughly once every 48 seconds.

Since Kleck's estimate is based on responses to a pollster it should be emphasized that the 645,000 figure is necessarily imprecise. The original question posed by Peter Hart could have elicited a "yes" answer from an insecure gun owner who had perceived a criminal threat that did not in fact exist. Kleck partly controlled self-defense inflation from false "yes" answers by assuming that no "yes" answer related to more than one defensive use. In addition, the 645,000 estimate applies only to handguns; the original question did not ask about defensive use of rifles or shotguns.

In 1990, Professor Gary Mauser, of Canada's Simon Fraser University, asked Americans about use of a handgun or a long gun for self-defense; the responses suggested approximately 691,000 annual defensive uses of guns of all types. Accordingly, we may conclude that guns are used defensively at least half a million times a year.

Of course, the fact that a gun is used for defense does not mean that a shot is fired, or an attacker wounded or killed. About 95 percent of self-defense usage, says Kleck, involves merely the brandishing of a weapon to deter a perceived attack.

While the majority of defensive handgun use is simply brandishing a weapon to frighten away an attacker, Kleck suggests that 1,700 to 3,100 homicides a year are actually justifiable homicides committed by citizens using a firearm to defend themselves or another person against violent attack.

#### One Bullet at a Time

While most Americans believe they have a right to own a gun, and believe that guns can be protective, even many gun owners are baffled at the gun lobby's apparent intransigence in its refusal to accept a ban on so-called assault weapons or a waiting period on gun purchases.

The assault-weapon issue, however, turns out to involve much less than meets the eye. First of all, it should be emphasized that most people who own semi-automatics support strong controls on actual machine guns. Ever since the National Firearms Act of 1934, acquisition of real machine guns—guns that continue to fire bullets repeatedly as long as the trigger is held down—has required a difficult-to-obtain federal license. The NRA did not oppose the restrictive machine gun law when it was enacted, and has never indicated any desire to repeal the law.

While machine guns do have a unique capacity for rapid fire, what we know as assault weapons do not. Although most of the public believes that assault weapons are machine guns, the guns in question simply look like military weapons. Appearances notwithstand-



UPI/Retmann

The waiting period promoted by Sarah Brady would not have stopped John Hinckley from shooting her husband Jim.

ing, the guns fire just as every other common American gun does: squeezing the trigger fires one, and only one, bullet. According to Martin Fackler, former director of the Letterman Army Institute of Research, assault weapons are actually less lethal than many firearms commonly associated with hunting, such as an old-fashioned 12-gauge Winchester shotgun. The Bureau of Alcohol, Tobacco, and Firearms states that no guns available for sale to the public can be easily converted to fire automatically.

#### Hard to Convert

The fact that semiautomatic assault weapons differ from other guns only cosmetically is one reason why legislative bodies have had so much trouble defining them. Since the guns do not fire faster than other guns, legislative definitions sometimes focus on extraneous features, such as the presence of a bayonet lug—as if we were suffering from a rash of criminals bayonetting people.

Other definitions are merely a list of particular guns with a military appearance. Among the guns targeted by assault-weapons legislation are the M1 Carbine; the AKS Rifle; the Uzi Pistol and Carbine, the Colt AR-15 H-Bar Rifle; the Springfield Armory 4800 Rifle; the M10 Pistol and Carbine; and the AK-56 rifle. Yet some of these guns are in no way distinguishable from many other guns not on the lists, such as the popular hunting rifles made by Winchester, Remington, and Ruger. As former Attorney General Richard Thornburgh noted, the main characteristic of an assault weapon seems to be that it has a black plastic stock rather than a brown wooden stock.

In practical terms, the legislative definition of assault weapon amounts to "the largest number of guns that a given legislature can be convinced to ban." The New Jersey assault-weapon prohibition even outlaws BB guns.

While assault weapons have been claimed to be the "weapon of choice" of criminals, such guns constitute a very small number of the crime guns seized by the police. The Florida Assault Weapons Commission's 1990 report found that assault weapons were used in 17 of 7,500 gun crimes in the years 1986-1989. The Washington, D.C. director of the police firearms section stated in early 1989 that not one of the more than 3,000 weapons the Washington police confiscated in 1988 was a semi-automatic assault rifle.

While some gun-prohibition advocates have claimed that a record number of police are being murdered by assault weapons, police-officer deaths in the line of duty are at their lowest level since 1968. The percentage of police homicides perpetrated with assault weapons is about 4 percent, a figure that has stayed constant over the last decade. The FBI's Uniform Crime Reporting Program, which collects extensive data on all murders of police officers, reports no instance of a drug dealer ever killing a police officer with an Uzi.

That assault weapons should appear so rarely as crime guns seized makes sense. Street criminals need concealable weapons, and a Colt or a Kalashnikov rifle is pretty difficult to stick in a pocket. Indeed, rifles of all types constitute a tiny percentage of crime guns. According to the Washington, D.C., Metropolitan Police Department, rifles are used in less than one-tenth of 1 percent of armed robberies in the District. Nationally, only about 4 percent of the weapons used in homicides are rifles.

Occasionally, so-called assault weapons are used in gruesome mass murders. In Stockton, California in January 1991, Patrick Purdy used a Kalashnikov-type semiautomatic rifle to fire 105 shots in about four minutes at a schoolyard full of Cambodian immigrant children. Thirty-five people were wounded, six of whom died. Purdy's rate of fire could have been duplicated by



Children praying for their slain schoolmates in Stockton, California. The media's inaccurate description of the murderer's gun enabled the California authorities to escape censure for having freed this dangerous man.

anyone with an old-fashioned bolt-action rifle or simple revolver, and autopsies of the victims showed that the wounds were approximately equal in severity to wounds associated with a medium-sized handgun, which explains why 29 of the 35 people who were shot survived.

Thus, Purdy could have committed the same crime using many other types of guns. But the national media incorrectly told the American public that Purdy had used an automatic AK-47 rifle, and that such guns could be bought over the counter.

Lost in the media frenzy over Purdy's gun was Purdy himself, who committed suicide with a pistol at the end of his spree. Purdy perpetrated his crime after he had told a state mental-health worker that he thought about committing a mass murder with a gun or a bomb, and even though a parole report called him "a danger to himself and others."

Purdy had a lengthy history of crime and arrests, including a robbery in which a 55-year-old woman was seriously injured, receipt of stolen property, criminal conspiracy, possession of illegal weapons, and assault of a police officer, all reduced to misdemeanor charges. His crime career began when he was 14 years old and continued unabated for the next decade, until he killed himself at Stockton. Not one of Purdy's two-dozen encounters with the law ever led to more than a few weeks

in prison. The media's hysterical focus on Purdy's gun enabled California's decrepit criminal-justice bureaucracy to escape public censure for allowing Purdy to roam the streets, free to commit his final, horrible crime.

### "Cooling Off"

The waiting period, like the assault-weapon ban, becomes considerably less attractive when examined carefully. While the waiting-period initiative is often called the "Brady Bill," it would not have prevented John Hinckley from shooting Ronald Reagan and Jim Brady. When Hinckley bought two handguns in October 1980, he had no felony record, and no public record of mental illness. The simple police and mental health records check proposed by the Brady Bill would not have turned up anything on him. And since Hinckley bought the guns more than five months in advance, a one-week wait would not have made any difference to him.

Indeed, a "cooling-off" period for handgun purchases requires a number of unlikely assumptions in order to work. First, the potential murderer—denied a handgun immediately—must then decide not to buy a rifle or a shotgun, which the Brady Bill would allow him to do. Then, he must not know how to buy a handgun on the black market, or how to obtain one from friends, relatives, or acquaintances. In addition, the type of murder he intends must not be one for which readily available alternative weapons, such as knives, automobiles, or bare hands will work. Finally, the person who was literally ready to commit a murder on day one of the waiting period must calm down by day seven, and stay calm from that day forward.

This scenario, while implausible, is not impossible; it is at least theoretically imaginable that a waiting period could "save at least one life." But a waiting period can cost lives, too.

### "I'll Be Dead by Then"

Even a short waiting period will inevitably prevent people from protecting themselves against criminal attack during the wait. When Los Angeles citizens went to gun stores to buy firearms to protect life and property during the recent riots, they were told to come back 15 days later, to comply with California's waiting period on all guns.

After Hurricane Andrew, Florida's looters did considerably less damage than their California counterparts, in part because Florida has only a three-day handgun waiting period, and no wait at all on long guns.

Nor are waiting period victimizations confined only to periods of civil disorder. In September 1990, a mail carrier named Catherine Latta of Charlotte, North Carolina, went to the police to obtain permission to buy a handgun. Her ex-boyfriend had previously robbed her, assaulted her several times, and raped her. The clerk at the sheriff's office informed her the gun permit would take two to four weeks. "I told her I'd be dead by then," Latta later recalled. That afternoon, she bought an illegal \$20 semiautomatic pistol on the street. Five hours later, her ex-boyfriend attacked her outside her house, and she shot him dead. The county prosecutor decided not

to prosecute Latta for either the self-defense homicide or the illegal gun.

A Wisconsin woman, Bonnie Elmasri, was not so lucky. On March 5, 1991 she called a firearms instructor, worried that her husband—who was subject to a restraining order to stay away from her—had been threatening her and her children. When she asked the instructor about getting a handgun, the instructor explained that Wisconsin has a 48-hour waiting period. Elmasri and her two children were murdered by her husband 24 hours later.

Waiting periods that appear reasonable in a legislative chamber may become unreasonable through administrative abuse. Although New Jersey law requires that the authorities act on gun license applications within 30 days, delays of 90 days are routine; some applications are delayed for years for no valid reason. In Maryland, where an appeals process exists, the police are overruled on 78 percent of the denials that are appealed.

### Instant Records Check

If it is determined that the way to keep criminals from getting guns is to impose background checks on retail handgun sales—a questionable determination—a mandatory instant records check makes sense. The same technology that allows a store to receive verification of credit card validity within a few minutes can also allow firearms dealers to dial a state government registry and verify that a gun buyer has no felony record.

Polling data suggests that most Americans prefer the instant check to the waiting period, particularly when presented with the choice of mandatory immediate check (the NRA proposal) versus a waiting period with no requirement than any check be conducted (the Brady Bill). In recent years, many states have made major progress in bringing their criminal-records histories online. Thus, an instant check should become feasible in the near future.

And if records are not sufficiently accurate to support an instant check, they are also not sufficient to support a check with a one-week wait. Former Attorney General Thornburgh's task force found that even if there were no improvement in state criminal records, an instant check would be just as accurate as a check that could be completed in one week.

Unfortunately, if adequate safeguards are not in place, the instant check, like the waiting period, can be misused by police departments to create a registry of gun owners. In 1991, California admitted that it had used the state's handgun waiting period to create a list of handgun owners, even though nothing in California law authorizes the compilation of such a list.

Although the federal gun-control debate talks almost exclusively about retail handgun sales and the Brady Bill, the most effective method to deal with criminals obtaining guns might be to focus on the major source of criminal guns: the black market. A sensible first step in dealing with the black market would be to increase penalties for fencing a gun known to be stolen. In some states, theft and sale of a \$75 gun amounts only to petty larceny. Selling a "hot" \$75 pistol ought to be a more serious offense than selling a "hot" \$75 toaster-oven.

### NRA's Reform Proposal

While Congress has spent most of its gun-control effort debating new restrictions on gun acquisition, the discussion in many state legislatures has shifted to the carrying of firearms. The Second Amendment refers to a right "to keep and bear arms," and if the text is read consistently with original intent and judicial interpretations of the following century, the government cannot require that citizens ask for permission to carry an unconcealed gun in public.

But in many states, the right to carry has been obliterated by laws that require a police license to carry, and by police administrators who give out carry licenses only to the political elite. In New York City, crime victims who will testify at a forthcoming trial, and who are receiving death threats from the criminal's friends, are denied carry permits—while politically powerful citizens are routinely granted them. While New York's abuse of licensing discretion is notorious, the licensing systems in many other cities are also skewed against people without some kind of clout.

Based on a literalist reading of the Constitution, Second-Amendment advocates should lobby for repeal of all laws requiring a license to carry a gun. But instead, the NRA suggests only reform of easily abused gun licensing systems.

The NRA proposal requires that applicants for a permit to carry a protective firearm must undergo safety training and must submit to a police background check. Then, if the applicant passes the safety class and back-

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## Every 48 seconds, an American uses a handgun for defense against an attacker.

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ground check, he or she is to be granted a license to carry. The bureaucratic discretion to deny permits to qualified citizens simply because the bureaucrat does not like guns would be removed.

### Progress in the Gunshine State

Carry reform was first enacted in Florida in 1987, amidst vociferous cries from gun-control supporters in the legislature that blood would run in the streets as Floridians shot each other while jostling in line at fast-food restaurants. Florida would become the "Gunshine State," it was warned.

Today, those same critics have admitted that they were wrong, and that they regret the harm done to Florida's reputation by the histrionic campaign against carry reform. Indeed, while the murder rate has risen 14 percent nationally from 1986 to 1991, it has fallen 20 percent in Florida. The state's total murder rate was 36 percent higher than the U.S. murder rate in 1986, and is now 4 percent below the national average. In the same



AP/White World Photos

Bans on semi-automatic "assault weapons" are based on the misconception that they fire rapidly like machine guns. They actually fire like every other common gun—one bullet per squeeze of the trigger.

period, robbery rose 9 percent in Florida, and 21 percent nationally.

There has been no research proving that Florida's carry reform was part of the reason for Florida's relative improvement in recent years. But the experience of Florida, and of other carry reform states such as Oregon, Montana, Mississippi, and Pennsylvania, demonstrates that people who are already good citizens and who are willing to pass through a licensing process do not suddenly turn into murderous psychopaths when granted a permit to carry a firearm for protection.

#### Interrupting a Mass Murder

While tragic mass murders are frequently used by the pro-control lobby to push restrictive laws, evidence suggests that laws prohibiting firearms carrying may be costing innocent lives.

In October 1991 in Killeen, Texas, a psychopath named George Hennard rammed his pickup truck through the plate glass window of a Luby's cafeteria. Using a pair of ordinary pistols, he murdered 23 people in 10 minutes, stopping only when the police arrived.

Dr. Suzanna Gratia, a cafeteria patron, had a gun in her car, but, in conformity to Texas law, she did not carry the gun; Texas, despite its Wild-West image, has the most severe law in the country against carrying firearms. Carry-reform legislation had almost passed the state legislature, but had been stopped in House Rules Committee by the gun-control lobby.

Gratia later testified that if she had been carrying her gun, she could have shot at Hennard: "I know what a lot of people think, they think, 'Oh, my God, then you would have had a gunfight and then more people would have been killed.' Unhuh, no. I was down on the floor; this guy is standing up; everybody else is down on the floor.

I had a perfect shot at him. It would have been clear. I had a place to prop my hand. The guy was not even aware of what we were doing. I'm not saying that I could have saved anybody in there, but I would have had a chance." Hennard reloaded five times, and had to throw away one pistol because it jammed, so there was plenty of opportunity for someone to fire at him.

Even if Gratia hadn't killed or wounded Hennard, he would have had to dodge hostile gunfire, and wouldn't have been able methodically to finish off his victims as they lay wounded on the floor. The hypothetical risks of a stray bullet from Gratia would have been rather small compared with the actual risks of Hennard not facing any resistance. But because of the Texas law, Gratia had left her gun in the car and couldn't take a shot at Hennard. Instead, she watched him murder both her parents.

Two months later, a pair of criminals with stolen pistols herded 20 customers and employees into the walk-in refrigerator of a Shoney's restaurant in Anniston, Alabama. Hiding under a table in the restaurant was Thomas Glenn Terry, armed with the .45 semiautomatic pistol he carried legally under Alabama law. One of the robbers discovered Terry, but Terry killed him with five shots in the chest. The second robber, who had been holding the manager hostage, shot at Terry and grazed him. Terry returned fire, and mortally wounded the robber.

Twenty-three people died in Killeen, where carrying a gun for self-defense was illegal. Twenty lives were saved, and only the two criminals died in Anniston, where self-defense permits are legal. Yet while Anniston never made the network news, Killeen did, and is used to this day as supposed proof of the need for severe gun controls. Precisely because lives are saved, instances of citizens using firearms carried on their persons to defend themselves and others rarely make the national news, even though such defensive acts occur with great frequency, as the research of Professors Kleck and Mauser demonstrates.

#### Emphasis on Gun Safety

Gun control, properly conceived, is not simply a matter of passing laws, or adding to the paperwork involved in retail gun purchases. Gun control needs to involve people control, or more precisely, helping people take control of their own actions. In this regard, the NRA's gun safety programs rank as America's most successful gun-control efforts.

The National Rifle Association was founded in 1871 by Union Army generals dismayed at the poor marksmanship displayed by Union forces during the recent war. The NRA always has placed heavy emphasis on its mission to train American citizens in responsible and effective firearms handling.

Happily, the fatal gun accident rate is now at an all-time low. In 1945, for every million Americans, there were about 350,000 firearms and 18 fatal gun accidents. Today, the per-million rate is 850,000 and 6 accidents. As the gun supply per capita more than doubled, fatal accidents fell by two-thirds.

NRA safety programs implemented by the 32,000

instructors and coaches who have earned NRA Instructor certification have played an important role in the accident drop, and will become even more important in coming years as more and more women choose to own handguns. Since women gun owners are more likely to own for protection, and less likely to have been initiated in sport shooting by an older male relative, safety training for these new gun owners is especially worthwhile, and the NRA has, accordingly, set up a program offering free safety training to women.

The number of fatal firearm accidents for children aged 0-14 has fallen from 550 in 1975 to 250 in 1988. While the NRA always has had junior shooting and hunting programs that emphasize the development of safe sporting gun use under adult supervision, in 1988 the organization launched a safety campaign aimed at the millions of children who never have any exposure to the shooting sports.

The NRA's Eddie Eagle Elementary Gun Safety Education Program is geared for children in pre-school through sixth grade. Using teacher-tested materials such as an animated video, cartoon workbooks, role-playing, and fun safety activities, Eddie Eagle teaches the simple lesson: "If you see a gun: Stop! Don't Touch. Leave the Area. Tell an Adult."

To date, the Eddie Eagle program has reached almost 4 million children and their parents through schools, law-enforcement programs, and a variety of youth programs. Unfortunately, it has been excluded from some urban schools by administrators who refuse to allow pupils to contact anything related to the NRA, even though the Eddie Eagle curriculum does not discuss political issues.

### Controlling Criminals, Not Guns

The NRA's most controversial recent effort is the organization's CrimeStrike program, which takes aim at aspects of the criminal justice system that the NRA considers too lenient. In pushing for laws allowing greater pretrial detention of violent repeat offenders, the NRA adheres to its conservative roots, to the chagrin of some of its libertarian supporters, who are unwilling to protect the Second Amendment by weakening the Eighth Amendment right to bail.

Other aspects of CrimeStrike, such as support for victims' rights laws, cause no dissent within the pro-Second Amendment coalition, and offer an opportunity to improve a criminal justice bureaucracy that sometimes lets the desire to process cases overshadow the necessity to do justice to the criminal and the victim.

NRA CrimeStrike strategies, like NRA lobbying, rely heavily on grassroots pressure. In a recent Texas case, Charles Edward Bruton had been sentenced to two 10-year terms for shooting at a woman and for committing a heinous sexual assault against her 11-year old daughter.

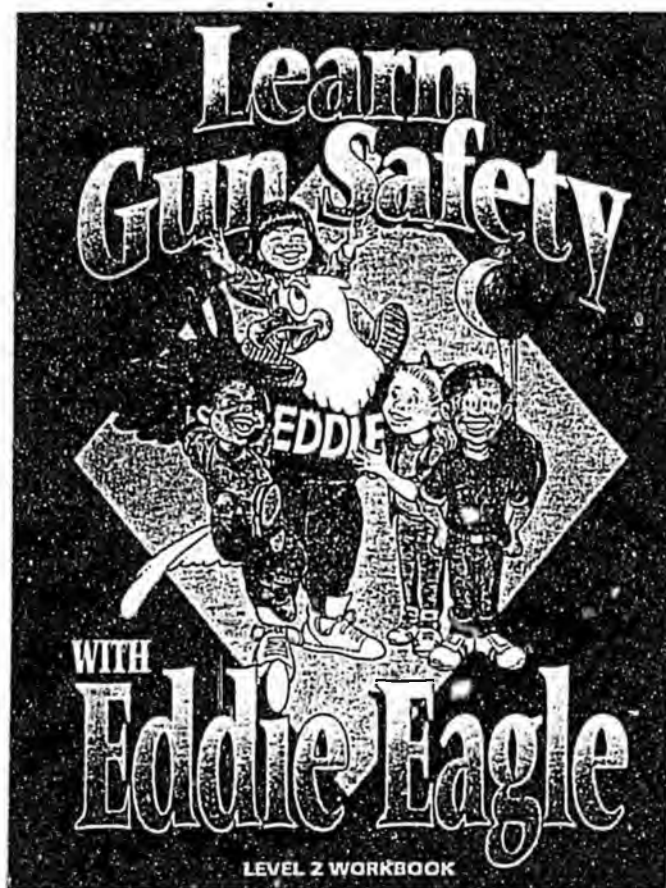


photo courtesy of the National Rifle Association

Thanks to such gun-safety programs as the NRA's Eddie Eagle, fatal firearm accidents among children 14 and under have fallen from 550 in 1975 to 250 in 1988.

Having served only three years, Bruton was up for parole last September. After the shooting victim asked CrimeStrike for assistance, NRA members were notified through NRA magazines destined for Texas; the Texas Board of Pardons and Appeals was flooded with calls and letters; the parole was denied.

CrimeStrike will not single-handedly fix the criminal justice system, nor will safety education eliminate all accidents, nor will reform wipe out all street crime. But each of these efforts will improve public safety for all citizens, whether they own guns or not. Everyone benefits from a prison system that keeps violent felons off the streets; everyone benefits from reduced risks of gun accidents; and everyone benefits from street criminals facing increased odds of victims resisting successfully.

Today, rather than merely opposing poorly conceived gun-control legislation, right-to-keep-and-bear-arms supporters are working in positive ways. These efforts will enhance not only the rights of the 50 percent of American families who own guns, but also the safety of the 50 percent who do not.

THE  
FOLLOWING  
DOCUMENTS  
ARE  
POOR  
ORIGINAL  
COPIES

## Are We 'a Nation of Cowards'?

**J**EFFREY SNYDER'S ITING IS EITHER PERFECT OR PERFECTLY awful. Just as there seems to be a coalescing consensus that the keys to controlling violent crime are more police and fewer guns, along comes Snyder to trouble the conscience of anyone who thinks so. In his essay "A Nation of Cowards" in *The Public Interest* quarterly, he argues, with a potent blend of philosophy and fact, as follows:

"Crime is rampant because the law-obiding, each of us, condone it, excuse it, permit it, submit to it. We permit and encourage it because we do not fight back immediately, then and there, where it happens . . . The defect is there, in our character. We are a nation of cowards and shirkers."

Strong words, those, but not stronger than his argument, the gravamen of which is that the crime problem cannot be addressed without confronting the moral responsibility of the intended victim. Taking responsibility for one's life, family and community requires fighting back when threatened with violence. How? By possessing and mastering the means of resistance. He means an "equalizer"—a handgun. A responsible citizen, he says, "will be trained in the use of his weapon, and will defend himself when faced with lethal violence."

Before examining his argument for an armed citizenry, consider the freshest evidence of the nation's quickened concern about crime.

On Election Day voters in liberal Washington state gave emphatic (73 percent) approval to the "three strikes and you're out" initiative which mandates life imprisonment without parole for people convicted of three major felonies. California, although taxaphobic, nevertheless voted to make permanent an existing tax to provide \$1.5 billion for public safety—more police and firemen. Arson has made fire a facet of California's anxiety about crime. Biscally conservative Texas endorsed a \$1 billion bond issue to build more prisons and mental health facilities.

The day after the elections the House of Representatives, with a familiar mixture of posturing and false advertising, passed yet another crime bill, this one purporting to subsidize the hiring of 50,000 police officers. It probably would fund fewer. The Senate promptly jumped up the money. For 40 years Congress has passed a crime bill in every two-year session, except the last one. The criminal class has not been impressed.

The day after the elections the president held a ceremony to push the bill that would require a five-day waiting period for the purchase of a gun. The attention given to this "Brady bill" seems disproportionate, given that 93 percent of the guns obtained by violent criminals are not obtained through lawful transactions that are the focus of most gun control legislation.

More interesting, the day after the elections Sen. Pat Moynihan proposed whopping tax increases on various kinds of handgun ammunition. He even favors a 10,000 percent tax on the Winchester 9-mm hollow-tipped Black Talon cartridge. ("Penetrates soft tissue like a throwing star—very nasty," boasts an advertisement.) That tax would make 20 cartridges cost about \$1,500. In large

portions of Moynihan's New York City people are slain by stray—that's right, stray—bullets. Moynihan says: Guns do not kill people, bullets do. We have a 200-year supply of guns and a four-year supply of ammunition, so concentrate on the latter.

Snyder, an attorney in Washington, where the mayor begs for military help against crime, denurs, comprehensively, America, he says, is wrongly called an "armed society." He thinks we would be better off if it were. Most of the guns owned by law-abiding citizens are kept at home, but 57 percent of violent crimes occur outside the home. The constantly armed portion of the community consists primarily of the police and violent criminals. Multiplying the former cannot make us safe from the latter.



EXAMINING  
THE  
ARGUMENT  
FOR AN ARMED  
CITIZENRY

**Self-respect:** It is, says Snyder, foolish and errant to expect police to perform as personal bodyguards. The existence of police does not relieve individuals of all responsibility for self-protection. That judgment has both prudential and moral dimensions. Gun owners like to say, "Call for a cop, call for an ambulance and call for a pizza. See which comes first." The Department of Justice reports that in 1991, for all crimes of violence, only 28 percent of calls to the police were responded to within five minutes. And it is now more likely that an American will be injured by violent crime than that he will be injured in an auto accident.

Feminists, says Snyder, rightly insist that rape is not about sex but about domination. What is at issue in crime is not just property but dignity. Crime, he says, always violates the victim's dignity, which can hardly be said to exist if the victim does not deem it worth fighting for. Crime is "an act of enslavement" and a personal readiness to resist it should be regarded as a prerequisite of self-respect, properly understood. He notes that "self-respect," which implies standards by which one judges oneself, has been supplanted in public discourse by the locution "self-esteem," which simply means having warm feelings about oneself. Repeating the shibboleths of the gun control movement makes many people feel good about themselves. Snyder's argument should disturb their peace.

Much gun control advocacy is directed against normal citizens, who are depicted as at best benighted and at worst barbaric. Gun owners are routinely characterized as uneducated, intolerant, possibly paranoid rednecks—people urgently in need of re-education and "consciousness-raising" from the liberal agenda. In Mario Cuomo's denunciation, gun owners are "hunters who drink beer, don't vote and lie to their wives about where they were all weekend." (Cuomo quickly recanted this. Gun owners do vote.) Actually, the gun-owning population is pretty much like the general population because approximately one of every two households has a gun.

Now, Snyder is right that the gun control movement often radiates distrust of average citizens, whose supposed mental and moral deficiencies are such that "only lack of immediate access to guns prevents the blood from flowing in the streets." Nevertheless, it is reasonable to wonder whether a nation whose citizens cannot

(Continued on page 93)

(Continued from page 90)

program, their VCRs and who increasingly will not respect stoplights (surely you have noticed the increasing lawlessness of drivers) is a nation whose citizens are insufficiently dexterous and too aggressive to be safely armed.

Snyder says the idea that only the police are qualified to use firearms is akin to saying that "only concert pianists may play the piano and only professional athletes may play sports." The flaw in Snyder's analogy is that if you play the piano unskillfully, you neither kill nor wound anyone. However, Snyder has evidence more powerful than his analogy.

In 13 states citizens who wish to carry arms may do so, having met certain requirements. Consider Florida, which in 1987 enacted a concealed-carry law guaranteeing a gun permit to any resident who is at least 21, has no record of crime, mental illness or drug or alcohol abuse, and who has completed a firearms safety course.

Florida's homicide rate fell following the enactment of this law, as did the rate in Oregon after

the enactment of a similar law. Through June 1993, there had been 160,823 permits issued in Florida. Only 530, or 0.33 percent, of the applicants have been denied permits. This indicates that the law is serving the law-abiding. Only 16 permits, less than 1/100th of 1 percent, have been rescinded because of the commission, after issuance, of a crime involving a firearm.

Ninety percent of violent crimes are committed by persons not carrying handguns. This is one reason why the mere brandishing of a gun by a potential victim of violence often is a sufficient response to a would-be attacker. In most cases where a gun is used in self-defense,

it is not fired. Can the average citizen be trusted to judge accurately when he or she is in jeopardy? Snyder answers that: "rape, robbery and attempted murder are not typically actions rife with ambiguity or subtlety." Furthermore:

"Florida State University criminologist Gary Kleck, using surveys and other data, has determined that armed citizens defend their lives or property with firearms against criminals approximately 1 million times a year. In 98 percent of these instances, the citizen merely brandishes the weapon or fires a warning shot. Only in 2 percent of the cases do citizens actually shoot their assailants. In defending themselves with their firearms, armed citizens kill 2,000 to 3,000 criminals each year, three times the number killed by the police. A nationwide study by Don Kates, the constitutional lawyer and criminologist, found that only 2 percent of civilian shootings involved an innocent person mistakenly identified as a criminal. The 'error rate' for the police, however, was 11 percent, more than five times as high."

Concerning what we may call "the running of red lights syndrome" in contemporary America, I put the point to Snyder and he fired back a fax:

"Regarding your observation about our society's general level of aggressiveness and disregard for rules, you may wish to consider Robert Heinlein's famous dictum that 'An armed society is a polite society.' Knowing that one's fellow citizens are armed, greater care is naturally taken not to give offense. The proposition is, of course, difficult to prove, but you can find some support for it in English literature. Observe the polite formality with which strangers address each other in *inn*s in, for example, Fielding's 'Tom Jones' or (with comedic exaggeration) in Dickens's 'Pickwick Papers.' While no doubt attributable in part to England's class structure and the education received by the aristocracy, I would hesitate to say that it had nothing to do with the fact that gentlemen generally were armed."

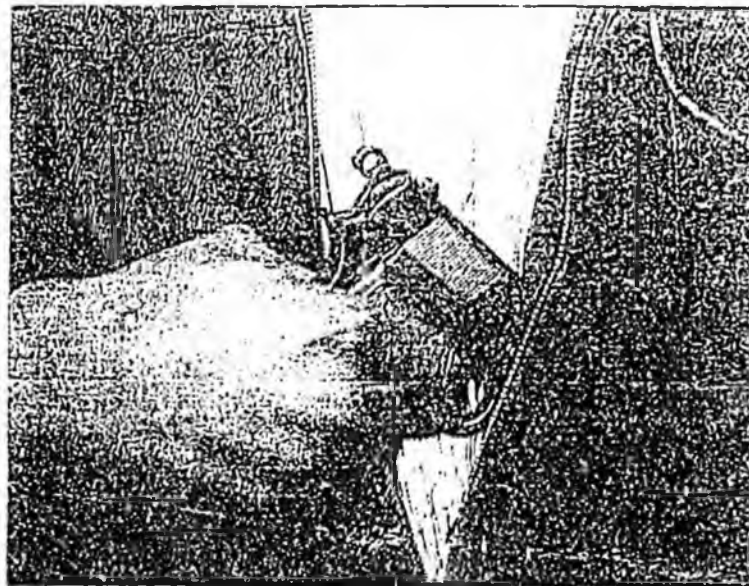
Or as is famously said in American literature, by the hero of Owen Wister's "The Virginian," "When you call me that, *smile!*" Such was politeness in the armed society of 19th-century Wyoming.

Finally, there is the matter of the Second Amendment. This Republic's Founders constitutionalized, which means they made fundamental, the right to possess firearms, and they did not do so unreflectively.

They placed that right second in the Bill of Rights, yielding precedence only to rights pertaining to speech, worship and association and they did that for philosophically serious reasons.

The philosophy of classical republicanism recognizes a crucial relationship between personal liberty and possession of arms by a people prepared to use them.

Snyder believes that the Second Amendment is as much a product of this philosophy as of the Revolutionary War experience or the exigencies of frontier life: "To own firearms is to affirm that freedom is not a gift from government. . . . As the



RON LEVY - GAMMA-LIAISON

Equalizer: Is this a citizen taking his responsibility seriously?

CRIME IS  
RAMPANT  
BECAUSE THE  
LAW-ABIDING  
SUBMIT TO IT

Founding Fathers knew well, a government that does not trust its honest, law-abiding, tax-paying citizens with the means of self-defense is not itself worthy of trust."

Yes, and yet . . . no society can be called successful where violence is so prevalent and random that law-abiding citizens must go about prepared to dispense violence in self-defense. No one wants to live, raise children and grow old in such a society. But government is constituted to provide, first and foremost, domestic tranquility sufficient to make unnecessary the sort of personal measures that Snyder recommends. If such measures are becoming necessary, do not blame Snyder.

Snyder writes that "the association of personal disarmament with civilized behavior is one of the great unexamined beliefs of our time." Not anymore it isn't. His searching examination of it may not compel your assent — I remain unpersuaded — but it must shake some soothing assumptions regarding crime and civic responsibilities. I am among those whom Snyder faults, civilly but firmly, for insufficient rigor in reasoning about these matters. I find being reproved by him a bracing experience because it enlarges my understanding while subtracting from my certainties. I salute him and thank him.

# PRO-GUN LAWS— THEY WORK!

*Now that the law-abiding citizens of several states legally have the right to defend themselves, even anti-gun officials have admitted that they are safer states to live in than before the passage of a concealed weapons carry law.*

\*\*\*

**A** 33-year-old Miami cab driver was among the first to apply for and receive a concealed weapons license under the new concealed weapons licensing reform law that went into effect in Florida on October 1, 1987.

A few short months after receiving his license, Miami police reported that on March 5, 1988, he became the first license holder to be involved in a shooting.

Forced to defend himself, the driver shot and killed a robber who pointed a firearm at him, demanded money, then after taking the money told the moonlighting cab driver he was going to kill him.

The robber, a 29-year-old ex-convict with a history of attempting to kill police officers, tried to fire a Smith & Wesson 9mm semi-automatic handgun at the cabby at point-blank range. But he had forgotten to disengage the safety. In those few split seconds when the robber was distracted the cab driver pulled and fired his own gun—a Colt .45-caliber semi-automatic handgun—mortally wounding the attacker. Pronounced

**"The bottom line is that Florida is a safer place to live because of the law...."**

dead at the hospital, the robber still had the cabby's wallet in his pocket.

The ex-convict's past included arrests for armed robbery, gun violations and attempted first-degree murder of a police officer. In 1981, he shot out the windshield of a Hialeah patrol car, which then crashed. He also shot at Miami Spring police during a chase. He was sentenced to 12 years in prison, but seven years later he was on the street pulling the trigger on a law-abiding cab driver.

*By Marion P. Hammer*

The criminal justice system failed to protect the cabby by not keeping this violent criminal in prison to serve out his time. But Florida's new concealed weapons licensing law made it possible for him to protect his own life. As reported in a newspaper following



*Marion P. Hammer has served as executive director for Unified Sportsmen of Florida for the past 12 years and is also a member of the NRA Board of Directors.*

the incident: the cab driver "used the weapon correctly to defend himself. Without the law in effect, he would be a dead man this morning."

While this incident was reported to be the first involving a concealed carry permit holder, it has not been the last justifiable self-defense shooting involving law-abiding license holders. No one likes to see headlines filled with bloodshed, but all sane and reasonable Americans must surely applaud when a terrible crime is thwarted and an innocent citizen saved. In this case a quiet, hard-working and honest cab driver prevented his own death at the

hands of a criminal with a history of brutal violence.

The Miami police sergeant on the scene told reporters that the incident "sends a message to the rest of the robbers out there." I think the incident also sent a message to those who worked against the passage of the

**"The issue is, and has always been, one of the right of self-defense."**

concealed carry reform law.

The media have always been quick to report the emotional, inflammatory hysterics of the anti-gunners any time the subject of firearms emerges, and slow to report positive results of firearms ownership. During the fight for passage of the licensing reform legislation, it was commonplace to read and hear a steady media drumbeat about Dodge City, frontier-style justice, the O.K. Corral for guns, an invitation to a Wild West mentality, blood on the hands of those who vote for passage, etc. Some editorials, like the Suntattler's, got a little more creative, declaring: "...a state law that welcomes virtually everyone to pack a rod would increase lawlessness—and death. Forget that a pistol-packing citizenry will mean itchier trigger fingers...Forget that South Florida's climate of smoldering fear would flash like napalm when every stranger totes a piece, and every mental snap in traffic could lead to the crack of gunfire."

**Now, four years after implementing the concealed carry reforms in Florida, the critics and doomsayers have been forced to recant their hysterical predictions. They have been forced to abandon the parade of horrors they contrived in the heat of debate.**

Those of us who labored for seven

years to reform the nightmarish patchwork of concealed weapons ordinances found in Florida's counties are proud to point to its record of success. The new concealed carry permit law is working well.

Before passage of the reform law, our hodgepodge of laws either disregarded the Constitution's Second Amendment, were interpreted locally or were left up to bureaucratic whim. There was no uniform procedure in Florida's 67 counties and citizens were subject to varying criteria depending upon where they lived.

Now this very basic right no longer vacillates according to local politics or the authority of a powerful few. We now have a state agency that handles applications and issues licenses based on statewide statutory criteria, and the license is valid statewide—not just in a particular county as in the past.

A year after the law took effect, Willis Booth, executive director of the Florida Chiefs Association, told the press, "The minute the bill was passed, we asked our chiefs in the state to be particularly alert for any cases in their jurisdiction that would give us knowledge of the fact that there was some abuse. At this point, it would appear the law is working very well. There are no horror stories that can be attributed to the passage of the law."

John Fuller, general counsel for the Florida Sheriff's Association, agreed. "I haven't seen where we have had any instance of persons with permits causing violent crimes, and I'm constantly on the lookout," he said.

A Florida Department of Law Enforcement spokesman has told reporters that the new law hasn't affected firearms violence in Florida, indicating that any increase in crime is attributed to the growing drug problem, not the concealed firearms law.

Even Robert Creighton, agent in charge of the U.S. Bureau of Alcohol, Tobacco and Firearms (BATF) in Florida, acknowledged that the popular concealed weapons permits aren't a factor in crime, adding, "The criminal element has no permits."

Anti-gun groups and the media predicted an outbreak of shootings in the Sunshine State. But, since passage nearly four years ago, this fair and more uniform concealed carry law simply hasn't shaken the foundations of the Florida legal system or created "an Old Wild West," "O.K. Corral" or "GUNshine State," as doomsayers predicted.

But the media have been unenthusiastic about reporting the success of the law and rarely report incidents when license holders defend themselves with a firearm, or simply bury a very short report somewhere in the back of the paper. Nonetheless many Floridians are alive and well today because we stuck with it for seven years and passed a law that they credit with saving their lives.

Take the case of a Miami attorney who believes he and his wife are alive today because of passage of the law. He and his wife returned home from a basketball game late on the evening of February 24, 1991. After opening the door for his wife to enter the home he turned around in the garage and got a leash to walk his dog. He was confronted by two attackers standing in his garage, wearing ski masks and carrying guns. He ducked behind the door as one attacker fired a shot, pulled his .45-caliber semi-automatic handgun and opened fire through the doorway. The attackers ran from the garage and fled in a waiting vehicle driven by a third person.

The attorney said if the concealed weapons law had not passed he would not have been armed, and surely would not be alive to read the brief 2-inch-long story—buried inside the newspaper—reporting the incident.

Clearly, the law has worked as we said it would, proving what those of us who supported it said all along. Statistics from the Florida Department of State—the agency handling applications and issuing licenses—are graphically clear. They prove that applicants are conscientious citizens concerned about and taking responsibility for their personal safety. The issue is, and has always been, one of the right of self-defense. Law-abiding Florida citizens do not wish to harm anyone. Yet neither do they feel they should suffer harm at the hands of

the lawless. It is patently obvious from the accompanying chart that license holders are everyday, law-abiding people who simply want to be able to protect themselves and their families should the need arise.

That should come as no surprise. A study conducted by the St. Louis University School of Law found that armed citizens were exceedingly responsible in carrying handguns on the street. The study found that while police were successful in shooting or driving off criminals 68 percent of the time, private citizens succeeded in 83 percent of their encounters. Most importantly, while 11 percent of the individuals involved in police shootings were later found to be innocents misidentified as criminals, only 2 percent of those in civilian shootings were so misidentified. In light of the fact that in urban areas private citizens encounter and kill up to three times as



David Register, Director, Div. of Licensing, Florida Dept. of State (left), and Florida Sec. of State Jim Smith (right) present "Concealed Weapons License Number 1" to Marion P. Hammer under Florida's new concealed weapons licensing law. Ms. Hammer, representing the NRA and Unified Sportsmen of Florida, helped write and pass the self-defense legislation.

many criminals as do law enforcement authorities, the track record of the private citizen is very impressive indeed. Florida's experience simply proves it once again.

Law-abiding Floridians who choose to protect themselves by carrying a concealed firearm may apply for a license—and receive it—if they meet the standardized criteria. State law mandates that a license be issued within 90 days from receipt of a completed application if the applicant is 21 years of age or older, has been a resident of Florida for six months, has no criminal record, can document knowledge or training in the safe use

*continued on back page*

**FLORIDA CONCEALED WEAPONS LICENSING: STATISTICS TO DATE**

Applications received:	104,249
Applications denied:	743
Denied for incomplete application:	301
Denied for criminal history*:	442
Licenses revoked for offenses after licensure:	61
Revoked for offense/firearm present*:	10
Revoked for other reasons*:	51

\*Majority of offenses were nonviolent crimes such as DUIs, worthless checks and controlled-substance convictions.

\*\*DUIs, reckless display included.

NOTE: This chart contains official statistical data from the Florida Department of State, Division of Licensing.

and handling of a firearm, has no record of alcohol or drug abuse, no record of mental illness or mental incompetency, no physical infirmity that would prevent safe handling of a firearm and desires to carry a concealed firearm for lawful self-defense.

The state must issue the license or prove the individual is disqualified based solely on the statutory criteria. There is no arbitrary or subjective discretion by anyone, and rule-making authority that could alter the intent of the law is specifically prohibited.

Three years after passage, in November 1990, the press revisited the issue in an interview with State Representative Ron Silver. Silver, an ardent supporter of Handgun Control, Inc., and the organization's chairwoman, Sarah Brady, told the press, "There are lots of people, including myself, who thought things

would be a lot worse as far as that particular situation [people being licensed to carry firearms for protection] is concerned. I'm happy to say they're not."

Silver also said that Florida has a long way to go to rid itself of its Wild West reputation and the "GUNshine State" label that he and HCI helped create with their emotional predictions of misuse and abuse. He added, "All of us are trying to do away with that image."

The bottom line is that Florida is a safer place to live because of the law, as Silver admitted. So it's time for the anti-gun organizations to back off. The statistics are in. The proof supports our position. The law is working very well. And decent people are alive today as a result of its passage.

Other states (Idaho, Mississippi, Montana and Oregon) have already

used the Florida concealed weapons licensing law as a model and have passed similar legislation. Perhaps it's time for your state to do the same. ♣

Besides being a mother of three and a grandmother, Ms. Hammer has been active both as a sportswoman and as a political force working on behalf of firearms rights. Currently, she is a National Rifle Association board member and holds a seat on the NRA Legislative Policies Committee and the NRA Membership Committee and is chairperson of the NRA Ethics Committee. As a strong supporter of the NRA/ILA, she has been a media spokesperson on behalf of our 2nd Amendment rights, giving over 700 interviews in the past four years for national television, radio and the print media. For the past 12 years, Maron P. Hammer has held the post of Executive Director of United Sportsmen of Florida 206 S. Monroe St., Suite 5, P.O. Box 6565, Tallahassee, FL 32314.

Permission to reprint granted to NRA Institute for Legislative Action by Guns and Ammo, pp. 22-23, and 92, November, 1991 issue.

# Know the Facts!



From waiting periods and registration schemes to state and federal firearms laws, brochures available free from the NRA Institute for Legislative Action provide timely, accurate information concerning every aspect of the firearms issue. For the information you need, write:

Research and Information Division  
NRA Institute for  
Legislative Action  
1600 Rhode Island Avenue, NW  
Washington, DC 20036



# Florida State University

File: Kleck

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Steve Humphries  
October 1991

## Florida State criminologist shoots down gun-control myths

TALLAHASSEE, Fla.--A criminal without a gun is more likely to hurt you than a criminal with one. You're less apt to be robbed, or to be hurt in a robbery, if you have a gun for defense.

And an assailant is no more likely to kill you if he has a gun than if he doesn't.

Those findings are contained in a new book, "Point Blank: Guns and Violence in America," by Gary Kleck, a criminologist at Florida State University.

"It appears that the net effect of gun availability on crime is just about zero," said Kleck. "Victims with guns may depress crime a little and offenders with guns may increase it a little. My research indicates they cancel each other out."

The 500-plus-page book, due out Nov. 5, notes that guns are used for defense in this country about the same number of times each year as they are used to commit crimes -- and usually with no one getting hurt.

"In a robbery, people who use guns in self-defense avoid injury 83 percent of the time and in most cases they don't have the crime completed against them," Kleck found. "The results are similar for assaults and rapes."

"It turns out you're less likely to be hurt if you resist with a gun, even compared to doing nothing at all to resist. This shouldn't be surprising. If a gun works in committing a crime, why wouldn't it also work in preventing one?"

Kleck found that people who do nothing to protect themselves are injured in 25 percent of robberies, while those who use a gun for protection are hurt only 17 percent of the time.

He said would-be victims thwart many crimes by carrying a gun, and assailants often find just flashing a firearm can keep the situation from escalating into a fight.

"You are actually less likely to be injured if a robber

-more-

Page 2

has a gun than if he doesn't," he said, "And you're less likely to be injured if you have a gun.

"It's actually safer if either party has a gun."

Kleck, a professor in the FSU School of Criminology and Criminal Justice, studied 19 types of gun control and found that almost none -- including waiting periods and owner registration -- had any effect on crime rates. Banning guns, he said, is no longer an option.

"This country has 200 million guns, minimum, in private hands," he said. "To think of some method that works by controlling the overall supply of guns is hopeless. We passed that point long ago."

Instead, Kleck says, background checks should be instituted to make it harder for convicted violent offenders to buy guns and penalties should be strengthened for those caught with them. Laws also should be passed to more closely regulate the carrying of guns, he said, to decrease the number of opportunistic robberies.

Kleck bases his recommendations on data that show most violent offenders are not average citizens who become enraged, pick up a gun and commit a crime.

"Repeatedly violent offenders account for most cases of domestic violence and practically all homicides," he said. "There aren't many average-Joe, honest-to-God, they-did-it-out-of-nowhere killers. It's a wonderful media myth -- the average Joe killer."

Kleck said 70 percent of all homicides in the United States are committed by someone with at least one prior arrest.

"Point Blank," published by Aldine de Gruyter, is a first in at least two respects.

It is the first to use nationally representative samples of violent incidents -- from minor threats to homicides, including those reported and those not reported to the police -- to distinguish between attack, injury and death as outcomes of violent situations. It also is the first to combine national data on both fatal and non-fatal violent incidents to study how weapon use affects death rates.

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Dr. Kleck can be reached at (904) 644-4080. Audio tapes containing actualities by Dr. Kleck, and videotapes and photographs of Dr. Kleck, can be obtained by calling the FSU Media Relations Office.

# Alaska State Legislature

REPRESENTATIVE  
JEANNETTE JAMES

P.O. Box 56622  
North Pole, Alaska 99705  
(907) 488-0862

House District 34



While in Juneau  
State Capitol  
Juneau, Alaska  
99801-1182  
(907) 465-3745

## House Of Representatives

The Pacific Institute for Public Policy, in February 1990, published a Policy Briefing entitled GUNS, MURDERS, AND THE CONSTITUTION; a Realistic Assessment of Gun Control, by Don B. Kates, Jr.

The author does an excellent job of addressing the issue of gun control laws, giving the pros and cons and comparing the actual facts with the assumptions of the various attitudes which are prevalent.

Two positions are attached here for your information:

1. Sagecraft Summarized
2. Police Protection vs Capacity to Defend Oneself

## 1. Sagecraft Summarized

Lest the sagecraft concept seem unduly harsh, I will briefly review five particularly insupportable anti-gun claims (they and others are further detailed in the body of this paper):

- a) *The claim that homicide is predominantly a matter of "ordinary law-abiding people" killing a relative or acquaintance because a loaded gun happened to be available during a moment of anger.*

This claim is contradicted by all national and local studies of homicide, which uniformly show that murderers are not "ordinary law-abiding people." Rather, murderers (like gun accident perpetrators) are highly aberrant individuals, characterized by felony records, alcohol and/or drug dependence, and life histories of irrational violence against people around them.<sup>10</sup>

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<sup>8</sup> Bruce-Briggs, above.

<sup>9</sup> Tonso, above, applying concepts based on F. Znaniecki, *The Social Role of the Man of Knowledge*, 72-74 (N.Y.: Harpers, 1968).

<sup>10</sup> Straus, "Domestic Violence: and Homicide Antecedents," 62 *Bull. N.Y. Acad. Med.* 446 (1986); cf. Bruce-Briggs, "The Great American Gun War," 45 *The Public Interest* 37, 40 (1976):

The calculation of family homicides and accidents as costs of gun ownership is false. The great majority of these killings are among poor, restless, alcoholic, troubled people, usually with long criminal records. Applying the domestic homicide rate of these people to the presumably upstanding citizens whom they prey upon is seriously misleading.

See also Kates, "Firearms and Violence: Old Premises, Current Evidence," in T. Gurr (ed.), *1 Violence in America*, 203-204 (1989) (hereinafter cited as "Current Research"); Kleck, "Policy Lessons from Recent Gun Control Research," 49 *Law & Contemp. Probs.* 35 (1986) (hereinafter cited as "Policy Lessons") at 40-41, and studies there cited.

- b) *The claim that (though banning all guns may not be politically feasible) banning only handguns would save lives because gun attacks are more lethal than knife attacks.*

In a recent National Institute of Justice survey among about 2,000 incarcerated felons, well over 80 percent of those who had often misused handguns said that if handguns were unavailable they would turn to long guns (rifles or shotguns) instead.<sup>11</sup> Thus, a crucial issue in any handgun ban is that, while handgun wounds are 1.3 to 3 times more lethal than knife wounds, a rifle or shotgun wound kills 5 to 11.4 times more often than a handgun wound. Far from decreasing homicide, if a handgun ban caused only 30 percent of handgun attackers to turn to long guns, the homicide rate might nearly double; if 50 percent switched, homicides could more than triple.<sup>12</sup> Astoundingly, not one academic who argued that banning handguns would save lives (because knives are less deadly) even mentioned the necessary corollary that not controlling long guns would cost lives because rifles and shotguns are far more lethal.

- c) *The claim that comparing American statistics to those of selected gun-banning foreign countries proves that guns cause crime and that banning them reduces it.*

Differentials in international crime rates reflect basic socio-cultural and economic differences that have nothing to do with gun laws. First, Western Europe has not only far less gun violence but also less violence of all kinds *per capita*. Second, this difference between the United States and Western Europe was even greater before the latter's gun laws were adopted in the 1920s and 1930s. Third, those laws were adopted to control political violence—to which those countries have always been far more subject than the United States. Fourth, as American violence skyrocketed from the mid-1960s on, violence rates increased even more rapidly in the gun-banning countries (particularly gun violence). And fifth, in such equally crime-free countries as Switzerland, Israel, and New Zealand, there is even more gun availability than there is in the United States.<sup>13</sup>

- d) *The claim that guns are generally not useful and not used for self-defense.*

Gary Kleck recently has found that, while handguns are used in vast numbers of crimes annually, they are used even more often by good citizens to repel crime

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<sup>11</sup> J. Wright & P. Rossi, *Armed and Dangerous: A Survey of Felons and Their Firearms* 221, table 11.3 (N.Y.: Aldine, 1986) (hereinafter called NIJ Felon Survey).

<sup>12</sup> Policy Lessons at 48-50, Lizotte, "The Costs of Using Gun Control to Reduce Homicide," 62 *Bull. N.Y. Acad. Med.* 539, 541 (1986).

<sup>13</sup> See discussion in Current Evidence at pp. 200ff and below in this paper.

(approximately 581,000 crimes vs. about 645,000 defense uses annually).<sup>14</sup>

- e) *The claim that there is no individual right to arms because the Second Amendment to the U.S. Constitution protects only the states' right to arm the militia.*

Though mere control is constitutional, wholesale prohibition and confiscation is not; the Constitution precludes laws barring responsible, law-abiding adults from choosing to own guns for self-defense. Sanford Levinson, a leading constitutional scholar (who personally opposes gun ownership), recently dismissed academic obliviousness to this clear fact in a paper fittingly entitled "The Embarrassing Second Amendment."<sup>15</sup>

## 1. Police Protection vs. the Capacity to Defend Oneself

Perhaps the single most common argument against freedom of choice is that personal self-defense has been rendered obsolete by the existence of a professional police force.<sup>69</sup> For decades, anti-gun officials in Chicago, San Francisco, New York, and Washington, D.C., have admonished the citizenry that they don't need guns for self-defense because the police will defend them. This advice is mendacious: when those cities are sued for failure to provide police protection, those same officials send forth their city attorneys to invoke

[the] fundamental principle of American law that a government and its agents are under no general duty to provide public services, such as police protection, to any individual citizen.<sup>70</sup>

Even as a matter of theory (much less in fact), the police do NOT exist to protect the individual citizen. Rather their function is to deter crime in general by patrol activities and by apprehension after the crime has occurred. If circumstances permit, the police should and will protect a citizen in distress. But they are not legally duty bound even to do that nor to provide any direct protection—no matter how urgent a distress call they may receive. *A fortiori* the police have no duty to, and do not, protect citizens who are under death threat (e.g., women threatened by former boyfriends or husbands).

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<sup>68</sup> All discussion of gun-armed self-defense in this paper is directed to handguns because they are infinitely more efficacious for defense than rifles or shotguns. In contrast to the unwieldy long gun, the short-barrelled handgun is much easier to bring into play at close quarters and much harder for an assailant to wrest away. Consider the situation of a woman holding an intruder at bay while trying to dial the police. With a rifle, this is difficult and hazardous at best. Given only the two-inch barrel of a snub-nosed handgun to grasp, not even the strongest man can lever it from a woman's grip before she shoots him. M. Ayoob, *The Truth About Self-Protection* (N.Y.: Bantam, 1983) 332-33, 341-42, 345-55.

<sup>69</sup> Thus Ramsey Clark denounces precautionary gun ownership as an atavistic insult to American government: "A state in which a citizen needs a gun to protect himself from crime has failed to perform its first purpose"; it is "anarchy, not order under law—a jungle where each relies on himself for survival." R. Clark, *Crime in America* 88 (1971). For similar views, see also Wille, "Handguns that Kill," *Washington Star*, Jan. 18, 1981; "John Lennon's War," *Chicago Sun Times*, Dec. 12, 1980; and "Or Worldwide Gun Control" *Philadelphia Inquirer*, May 17, 1981; editorial: "Guns and the Civilizing Process," *Washington Post*, Sept. 26, 1972.

<sup>70</sup> *Warren v. District of Columbia*, 444 A.2d 1 (D.C. Ct. of Ap. 1981). For similar cases from New York and Chicago, see *Riss v. City of New York*, 22 N.Y. 2d 579, 293 N.Y.S.2d 897, 240 N.E. 2d 860 (N.Y. Ct. of Ap. 1958); *Keane v. City of Chicago*, 98 Ill. App.2d 460, 240 N.E.2d 321 (1968). See also the cases cited in the next two footnotes and *Bowers v. DeVito*, 686 F.2d 61 (7 Cir. 1982) (no federal constitutional requirement that state or local agencies provide sufficient police protection).

An illustrative case is *Mitchell v. District of Columbia*, 468 A.2d 1306 (D.C. Ct. of Ap. 1983). Two of the victims were upstairs when they heard the other being attacked by men who had broken in downstairs. Half an hour having passed and their roommate's screams having ceased, they assumed the police must have arrived in response to their repeated phone calls. In fact, their calls had somehow been lost in the shuffle while the roommate was being beaten into silent acquiescence. When the roommates went downstairs to see to her, as the court's opinion graphically describes it, "For the next fourteen hours the women were held captive, raped, robbed, beaten, forced to commit sexual acts upon each other, and made to submit to the sexual demands" of their attackers.

Having set out these facts, the District of Columbia's highest court exonerated the District and its police, because it is "fundamental [in] American law" that the police do not exist to provide personal protection to individual citizens.<sup>71</sup> In addition to the case law I have cited, this principle has been expressly enunciated over and over again in state law.<sup>72</sup>

The fundamental principle that the police have no duty to protect individuals derives equally from practical necessity and from legal history. Historically, there were no police, even in large American or English cities, before the mid-19th century. Citizens were not only expected to protect themselves (and each other), but also legally required in response to the hue and cry to chase down and apprehend criminals. The very idea of a police was anathema, American and English liberalism viewing any such force as a form of the dreaded "standing army."<sup>73</sup> This view yielded only grudgingly to the fact that citizens were unwilling to spend their leisure hours patrolling miles of city streets and were incapable even of chasing fleeing criminals down on crowded city streets—much less tracing and apprehending them or detecting surreptitious crimes.

Eventually, police forces were established to augment citizen self-protection by systematic patrol to deter crime and to detect and apprehend criminals if a crime should occur. Historically, there was no thought of the police displacing the citizen's right of self-protection. Nor, as a practical matter, is that displacement remotely

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<sup>71</sup> 444 A.2d at 6; see also *Morgan v. District of Columbia*, 468 A.2d 1306 (D.C. Ct. of Ap. 1983). To the same effect, see *Calogrides v. City of Mobile*, 475 So. 2d 560 (S.Ct. Ala. 1985); *Morris v. Musser*, 478 A.2d 937 (1984); *Davidson v. City of Westminster*, 32 C.3d 197, 185 Cal. Rptr. 252, 649 P.2d 894 (S. Ct. Cal. 1982); *Chapman v. City of Philadelphia*, 434 A.2d 753 (Sup. Ct. Penn. 1981); *Weutrich v. Delia*, 155 N.J. Super. 324, 326, 382 A.2d 929, 930 (1978); *Sapp v. City of Tallahassee*, 348 So.2d 363 (Fla. Ct. of Ap. 1977); *Simpson's Food Fair v. Evansville*, 272 N.E. 2d 871 (Ind. Ct. of Ap.); *Silver v. City of Minneapolis*, 170 N.W.2d 206 (S. Ct. Minn. 1969); and the other authorities cited in the footnotes preceding and following this one.

<sup>72</sup> See Cal. Govt. Code §§ 821, 845, 846, and 85 Ill. Rev. Stat. 4-102, construed in *Stone v. State*, 106 C.A.3d 924, 165 Cal. Rptr. 339 (Cal. Ct. of Ap. 1980); and *Jamison v. City of Chicago*, 48 Ill. App. 567 (Ill. Ct. of Ap. 1977) respectively; see generally 18 *McQuillen on Municipal Corporations*, sec. 53.80.

<sup>73</sup> See generally 82 *Mich. L. Rev.* above at 214-16. and F. Morn, "Firearms Use and the Police: A Historic Evolution of American Values," in D. Kates (ed.), *Firearms and Violence* (1984).

feasible in light of the demands a high-crime society makes on the limited resources available to police it. Even if all 500,000 American police officers were assigned to patrol, they could not protect 240 million citizens from upwards of 10 million criminals who enjoy the luxury of deciding when and where to strike. But we have nothing like 500,000 patrol officers: to determine how many police are actually available for any one shift, we must divide the 500,000 by four (three shifts per day, plus officers who have days off, are on sick leave, etc.). The resulting number must be cut in half to account for officers assigned to investigations, juvenile, records, laboratory, traffic, etc., rather than patrol.<sup>74</sup>

Doubtless the deterrent effect of the police helps ensure that many Americans will never be so unfortunate as to live in circumstances requiring personal protection. But for those who do need such protection, police do not and cannot function as bodyguards for ordinary citizens (though in New York and other major cities police may perform bodyguard services for the mayor and other prominent officials). Consider just the number of New York City women who each year seek police help, reporting threats by ex-husbands, ex-boyfriends, etc. To bodyguard just those women would exhaust the resources of the nation's largest police department, leaving no officers available for street patrol, traffic control, crime detection, apprehension of perpetrators, responses to emergency calls and so forth.<sup>75</sup>

Given what New York courts have called "the crushing nature of the burden,"<sup>76</sup> the police cannot be expected to protect the individual citizen. Individuals remain responsible for their own personal safety, with police providing only an auxiliary general deterrent. The issue is whether those individuals should be free to choose gun ownership as a means of protecting themselves, their homes, and their families.

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<sup>74</sup> See the extended discussion in Bowman, "An Open Letter," *Police Marksman*, July-Aug. 1986.

<sup>75</sup> Silver and Kates, "Handgun Ownership, Self-Defense and the Independence of Women in a Violent, Sexist Society," in D. Kates (ed.), *Restriction Handguns* at 144-47. Prof. Leddy, formerly a N.Y. officer, cites personal experience:

The ability of the state to protect us from personal violence is limited by resources and personnel shortages [in addition to which] the state is usually unable to know that we need protection until it is too late. By the time that the police can be notified and then arrive at the scene, the violent criminal has ample opportunity to do serious harm. *I once waited 20 minutes for the New York City Police to respond to an "officer needs assistance" call which has their highest priority.* On the other hand, a gun provides immediate protection. Even where the police are prompt and efficient, the gun is speedier.

From "The Ownership and Carrying of Personal Firearms," forthcoming in *Int'l J. Victimol.* (Emphasis added). Cf. the Riss and Silver cases cited above, as well as *Wong v. City of Miami*, 237 So.2d 132 (Fla., 1970). All emphasize the need for judicial deference to administrators' allocation of scarce police resources as a reason for denying liability for failure to protect.

<sup>76</sup> *Wiener v. Metropolitan Transit Authority*, 433 N.E. 2d 124, 127, 55 N.Y. 2d 175, 498 N.Y.S. 2d 141 (N.Y. App. Div. 1982).

# FORUM / LETTERS

## Concealed weapons protect victims, not criminals



Let's get one thing straight at the beginning: Police don't protect. Period. In fact, they are required by law to react after a crime is either in progress or is over. Police retaliate.

The illusion of police protection is one of the great myths that I, as a self-defense for women instructor, have to overcome. One of the other myths is that if a woman pulls a gun on a bad guy, he will summarily take it away from her and use it on her. That doesn't happen either.

But back to the police. They have been very good at finding ways to protect themselves. The concern that C.E. Swackhammer, Ron Otte and Brian Porter have about HB 351 (the bill to allow concealed carry of firearms) is that the passage of this bill might make it more dangerous for police officers. It might, but it definitely would make it more dangerous for the criminals.

Supporters of this bill have pointed to the Florida experience as a way of demonstrating what the passage of this bill means.

In total, there are 13 states that allow concealed carry. To date, there has been no research on the effects of concealed carry that includes all of these states.

But information has been developed about the Florida experience by Florida State University criminologist Gary Kleck. According to his data, approximately 1 million times a year an armed citizen defends himself or his property. Ninety-six percent of the time, he merely brandishes the weapon or fires a warning shot. In 2 percent of the cases, the citizen actually shoots the assailant. While defending themselves with firearms, the armed Florida citizen ended up killing between 2,000 to 3,000 criminals each year since 1987 when the law was enacted. This is three times the number killed by police during the same time-frame.

In a nationwide study, Kates found that about 2 percent of civilian shootings involved the



injury of an innocent citizen mistakenly identified as an assailant. The error rate for police, however, was 11 percent.

The difference in the "identification" problem is fairly easy to understand. If a citizen is standing at the bus stop of life and a bad guy comes up, pulls a knife and says, "Your money or your life," it is pretty obvious that a crime is in progress. Police, on the other hand, are usually not privy to that kind of exchange. They retaliate, after the fact, and try to sort out who did what to whom.

Self-defense laws, in general, favor protection of the police, the criminal justice system, and those who make their living off of those institutions. In short, if a citizen is going to act in self-defense, he must first try to run away. Failing that, he cannot escalate past what is being done to him (e.g., if the bad guy is unarmed, the good guy cannot start hitting the bad guy with a 2-by-4).

Then, once the bad guy is on the ground, the good guy must stop, wait for the bad guy to get up and present himself as a danger again before the good guy can act again. Additionally, the good guy can only use lethal force if he can prove to a jury that he was in fear of losing his life (or he was preventing another from losing his/her life).

If I had followed these guidelines as I fought my way through my early life, I wouldn't be alive today. Combat strategies that actually work will not fit neatly into those restrictive guidelines.

The fact is: Only the intended victim of a crime is in a position to: 1) establish that a crime is in progress, and 2) prevent that crime from occurring. No one else is in any position to do much of anything else except pick up the pieces — after the fact.

Another fact is: The handgun is the most powerful tool for prevention and protection that there is. A woman, trained in the use of a handgun, stands a good chance against the rapist, the estranged husband or boyfriend, the mugger, etc. FBI statistics say that in less than 1 percent of the cases reported did the assailant take a woman's gun away from her and use it on her. Again, compared to police giving their gun away, the citizen did better.

What does happen is that women are fully capable of defending themselves from violent attack:

- 92-year-old, wheelchair-bound Bessie Jones shot her assailants (USA Today, Nov. 10, 1993);
- After being blindfolded and raped, Madeline Morehouse reached the gun in her purse and held her rapist at gunpoint while she called the police (Seattle Times, May 13, 1993);
- "Woman Feeding Baby At Home Shoots Intruder" (San Antonio Express News, Aug. 10, 1993);
- "Widow of Police Chief Shoots Intruder" (Sacramento Bee, April 22, 1993).

The experience of the armed citizen is not that gun owners are homicidal, emotionally deranged, sub-human throwbacks who are just looking for an excuse to blow somebody away. They are, rather, decent, law-loving people who accept the fact that only they, the intended victims, can prevent crime.

└ Bruce Bibee is a seventh-degree black belt. He is the owner of Kung-Fu San Soo Center, and he has been teaching women's self-defense classes since 1976.

### Move legislature to Wasilla

The new capital designation which is coming onto the ballot in the general election in



has been spent. Why not let those who misappropriated our money personally return it. Gov. Hickel, then-Attorney General Cole, Barnes, Halford and the rest of the legislature

NEWS ARTICLE