

**SB**

**176**

<TARGET><BILL>SB 176</BILL><SUBJECT>SB  
176</SUBJECT><COMM>SJUD28</COMM></TARGET>

# Alaska State Legislature

Senate Majority Leader

Judiciary Committee

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In-State Energy Committee

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Rules Committee



Senator John Coghill

Session Address:  
State Capitol, Room 119  
Juneau, AK 99801-1182  
(907) 465-3719  
Fax (907-465-3258

Interim Address:  
1292 Sadler Way, Suite 340  
Fairbanks, AK 99701  
(907) 451-2997  
Fax (907) 451-3526  
877-465-3719

[www.aksenate.org](http://www.aksenate.org)

## SECTIONAL ANALYSIS

Senate Bill 176 *"An Act relating to the regulation of firearms and knives by the University of Alaska."*

**Section 1.** The legislature finds that the Board of Regents of the University of Alaska may not abridge the constitutionally protected right to keep and bear arms under art. I, sec. 19 of the State of Alaska's Constitution. This section clarifies the intent of the legislature; which is that the State of Alaska Constitution shall not be undermined by Board of Regents policy.

**Section 2.** This section requires the Board of Regents to comply with state law as it relates to firearm and knife possession. The authority to regulate firearms and knives is reserved to the state. Policies enacted and enforced by the Board of Regents that regulate firearms and knives must be pursuant to state law. Board of Regents policy shall not abridge the individual right to keep and bear arms.

# LEGAL SERVICES

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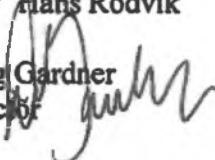
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Juneau, Alaska 99801-1182  
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## MEMORANDUM

February 6, 2014

**SUBJECT:** Firearms on University of Alaska Campuses  
(Work Order No. 28-LS1385\A)

**TO:** Senator John Coghill  
Attn: Hans Rodvik

**FROM:** Doug Gardner  
Director 

You asked for a bill applying the provisions of AS 29.35.145 regarding the regulation of firearms and knives to the Board of Regents of the University of Alaska (University). The drafting request you submitted raised a question regarding the autonomy of the University under art. VII, sec. 2 of the Constitution of the State of Alaska.

The University is a constitutionally-created independent corporation, with a great deal of autonomy. While it is not entirely clear, the legislature may be able to restrict the University from adopting or enforcing policies concerning firearms and knives as the legislature has done with municipalities, so it is likely that the bill you requested is constitutional.

Article VII, sec. 2, Constitution of the State of Alaska, provides the University with legal title to its property:

**SECTION 2. State University.** The University of Alaska is hereby established as the state university and constituted a body corporate. It shall have title to all real and personal property now or hereafter set aside for or conveyed to it. Its property shall be administered and disposed of according to law.

The University's Board of Regents has the care, control, and management of the lands and property deeded to it.<sup>1, 2</sup> It may adopt rules for the governance of the University.<sup>3</sup>

<sup>1</sup> In *State v. University of Alaska*, 624 P.2d 807, 814 - 15 (Alaska 1981), the Alaska Supreme Court acknowledged that the University held title to the land, but also that the legislature could dispose of land under certain circumstances.

<sup>2</sup> AS 14.40.170(a)(4).

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However, since the University must administer its property "according to law" the bill is arguably within the legislature's authority. Please review the bill draft and make sure that the changes I made to adapt the language of AS 29.35.145 to the University satisfies your request.

DDG:Ind  
14-045.Ind

Enclosure

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<sup>3</sup> AS 14.40.070(b)(1).

## SJUD CS FOR SENATE BILL 176

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### SJUD CS for SB 176 makes the following changes:

- Eliminated the findings and intent language

The section is no longer applicable, given the subsequent changes

- Eliminates the ability to open carry firearms

After hearing public testimony and the concerns about open carry of firearms, we removed the language that prohibited the Board of Regents from regulating open carry.

- Policies adopted and enforced by the Board of Regents may not restrict the possession of concealed handguns by a person with a concealed handgun permit, except that policies adopted and enforced may be the same as AS 11.61.190-11.61.220.

- The possession of firearms on campus shall be limited to concealed handguns possessed by law-abiding adults, 21 years of age or older, who possess a concealed handgun permit approved by the Department of Public Safety in accordance with AS 18.65.700-18.65.790

Though Alaska law does not require a law-abiding adult (21 years of age and older) to have a concealed handgun permit to carry a concealed handgun, we think, that given the uniqueness of the UA system, the requirement to obtain a concealed handgun permit is the least restrictive alternative that allows for the lawful exercise of two fundamental rights.

- In order for students to possess a handgun in student housing on university property they must meet three criteria. The criteria are: be a concealed handgun permit holder, provide proof of the permit to a designated university employee, and store the handgun in a lock box when the handgun is not concealed and directly controlled by the owner.

Michael Hostina  
General Counsel  
Matthew Cooper  
Associate General Counsel  
Ardith Lynch  
Associate General Counsel  
Michael O'Brien  
Associate General Counsel  
Larry Zervos  
Associate General Counsel

203 Butrovich Building  
P.O. Box 755160  
Fairbanks, Alaska 99775-5160  
Telephone: (907) 450-8080  
Facsimile: (907) 450-8081  
Legal@alaska.edu



**UNIVERSITY**  
*of* **ALASKA**  
*Many Traditions One Alaska*

March 5, 2014

**TO:** The Honorable John Coghill, Senate Majority Leader

**THROUGH:** Pat Gamble, President, University of Alaska

**FROM:** Michael Hostina, General Counsel, University of Alaska &  
Matt Cooper, Associate General Counsel

A handwritten signature in black ink, appearing to read "Michael B. Hostina".

**RE:** Legal Issues Posed by SB 176/HB 335<sup>1</sup>

Thank you for the opportunity to provide input regarding the legal impacts of SB 176, a bill relating to the regulation of firearms and knives<sup>2</sup> by the University of Alaska.

**A. Current Status of Regents' Policy and University Regulation Regarding Weapons**

Regents' Policy and University Regulation presently permit: supervised activities involving firearms on University premises; possession of firearms by campus residents, though students are required to use secure storage; transportation to approved activities or storage; possession on undeveloped and uninhabited University land; and possession and storage in private vehicles. Except as provided above, firearms are not permitted on developed University property, or in dorm, office, classroom or meeting space controlled and posted by the University. Violations of rules result in administrative, not criminal, penalties, and generally only after efforts to secure compliance.

**B. Regents' Policy and University Regulation Comply With Existing Law**

In our opinion, and given the current state of the law, Regent's Policy and University Regulation are reasonable, withstand scrutiny under constitutional analysis, are consistent with express legislative enactments concerning firearms and have not been preempted.

**(1) UA Restrictions are Reasonable and Have Analogs in Alaska Criminal Law**

The state and federal constitutions protect the right to keep and bear arms. However, like every other constitutional right, that right has limits and is subject to reasonable

<sup>1</sup> For ease of reference this memo will refer to SB 176 but is applicable to HB 335 as well.

<sup>2</sup> Regents' Policy and University Regulation do not regulate knives.

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regulation. For example, the Alaska Legislature has regulated this right by criminalizing possession of a firearm by certain people or in certain locations or circumstances. Criminalizing conduct is far more burdensome than the administrative regulation imposed by UA.

Firearms conduct criminalized<sup>3</sup> under state law includes:

- Concealed carry for people under 21;
- Concealed carry in residences, without the express permission of an adult resident;
- Loaded firearms in places where intoxicating liquor is served;
- Possession in child care facilities;
- Possession in court system facilities;
- Possession in domestic violence/sexual assault shelters;
- Possession in schools from pre-school through secondary school.

University campuses are complex and contain many sensitive places. They have many of the features of the places where the Alaska legislature has chosen to criminalize firearm possession. Universities include residences occupied by young adults where living space is limited and shared. Youthful residents in this setting may disregard security or may lack the maturity and judgment to insist that firearms not be present or that they be handled safely. Many University students are under 21.<sup>4</sup> Liquor may be served in pubs and is present in dormitories, legally and illegally. Both UAA and UAF have child care facilities. K-12 students are often on campus in large numbers, sometimes in extended residential, enrichment and college prep programs. Universities are schools and workplaces where responsible and irresponsible, healthy and troubled students and employees live and work side by side. Disciplinary and academic issues are adjudicated on a daily basis. Classrooms and workplaces range from completely benign to laboratories containing explosive and hazardous materials.

The significant similarities between the people, locations and circumstances prevailing on University campuses and those people, locations and circumstances in which the Legislature has criminalized firearm possession indicates that the University has regulated reasonably and creates an inference of constitutionality.

**(2) Presence on UA Premises Creates UA Responsibility & Potential Liability**

Some argue that UA should be treated no differently than municipalities because these conditions, including the presence of K-12 students, are present throughout our

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<sup>3</sup> A much broader array of conduct with weapons is regulated by law. See AS 11.61.190 - .220.

<sup>4</sup> In Fall 2013, 29% of students enrolled in for-credit courses were under 21 years of age; 7% were less than 18 years of age. This does not reflect numerous minors who participate in UA non-credit outreach programs.

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communities. However, when incidents occur on UA premises, the Board of Regents and University will be held responsible if the University fails to maintain a safe work and learning environment. By contrast, municipalities are not held responsible for failing to regulate what happens on public streets or in private homes. Nor are public streets and homes gathering places for thousands of people on a daily basis.

**(3) The University has Properly Regulated Firearms Under the Alaska and United States Constitutions.**

In 2010 and 2012 the US Supreme Court overturned firearm regulations in the District of Columbia<sup>5</sup> and City of Chicago.<sup>6</sup> The court clarified the scope of the second amendment, i.e., that it protects an individual's right and that the right applies to limit state as well as federal regulation of firearms.

While the cases properly are seen as confirming broad individual rights to bear arms, the US Supreme Court did not overturn all regulation of firearms. The *Heller* decision emphasized that the "right secured by the Second Amendment is not unlimited."<sup>7</sup> As the Court explained:

From Blackstone through the 19th-century cases, commentators and courts routinely explained that the right was not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose. For example, the majority of the 19th-century courts to consider the question held that prohibitions on carrying concealed weapons were lawful under the Second Amendment or state analogues ... [N]othing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms.<sup>8</sup>  
(emphases added) (citations omitted).

The Court added that it had listed "these presumptively lawful regulatory measures only as examples;" the list was illustrative, "not exhaustive."<sup>9</sup> The *McDonald* decision repeated this statement:

We made it clear in *Heller* that our holding did not cast doubt on such longstanding regulatory measures as prohibitions on the possession of

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<sup>5</sup> *District of Columbia v. Heller*, 554 U.S. 570 (2008).

<sup>6</sup> *McDonald v. Chicago*, 130 S.Ct. 3020 (2010)

<sup>7</sup> *Heller* at 626.

<sup>8</sup> *Id.* at 626–27.

<sup>9</sup> *Id.* at 627, n.26.

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firearms by felons and the mentally ill, laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms. We repeat those assurances here.”<sup>10</sup> (citation and internal quotation marks omitted).

The United State Supreme Court has not defined the level of scrutiny courts should apply to laws regulating firearms in sensitive places.<sup>11</sup> The Ninth Circuit adopted a two-step inquiry that “(1) asks whether the challenged law burdens conduct protected by the Second Amendment and (2) if so, directs courts to apply an appropriate level of scrutiny.”<sup>12</sup> The Ninth Circuit recently rejected the “rational basis” test and held that the level of scrutiny should depend on how close the law comes to the core of the Second Amendment right and the severity of the law’s burden on that right.<sup>13</sup>

The Court in *Heller* stated that the core of the Second Amendment is “the right of law-abiding, responsible citizens to use arms in defense of hearth and home.”<sup>14</sup> Regents’ Policy and University Regulation do not appear to strike at the “core” of the Second Amendment, given the limited time, place and manner nature of the restrictions, and that they apply only on premises for which the University is responsible. Moreover, the burden Regents’ Policy and University Regulation place on Second Amendment rights appears minimal to moderate. The appropriate standard is likely intermediate scrutiny, which requires that 1) the university have a significant, substantial, or important objective in regulating firearms and 2) a reasonable fit between Regents’ Policy and University Regulation and the objective.<sup>15</sup> Regents’ Policy and University Regulation likely meet this test.

The Alaska Constitution contains a provision that is similar but not identical to the Second Amendment:

A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed. The individual right to keep and bear arms shall not be denied or infringed by the State or a political subdivision of the State.  
Art. I, Sec. 19, Constitution of the State of Alaska.

The voters of Alaska added the second sentence of Article I, Section 19 in 1994. The right described is broad. However, as with any constitutional right, the government may

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<sup>10</sup> *McDonald* at 3047

<sup>11</sup> *United States v. Chovan*, 735 F.3d 1127, 1134 (9<sup>th</sup> Cir. 2013)(citing *United States v. Chester*, 628 F.3d 679, 682 (4<sup>th</sup> Cir. 2010)).

<sup>12</sup> *Id.* at 1136.

<sup>13</sup> *Id.* at 1138.

<sup>14</sup> *Id.* at 1138 (quoting *Heller*, 554 U.S. at 635).

<sup>15</sup> *Id.* at 1139.

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impose limits on the exercise of the right to bear arms. The Alaska Legislature is of course subject to constitutional constraints but the Legislature has regulated firearms in a number of areas as discussed earlier in this memo.

In *Wilson v. State*, the Alaska Court of Appeals looked at whether the 1994 amendment to Article I, Section 19 invalidated Alaska law prohibiting felons from possessing firearms.<sup>16</sup> Without applying one of the traditional tests for constitutional analysis, the Court of Appeals concluded that the voters had not intended to invalidate Alaska's laws regulating firearms that pre-dated the amendment.<sup>17</sup> However, in his dissent, Judge Mannheimer independently reviewed the history of the constitutional amendment and concluded that the state needs more than a reasonable basis to enact laws regulating firearms; it needs a compelling state interest and a narrowly tailored law.<sup>18</sup>

Existing Alaska law requires that the legislature (or the university in this case) have a reasonable basis for regulating constitutional rights, i.e., "has a reasonable relationship to a legitimate government purpose."<sup>19</sup> Current university policy and regulation meet that standard. However, if Judge Mannheimer is correct and a future court determines that state regulation of firearms must pass the "strict scrutiny" test, then the university must establish that its policy and regulation advance a compelling state interest and use the least restrictive means available.<sup>20</sup> This would pose a much closer question. However, the fact that these restrictions govern UA premises rather than firearms more broadly, and that they regulate premises that share significant congruity with state criminal law and other sensitive places, weighs in UA's favor.

The difficulty with applying Alaska constitutional analysis is that the Alaska Supreme Court applies a sliding scale that begins "by measuring the weight and depth of the individual right at stake."<sup>21</sup> If a right is fundamental, then the strict scrutiny test applies.<sup>22</sup> The court recognizes that even fundamental rights are not absolute and essentially balances the interests involved.<sup>23</sup> Unfortunately, no Alaska court has analyzed the nature of the right to bear arms under the state constitution so the end result of a constitutional challenge is unclear; however, current Regents' Policy and University Regulation do not conflict with the state constitution on their face or as a matter of law.

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<sup>16</sup> 207 P.3d 565 (Alaska App. 2009).

<sup>17</sup> *Id.* at 568.

<sup>18</sup> *Id.* at 571.

<sup>19</sup> *Ravin v. State*, 537 P.2d 494, 497-98 (Alaska 1975).

<sup>20</sup> *State v. Planned Parenthood of Alaska*, 171 P.3d 577 (Alaska 2007).

<sup>21</sup> *Id.* at 581.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

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**(4) Regent's Policy and University Regulation are Not Contrary to Current State Law**

In our opinion the limited administrative restrictions imposed by Regents' Policy and University Regulation do not violate current state statute. The most common argument that Regents' Policy regarding concealed carry is contrary to state law involves the 2003 amendments to AS 11.61.220. Those amendments among other things decriminalized concealed carry without a permit. However, the fact that concealed carry is not prohibited or criminalized by state law does not require the conclusion that the Board may not govern University property and premises by restricting firearms and imposing administrative penalties. For example, the repeal of prohibition did not mean that alcohol could not be regulated.

UA has responded when the legislature has restricted UA's ability to regulate firearms. In February of 2010 the university amended Regulation 02.09.020 to comply with AS 18.65.800.<sup>24</sup> There do not appear to be any new state law enactments relating to firearms or weapons that directly affect the university's weapons policy.<sup>25</sup>

**(5) Existing State Law Regulating Firearms does not Preempt the University's Authority to Regulate Firearms.**

In our opinion, current Regent's Policy and University Regulation are not preempted by state law. Review of relevant case law and statutory provisions establishes that with the exception of municipalities, the Alaska Legislature has not expressly stated its desire to preempt the entire field of firearm regulation. Nor are there grounds to conclude that preemption exists by implication.

Cases involving home rule municipalities make up the bulk of Alaska preemption case law and are instructive here given the similarities between the powers granted to home rule municipalities and the Board of Regents through the state constitution.<sup>26</sup> Home rule municipalities have all legislative powers not prohibited by law or charter.<sup>27</sup> Conflicts arise between municipal enactments and state law. However, a "municipal ordinance is not necessarily invalid ... because it is inconsistent or in conflict with state statute. The question turns on whether exercise of authority has been prohibited to municipalities. *The prohibition must be either by express terms or by implication such as where the statute and ordinance are so substantially irreconcilable that one cannot be given its substantive*

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<sup>24</sup> AS 18.65.800 prohibits the state from adopting or enforcing a law, regulation, policy or rule prohibiting an individual from possessing a firearm in a motor vehicle. This statute is now reflected in University Regulation R02.09.020(A).

<sup>25</sup> Most notably, the legislature enacted Stand Your Ground legislation and the Knife Rights Act (allowing possession of certain switchblade and gravity knives). Since these laws do not affect firearm possession, they do not affect current university policy or regulation.

<sup>26</sup> See Article X, Section 11 and Article VII, Section 2 and 3; Constitution of the State of Alaska.

<sup>27</sup> Article X, Section 11; Constitution of the State of Alaska.

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*effect if the other is to be accorded the weight of law.*<sup>28</sup> For state law to preempt local authority, “it is not enough for state law to occupy the field. Rather, ‘[i]f the legislature wishes to ‘preempt’ an entire field, [it] must so state.’”<sup>29</sup>

Current state law is not in conflict with Regent’s policy or University Regulation such that both cannot be accorded the weight of law. Nor has the legislature expressed an intent to preempt the field of firearm regulation with respect to entities other than municipalities. The argument that AS 18.65.755 and AS 29.35.145(a), read together, preempt the university’s authority to regulate concealed handguns is not persuasive.

AS 18.65.755 is part of a chapter dealing with concealed carry permits. Before significant repeals, it specified places where a person even with a permit could not possess a concealed weapon. That list is now limited to places where it is illegal to carry concealed firearms under state or federal law. One might argue that this creates a negative implication that an individual may possess a concealed weapon anywhere not on the list. However this statute never created rights, it limited them and provided criminal penalties for violation.<sup>30</sup> As discussed in the previous section, the fact that something is not criminal, or even that it has been decriminalized, does not mean that it must be permitted or that it cannot be administratively regulated.

Significantly, the same chapter and section explicitly preempts municipal restrictions on concealed carry. AS 18.65.778 provides:

A municipality may not restrict the carrying of a concealed handgun by permit under AS 18.65.700--18.65.790.

This express preemption of municipalities is at best inconsistent with the idea that the Legislature intended to preempt University regulation by inference. Given that full weight can be given both AS 18.65.755 and Regent’s Policy at the same time, preemption by inference is not supported.

AS 29.35.145(a) also prohibits a “municipality” from enacting or enforcing an ordinance regulating the possession, ownership, sale, transfer, use, carrying, transportation, licensing, taxation, or registration of firearm.<sup>31</sup> While the preamble states that regulation of firearms is reserved to the state,<sup>32</sup> the statute is located in the chapter governing municipalities, and expressly preempts municipal regulation of firearms. While this statute makes clear that the Legislature intended to preempt municipalities from the field of firearm regulation, that is not the case with respect to the University.

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<sup>28</sup> *Jefferson v. State*, 527 P.2d 37, 43 (Alaska 1974) (emphasis added).

<sup>29</sup> *Municipality of Anchorage v. Repasky*, 34 P.3d 302, 311 (Alaska 2001).

<sup>30</sup> AS 18.65.755(c) provides: “ In addition to any other penalty provided by law, a person who violates this section is guilty of a class B misdemeanor.

<sup>31</sup> As noted earlier, this statute is the analog of SB 176.

<sup>32</sup> The University is of course an entity of the state.

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### **C. The Approach in SB 176/HB 335 is Problematic in the University Context**

Two points are worth emphasizing at the outset of discussion of the bill: (1) SB 176 is not limited to concealed carry but also applies to open carry of long guns; (2) University "policies" are fundamentally different from municipal ordinances.

SB 176 is based on AS 29.35.145 which restricts municipal "ordinances" regarding firearms and knives. SB 176 contains language similar to AS 29.35.145, but instead restricts University "policies." Municipal ordinances could broadly affect the general public's right to possess and bear arms throughout a municipality, in private as well as on public property.

By contrast, University policies only apply on premises owned or controlled by the University. Policies also are the vehicle used by the Board of Regents and administration to regulate conduct of students, employees and visitors to UA premises. As a result, UA's restrictions may more aptly be regarded as regulation of UA premises than general regulation of firearms. Policies are the only means for managing student, employee and visitor conduct involving weapons on University premises.

#### **(1) SB 176 Provisions for Regulation are Unworkable as Written**

SB 176 in Sec. 14.40.173(a) would prohibit the Board of Regents from regulating firearms and knives "except as specifically provided by statute."

Sub-section (b) contains provisions allowing regulation that also are taken from the municipal statute. However, these provisions do not provide the Board of Regents with any meaningful ability to regulate firearms apart from enforcing criminal law. Part (b) would provide in pertinent part:

**Sec. 14.40.173. (b) The board of regents may adopt and enforce policies**  
**(1) that are identical to state law and that have the same penalty as provided for by state law;**  
**(2) restricting the discharge of firearms on any portion of university land where there is a reasonable likelihood that people, domestic animals, or property will be jeopardized; policies adopted or enforced under this paragraph may not abridge the right of the individual guaranteed by art. I, sec. 19, Constitution of the State of Alaska, to bear arms in defense of self or others; and**  
**(3) prohibiting the possession of firearms or knives in the restricted access area of university buildings; the university shall post notice of the**

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prohibition against possession of firearms or knives at each entrance to the restricted access area.<sup>33</sup>  
(c) . . . (Emphasis added.)

First, the language of SB 176 appears to permit UA to impose restrictions and penalties. However, restrictions and penalties must be identical to those in state law. State law restrictions and penalties are criminal in nature. UA lacks authority to impose criminal penalties.

Lesser administrative sanctions arguably could not be imposed because they are not "identical" to those in state law. Ironically, while a student, employee or visitor might face jail for criminal weapons misconduct, the University arguably would not be able to restrict that same individual from campus, suspend or expel if a student, or terminate employment.<sup>34</sup> UA's only clear path would be to seek arrest and prosecution of the student, employee or campus visitor. Relying solely on criminal law to regulate conduct involving weapons is to use a blunt instrument at best. Pending decisions about prosecution (or after incarceration, if any, ends), the individual who engaged in weapons misconduct could be accessing UA dorms, classes, offices, day cares, labs containing hazardous materials, critical infrastructure or UA's numerous programs involving K-12 students.

In addition, a criminal act that is not prosecuted, or conduct by students and employees that involves weapons and implicates safety but falls short of a criminal act, also arguably could not be addressed. For example, the University arguably could not take action in response to possession of weapons by students who are depressed or subject to administrative discipline, troubled employees, or individuals who openly carry weapons in an effort to intimidate faculty or colleagues with whom they have disputes.<sup>35</sup>

So, as President Gamble noted in his testimony to the committee on March 3, 2014, if a 16 year old shows up at a RAHI meeting (or for that matter, a graduation, performance, hockey game or disciplinary proceeding) with a shotgun, UA would not be permitted to take any action and must permit the individual to attend.

The bill also provides that the Board of Regents may establish "restricted access areas." For reasons discussed in more detail below, the University's operations are far more complex than those of municipalities. University operations involve literally thousands of K-12 children and young adults in an environment in which common public areas cannot be segregated neatly from sensitive areas.

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<sup>33</sup> "Restricted access area" would be defined in (c)(2) to mean "the area beyond a secure point where visitors are screened and does not include common areas of ingress and egress open to the general public."

<sup>34</sup> The University would of course seek some way to remove an individual posing a safety threat from campus. However, if the issue involved a weapon, we could anticipate a strong legal challenge.

<sup>35</sup> The same caveat discussed in footnote 34 applies here.

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These bills would significantly affect the regents' ability to regulate student and employee conduct and to provide for the safety of University premises. This is what the regents are charged to do by the constitution and other state law.<sup>36</sup> Thus regents and UA may be held responsible and liable for failing to take action when warning signs are evident even if UA is precluded from doing so.

**D. Enactment of SB 176 would, on its Face, Preempt the Board of Regents' Authority to Regulate Firearms.**

The preceding discussion analyzes the current state of Alaska law. Assuming that the law as enacted is constitutional, SB 176 would render preemption analysis moot as it would expressly and unequivocally express the Legislature's intent to preempt the university's authority to regulate firearms. That would leave only two issues, whether the regents' constitutional authority to govern the University or the constitutional prohibition on special legislation precludes this particular legislative action.

**E. The Outcome of a Legal Challenge to SB 176 is Uncertain.**

SB 176 poses two constitutional issues. Does the bill violate the constitutional restriction on "special" legislation, and does the bill violate the Board of Regents' constitutional authority to govern the University?

**(1) Is SB 176 "Special" Legislation Prohibited by the Alaska Constitution?**

One potential constitutional challenge to SB 176 is that it violates the state's constitutional prohibition on local and special legislation because it is not generally applicable and affects only the university.<sup>37</sup> A two-stage test is used to determine whether legislation violates this constitutional prohibition. The first stage is a threshold

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<sup>36</sup> AK Const. Art. 7, § 3 Board of Regents provides: "The University of Alaska shall be governed by a board of regents. The regents shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session. The board shall, in accordance with law, formulate policy and appoint the president of the university. He shall be the executive officer of the board." AS 14.40.170 provides: (a) The Board of Regents shall

...

- (4) have the care, control, and management of
  - (A) all the real and personal property of the university; and

...

- (b) The Board of Regents may
  - (1) adopt reasonable rules, orders, and plans with reasonable penalties for the good government of the university and for the regulation of the Board of Regents;

...

<sup>37</sup> Article II, Section 19; Constitution of the State of Alaska. 19. Local or Special Acts. "The legislature shall pass no local or special act if a general act can be made applicable. Whether a general act can be made applicable shall be subject to judicial determination. Local acts necessitating appropriations by a political subdivision may not become effective unless approved by a majority of the qualified voters voting thereon in the subdivision affected."

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inquiry “as to whether the proposed legislation is of general, statewide applicability.”<sup>38</sup> If the legislation is not applicable statewide, the court looks at the “relationship between the narrow focus of the proposed legislation and the purpose of the proposed legislation.”<sup>39</sup> The inquiry at the second stage assesses “whether the legislation bears a ‘fair and substantial relationship’ to legitimate purposes.”<sup>40</sup> If this standard is satisfied, the legislation generally is not invalid. Moreover, legislation need not operate evenly in all parts of the state to avoid being classified as local or special.<sup>41</sup> However, it is not clear whether this relatively low standard would be applied in dealing with subjects of legislation that have independent constitutional protection, such as the Board of Regents’ constitutional authority to govern the University.

**(2) Does SB 176 Violate the Board of Regents’ Constitutional Authority to Govern the University?**

Another potential challenge to SB 176 is that it arguably violates the Board of Regents’ constitutional grant of authority to govern and the university’s unique status as a constitutional corporation separate from other branches of state government.<sup>42</sup> For better or worse, there is no case law addressing an effort by the Legislature to overturn specific governance decisions by the Board of Regents.

Two constitutional provisions address UA’s governance and status:

**AK Const. Art. 7, § 2 State University**

The University of Alaska is hereby established as the state university and constituted a body corporate. It shall have title to all real and personal property now or hereafter set aside for or conveyed to it. Its property shall be administered and disposed of according to law.  
(Emphasis added.)

**AK Const. Art. 7, § 3 Board of Regents**

The University of Alaska shall be governed by a board of regents. The regents shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session. The board shall, in accordance with law, formulate policy and appoint the president of the university. He shall be the executive officer of the board.  
(Emphasis added.)

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<sup>38</sup> *Pebble Ltd. Partnership ex rel. Pebble Mines Corp. v. Parnell*, 215 P.3d 1064, 1078 (Alaska 2009).

<sup>39</sup> *Id.* at 1078-79.

<sup>40</sup> *Id.*, citing *State v. Lewis*, 559 P.2d 630, 643 (Alaska 1977).

<sup>41</sup> *Id.*

<sup>42</sup> *University of Alaska v National Aircraft Leasing*, 536 P.2d 121 (1975). This case addressed whether the University should be considered “the state” for purposes of determining whether a statute restricting all suits against the state to bench trials applied to the University.

The Honorable John Coghill, Senate Majority Leader  
RE: Legal Issues Posed by SB 176/HB 335  
March 5, 2014  
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Both provisions require that the board administer property & govern UA "in accordance with law." On its face that language may be read to subject the Board and University to all enacted laws, including those that deal solely with UA. And there is no question that despite significant independence, the university is "subject to some executive and legislative control" and that the "formulation of university policy as well as administration and disposition of university property are made subject to legislative enactment."<sup>43</sup> However, an argument remains that while the board must comply with generally applicable law (e.g., Board of Regents can't engage in criminal acts and must comply with laws that are broadly applicable to government entities), the legislature may not pass laws that deprive the board of its essential authority to govern UA. Arguably the drafters would have been mindful of the "special legislation" limitation they had crafted and may have intended the phrase "in accordance with law" to be interpreted to mean broadly applicable law.

This argument is supported by the proceedings of the Alaska Constitutional Convention which reflect the intention of the drafters to insulate the university from political interference.<sup>44</sup> The language of the twin constitutional provisions and intent of the drafters would mean little if the legislature could "govern" UA through narrowly tailored legislation. However, even assuming that there are constitutional limits on the legislature's ability to constrain the board's ability to "govern," the distinction between legitimate policy-making for state government and interference in UA governance likely would be determined on a case-by-case basis, perhaps favoring the board in special legislation or academic matters and the legislature in broadly applicable laws on matters of more general concern to the public.

It is worth noting that in 2012 the University of Colorado Board lost a similar but by no means identical argument over concealed carry on campus. The Colorado constitution contains significantly different language that expressly makes the Colorado university system "subject to the control of the state," and expressly limits the board's grant of authority to supervise institutions with the phrase, "unless otherwise provided by law." In pertinent part the provision reads: The university shall be established and managed "*subject to the control of the state, under the provisions of the constitution and such laws and regulations as the general assembly may provide;*" and "*The governing boards . . . shall have the general supervision of their respective institutions and the exclusive control and direction of all funds of and appropriations to their respective institutions, unless otherwise provided by law.*" Unlike Alaska's constitution, this language specifically permits removal of the Colorado board's authority to govern.

### Conclusion

SB 176 will have far reaching and, we believe, unintended legal consequences if adopted.

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<sup>43</sup> *Id.*, at 124.

<sup>44</sup> 2007 Alaska Op. Atty. Gen. 1 at 3.

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**Today the university manages its premises and responds appropriately and immediately to known, potentially unsafe situations involving weapons. UA will not be able to do so if these bills pass. Today if someone openly carrying a weapon approaches a UA graduation ceremony or sporting event, enters UA housing, displays a weapon in a classroom or takes up a position with a weapon in a corridor, UA can contact them, ask them to put the weapon in secure storage or a locked car, or ask them to leave campus with the weapon if they decline. These are administrative procedures.**

**The day after SB 176 becomes law, UA will not be permitted to restrict even openly carried long guns into these settings and must wait for that person to commit a crime to take action--even if UA knows the student, staff or visitor is depressed, suicidal, angry about a grade, evaluation or disciplinary action, or in a serious dispute with another student, colleague or significant other in that location. This creates a significant potential for preventable tragedy and liability where one office of the University knows about the circumstances but the institution cannot take action.**

**The bill would: prohibit administrative penalties for criminal misconduct, thus allowing offenders to remain on or return to campus; prohibit administrative intervention in cases such as troubled individuals possessing weapons or when weapons are openly carried into labs, classrooms, grievance meetings or large gatherings; and prohibit restrictions on weapons around sensitive areas or populations.**

**SB 176 would deny the Board of Regents any meaningful authority to regulate individuals on University premises with respect to weapons, even while the Board of Regents and UA are likely to be held legally responsible for issues involving weapons on UA premises. As a result, the bill significantly impacts the university's ability to manage risk proactively and to respond to a range of inappropriate and even criminal misconduct.**

# Fiscal Note

State of Alaska  
2014 Legislative Session

Bill Version: CSSB 176(JUD)  
Fiscal Note Number: 1  
(S) Publish Date: 3/24/14

Identifier: SB176CS(JUD)-UA-SYSBRA-3-21-14  
Title: REG. OF FIREARMS/KNIVES BY UNIVERSITY  
Sponsor: COGHILL  
Requester: Senate Judiciary

Department: University of Alaska  
Appropriation: University of Alaska  
Allocation: Budget Reductions/Additions - Systemwide  
OMB Component Number: 1296

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2015 Request	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
<b>OPERATING EXPENDITURES</b>	<b>FY 2015</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>
Personal Services							
Travel							
Services	450.0						
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>450.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

1004 Gen Fund	450.0						
<b>Total</b>	<b>450.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time							
Part-time							
Temporary							

<b>Change in Revenues</b>							
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**Estimated SUPPLEMENTAL (FY2014) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2015) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? **yes**  
If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version:**

Updated for CS(JUD).
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Prepared By: <u>Michelle Rizk</u>	Phone: <u>(907)450-8187</u>
Division: <u>University of Alaska</u>	Date: <u>03/19/2014 11:00 AM</u>
Approved By: <u>Michelle Rizk</u>	Date: <u>03/19/14</u>
Agency: <u>University of Alaska</u>	

## FISCAL NOTE ANALYSIS #1

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. CSSB 176(JUD)

### Analysis

There is significant uncertainty, fiscal and otherwise, associated with the downstream effects of the CS for SB 176.

The CS would require that UA allow concealed carry of handguns by permit holders on UA premises, including: in residences (but student housing could require proof of a permit and use of lockboxes); in buildings and areas of campus where UA programs for K-12 students are held or students are present; in museums and libraries (but an individual who is "participating in a [K-12] sponsored event" may not possess a weapon); in buildings housing day care centers (though not in the day care itself or in an adjacent parking lot); in medical and counseling centers; in buildings where student disciplinary, personnel and sexual harassment complaints are adjudicated and evaluations for faculty tenure are conducted; in halls and arenas used for graduations, cultural and sporting events (though not when a K-12 "sponsored event" is occurring or in a place "where intoxicating liquor is served for consumption on the premises"); in dining halls; in classrooms; in labs containing hazardous materials; in animal care facilities; and in areas and buildings housing critical infrastructure such as the Poker Flat Rocket Range, earth satellite stations, power and water treatment plants, super computers, networking and telecommunications gear.

These complex and conflicting requirements will at a minimum require comprehensive re-writes of policies, regulations, campus handbooks and training materials, as well as additional training for police, residence life and other staff and faculty. They also can be expected to result in additional claims against UA for failure to enforce or for wrongful enforcement.

The CS would **require that UA allow permitted concealed firearms in circumstances in which firearms are restricted off-campus**, including the following:

- firearms in dorms where 60% of UA residential students are under 21, and where, unlike private housing, UA is the "adult" in dorms – UA retains authority & responsibility for dorms, hires RA's to maintain safety, order and provide counseling;
- Liquor is served in campus pubs and is present in dormitories;
- Both UAA and UAF have child care facilities on campus;
- UA adjudicates disciplinary and academic issues daily;
- UA operates health & counseling centers & sexual harassment offices;
- K-12 students regularly attend UA's 16 campuses in large numbers**, sometimes in extended residential, enrichment and college prep programs, often daily after school.

For example, under the CS, UA could not restrict armed permit holders from areas where UA-sponsored K-12 programming occurs or from dorms where armed permit holders would live and interact with students and visitors for whom concealed carry is a crime as well as with students or visitors without permits. UA will be placed in a situation where it cannot enforce the standard of care created by the Legislature but will still be responsible and liable for taking action to ensure safety. As a result, UA must attempt to mitigate risks even while potential liability increases. This will result in increased operating and insurance costs or in some cases reduction in programming and revenues.

The Report to the NRA by the National School Shield Task Force recommends 60-80 hours of training for school **employees** who are authorized to be armed. By contrast, a concealed carry permit requires only 12 hours of self-defense, legal and weapons handling training, and permittees are self-selected.

FISCAL NOTE ANALYSIS #1

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. CSSB 176(JUD)

**Analysis Continued**

The same NRA-sponsored report recommends that schools react to behavior that indicates a risk to a school. However, the CS would prohibit UA from restricting weapons of permit holders whose behavior indicates risk. For example, a permit holder who is involuntarily hospitalized for psychological **evaluation** or who exhibits warning signs including depression, suicide gestures, overt hostility or aggression, everyday occurrences on residential college campuses, doesn't lose his/her permit. That's because no state law prohibits possession of firearms by those with psychological disturbances; federal law prohibits possession by those "adjudicated as a mental defective" or "committed to a mental institution." These formal mental health adjudications are rare.

The CS also would prevent restrictions on permit holders who have committed or who later commit certain crimes. The permit law allows one class A misdemeanor in the past 6 years. So UA could not restrict concealed carry if a permit holder: is convicted once, for example, of stalking in the second degree, assault in the 4th degree, or is convicted of an Attempt or Solicitation of a Class C Felony.

Given UA's responsibility for occurrences on its premises, including dorms, and the high standard of care that applies to circumstances prevailing on its premises, inability to restrict handguns in these and other sensitive areas described above will require that UA explore additional security. Because UA's facilities inventory and programs are so extensive, it is not clear what additional security measures would be appropriate. The University of Alaska would hire a consultant to do a facilities and program inventory and security analysis. The University is responsible for 414 facilities at 3 universities, 14 community campuses, and numerous outreach centers across the State. The projected cost of the study is \$450,000.

Additional costs are indeterminate and may include the costs of secure firearm storage in dorms, hiring additional security personnel recommended by the study and additional policing, counseling, student discipline, insurance, claims and litigation defense costs. In Boise, where more restrictive legislation recently passed, the municipal chief of police estimated additional campus security costs at \$500,000 per year for one campus.

With the passage of CS SB176, Board of Regents' policy P.02.09.020 and university regulation R.02.09.020 "Possession of Weapons" would need to be updated. The date would be based on the bill's effective date.

# Alaska State Legislature

Senate Majority Leader

Judiciary Committee

Chairman

In-State Energy Committee

Co-Chair

State Affairs Committee

Joint Armed Services Committee

Legislative Council

Rules Committee



Senator John Coghill

Session Address:  
State Capitol, Room 119  
Juneau, AK 99801-1182  
(907) 465-3719  
Fax (907) 465-3258

Interim Address:  
1292 Sadler Way, Suite 340  
Fairbanks, AK 99701  
(907) 451-2997  
Fax (907) 451-3526  
877-465-3719

[www.aksenate.org](http://www.aksenate.org)

## Sponsor Statement

### **SB 176 “An act relating to the regulation of firearms and knives by the University of Alaska”**

Senate Bill 176 requires the board of regents to comply with Alaska’s constitution and statute. Senate Bill 176 allows law-abiding citizens to carry concealed firearms while pursuing a higher education in Alaska. Senate Bill 176 resolves the conflict posed by current board of regent policy.

Art. 1, Sec. 19 of the Constitution of the State of Alaska guarantees the individual right to keep and bear arms. This right shall not be infringed by the State or a political subdivision of the State. Subsequently, AS 29.35.145 reserves the power to regulate firearms and knives to the state. Current state law does not prohibit law-abiding citizens from exercising their individual, constitutional right to keep and bear arms at University of Alaska campuses.

The Constitution of the State of Alaska established the University of Alaska as the state university. Art. 7, Sec. 3 of the Constitution of the State of Alaska created the board of regents. The regents are appointed by the governor and subject to a confirmation vote of the legislature in joint session. Therefore, the University of Alaska and the board of regents are political subdivisions of the State of Alaska. Furthermore, the board of regents is bound to formulate policy in accordance with state law.

However, since 1995, the board of regents has (via administrative policy) prohibited the carrying of concealed handguns. The prohibited areas include: university property; university offices or classrooms inside buildings not on university property; and university sponsored activities or meetings not on university property.

History has proven that mentally deranged criminals target vulnerable populations (as was the case at Virginia Tech, Northern Illinois University and Newtown). This should not be the situation at our public universities in Alaska. Law-abiding citizens do not lose the fundamental right to protect themselves, and others, simply because they enter the grounds of UA campuses.

I encourage you to support Senate Bill 176.

For more information contact Hans Rodvik in Senator Coghill’s office at (907) 465-3719

# CRIMINAL OFFENSES: CALENDAR YEARS 2005 - 07 17

MURDER/NON-NEGLIGENT MANSLAUGHTER	FORCIBLE SEX OFFENSE	NON-FORCIBLE SEX OFFENSE	BURGLARY	ROBBERY	AGGRAVATED ASSAULT	MOTOR VEHICLE THEFT	NEGLIGENT MANSLAUGHTER	ARSON	LARCENY THEFT
05 06 07	05 06 07	05 06 07	05 06 07	05 06 07	05 06 07	05 06 07	05 06 07	05 06 07	05 06 07

## ANCHORAGE CAMPUS

CAMPUS ALL	0 0 0	0 1 1	0 0 0	9 9 3	1 5 1	5 8 2	1 2 4	0 0 0	0 0 1	128 72 97
HOUSING	0 0 0	0 1 1	0 0 0	6 3 1	1 5 1	3 4 1	0 0 0	0 0 1	38 21 26	
OTHER	0 0 0	0 0 0	0 0 0	3 6 2	0 0 0	2 4 1	1 2 4	0 0 0	0 0 0	90 51 71
NON-CAMPUS	0 0 0	0 0 0	0 0 0	4 1 1	0 0 0	0 0 0	1 0 0	0 0 0	0 0 0	10 4 7
PUBLIC PROPERTY	0 0 0	0 0 0	0 0 0	0 0 0	1 0 0	0 0 0	0 0 0	0 0 0	0 0 0	2 4 0

## WACHUSSETT BAY CAMPUS\*\*

ON CAMPUS	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0
NON CAMPUS	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0
PUBLIC PROPERTY	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0

## WELLS RIVER CAMPUS\*

ON CAMPUS	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 1 0
PUBLIC PROPERTY	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0

## WODIAN COLLEGE\*

ON CAMPUS	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0
PUBLIC PROPERTY	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0

## WATKINSKA-SOSITNA COLLEGE\*

ON CAMPUS	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 1 4
PUBLIC PROPERTY	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0	0 0 0

\*\* There is no University housing at this location.

\* There were no non-campus sites or University housing at this location in 2005-07.

# HATE CRIMES CALENDAR YEARS 2005 - 07

There were no hate crimes reported for the years 2005, 2006, or 2007 at any reportable locations.

# ARRESTS & CITATIONS CALENDAR YEARS 2005 - 07

LIQUOR LAW VIOLATIONS			DRUG LAW VIOLATIONS			WEAPONS LAW VIOLATIONS		
05	06	07	05	06	07	05	06	07

### ANCHORAGE CAMPUS

CAMPUS ALL	163	142	139	15	17	25	1	1	0
HOUSING	162	130	123	13	12	14	0	0	0
OTHER	21	12	16	2	5	11	1	1	0
NON-CAMPUS	0	0	0	0	1	0	0	0	0
PUBLIC PROPERTY	17	6	27	3	22	24	1	3	5

### KACHEMAK BAY CAMPUS\*\*

ON CAMPUS	0	0	3	0	0	0	0	0	0
NON-CAMPUS	0	0	0	0	0	0	0	0	0
PUBLIC PROPERTY	0	0	0	0	0	0	0	0	0

### KENAI RIVER CAMPUS\*

ON CAMPUS	0	0	0	0	1	2	0	0	0
PUBLIC PROPERTY	0	0	0	0	0	0	0	0	0

### KODIAK COLLEGE\*

ON CAMPUS	0	0	0	0	0	0	0	0	0
PUBLIC PROPERTY	0	0	0	0	0	2	0	0	0

### NATANSKA-SUSITNA COLLEGE\*

ON CAMPUS	0	0	1	0	0	0	0	0	0
PUBLIC PROPERTY	0	0	0	0	0	0	0	0	0

\*\* There is no University housing at this location.

\* There were no non-campus sites or University housing at this location in 2005-07.

*Arrest statistics compiled by the University of Alaska Anchorage Police Department.*

# DISCIPLINARY ACTION/JUDICIAL REFERRALS CALENDAR YEARS 2005 - 07

In accordance with U.S. Department of Education guidelines for minimizing duplicated counts, incidents counted as Arrests and Citations on page 18, that also resulted in a disciplinary referral, appear only once under Arrests and Citations.

LIQUOR LAW VIOLATIONS			DRUG LAW VIOLATIONS			WEAPONS LAW VIOLATIONS		
05	06	07	05	06	07	05	06	07

### ANCHORAGE CAMPUS

CAMPUS ALL	63	50	40	20	15	10	0	1	2
HOUSING	60	49	40	20	15	9	0	1	2
OTHER	3	1	0	0	0	1	0	0	0
NON-CAMPUS	0	3	3	0	0	0	0	0	0
PUBLIC PROPERTY	0	0	0	0	0	0	0	0	0

### KACHEMAK BAY CAMPUS\*\*

ON CAMPUS	0	0	0	0	0	0	0	0	0
NON-CAMPUS	0	0	0	0	0	0	0	0	0
PUBLIC PROPERTY	0	0	0	0	0	0	0	0	0

### KENAI RIVER CAMPUS\*

ON CAMPUS	0	0	0	0	0	0	0	0	0
PUBLIC PROPERTY	0	0	0	0	0	0	0	0	0

### KODIAK COLLEGE\*

ON CAMPUS	0	0	0	0	0	0	0	0	0
PUBLIC PROPERTY	0	0	0	0	0	0	0	0	0

### NATANUSKA-SUSITNA COLLEGE\*

ON CAMPUS	0	0	0	0	0	0	0	0	0
PUBLIC PROPERTY	0	0	0	0	0	0	0	0	0

\*\* There is no University housing at this location.

\* There were no non-campus sites or University housing at this location in 2005-07.

*Disciplinary Actions/Judicial Referral statistics compiled by the University of Alaska Anchorage Dean of Students Office.*

## CAMPUS CRIME REPORT DEFINITIONS

### **FORCIBLE SEX OFFENSE**

Any sexual act directed against another person, forcibly and/or against that person's will, or not forcibly or against the person's will where the survivor is incapable of giving consent. Includes forcible rape, forcible sodomy, sexual assault with an object, and forcible fondling.

### **HATE OFFENSE**

Any crime that an institution must generally report and any other crime involving bodily injury that is reported to local police agencies or to a campus security authority that manifests evidence that the survivor was intentionally selected because of the survivor's actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability.

### **LIQUOR LAW VIOLATIONS**

The violation of laws or ordinances prohibiting the manufacture, sale, transporting, furnishing, possessing of intoxicating liquor; maintaining unlawful drinking places; bootlegging; operating a still; furnishing liquor to a minor or intemperate person; using a vehicle for illegal transportation of liquor; drinking on a train or public conveyance; and all attempts to commit any of the aforementioned. Drunkenness and driving under the influence are not included in this definition.

### **NON-CAMPUS**

University locations not reasonably contiguous to the main campus. At the Anchorage campus, this includes the Adult Learning Center, Alaska Comprehensive and Specialized Evaluation Services, Aviation Technology Center, Diplomacy Building, University Center, and Eagle River campus. At the Kachemak Bay campus, this includes the Resurrection Bay extension site.

### **NON-FORCIBLE SEX OFFENSE**

Unlawful, non-forcible sexual intercourse. Includes incest and statutory rape.

### **PUBLIC PROPERTY**

All public property, including thoroughfares, streets, sidewalks, and parking facilities, that are within the campus, or immediately adjacent to and accessible from the campus.

## VENUES OUTSIDE UNIVERSITY CONTROL

Certain classes and events may be held at locations that are neither owned nor controlled by the University of Alaska Anchorage. Such locations may include classrooms, gymnasiums, and locker rooms provided by the Anchorage School District, classrooms at Elmendorf Air Force Base and Fort Richardson Army Post, distance education classrooms, and certain athletic venues in the city of Anchorage. UAA students or employees who are aware of crimes that take place at these venues during UAA events should report them to the University Police Department.

# CRIMINAL OFFENSES CALENDAR YEARS 2006-08

MURDER/ NON-NEGLIGENT MANSLAUGHTER			FORCIBLE SEX OFFENSE			NON-FORCIBLE SEX OFFENSE			BURGLARY			ROBBERY			AGGRAVATED ASSAULT			MOTOR VEHICLE THEFT			NEGLIGENT MANSLAUGHTER			ARSON			LARCENY THEFT		
06	07	08	06	07	08	06	07	08	06	07	08	06	07	08	06	07	08	06	07	08	06	07	08	06	07	08	06	07	08

## ANCHORAGE CAMPUS

ON CAMPUS <sup>(a)</sup>	0	0	0	1	1	0	0	0	0	9	8	2	5	1	0	8	2	2	2	4	3	0	0	0	0	1	0	72	97	122
HOUSING	0	0	0	1	1	0	0	0	0	3	1	0	5	1	0	3	1	1	0	0	0	0	0	0	0	1	0	21	28	56
MAIN CAMPUS	0	0	0	0	0	0	0	0	0	6	2	2	0	0	0	4	1	1	2	4	3	0	0	0	0	0	0	51	71	67
NON-CAMPUS	0	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4	7	8
PUBLIC PROPERTY	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	4	0	1

## KACHEMAK BAY CAMPUS<sup>(b)</sup>

ON CAMPUS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NON CAMPUS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PUBLIC PROPERTY	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

## KENAI RIVER CAMPUS<sup>(c)</sup>

ON CAMPUS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0
PUBLIC PROPERTY	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

## KODIAK COLLEGE<sup>(c)</sup>

ON CAMPUS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
PUBLIC PROPERTY	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

## MATANUSKA-SUSITNA COLLEGE<sup>(c)</sup>

ON CAMPUS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	4	4
PUBLIC PROPERTY	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

(a) The On Campus statistic is a sum of the Housing and Main Campus statistics.

(b) There is no Housing at this location.

(c) There were no Non-campus sites or Housing at this location in 2006-08.

Criminal Offenses statistics compiled by the University of Alaska Anchorage Police Department and Dean of Students Office.

# HATE CRIMES CALENDAR YEARS 2006 - 08

There were no hate crimes reported for the years 2006, 2007, or 2008  
at any reportable locations.

# ARRESTS & CITATIONS CALENDAR YEARS 2006 - 08

LIQUOR LAW VIOLATIONS			DRUG LAW VIOLATIONS			WEAPONS LAW VIOLATIONS		
06	07	08	06	07	08	06	07	08

### ANCHORAGE CAMPUS

<b>ON CAMPUS<sup>(a)</sup></b>	142	139	97	17	26	20	1	0	3
<b>HOUSING</b>	130	123	92	12	14	11	0	0	1
<b>MAIN CAMPUS</b>	12	16	5	5	11	9	1	0	2
<b>NON-CAMPUS</b>	0	0	5	1	0	2	0	0	0
<b>PUBLIC PROPERTY</b>	6	27	11	22	04	0	3	5	2

### KACHEMAK BAY CAMPUS<sup>(b)</sup>

<b>ON CAMPUS</b>	0	3	0	0	0	0	0	0	0
<b>NON-CAMPUS</b>	0	0	0	0	0	0	0	0	0
<b>PUBLIC PROPERTY</b>	0	0	2	0	0	0	0	0	0

### KENAI RIVER CAMPUS<sup>(c)</sup>

<b>ON CAMPUS</b>	0	0	0	1	2	0	0	0	0
<b>PUBLIC PROPERTY</b>	0	0	0	0	0	0	0	0	0

### KODIAK COLLEGE<sup>(c)</sup>

<b>ON CAMPUS</b>	0	0	0	0	0	0	0	0	0
<b>PUBLIC PROPERTY</b>	0	0	0	0	2	0	0	0	0

### MATANUSKA-SUSITNA COLLEGE<sup>(c)</sup>

<b>ON CAMPUS</b>	0	1	0	0	0	0	0	0	0
<b>PUBLIC PROPERTY</b>	0	0	0	0	0	0	0	0	0

(a) The On Campus statistic is a sum of the Housing and Main Campus statistics.

(b) There is no Housing at this location.

(c) There were no Non-campus sites or Housing at this location in 2006-08.

Arrest statistics compiled by the University of Alaska Anchorage Police Department.

# DISCIPLINARY ACTION/JUDICIAL REFERRALS CALENDAR YEARS 2006 - 08

In accordance with U.S. Department of Education guidelines for minimizing duplicated counts, incidents counted as *Arrests & Citations* on page 24, that also resulted in disciplinary referral, appear only once under Arrests and Citations.

LIQUOR LAW VIOLATIONS			DRUG LAW VIOLATIONS			WEAPONS LAW VIOLATIONS		
06	07	08	06	07	08	06	07	08

### ANCHORAGE CAMPUS

<b>ON CAMPUS<sup>(a)</sup></b>	50	40	21	15	10	10	1	2	0
<b>HOUSING</b>	49	40	20	18	9	18	1	2	0
<b>MAIN CAMPUS</b>	1	0	1	0	1	0	0	0	0
<b>NON-CAMPUS</b>	3	3	0	0	0	0	0	0	0
<b>PUBLIC PROPERTY</b>	0	0	0	0	0	0	0	0	0

### KACHEMAK BAY CAMPUS<sup>(b)</sup>

<b>ON CAMPUS</b>	0	0	0	0	0	0	0	0	0
<b>NON-CAMPUS</b>	0	0	0	0	0	0	0	0	0
<b>PUBLIC PROPERTY</b>	0	0	0	0	0	0	0	0	0

### KENAI RIVER CAMPUS<sup>(c)</sup>

<b>ON CAMPUS</b>	0	0	0	0	0	0	0	0	0
<b>PUBLIC PROPERTY</b>	0	0	0	0	0	0	0	0	0

### KODIAK COLLEGE<sup>(c)</sup>

<b>ON CAMPUS</b>	0	0	0	0	0	0	0	0	0
<b>PUBLIC PROPERTY</b>	0	0	0	0	0	0	0	0	0

### MATANUSKA-SUSITNA COLLEGE<sup>(c)</sup>

<b>ON CAMPUS</b>	0	0	0	0	0	0	0	0	0
<b>PUBLIC PROPERTY</b>	0	0	0	0	0	0	0	0	0

(a) The *On Campus* statistic is a sum of the *Housing* and *Main Campus* statistics.

(b) There is no *Housing* at this location.

(c) There were no *Non-campus* sites or *Housing* at this location in 2006-08.

*Disciplinary Actions/Judicial Referral* statistics compiled by the University of Alaska Anchorage Dean of Students Office.

**ANCHORAGE CAMPUS RESOURCES**

**University Police Department 786-1120**

**Dean of Students Office 786-1214**

**Department of Residence Life 751-7444**

**Environmental Health & Safety 786-1351**

**Student Health & Counseling Center 786-4040**

**Student Development Counseling & Support Services 786-6158**

**Office of Campus Diversity & Compliance 786-4680**

**ANCHORAGE COMMUNITY RESOURCES**

**Anchorage Police Department 786-8500**

**Abused Women's Aid in Crisis (AWAIC) 24-hour Crisis Line 272-0100**

**Men's and Women's Center 272-4822**

**Anchorage Community Mental Health Services Crisis Line 563-3200**

**STAR 24-Hour Rape Crisis Line 276-7273**

**COMMUNITY CAMPUS LOCAL POLICE AGENCIES**

**Kachemak Bay Campus  
Homer Police 235-3150**

**Kenai River Campus  
Soldotna Police 262-4455**

**Kodiak College  
Kodiak Police 486-8000**

**Matanuska-Susitna College  
Alaska State Troopers 745-2131**

**PUBLIC PROPERTY**

All public property, including thoroughfares, streets, sidewalks, and parking facilities, that are within the campus, or immediately adjacent to and accessible from the campus

**LIQUOR LAW VIOLATIONS**

The violation of state or local laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession or use of alcoholic beverages, not including driving under the influence and drunkenness.



## HATE CRIMES CALENDAR YEARS 2010-12

A hate crime is a crime that manifests evidence that the victim was intentionally selected because of the perpetrator's bias against the victim's race, gender, religion, sexual orientation, ethnicity/national origin, or disability. Hate crime statistics include the crimes listed in the table on the page before, in addition to simple assault; intimidation; destruction, damage, or vandalism of property; or any other crime that involves bodily injury to any person.

The University of Alaska Anchorage has no hate crimes to report for the years 2010 and 2011. In 2012, there are three reportable hate crimes: a) two on-campus intimidation incidents characterized by racial bias and b) one non-campus property damage incident characterized by ethnicity/national origin bias.

## ARRESTS & CITATIONS CALENDAR YEARS 2010-12

LIQUOR LAW VIOLATIONS			DRUG LAW VIOLATIONS			WEAPONS LAW VIOLATIONS		
10	11	12	10	11	12	10	11	12

### ANCHORAGE CAMPUS

HOUSING	114	19	0	3	0	0	0	0	0	0
+MAIN CAMPUS	+27	+5	+2	+0	+3	+3	+2	+0	+0	
=ON CAMPUS(a)	=141	=24	=2*	=12	=3	=3	=2	=0	=0	
NON-CAMPUS	0	0	0	0	0	0	0	0	0	0
PUBLIC PROPERTY	7	6	0	2	1	1	0	0	0	0

### CHUGIAK-EAGLE RIVER CAMPUS(b)

ON CAMPUS	N/A	N/A	0	N/A	N/A	0	N/A	N/A	0	0
NON-CAMPUS	N/A	N/A	0	N/A	N/A	0	N/A	N/A	0	0
PUBLIC PROPERTY	N/A	N/A	0	N/A	N/A	0	N/A	N/A	0	0

### KENAI PENINSULA COLLEGE – KACHEMAK BAY CAMPUS(c)

ON CAMPUS	0	0	0	0	0	0	0	0	0	0
NON-CAMPUS	0	0	0	0	0	0	0	0	0	0
PUBLIC PROPERTY	0	0	0	0	0	0	0	0	0	0

### KENAI PENINSULA COLLEGE – KENAI RIVER CAMPUS(c)

ON CAMPUS	0	0	0	0	0	0	0	0	0	0
NON-CAMPUS	0	0	0	0	0	0	0	0	0	0
PUBLIC PROPERTY	0	0	0	0	0	0	0	0	0	0

### KODIAK COLLEGE(c)

ON CAMPUS	0	0	0	0	0	0	0	0	0	0
NON-CAMPUS	0	0	0	0	0	0	0	0	0	0
PUBLIC PROPERTY	0	0	0	0	0	0	0	0	0	0

### MATANUSKA-SUSITNA COLLEGE(c)

ON CAMPUS	0	0	0	0	0	0	0	0	0	0
NON-CAMPUS	0	0	0	0	0	0	0	0	0	0
PUBLIC PROPERTY	0	0	0	0	0	0	0	0	0	0

- (a) The On Campus statistic is the sum of the Housing and Main Campus statistics.  
 (b) UAA identified Chugiak-Eagle River as a separate Clery-reportable campus beginning in August 2012. Previously, the Chugiak-Eagle River campus was considered a non-campus location of the Anchorage Campus.  
 (c) There was no Housing at this location in 2010-12.

*Arrest statistics compiled by the University of Alaska Anchorage Police Department. The 2011 totals for Matanuska-Susitna College and the Kenai Peninsula College – Kachemak Bay campus do not include statistics from local law enforcement agencies because the Alaska State Troopers and the Homer Police did not respond to UAA's request for information.*

*\* Starting in summer 2011, the University Police Department began to refer more minor violations, such as liquor law violations that occur in student housing, to the Dean of Students Office for review through the student conduct process. This process allows the Anchorage campus to hold students accountable for their actions while reducing the burden of numerous minor violations being sent to the state court.*

## DISCIPLINARY ACTION/JUDICIAL REFERRALS CALENDAR YEARS 2010-12

In accordance with U.S. Department of Education guidelines for minimizing duplicated counts, incidents counted as *Arrests & Citations* on the page before, that also resulted in disciplinary referral, appear only once under *Arrests & Citations*.

LIQUOR LAW VIOLATIONS			DRUG LAW VIOLATIONS			WEAPONS LAW VIOLATIONS		
10	11	12	10	11	12	10	11	12

### ANCHORAGE CAMPUS

HOUSING	74	71	100	1	1	0	0	0	0
+MAIN CAMPUS	+2	+6	+4	+1	+0	+3	+0	+0	+0
=ON CAMPUS(a)	=76	=77	=104*	=2	=1	=3	=0	=0	=0
NON-CAMPUS	0	0	0	0	0	0	0	0	0
PUBLIC PROPERTY	0	0	0	0	0	0	0	0	0

### CHUGIAK-EAGLE RIVER CAMPUS(b)

ON CAMPUS	N/A	N/A	0	N/A	N/A	0	N/A	N/A	0
NON-CAMPUS	N/A	N/A	0	N/A	N/A	0	N/A	N/A	0
PUBLIC PROPERTY	N/A	N/A	0	N/A	N/A	0	N/A	N/A	0

### KENAI PENINSULA COLLEGE – KACHEMAK BAY CAMPUS(c)

ON CAMPUS	0	0	0	0	0	0	0	0	0
NON-CAMPUS	0	0	0	0	0	0	0	0	0
PUBLIC PROPERTY	0	0	0	0	0	0	0	0	0

### KENAI PENINSULA COLLEGE – KENAI RIVER CAMPUS(c)

ON CAMPUS	0	0	0	0	0	0	0	0	0
NON-CAMPUS	0	0	0	0	0	0	0	0	0
PUBLIC PROPERTY	0	0	0	0	0	0	0	0	0

### KODIAK COLLEGE(c)

ON CAMPUS	0	0	0	0	0	0	0	0	0
NON-CAMPUS	0	0	0	0	0	0	0	0	0
PUBLIC PROPERTY	0	0	0	0	0	0	0	0	0

### MATANUSKA-SUSITNA COLLEGE(c)

ON CAMPUS	0	0	0	0	0	0	0	0	0
NON-CAMPUS	0	0	0	0	0	0	0	0	0
PUBLIC PROPERTY	0	0	0	0	0	0	0	0	0

- (a) The On Campus statistic is the sum of the Housing and Main Campus statistics.  
 (b) UAA identified Chugiak-Eagle River as a separate Clery-reportable campus beginning in August 2012. Previously, the Chugiak-Eagle River campus was considered a non-campus location of the Anchorage Campus.  
 (c) There was no Housing at this location in 2010-12.

*Disciplinary Actions/Judicial Referral statistics compiled by the University of Alaska Anchorage Dean of Students Office.*

\* Starting in summer 2011, the University Police Department began to refer more minor violations, such as liquor law violations that occur in student housing, to the Dean of Students Office for review through the student conduct process. This process allows the Anchorage campus to hold students accountable for their actions while reducing the burden of numerous minor violations being sent to the state court.

## CAMPUS AND COMMUNITY RESOURCES

### Anchorage Campus Resources

University Police Department.....	786-1120
Dean of Students Office .....	786-1214
Department of Residence Life .....	751-7444
Environmental Health & Safety .....	786-1351
Student Health & Counseling Center .....	786-4040
Student Development Counseling & Support Services .....	786-6158
Office of Campus Diversity & Compliance .....	786-4680
Alcohol, Drug, and Wellness Education .....	786-1214

### Anchorage Community Resources

Anchorage Police Department .....	786-8500
Abused Women's Aid in Crisis (AWAIC) 24-hour Crisis Line .....	272-0100
Men's and Women's Center .....	272-4822
Anchorage Community Mental Health Services Crisis Line .....	563-3200
STAR 24-hour Rape Crisis Line .....	276-7273

### Community Campus Local Police Agencies

Chugiak - Eagle River Campus Anchorage Police .....	786-8900
Kenai Peninsula College - Kachemak Bay Campus Homer Police .....	235-3150
Kenai Peninsula College - Kenai River Campus Soldotna Police .....	262-4455
Kodiak College Kodiak Police .....	486-8000
Matanuska-Susitna College Alaska State Troopers .....	745-2131

# NRA-ILA

INSTITUTE for LEGISLATIVE ACTION

## Right-To-Carry 2012

Posted on February 28, 2012

### Right-to-Carry 2012

41 RTC States – Violent Crime at 37-Year Low

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

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

With Wisconsin's adoption of an RTC law in 2011, by landslide votes of 68-27 in the Assembly and 25-8 in the Senate, there are now 41 RTC states. Thirty-eight of them have "shall issue" laws, requiring that carry permits be issued to applicants who meet uniform standards established by the state legislature.<sup>1</sup> Three of the "shall issue" states also allow carrying without a permit, but maintain their permit systems for purposes of permit reciprocity<sup>2</sup> with other states. In addition to the "shall issue" states, Alabama and Connecticut have fairly-administered discretionary-issue carry permit systems. Another, Vermont, does not require a permit to carry. Eight of the nine non-RTC states have restrictively-administered discretionary-issue systems.<sup>3</sup> Only Illinois and the District of Columbia<sup>4</sup> do not have permit systems and prohibit carrying altogether.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### Notes:

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

#### Tags:

[Right-To-Carry](#), [self-defense](#)

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[WXYZ, Detroit, Mich.](#)

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June 24, 2013  
Coast-to-Coast Action in  
Right-to-Carry Cases

February 14, 2014  
Victory in Peruta v. San  
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Confirms Right to Carry  
Arms in Public

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Wyoming: Pro-Gun  
Reforms Advance

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Maine: Two Pro-Gun Bills  
Pass in the Joint Criminal  
Justice Committee

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Legislative Deadlines Weed  
Out Gun Bills in Nevada

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Support The Right To Self-  
Defense?

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STATE OF ALASKA  
DEPARTMENT OF PUBLIC SAFETY



APPLICATION  
for a  
CONCEALED HANDGUN PERMIT

This packet contains:

- General information and instructions
- Specifications and instructions for photographs and fingerprints
- Application for a new Alaska concealed handgun permit

Direct inquiries to:

Department of Public Safety  
Permits and Licensing Unit  
5700 East Tudor Road, Anchorage, AK 99507  
Phone (907) 269-0392  
FAX (907) 269-5609  
[www.dps.state.ak.us/Statewide/PermitsLicensing/concealedhandguns.aspx](http://www.dps.state.ak.us/Statewide/PermitsLicensing/concealedhandguns.aspx)

## GENERAL INFORMATION

*Retain for your files*

### 1. ALASKA CONCEALED HANDGUN PERMIT

By submitting an application for a concealed handgun permit you acknowledge that you have read and understand the state laws and regulations relating to concealed handgun permits (AS 18.65.700 – 18.65.790 and 13 AAC 30.010 – 13 AAC 30.900).

### 2. ADDRESS, RESIDENCE, AND TELEPHONE INFORMATION

You must be a resident of Alaska for at least the 90 days immediately preceding your application for a concealed handgun permit.

You are required to list a residence address on the application and fingerprint card. Your residence address is the physical location of your home or other place where you habitually live and includes your house/apartment number, street name, city, and zip code. In outlying areas, provide a brief description of your physical address, e.g., "*Village Road, fourth house on the left next to boat ramp.*"

You are not required to provide your telephone number. However, application processing time may be reduced if there is a correctable problem on your application and you've provided your daytime telephone number.

### 3. APPLICATION PROCESS

You must apply IN PERSON for a concealed handgun permit at an office of the Alaska State Troopers, Alaska Wildlife Troopers, or a municipal police department authorized to accept Alaska concealed handgun permit applications. You must show a valid Alaska driver's license or identification card at the time of application.

Review your application and all required documentation before you submit them. Failure to submit a properly completed application and all required supporting documentation listed in #4 below may delay the processing of your application.

Complete applications will be processed within 30 days of receipt. "Complete" means all applicable questions on the application form are answered in full, the application form is signed and dated, and the required fee and all required supporting documentation listed in #4 below has been submitted.

### 4. THE FOLLOWING ITEMS MUST BE SUBMITTED WITH YOUR APPLICATION:

- a. **A non-refundable application fee of \$91.50** payable by personal check, cashier's check, or money order made out to *State of Alaska*.
- b. **A copy of a certificate showing successful completion of a handgun course** approved by the department and completed within the 12 months immediately preceding your application. The certificate will not be returned. A list of approved handgun courses is available from the department's Permits and Licensing Unit at the address listed on the cover page.
- c. **One complete set of fingerprints of acceptable technical quality.** Fingerprints submitted must be on a standard 8" x 8" FBI Applicant Fingerprint Card and be rolled by a person or agency approved by the department or by a law enforcement agency or state correctional facility at the discretion of the agency or facility. A list of fingerprint technicians or agencies approved by the department is available on the ACHP website. See the [Concealed Handgun Permit Fingerprint Card Instructions](#) page in this packet for specific information.
- d. **One quality frontal view color photograph** taken within the 30 days preceding your application. See the [Photograph Instructions and Specifications](#) page in this packet for size restrictions and specific information.

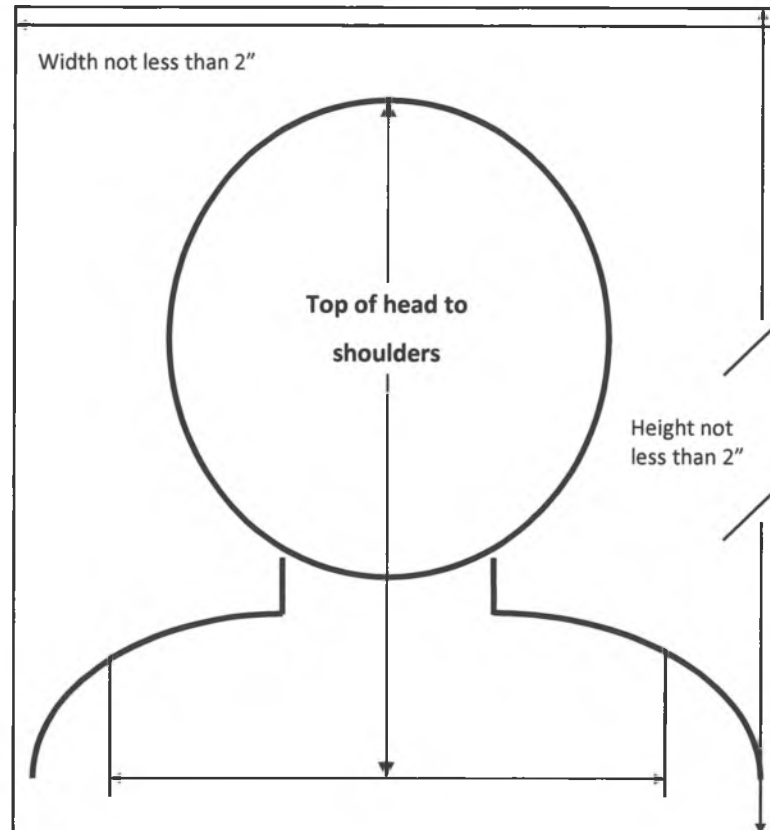
### 5. TERM OF PERMIT

Alaska concealed handgun permits expire on the person's birthday in the fifth year following issuance of the permit. The department may adjust the length of an initial permit so that a permit is not issued for a period of more than five years.

# CONCEALED HANDGUN PERMIT PHOTOGRAPH INSTRUCTIONS AND SPECIFICATIONS

## INSTRUCTIONS:

1. Photograph must be taken within the 30 days preceding the date of application.
2. Print applicant's name, date photograph was taken, and the Alaska driver's license number or Alaska identification card number on the **back** of the photograph.



## SPECIFICATIONS

1. Uncut (not trimmed), rectangular, color photograph including the top of the subject's head to the shoulders (computer disc from a digital camera is acceptable – format must be .BMP, .DIB, .TGA, .TIF, .PCX, .GIF, .WPG, .JPG, .CMP, and .PCD).
2. Outer dimension of the photograph is **not less than 2 inches** wide by 2 inches high (passport photographs are acceptable).
3. Photograph of applicant is full frontal view **including head and shoulders only**.
4. Background is very light or white with no fancy backdrop or lettering behind subject.
5. Image is **sharp** and **correctly exposed**, not retouched.
6. Photograph lies flat, is not stained, cracked, or mutilated; is not pasted on a card or mounted in any way.
7. Group pictures and full-length portraits are **not** acceptable.
8. Photograph of applicant in a hat or sunglasses is **not** acceptable.

**IMPORTANT NOTE: Failure to submit a photograph as specified will delay application processing.**

# CONCEALED HANDGUN PERMIT FINGERPRINT CARD INSTRUCTIONS

Submit one complete set of fingerprints on a standard 8"x 8" FBI APPLICANT FINGERPRINT CARD with your application. Fingerprints must be taken by a person or agency approved by the department or by a law enforcement agency or state correctional facility (at the discretion of the agency or facility). A list of approved fingerprint technicians or agencies can be found on the ACHP website at [www.dps.state.ak.us/statewide/PermitsLicensing/concealedhandguns.aspx](http://www.dps.state.ak.us/statewide/PermitsLicensing/concealedhandguns.aspx). There may be a charge by the fingerprint technician or agency for fingerprinting.

**Type or clearly print all required information on the fingerprint card using BLACK INK. Wash and thoroughly dry your fingers before fingerprinting. Do not sign the fingerprint card before your fingerprints are taken.**

1. Enter your full name using the format **last name** followed by a comma, **first** and **middle** name. Suffixes (i.e., Jr., Sr., III, etc.) follow the middle name.
2. Enter your residence address.
3. Enter the name and address of the fingerprint technician or agency taking the fingerprints.
4. List any other names used that are different from the name entered in the NAME block, including maiden and previous married names of females.
5. Enter your date of birth in MM DD YYYY format.
6. Enter "US" if you are a United States citizen; otherwise enter the applicable country or country abbreviation.
7. Enter "M" for male, "F" for female.
8. Use the following codes to denote your race:  
**A** (Asian, Pacific Islander)  
**B** (Black)  
**I** (American Indian, Alaska Native)  
**W** (White)
9. Enter your height in feet and inches, not total inches. Example: 5' 7" is entered as 5 07. Do not use fractions of an inch.
10. Enter your weight in pounds.

11. and 12. Choose only one color to describe the color of your eyes and hair using the appropriate three letter code from the following list:

<u>EYE COLOR</u>	<u>CODE</u>	<u>HAIR COLOR</u>	<u>CODE</u>
Black	BLK	Bald	BAL <i>Use when a person has lost most of the hair on top of their head.</i>
Blue	BLU	Black	BLK
Brown	BRO	Blonde	BLN
Gray	GRY	Brown	BRO
Green	GRN	Gray	GRY <i>Use when most of the person's hair is gray.</i>
Hazel	HAZ	Red or Auburn	RED
Maroon	MAR	Sandy	SDY
Pink	PNK	White	WHI

13. Enter the city and state, territorial possession, province (Canada), or country of birth. Use the correct abbreviation for foreign countries or correctly spell the country name. Do not list a county as a place of birth.
14. You are not required to provide your Social Security Number, but may do so voluntarily.

**Do not fold or damage the fingerprint card.** Fingerprint cards cannot be processed if they are folded, creased, or damaged. Fingerprint cards that are rejected may require resubmission and may require a reexamination fee.

**IMPORTANT NOTE: Failure to submit a fingerprint card as specified will delay application processing.**

<b>ALASKA</b> DEPARTMENT OF PUBLIC SAFETY Division of Statewide Services	<b>APPLICATION FOR A NEW  CONCEALED HANDGUN PERMIT</b> Please type or print using black ink	Do not write in this space
This application will not be processed unless all applicable questions are answered and the required training certificate, photograph, fingerprint card, and application fee accompany the application. <b>THE APPLICATION FEE IS NON-REFUNDABLE.</b>		

**Section I.**

ALASKA DRIVERS LICENSE OR IDENTIFICATION NUMBER		Department Use Only APSIN NUMBER		DATE OF BIRTH		PLACE OF BIRTH (CITY, STATE or CITY, COUNTRY)					
FIRST NAME			MIDDLE NAME <small>(NMN If no middle name or MIO if initial only)</small>			LAST NAME			SUFFIX <small>(Jr, Sr, II, III)</small>		
HEIGHT	WEIGHT	HAIR COLOR		EYE COLOR	RACE	GENDER	DAYTIME TELEPHONE NUMBER				
FT.	IN.	LBS.					<input type="checkbox"/> Home <input type="checkbox"/> Work <input type="checkbox"/> Cell				
RESIDENCE ADDRESS					CITY			STATE		ZIP CODE	
MAILING ADDRESS (IF DIFFERENT THAN ABOVE)					CITY			STATE		ZIP CODE	

List the city and state of each place you have resided in the five years immediately preceding this application. Attach a separate page if necessary.

CITY	STATE	FROM (Date)	TO (Date)
			present

**Section II.**

**WARNING: AN APPLICANT WHO SUPPLIES A FALSE STATEMENT, ANSWER OR DOCUMENT IN CONNECTION WITH AN APPLICATION FOR A CONCEALED HANDGUN PERMIT THAT THE APPLICANT DOES NOT BELIEVE TO BE TRUE MAY BE PROSECUTED FOR UNSWORN FALSIFICATION IN THE SECOND DEGREE AND, IF FOUND GUILTY, MAY BE PUNISHED FOR VIOLATION OF A CLASS A MISDEMEANOR, AND IN SUCH CASES, THE PERMIT SHALL BE REVOKED AND THE APPLICANT MAY BE BARRED FROM ANY FURTHER APPLICATION FOR A PERMIT.**

**I HEREBY STATE UNDER PENALTY OF LAW THAT:**

1. I have read AS 18.65.705 and I qualify to obtain a concealed handgun permit;
2. I have been furnished with a copy of the state laws and regulations relating to concealed handguns and have read and understand them;
3. I want a permit to carry a concealed handgun for lawful purposes, which may include self-defense;
4. All statements, answers, and attachments to this application are true and complete; and
5. I understand that a permit eligibility investigation will be conducted as part of the application process which may involve computerized records searches and I authorize the investigation.

\_\_\_\_\_  
Full Name of Applicant (clearly printed or typed)

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

**DEPARTMENT USE ONLY**

The receiving agency acknowledges that on \_\_\_\_\_ the sum of \$ \_\_\_\_\_ was received in the form of:

CASH       CHECK No. \_\_\_\_\_      MONEY ORDER No. \_\_\_\_\_

\_\_\_\_\_  
Signature of employee accepting application

\_\_\_\_\_  
Printed or typed name of employee accepting application

<b>ALASKA</b> DEPARTMENT OF PUBLIC SAFETY Division of Statewide Services	<b>NICS-EXEMPT CONCEALED  HANDGUN PERMIT SUPPLEMENT</b> Please type or print using black ink	Do not write in this space
The information provided on this form is <b>VOLUNTARY</b> and needed only if you are requesting a "NICS-Exempt" designation on your concealed handgun permit. This completed form must be submitted as a supplement to a new concealed handgun permit application, a renewal application, or an application for a replacement permit.		

**Section I.**

FIRST NAME	MIDDLE NAME <small>(NMN if no middle name or MIO if initial only)</small>	LAST NAME	SUFFIX <small>(Jr, Sr, II, III)</small>
COUNTRY OF CITIZENSHIP (List/check more than one, if applicable) <input type="checkbox"/> United States of America <input type="checkbox"/> Other (specify):			
If you are not a citizen of the United States, what is your U.S.-issued alien number or admission number?			

**Section II.**

Answer questions 1 – 11 by checking "yes" or "no" in the boxes to the right of the questions.

1. Are you under indictment or information in any court for a <b>felony</b> , or any other crime, for which the judge could imprison you for more than one year?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
2. Have you ever been convicted in any court of a <b>felony</b> , or any other crime, for which the judge could have imprisoned you for more than one year, even if you received a shorter sentence including probation?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
3. Are you a fugitive from justice?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
4. Are you an unlawful user of, or addicted to, marijuana or any depressant, stimulant, narcotic drug, or any other controlled substance?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
5. Have you ever been adjudicated mentally defective ( <i>which includes a determination by a court, board, commission, or other lawful authority that you are a danger to yourself or to others or are incompetent to manage your own affairs</i> ) OR have you ever been committed to a mental institution?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
6. Have you been discharged from the Armed Forces under <b>dishonorable</b> conditions?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
7. Are you subject to a court order restraining you from harassing, stalking, or threatening your child or an intimate partner or child of such partner?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
8. Have you ever been convicted in any court of a misdemeanor crime of domestic violence?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
9. Have you ever renounced your United States citizenship?	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
10. Are you an alien <b>illegally</b> in the United States?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
11. Are you an alien admitted to the United States under a nonimmigrant visa?	<input type="checkbox"/> YES	<input type="checkbox"/> NO

**Section IV.**

**WARNING: AN APPLICANT WHO SUPPLIES A FALSE STATEMENT, ANSWER OR DOCUMENT IN CONNECTION WITH AN APPLICATION FOR A CONCEALED HANDGUN PERMIT THAT THE APPLICANT DOES NOT BELIEVE TO BE TRUE MAY BE PROSECUTED FOR UNSWORN FALSIFICATION IN THE SECOND DEGREE AND, IF FOUND GUILTY, MAY BE PUNISHED FOR VIOLATION OF A CLASS A MISDEMEANOR, AND IN SUCH CASES, THE PERMIT SHALL BE REVOKED AND THE APPLICANT MAY BE BARRED FROM ANY FURTHER APPLICATION FOR A PERMIT.**

**I HEREBY STATE UNDER PENALTY OF LAW THAT:**

- All statements, answers, and attachments to this form are true and complete; and
- I understand that a permit eligibility investigation will be conducted as part of the NICS-Exempt designation process which may involve computerized records searches and I authorize the investigation.

\_\_\_\_\_

Full Name of Applicant (clearly printed or typed)

\_\_\_\_\_

Signature of Applicant

\_\_\_\_\_

Date



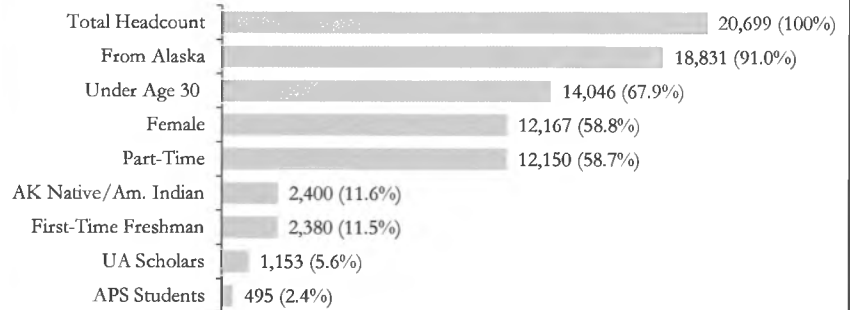
# MAU Profile: UAA

Located in Anchorage and on community campuses in Southcentral Alaska, the University of Alaska Anchorage (UAA) is committed to serving the higher education needs of the state, its communities, and its diverse peoples. UAA is an open access university with academic programs leading to occupational endorsements; undergraduate and graduate certificates; and associate, baccalaureate, and graduate degrees in a rich, diverse, and inclusive environment. In addition to the largest campus in Anchorage, the Kenai Peninsula College, Kodiak College, Matanuska-Susitna College and Prince William Sound Community College are integral parts of UAA. Instruction is also offered in numerous other sites in Southcentral Alaska and the Aleutian Islands. UAA has exchange and cooperative agreements with Britain, Canada, China, Finland, Japan, Korea, and Russia.

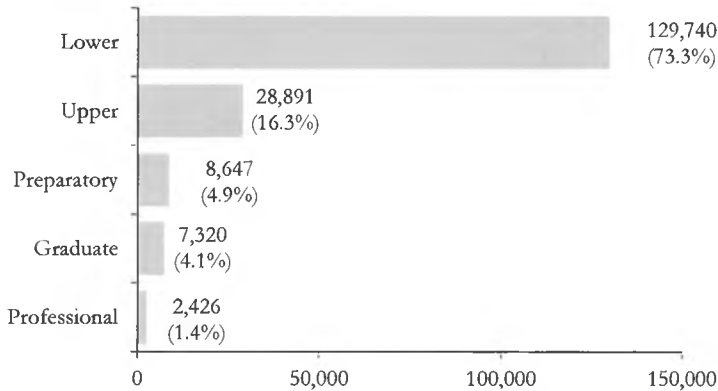


## UNIVERSITY of ALASKA ANCHORAGE

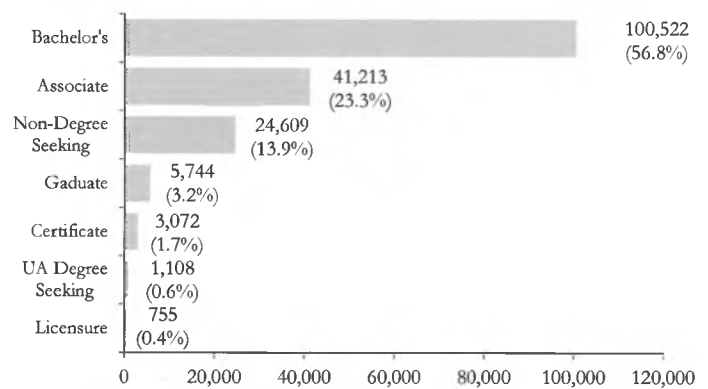
### Student Profile, Fall 2011



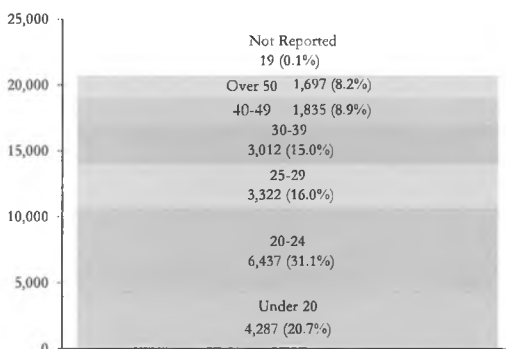
### SCH by Course Level



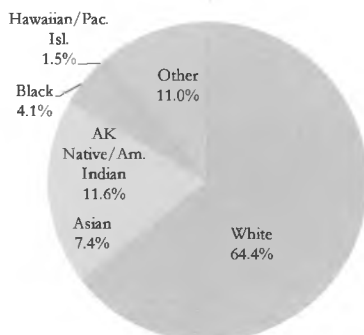
### SCH by Degree-Seeking Status



### Headcount by Age



### Headcount by Race\*



- Almost 60.0 percent of students in the UA system took at least one course from UAA in fall 2011.
- 58.7 percent of students enrolled at UAA in fall 2011 were enrolled part-time.
- 11.6 percent of UAA students identified themselves as Alaska Native/American Indian in fall 2011.
- More than two-thirds of UAA students were younger than 30 in fall 2011 with an average age of 29.
- UAA delivered 177,025 student credit hours (SCH) in fall 2011, excluding auditors, with more than three-quarters in lower division and preparatory courses.
- More than 56.0 percent of UA Scholars with the UA System took a class at UAA in fall 2011.

\* Headcount by race is unduplicated. "Hawaii Native/Pacific Islander" was recorded as "Asian" prior to Fall 2009.

UA Scholars include any recipient who takes at least one course from the campus/MAU.

Source: Data Supplied by MAUs via UA Information Systems: Banner SI Closing Extracts FY03-FY12. Compiled by UA Institutional Research and Analysis in conjunction with campus.

Headcounts are unduplicated at the reporting level.

# UAA REPORT CARD

## FY11-12 Performance



**High Demand Job Area Degrees Awarded**



**University Generated Revenue**



**First-Time Full Time Baccalaureate Degree-Seeking Freshmen Six Year Graduation Rate**



**Student Credit Hours**

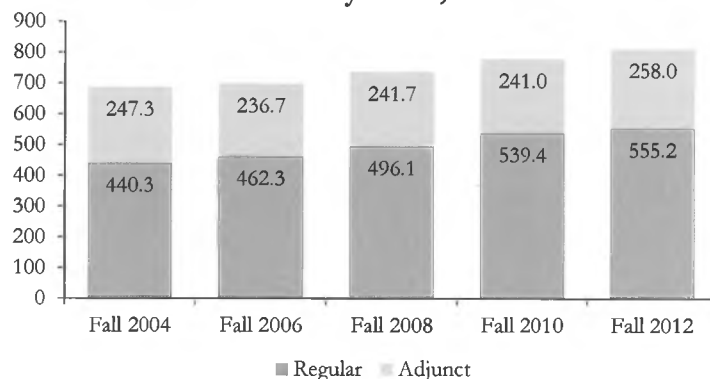


**Grant-Funded Research Expenditures**

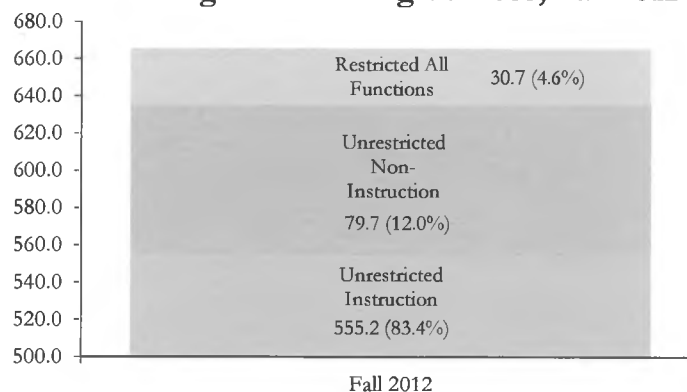
The report card above provides an assessment of key performance measures, common across the University of Alaska system. These are necessary, but not sufficient, to describe the breadth and depth of UAA's efforts toward meeting the priorities set forth by the UA Board of Regents.

UAA's performance has increased significantly on all measures since FY09. In FY10, UAA awarded 87 more high demand degrees than in FY09. Student credit hours have grown by 6% over FY09, marking a resumption of significant annual increases after plateauing in recent years. The undergraduate retention rate increased by 2.2% to 70.2% over FY09. UAA's grant-funded research activity in FY10 climbed to \$11.5 million, an increase of almost \$3 million over FY09. University generated revenues increased by 10.5% over FY09. UAA delivered 3,660 more non-credit instructional units in FY10 than in FY09, an increase of more than 50%.

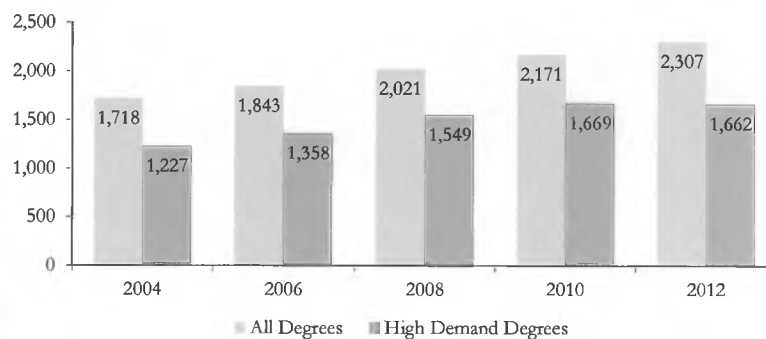
**Instructional Faculty FTE, Fall 2004 - Fall 2012**



**Regular Faculty FTE Budgeted Funding Sources, Fall 2012**



**Degrees and Credentials**



- UAA employed 665.6 regular faculty full-time equivalents (FTE) and 258.0 adjunct FTE\* in fall 2012.
- Unrestricted instruction accounted for more than 83.0 percent of regular faculty FTE in fall 2012.
- Annual degrees, certificate and endorsement awards have grown by more than 34.0 percent since FY04.
- 72.0 percent of academic credentials awarded by UAA in FY12 were in programs qualifying recipients to work in High Demand Job Area careers.
- Since fall 2002, UAA has employed 125.8 more regular, instructional faculty FTE, an increase of almost 24.0 percent.

\* 1 adjunct FTE=3 adjuncts

Opinions of the Colorado Supreme Court are available to the public and can be accessed through the Court's homepage at <http://www.courts.state.co.us> Opinions are also posted on the Colorado Bar Association homepage at [www.cobar.org](http://www.cobar.org)

ADVANCE SHEET HEADNOTE  
March 5, 2012

2012 CO 17

**No. 10SC344, Regents of the University of Colorado v. Students for Concealed Carry on Campus - The Concealed Carry Act's comprehensive statewide purpose, broad language, and narrow exclusions show that the General Assembly intended to divest the Board of Regents of its authority to regulate concealed handgun possession on campus.**

The Students for Concealed Carry on Campus filed a complaint against the University of Colorado's Board of Regents and others alleging that the Board's Weapons Control Policy violated the Colorado Concealed Carry Act and the Colorado Constitution's right to bear arms. The trial court dismissed, and the court of appeals reversed.

The supreme court holds that the Concealed Carry Act's comprehensive statewide purpose, broad language, and narrow exclusions show that the General Assembly intended to divest the Board of Regents of its authority to regulate concealed handgun possession on campus. Accordingly, the supreme court agrees with the court of appeals that, by alleging the Policy violates the CCA, the Students for Concealed Carry on Campus have stated a claim for relief. Because the supreme court affirms on statutory grounds, it does not consider the Students' constitutional claim.

Supreme Court of the State of Colorado  
101 West Colfax Avenue, Suite 800 • Denver, Colorado 80202

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2012 CO 17

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**Supreme Court Case No. 10SC344**  
*Certiorari to the Colorado Court of Appeals*  
Court of Appeals Case No. 09CA1230

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**Petitioners:**

The Regents of the University of Colorado; Stephen Ludwig, in his official capacity as Regent; Joseph Neguse, in his official capacity as Regent; Monisha Merchant, in her official capacity as Regent; Michael Carrigan, in his official capacity as Regent; Tom Lucero, in his official capacity as Regent; Steve Bosley, in his official capacity as Regent; Kyle Hybl, in his official capacity as Regent; James Geddes, in his official capacity as Regent; Tilman Bishop, in his official capacity as Regent; Jim Spice, in his official capacity as Chief of Campus Police, University of Colorado at Colorado Springs; Pam Shockley-Zalabak, in her official capacity as Chancellor, University of Colorado at Colorado Springs; Doug Abraham, in his official capacity as Chief of Campus Police, University of Colorado Denver; and M. Roy Wilson, in his official capacity as Chancellor, University of Colorado Denver,

v.

**Respondents:**

Students for Concealed Carry on Campus, LLC, a Texas limited liability company; Martha Altman; Eric Mote; and John Davis.

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**Judgment Affirmed**

*en banc*

March 5, 2012

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**Attorneys for Petitioners:**

Office of University Counsel  
Patrick T. O'Rourke  
Margaret Wilensky  
*Denver, Colorado*

**Attorneys for Respondents:**

Mountain States Legal Foundation  
James M. Manley  
*Lakewood, Colorado*

**Attorneys for Amici Curiae The Brady Center to Prevent Gun Violence,  
Colorado Ceasefire Capitol Fund, and the Greater Denver Million Mom  
March:**

Heizer Paul Grueskin LLP  
Edward T. Ramey  
*Denver, Colorado*

**Attorneys for Amicus Curiae National Rifle Association:**

Hale Westfall, LLP  
Richard A. Westfall  
Peter J. Krumholz  
*Denver, Colorado*

**Attorneys for Amicus Curiae Rocky Mountain Gun Owners:**

The Terry Ryan Law Firm, LLC  
Terrance L. Ryan  
*Fort Collins, Colorado*

**Attorneys for Amici Curiae The County Sheriffs of Colorado and the  
Independence Institute:**

David B. Kopel  
Tyler Martinez  
*Golden, Colorado*

**Attorneys for Amicus Curiae Second Amendment Foundation:**

Highlands Ranch Law Center, P.C.  
Anne Whalen Gill  
*Highlands Ranch, Colorado*

Second Amendment Foundation  
Mikolaj T. Tempski, pro hac vice  
*Bellevue, Washington*

Gura & Possessky, P.L.L.C.  
Alan Gura, pro hac vice  
*Alexandria, Virginia*

**JUSTICE EID** delivered the Opinion of the Court.

¶1 The Students for Concealed Carry on Campus, LLC, along with Martha Altman, Eric Mote, and John Davis (collectively, the “Students”), filed a complaint against the University of Colorado’s Board of Regents (the “Board of Regents” or “Board”) and others alleging that the Board’s Weapons Control Policy 14-I (“the Policy”) – which prohibits the carrying of handguns on campus by all persons but certified law enforcement personnel – violates the Colorado Concealed Carry Act (“CCA”), §§ 18-12-201 to -216, C.R.S. (2011), and the Colorado Constitution’s right to bear arms, Colo. Const. art. II, § 13. The Board of Regents filed a motion to dismiss under C.R.C.P. 12(b)(5), which the district court granted. The Students appealed, and the court of appeals reversed.

¶2 The court of appeals held that the Students stated a claim for relief because the CCA expressly applies to “all areas of the state.” The court further concluded that the Students had stated a claim for relief under article II, section 13 of the Colorado Constitution, which affords individuals the right to bear arms in self-defense. See Students for Concealed Carry on Campus, LLC v. Regents of the U. of Colo., No. 09CA1230, --- P.3d ---, 2010 WL 1492308, at \*7, \*11 (Colo. App. April 15, 2010).

¶3 We granted certiorari and now affirm. We hold that the CCA’s comprehensive statewide purpose, broad language, and narrow exclusions show that the General Assembly intended to divest the Board of Regents of its authority to regulate concealed handgun possession on campus. Accordingly, we agree with the court of appeals that, by alleging the Policy violates the CCA, the Students have stated a claim for relief.

Because we affirm on statutory grounds, we do not consider the Students' constitutional claim.

### I.

¶4 The Board of Regents adopted the Policy on March 17, 1994. The Policy prohibits "the possession of firearms . . . on or within any University of Colorado campus, leased building, other area under the jurisdiction of the local campus police department or areas where such possession interferes with the learning and working environment." The only exceptions are for "peace officers or for others who have written permission from the Chief of Police for those campuses which have such an officer or from the Chancellor after consultation with the Chief of Police." Any individual violating the Policy will be banned from campus; if that person is a student, the "minimum disciplinary sanction shall be expulsion." In justifying the Policy, the Board of Regents stated that firearm possession is "inconsistent with the academic mission of the [University of Colorado] and, in fact, undermines it"; "threatens the tranquility of the educational environment in an intimidating way"; and "contributes in an offensive manner to an unacceptable climate of violence."

¶5 In 2003, citing "widespread inconsistenc[ies] among jurisdictions," the General Assembly enacted the CCA to "occupy the field of regulation of the bearing of concealed handguns" and to "provide statewide uniform standards for issuing permits to carry concealed handguns for self-defense." § 18-12-201(1)(e), (2)(b). Under the CCA, when a permit is issued, the permittee is authorized "to carry a concealed

handgun in all areas of the state, except as specifically limited” by the statute. § 18-12-214(1)(a). One specific limitation prohibits permittees from “carry[ing] a concealed handgun onto the real property, or into any improvements erected thereon, of a public elementary, middle, junior high, or high school.” § 18-12-214(3). Section 18-12-214(3) does not include an exception for the University of Colorado campuses. A “local government” is prohibited from “adopt[ing] or enforc[ing] an ordinance or resolution that would conflict with any provision of [the CCA].” § 18-12-214(1).

¶6 On December 11, 2008, the Students filed a complaint in El Paso County District Court, alleging that the Policy violated the CCA and the Colorado Constitution’s right to bear arms.<sup>1</sup> The complaint asserted that Martha Altman, Eric Mote, and John Davis wanted to possess a handgun when traveling to, from, through, or on the campuses of the University of Colorado for self-defense. Altman contacted the Chief of Police at the University of Colorado Denver requesting permission to carry a concealed weapon on campus, while Mote and Davis contacted the chancellor of the University of Colorado at Colorado Springs requesting the same. Each asserted that they held a valid concealed-carry permit under the CCA. All three requests were denied, with the officials citing to the Policy.

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<sup>1</sup> In addition to naming the Board of Regents as a defendant, the complaint named, in their official capacities, the individual regents, the chief of campus police of the University of Colorado at Colorado Springs, the chancellor of the University of Colorado at Colorado Springs, the chief of campus police of the University of Colorado Denver, and the chancellor of the University of Colorado Denver.

¶7 The Board of Regents filed a motion to dismiss arguing that the Students had failed to state a claim for relief, which the district court granted. The court concluded that because the CCA prohibits only “local governments” from adopting or enforcing laws contrary to the CCA, and the Board is not a “local government,” the Board was not divested of authority to regulate concealed handgun possession on campus.

¶8 In addition, the district court found that the right to bear arms is not a “fundamental right” and “can instead be highly restricted by the state’s valid exercise of its police power.” Consequently, the right to bear arms is “not subject to strict constitutional scrutiny,” but is only subject to the “rational basis test” — an inquiry that the Policy “easily pass[es].” The Students appealed, and the court of appeals reversed.

¶9 On the statutory claim, the court of appeals focused on the CCA’s plain language and its desire for statewide uniform standards to conclude that “all areas of the state” includes university campuses. --- P.3d ---, 2010 WL 1492308, at \*2-\*7. Accordingly, the court held that the Students’ allegations, “when accepted as true, state a claim for relief that the [P]olicy violates the CCA.” Id. at \*7. On the constitutional claim, the court noted that the Students had limited their claim’s scope “to the ability to possess a firearm in a motor vehicle when traveling on or through a University of Colorado campus.” Id. On this question, the court concluded that, rather than the rational basis test, a “reasonable exercise” test applied. Id. at \*11. Thus the Students’ allegations did state a “claim for relief concerning the ability to carry a firearm in a motor vehicle when travelling on or through a University of Colorado campus.” Id.

¶10 We granted certiorari<sup>2</sup> and now affirm. We hold that the CCA’s comprehensive statewide purpose, broad language, and narrow exclusions show that the General Assembly intended to divest the Board of Regents of its authority to regulate concealed handgun possession on campus. Accordingly, we agree with the court of appeals that, by alleging the Policy violates the CCA, the Students have stated a claim for relief. Because we affirm on statutory grounds, we do not consider the Students’ constitutional claim.

## II.

¶11 We review a trial court’s order granting a motion to dismiss de novo; we accept all factual averments as true and view the allegations in the light most favorable to the plaintiff. Pub. Serv. Co. v. Van Wyk, 27 P.3d 377, 386 (Colo. 2001). A motion to dismiss for failure to state a claim should not be granted unless it appears beyond doubt that no set of facts can prove that the plaintiff is entitled to relief. Id. at 385-86.

¶12 We turn first to the statutory question of whether the CCA divests the Board of its authority to regulate concealed handgun possession on campus. In enacting the CCA, the General Assembly found that jurisdictions were inconsistent in issuing

<sup>2</sup> We granted certiorari on the following issues:

1. Whether the General Assembly intended the Concealed Carry Act to divest the Board of Regents of its constitutional and statutory authority to enact safety and welfare measures for the University of Colorado’s campuses.
2. Whether a constitutional challenge to a statute or ordinance regulating the right to bear arms is governed by the deferential “rational basis” standard of review or a more stringent “reasonable exercise” standard of review.

concealed-carry permits and in identifying “areas of the state where it is lawful to carry concealed handguns.” § 18-12-201(1)(a), C.R.S. (2011). Instead, the General Assembly found, the criteria and procedures for lawfully carrying a concealed handgun “should be consistent throughout the state to ensure the consistent implementation of state law.” § 18-12-201(1)(d). Moreover, it was “necessary that the state occupy the field of regulation of the bearing of concealed handguns since the issuance of a concealed handgun permit is based on a person's constitutional right of self-protection and there is a prevailing state interest in ensuring that no citizen is arbitrarily denied a concealed handgun permit and in ensuring that the laws controlling the use of the permit are consistent throughout the state.” § 18-12-201(1)(e).

¶13 Based on its findings, the General Assembly concluded that the “permitting and carrying of concealed handguns is a matter of statewide concern,” and, therefore, “[i]t is necessary to provide statewide uniform standards for issuing permits to carry concealed handguns for self-defense.” § 18-12-201(2)(a)-(b), C.R.S. (2011). Accordingly, the General Assembly enacted the comprehensive scheme known as the CCA. See §§ 18-12-201 to -216.

¶14 To bring about its “statewide uniform standards,” the General Assembly declared that “[a] permit to carry a concealed handgun authorizes the permittee to carry a concealed handgun in all areas of the state, except as specifically limited in [section 18-12-214].” § 18-12-214; see also § 18-12-204 (“A permit issued pursuant to [the CCA] . . . is effective in all areas of the state, except as otherwise provided in section 18-12-

214.”). Further, a “local government” is prohibited from “adopt[ing] or enforc[ing] an ordinance or resolution that would conflict with any provision of [the CCA].” § 18-12-214(1)(a).<sup>3</sup>

¶15 The exclusions to the CCA – areas of the state where a CCA permit is “specifically limited” under section 18-12-214 – prohibit the carrying of a concealed handgun (1) into a place where the carrying of handguns is prohibited by federal law; (2) onto the real property “of a public elementary, middle, junior high, or high school” except in enumerated circumstances; and (3) into a public building at which security personnel and devices screen each entrant for weapons and subsequently the security personnel require any weapons to be left in their possession while the entrant is in the building. § 18-12-214(2)-(4). Although the General Assembly expressly listed other educational institutions as excluded from the CCA, it did not place the University of Colorado campuses on the list. See § 18-12-214(3). In addition, the CCA does not limit, restrict, or prohibit any rights that a “private property owner, private tenant, private employer, or private business entity” may have to exclude handguns. § 18-12-214(5).

¶16 The Board of Regents is granted broad authority by both the Colorado Constitution and statutes. The Colorado Constitution vests the Board with “the general

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<sup>3</sup> Similarly, section 18-12-201 prohibits sheriffs from further regulating or restricting the issuance of permits. “An action or rule [1] that encumbers the permit process by placing burdens on the applicant beyond those sworn statements and specified documents detailed in [the CCA] or [2] that creates restrictions beyond those specified in [the CCA] is in conflict with the intent of [the CCA] and is prohibited.” § 18-12-201(3).

supervision of [its] respective institutions and the exclusive control and direction of all funds of and appropriations to [its] respective institutions, unless otherwise provided by law.” Colo. Const. art. VIII, § 5. The General Assembly has authorized the Board to “enact laws for the government of the university,” § 23-20-112(1), C.R.S. (2011), and to “promulgate rules and regulations for the safety and welfare of students, employees, and property,” § 23-5-106(1), C.R.S. (2011). It is pursuant to this authority that the Board adopted and enforced the Policy.

¶17 The Board argues that the CCA does not divest it of its authority to adopt and enforce the Policy. The Board asserts that it holds special, constitutional authority to enact policies governing the University of Colorado. Pointing to article VIII, section 5’s phrase “unless otherwise provided by law,” the Board contends that the CCA does not “provide by law” that the authority has been divested in this instance. Instead, it argues that such divestment must be done expressly, which, it contends, was not done in the case. The Board also points out that the CCA only prohibits “local governments,” a phrase that would not include the University of Colorado, from adopting or enforcing laws that conflict with the CCA.

¶18 We disagree with the Board. Instead, the CCA’s comprehensive statewide purpose, broad language, and narrow exclusions lead us to conclude that the General Assembly divested the Board of Regents of its authority in this instance. In other words, under article VIII, section 5 of the Colorado Constitution, the CCA “otherwise provide[s] by law.”

¶19 In its legislative declaration, the General Assembly makes clear that the CCA is meant to be a statewide comprehensive scheme. The General Assembly found it “necessary that the state occupy the field of regulation of the bearing of concealed handguns.” § 18-12-201(1)(e). Further, the General Assembly found that the “permitting and carrying of concealed handguns is a matter of statewide concern,” and that therefore “[i]t is necessary to provide statewide uniform standards.” § 18-12-201(2)(a)-(b).

¶20 The CCA achieved its intent to bring about “statewide uniform standards” through its substantive provisions. Twice the CCA expressly states that, except as limited by the CCA itself, a permit to carry a concealed handgun authorizes the permittee to carry a concealed handgun “in all areas of the state.” § 18-12-204(1)(b) (emphasis added); § 18-12-214(1)(a) (emphasis added). Further, the CCA’s exclusions – “specifically” noted under section 18-12-214 – are narrow and do not include public universities. Relevant here, the CCA expressly excludes public elementary, middle, junior high, and high schools, but not public universities. § 18-12-214(3). We agree with the court of appeals that, “[h]ad the legislature intended to [exclude] universities, it knew how to do so.” Students for Concealed Carry, --- P.3d ---, 2010 WL 1492308, at \*4; see also Beeghly v. Mack, 20 P.3d 610, 613 (Colo. 2001) (citing the interpretive canon expressio unius exclusio alterius – “the inclusion of certain items implies the exclusion of others” – and concluding that because the legislature had included a particular

remedy in one statute but not in another, the legislature could not have intended the particular remedy in the latter).

¶21 In fact, when it enacted the CCA, the General Assembly amended a related criminal statute that applies to universities expressly. S. 03-24, 64th Leg., 1st Sess. (Colo. 2003); § 18-12-105.5(1), C.R.S. (2011) (making it a class six felony to carry a deadly weapon onto real estate of “any public or private elementary, middle, junior high, high, or vocational school or any public or private college, university, or seminary” (emphasis added)). Moreover, the amended language in the criminal statute actually directs the reader back to the CCA’s school exclusion, where universities are notably absent. § 18-12-105.5(d.5).

¶22 Our conclusion is not changed by the fact that “local governments” are expressly prohibited from “adopt[ing] or enforc[ing] an ordinance or resolution that would conflict with any provision of [the CCA].” § 18-12-214(1)(a). Although the Board is not typically considered a “local government,” see § 24-32-102, C.R.S. (2011) (defining a “local government” as “all municipal corporations, quasi municipalities, counties, and local improvement and service districts of this state”), the CCA is clear that a permittee is authorized to carry a concealed handgun in “all areas of the state, except as specifically limited” by the statute, § 18-12-214(1)(a) (emphasis added). As explained above, the University of Colorado campuses are not included in those “specifically limited” areas. The fact that “local governments” are expressly prohibited from adopting provisions that conflict with the CCA does not take away from the fact that a

permittee is authorized to carry a concealed handgun in “all areas of the state, except as specifically limited” by the statute. Instead, the prohibition on local governments merely reinforces the scope of the “all areas of the state” provision. To put it differently, even if the Board of Regents is not considered a “local government,” the Policy would still conflict with the CCA’s clear command that a permittee is authorized to carry a concealed handgun in “all areas of the state, except as specifically limited” by the statute.

¶23 Our conclusion that the General Assembly divested the Board of Regents of its authority in this instance is further supported by our caselaw. The Board contends that this case should be governed by Associated Students v. Regents of the University of Colorado, 189 Colo. 482, 543 P.2d 59 (1975), superseded by statute, § 24-6-402(1)(d), C.R.S. (2011), and Uberoi v. University of Colorado, 686 P.2d 785 (Colo. 1984), superseded by statute, § 24-72-202(1.5), C.R.S. (2011). We disagree and instead find that Ramos v. Regents of the University of Colorado, 759 P.2d 726 (Colo. 1988), provides the proper analytical framework in this case.

¶24 In Associated Students, we were tasked with determining whether the Open Meetings Law of the Colorado Sunshine Act of 1972 – which applied to “[a]ll meetings of two or more members of any board . . . or other policy-making or rule-making body of any state agency or authority . . . except as may be otherwise provided in the constitution” – divested the Board of its authority to hold executive meetings closed to the public. 189 Colo. at 484, 543 P.2d at 60-61 (emphasis added). We concluded the

constitutional phrase “unless otherwise provided by law” allows the Board’s authority to be divested only “when a legislative enactment expressly so provides.” 189 Colo. at 485, 543 P.2d at 61. And “the [Sunshine] Act contain[ed] no such language.” 189 Colo. at 485, 543 P.2d at 62. We did not discuss the effect of the Sunshine Act’s limiting clause, which limited the act to all meetings “except as may be otherwise provided in the constitution.”

¶25 A decade later, we addressed a similar question in Uberoi, where we considered whether the Open Records Act divested the Board of its authority to keep certain records confidential. 686 P.2d at 786-87. Like the Sunshine Act in Associated Students, the Open Records Act was broadly worded and included a limiting clause. The act provided that “all public records shall be open for inspection by any person at reasonable times . . . except . . . as otherwise specifically provided by law.” Id. at 788 (emphasis added). Using the same rationale as Associated Students, we concluded that the relevant provisions of the Open Meetings Law did not divest the Board of Regents of its authority. Id. at 788-89. We noted that “the specific supervisory control over the university granted to the [Board] can be divested only by a legislative enactment expressly so providing.” Id. at 788. And the Open Records Act “nowhere specifically refers to the [University of Colorado] nor to governing bodies of educational institutions.” Id. at 788 (quoting trial court opinion).

¶26 Finally, we revisited the issue of the Board’s authority in Ramos. In that case, we considered whether a civil rights statute divested the Board of Regents of its authority

over certain employment discrimination matters, instead placing such authority in the Colorado Civil Rights Commission. Ramos, 759 P.2d at 727. The statutory scheme covered “employers,” which included “the state of Colorado or any political subdivision, commission, department, institution, or school district thereof, and every other person employing persons within the state,” except for certain religious institutions. Id. at 729. The Board argued, similar to its argument here, that the statutory scheme failed to explicitly identify the university as an “employer,” and therefore, under Associated Students and Uberoi, the statutory scheme did not divest it of authority. Id. We rejected the Board of Regents’ argument, finding that the General Assembly meant to include the university in the statutory scheme.

¶27 We noted that the statutory scheme applied on a “statewide basis,” id. at 731, and was “comprehensive,” id. at 732. We found “especially significant” the “breadth of language used by the General Assembly in defining the word ‘employer.’” Id. at 731. Further, we noted that the General Assembly “expressly exclude[d] from the definition [of ‘employer’] certain religious organizations and associations but no other category of employer.” Id. We thought it would make little sense for the General Assembly to define “employer” so broadly and set forth the Act’s only exclusion expressly, yet still intend to exclude the university. Id. at 731. Accordingly, we held that “the supervisory autonomy of the Regents must yield” to the statutory scheme. Id. at 735.

¶28 Importantly, we distinguished Associated Students and Uberoi on the ground that the statutes in those cases contained a limiting clause, whereas the statutory

scheme in Ramos did not. Id. at 733-34. As noted above, the Sunshine Act in Associated Students applied to all meetings “except as may be otherwise provided in the constitution,” 189 Colo. at 484, 543 P.2d at 60-61, and the Open Records Act in Uberoi applied to all records “except . . . as otherwise specifically provided by law,” 686 P.2d at 788. In both cases, the legislature had included statutory language that arguably preserved the Board’s preexisting statutory and constitutional authority to adopt policies governing the university. It therefore made sense in those cases to conclude that, in the absence of express statutory language directed toward the Board’s authority, its preexisting authority was preserved. See Associated Students, 189 Colo. at 485, 543 P.2d at 62 (noting that, because of the presumption against implied repeals, the court would not hold that the Sunshine Act impliedly repealed the Board’s preexisting statutory and constitutional authority to govern university affairs); Uberoi, 686 P.3d at 787-89 (applying this reasoning to the Open Records Act).

¶29

By contrast, we concluded that the statutory scheme in Ramos – which not only lacked a limiting clause, but also contained a comprehensive statewide purpose, broad language, and narrow exclusions – did not permit the conclusion that the legislature had preserved the Board’s preexisting authority. 759 P.2d at 733-34; see also City of Littleton v. State, 855 P.2d 448, 454 (Colo. 1993) (holding that, under Ramos, a statutory scheme with broad purposes that applied to “any public or private user” applied to the State Community Colleges Board). Like the statutory scheme at issue in Ramos, the CCA lacks a limiting clause, and as discussed above contains a statewide purpose,

broad language, and narrow exclusions. Consequently, we hold that, as in Ramos, the CCA does not permit the conclusion that the Board's preexisting authority to regulate concealed handgun possession was preserved.<sup>4</sup>

¶30 In sum, we hold that the CCA divested the Board of Regents of its authority to regulate concealed handgun possession on campus. Accordingly, we agree with the court of appeals that, by alleging the Policy violates the CCA, the Students have stated a claim for relief. Because we affirm on statutory grounds, we do not consider the Students' constitutional claim.<sup>5</sup>

### III.

¶31 For the reasons set forth above, we affirm the court of appeals on the ground that the Students have stated a claim for relief by alleging that the Policy violates the CCA, and remand the case for further proceedings consistent with this opinion.

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<sup>4</sup> On the same ground, we do not find persuasive the Attorney General Opinion issued on June 17, 2003, which concluded that the Board had not been divested of its authority because the language of the CCA was not express.

<sup>5</sup> The Students conceded in their brief and at oral argument that we need not reach the constitutional question if we recognized their statutory right to carry a concealed weapon under the CCA.



500% faster in the second<sup>153</sup>. Assaults fell 250% faster in the second year.<sup>154</sup>

**Fact:** More to the point, crime is significantly higher in states without right-to-carry laws<sup>155</sup>:

**Fact:** States that disallow concealed carry have violent crime rates 11% higher than national averages.<sup>156</sup>

**Fact:** Deaths and injuries from mass public shootings fall dramatically after right-to-carry concealed handgun laws are enacted. Between 1977 and 1995<sup>157</sup>, the average death rate from mass shootings plummeted by up to 91% after such laws went into effect, and injuries dropped by over 80%.<sup>158</sup>

Type of Crime	% Higher in Restrictive States
Robbery	105%
Murder	86%
Assault	82%
Violent Crime	81%
Auto theft	60%
Rape	25%

<sup>153</sup> Some criminologist believe measuring first year change is shortsighted as it takes more than a year for permits to be issued, reach critical quantities, and for the criminally minded to recognize the new situation and avoid violent confrontations.

<sup>154</sup> Bureau of Justice Statistics, online database, reviewing Texas and U.S. violent crime from 1995-2001.

<sup>155</sup> John Lott, David Mustard: This study involved county level crime statistics from *all* 3,054 counties in the U.S., from 1977 through 1992. During this time ten states adopted right-to-carry laws. It is estimated that if all states had adopted right-to-carry laws, in 1992 the US would have avoided 1,400 murders, 4,200 rapes, 12,000 robberies, 60,000 aggravated assaults – and saved over \$5,000,000,000 in victim expenses.

<sup>156</sup> FBI, Uniform Crime Reports, 2004 - excludes Hawaii and Rhode Island - small populations and geographic isolation create other determinants to violent crime.

<sup>157</sup> Federal legislation created a nation “gun-free schools” policy, effective in 1996. Some criminologists maintain this created a new dynamic, encouraging mass murder on campus. Thus after 1995 it is increasing difficult to make comparisons based on the effects of CCWs and mass shootings.

<sup>158</sup> “Multiple Victim Public Shootings, Bombings, and Right-to-Carry Concealed Handgun Laws: Contrasting Private and Public Law Enforcement”, John Lott and William Landes, Law School of the University of Chicago, Law & Economics Working Paper No. 73

## MYTH: PEOPLE WITH CONCEALED WEAPONS PERMITS WILL COMMIT CRIMES

**Fact:** The results for the first 30 states that passed “shall-issue” laws for concealed carry permits are similar.

**Fact:** The general public is:<sup>168</sup>

- 5.7 times more likely to be arrested for violent offenses than CCW permit holders.
- 13.5 times more likely to be arrested for non-violent offenses than the than CCW permit holders.

**Fact:** In Texas, the general public is 14 more likely to commit a crime than a CCW permit holder. They are also five times more likely to commit a violent crime.<sup>169</sup>

State <sup>159</sup>	Permits issued	Revoked permits	% Revoked	Violent Crime Rate Change <sup>160</sup>
Florida	1,327,321 <sup>161</sup>	4,129	0.3%	-30.5%
Virginia	50,000 <sup>162</sup>	0	0.0%	-21.9%
Arizona	63,000 <sup>163</sup>	50	0.9%	-28.7%
North Carolina	59,597 <sup>164</sup>	1,274	1.2%	-26.4%
Minnesota	46,636 <sup>165</sup>	12	0.03%	16.8% <sup>166</sup>
Michigan	155,000 <sup>167</sup>	2,178	0.1%	1.4%

**Fact:** Even gun control organizations agree it is a non-problem, as in Texas – “because there haven't been Wild West shootouts in the streets”.<sup>170</sup>

**Fact:** Of 14,000 CCW licensees in Oregon, only 4 (0.03%) were convicted of the criminal (not necessarily violent) use or possession of a firearm.

<sup>159</sup> Reports were as received. No selection or filtering process was used.

<sup>160</sup> Violent crime rates are from inception of “shall issue” CCW through 2006, the most recent period available through the Bureau of Justice Statistics online database.

<sup>161</sup> October 1987 through Jan 2008

<sup>162</sup> 1995 – no follow-up data available

<sup>163</sup> 1994 through 2007

<sup>164</sup> 1995 through 2004

<sup>165</sup> 2002 through 2006

<sup>166</sup> In 2005 and 2006, Minnesota had an abnormal spike in robbery and aggravated assaults. The first three years of CCW in Minnesota saw violent crime rates being roughly stable.

<sup>167</sup> 2001 through 2007

<sup>168</sup> “An Analysis of the Arrest Rate of Texas Concealed Carry Handgun License Holders as Compared to the Arrest Rate of the Entire Texas Population”, William E. Sturdevant, PE, September 11, 1999

<sup>169</sup> Texas Department of Public Safety and the U.S. Census Bureau, reported in San Antonio Express-News, September, 2000

<sup>170</sup> Nina Butts, Texans Against Gun Violence, Dallas Morning News, August 10, 2000

**Fact:** In Florida, a state that has allowed concealed carry since late 1987, you are twice as likely to be attacked by an alligator as by a person with a concealed carry permit.<sup>171</sup>

### **MYTH: TEXAS CCW HOLDERS ARE ARRESTED 66% MORE OFTEN**

**Fact:** Most arrests cited are not any form of violent crime (includes bounced checks or tax delinquency).<sup>172</sup>

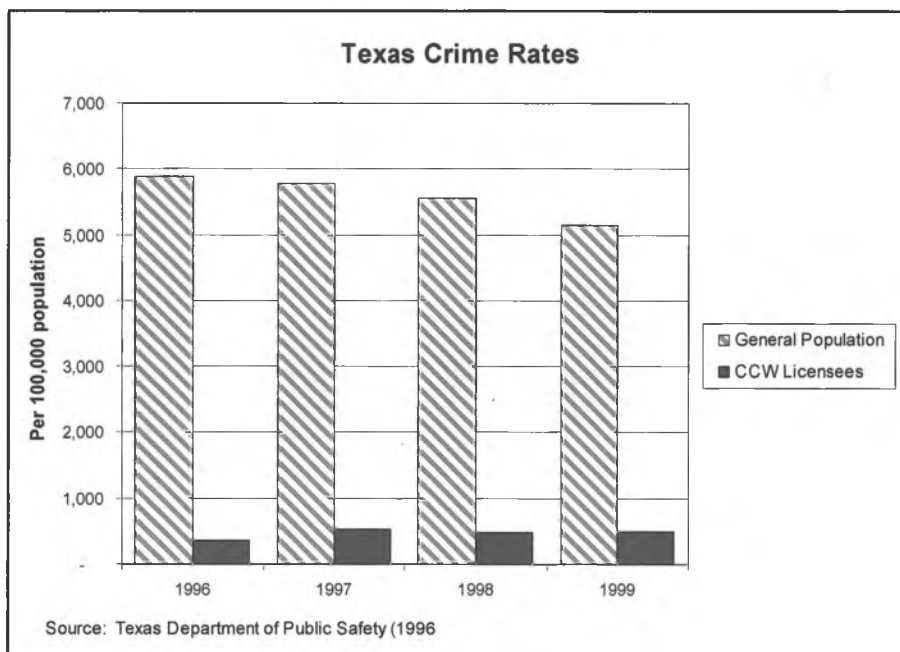
**Fact:** The VPC "study" only includes arrests, not convictions.

**Fact:** Many of these arrests in this premature VPC "study" came in the early years of Texas CCWs when the law was not understood by most of the law enforcement community or prosecutors.

**Fact:** Compared to the entire population, Texas CCW holders are about 7.6 times less likely to be arrested for a violent crime.<sup>173</sup> The numbers breakdown as follows:

- 214,000 CCW holders<sup>174</sup>
- 526 (0.2%) felony arrests of CCW holders that have been adjudicated
- 100 (0.05%) felony convictions

**Fact:** A different study concludes that the four year violent crime arrest rate for CCW holders is 128 per 100,000. For the general population, it is 710 per 100,000. In other words, the general public is 5.5 times more likely to commit a violent crime than a CCW licensee.<sup>175</sup>



<sup>171</sup> Florida Department of State, "Concealed Weapons/Firearms License Statistical Report", 1998 – Florida Game and Fresh Water Fish Commission, December 1998

<sup>172</sup> "Basis For Revocation Or Suspension Of Texas Concealed", Texas Department of Public Safety, December 1, 1998

<sup>173</sup> Texas Department of Corrections data, 1996-2000, compiled by the Texas State Rifle Association, [www.tsra.com/arrests.htm](http://www.tsra.com/arrests.htm)

<sup>174</sup> These are year 2000 records. As of 2005, the number of Texas concealed carry permit holders was 248,874.

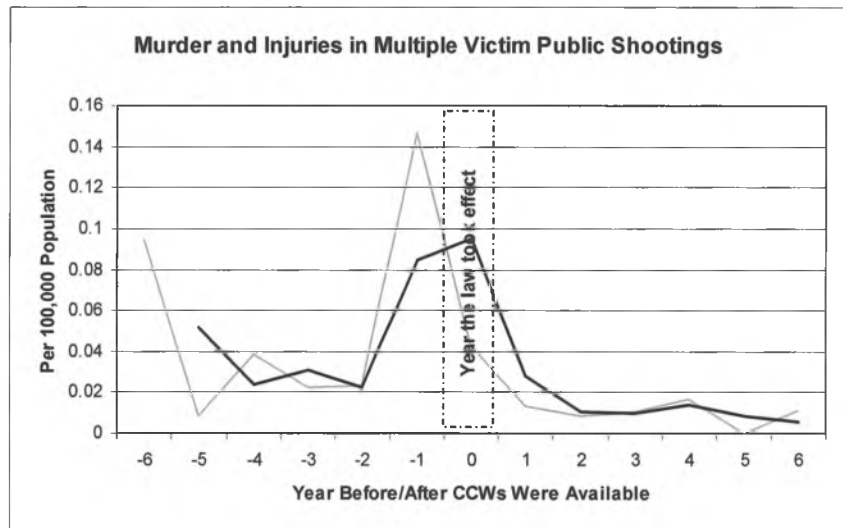
<sup>175</sup> "An Analysis Of The Arrest Rate Of Texas Concealed Handgun License Holders As Compared To The Arrest Rate Of The Entire Texas Population", William E. Sturdevant, PE, September 11, 1999

## MYTH: CCWs WILL LEAD TO MASS PUBLIC SHOOTINGS

**Fact:** Multiple victim public shootings drop in states that pass shall-issue CCW legislation.<sup>176</sup>

## MYTH: PEOPLE DO NOT NEED CONCEALABLE WEAPONS

**Fact:** In 80% of gun defenses, the defender used a concealable handgun. A quarter of the gun defenses occurred in places away from the defender's home.<sup>177</sup>



**Fact:** 77% of all violent crime occurs in public places.<sup>178</sup> This makes concealed carry necessary for almost all self-defense needs. But due to onerous laws forbidding concealed carry, only 26.8% of defensive gun uses occurred away from home.<sup>179</sup>

**Fact:** Often, small weapons that are capable of being concealed are the only ones usable by people of small stature or with physical disabilities.

**Fact:** The average citizen doesn't need a Sport Utility Vehicle, but driving one is arguably safer than driving other vehicles. Similarly, carrying a concealable gun makes the owner – and his or her community – safer by providing protection not otherwise available.

## MYTH: POLICE ARE AGAINST CONCEALED CARRYING BY CITIZENS

**Fact:** 66% of police chiefs believe that citizens carrying concealed firearms reduce rates of violent crime.<sup>180</sup>

**Fact:** "All the horror stories I thought would come to pass didn't happen ...I think it's worked out well, and that says good things about the citizens who have permits. I'm a convert."<sup>181</sup>

<sup>176</sup> Lott John R., Landes William M.; "Multiple Victim Public Shootings, Bombings, and Right-to-Carry Concealed Handgun Laws: Contrasting Private and Public Law Enforcement"; University of Chicago – covers years 1977 to 1995

<sup>177</sup> "Armed Resistance to Crime: The Prevalence and Nature of Self-Defense with a Gun," by Gary Kleck and Marc Gertz, in The Journal of Criminal Law & Criminology, Northwestern University School of Law, Volume 86, Number 1, Fall, 1995

<sup>178</sup> U.S. Bureau of Justice Statistics, "Criminal Victimization in the United States", 1993

<sup>179</sup> Kleck and Gertz, National Self Defense Survey, 1995

<sup>180</sup> National Association of Chiefs of Police, 17th Annual National Survey of Police Chiefs & Sheriffs, 2005

<sup>181</sup> Glenn White, president, Dallas Police Association, Dallas Morning News, December 23, 1997

**Fact:** “I ... [felt] that such legislation present[ed] a clear and present danger to law-abiding citizens by placing more handguns on our streets. Boy was I wrong. Our experience in Harris County, and indeed statewide, has proven my fears absolutely groundless”<sup>182</sup>.

**Fact:** Explain this to the Law Enforcement Alliance of America, Second Amendment Police Department, and Law Enforcement for the Preservation of the Second Amendment, all of whom support shall-issue concealed carry laws.

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<sup>182</sup> John B. Holmes, Harris County Texas district attorney, Dallas Morning News, December 23, 1997

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gun control >

**Citation**

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**Finding What You Want**

» Click on the footnote numbers for meticulous documentation of each fact.

» Type "Ctrl F" to search this page.

» Quick Click to:

- General Facts
- Ownership
- Crime and Self Defense
- Background Checks and Criminals' Sources of Guns
- Right-to-Carry Laws
- Accidents
- Politics
- Constitution



**Introductory Notes**

This research is based upon the most recent available data in 2010. Facts from earlier years are cited based upon availability and relevance, not to slant results by singling out specific years that are different from others. Likewise, data associated with the effects of gun control laws in various geographical areas represent random, demographically diverse places in which such data is available.

Many aspects of the gun control issue are best measured and sometimes can only be measured through surveys.[1] but the accuracy of such surveys depends upon respondents providing truthful answers to questions that are sometimes controversial and potentially incriminating.[2] Thus, Just Facts uses such data critically, citing the best-designed surveys we find, detailing their inner workings in our footnotes, and using the most cautious plausible interpretations of the results.

Particularly, when statistics are involved, the determination of what constitutes a credible fact (and what does not) can contain elements of personal subjectivity. It is our mission to minimize subjective information and to provide highly factual content. Therefore, we are taking the additional step of providing readers with four examples to illustrate the type of material that was excluded because it did not meet Just Facts' Standards of Credibility.

**General Facts**

- Firearms are generally classified into three broad types: (1) handguns, (2) rifles, and (3) shotguns.[3] Rifles and shotguns are both considered "long guns."
- A semi-automatic firearm fires one bullet each time the trigger is pulled, ejects the shell of the fired bullet, and automatically loads another bullet for the next pull of the trigger. A fully automatic firearm (sometimes called a "machine gun") fires multiple bullets with the single pull of the trigger.[4]

**Ownership**

- As of 2009, the United States has a population of 307 million people.[5]
- Based on production data from firearm manufacturers,[6] there are roughly 300 million firearms owned by civilians in the United States as of 2010. Of these, about 100 million are handguns.[7]
- Based upon surveys, the following are estimates of private firearm ownership in the U.S. as of 2010:

	Households With a Gun	Adults Owning a Gun	Adults Owning a Handgun
Percentage	40-45%	30-34%	17-19%
Number	47-53 million	70-80 million	40-45 million

[8]

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• A 2005 nationwide Gallup poll of 1,012 adults found the following levels of firearm ownership:

Category	Percentage Owning a Firearm
Households	42%
Individuals	30%
Male	47%
Female	13%
White	33%
Nonwhite	18%
Republican	41%
Independent	27%
Democrat	23%

[9]

• In the same poll, gun owners stated they own firearms for the following reasons:

Protection Against Crime	67%
Target Shooting	66%
Hunting	58%

[10]

**Crime and Self-Defense**

• Roughly 16,272 murders were committed in the United States during 2008. Of these, about 10,886 or 67% were committed with firearms.[11]

• A 1993 nationwide survey of 4,977 households found that over the previous five years, at least 0.5% of households had members who had used a gun for defense during a situation in which they thought someone "almost certainly would have been killed" if they "had not used a gun for protection." Applied to the U.S. population, this amounts to 162,000 such incidents per year. This figure excludes all "military service, police work, or work as a security guard." [12]

• Based on survey data from the U.S. Department of Justice, roughly 5,340,000 violent crimes were committed in the United States during 2008. These include simple/aggravated assaults, robberies, sexual assaults, rapes, and murders.[13] [14] [15] Of these, about 436,000 or 8% were committed by offenders visibly armed with a gun.[16]

• Based on survey data from a 2000 study published in the *Journal of Quantitative Criminology*, [17] U.S. civilians use guns to defend themselves and others from crime at least 989,883 times per year.[18]

• A 1993 nationwide survey of 4,977 households found that over the previous five years, at least 3.5% of households had members who had used a gun "for self-protection or for the protection of property at home, work, or elsewhere." Applied to the U.S. population, this amounts to 1,029,615 such incidents per year. This figure excludes all "military service, police work, or work as a security guard." [19]

• A 1994 survey conducted by the U.S. Centers for Disease Control and Prevention found that Americans use guns to frighten away intruders who are breaking into their homes about 498,000 times per year.[20]

• A 1982 survey of male felons in 11 state prisons dispersed across the U.S. found:[21]

- 34% had been "scared off, shot at, wounded, or captured by an armed victim"
- 40% had decided not to commit a crime because they "knew or believed that the victim was carrying a gun"
- 69% personally knew other criminals who had been "scared off, shot at, wounded, or captured by an armed victim" [22]

• [Click here](#) to see why the following commonly cited statistic does not meet Just Facts' Standards of Credibility: "In homes with guns, the homicide of a household member is almost 3 times more likely to occur than in homes without guns."

**L Vulnerability to Violent Crime**

• At the current homicide rate, roughly one in every 240 Americans will be murdered.[23]

• A U.S. Justice Department study based on crime data from 1974-1985 found:

- 42% of Americans will be the victim of a completed violent crime (assault, robbery, rape) in the course of their lives
- 83% of Americans will be the victim of an attempted or completed violent crime
- 52% of Americans will be the victim of an attempted or completed violent crime more than once [24]

• A 1997 survey of more than 18,000 prison inmates found that among those serving time for a violent

crime, "30% of State offenders and 35% of Federal offenders carried a firearm when committing the crime." [25]

↳ Criminal Justice System

\* Nationwide in 2008, law enforcement agencies reported that 55% of aggravated assaults, 27% of robberies, 40% of rapes, and 64% of murders that were reported to police resulted in an alleged offender being arrested and turned over for prosecution. [26] [27]

\* Currently, for every 12 aggravated assaults, robberies, sexual assaults, rapes, and murders committed in the United States, approximately one person is sentenced to prison for committing such a crime. [28] [29] [30]

\* A 2002 U.S. Justice Department study of 272,111 felons released from state prisons in 1994 found that within three years of their release:

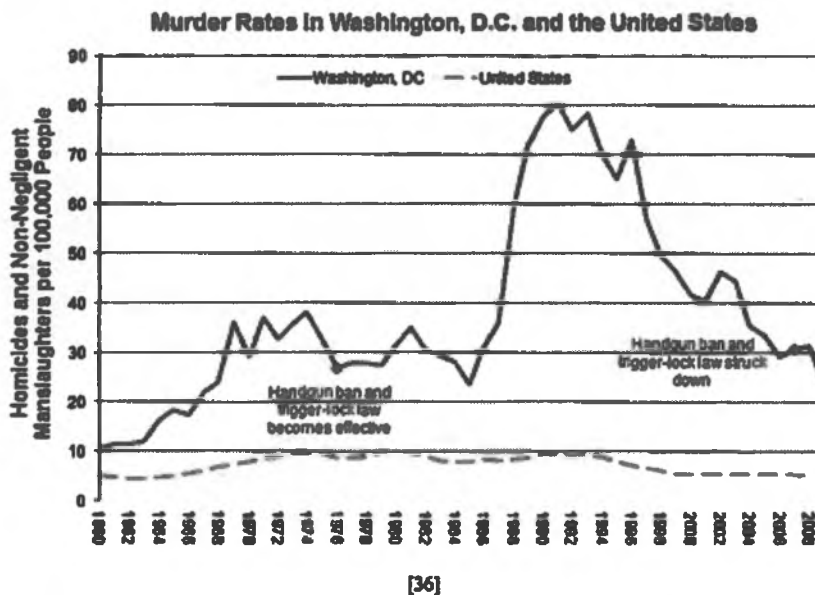
- at least 67.5% had been arrested for committing a new offense
- at least 21.6% had been arrested for committing a new violent offense
- these former inmates had been charged with committing at least 2,871 new homicides, 2,444 new rapes, 3,151 other new sexual assaults, 2,362 new kidnappings, 21,245 new robberies, 54,604 new assaults, and 13,854 other new violent crimes [31]

\* Of 1,662 murders committed in New York City during 2003-2005, more than 90% were committed by people with criminal records. [32]

↳ Washington, DC

\* In 1976, the Washington, D.C. City Council passed a law generally prohibiting residents from possessing handguns and requiring that all firearms in private homes be (1) kept unloaded and (2) rendered temporarily inoperable via disassembly or installation of a trigger lock. The law became operative on Sept. 24, 1976. [33] [34]

\* On June 26, 2008, the U.S. Supreme Court, in a 5-4 ruling, struck down this law as unconstitutional. [35]



\* During the years in which the D.C. handgun ban and trigger lock law was in effect, the Washington, D.C. murder rate averaged 73% higher than it was at the outset of the law, while the U.S. murder rate averaged 11% lower. [37]

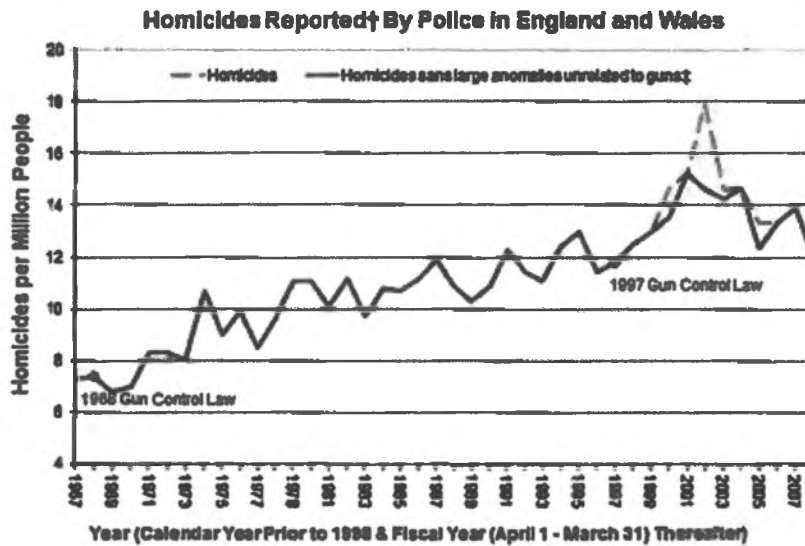
↳ Britain

\* In 1920, Britain passed a law requiring civilians to obtain a certificate from their district police chief in order to purchase or possess any firearm except a shotgun. To obtain this certificate, the applicant had to pay a fee, and the chief of police had to be "satisfied" that the applicant had "good reason for requiring such a certificate" and did not pose a "danger to the public safety or to the peace." The certificate had to specify the types and quantities of firearms and ammunition that the applicant could purchase and keep. [38]

\* In 1968, Britain made the 1920 law stricter by requiring civilians to obtain a certificate from their district police chief in order to purchase or possess a shotgun. This law also required that firearm certificates specify the identification numbers ("if known") of all firearms and shotguns owned by the applicant. [39]

\* In 1997, Britain passed a law requiring civilians to surrender almost all privately owned handguns to the

police. More than 162,000 handguns and 1.5 million pounds of ammunition were "compulsorily surrendered" by February 1998. Using "records of firearms held on firearms certificates," police accounted for all but fewer than eight of all legally owned handguns in England, Scotland, and Wales.[40]



† Homicide data is published according to the years in which the police initially reported the offenses as homicides, which are not always the same years in which the incidents took place.

‡ Large anomalies unrelated to guns.

- 2000: 58 Chinese people suffocated to death in a shipping container en route to the UK
- 2002: 172 homicides reported when Dr. Harold Shipman was exposed for killing his patients
- 2003: 20 cockle pickers drowned resulting in manslaughter charges
- 2005: 52 people were killed in the July 7th London subway/bus bombings

[41]

• Not counting the above-listed anomalies, the homicide rate in England and Wales has averaged 52% higher since the outset of the 1968 gun control law and 15% higher since the outset of the 1997 handgun ban.[42]

↳ Chicago

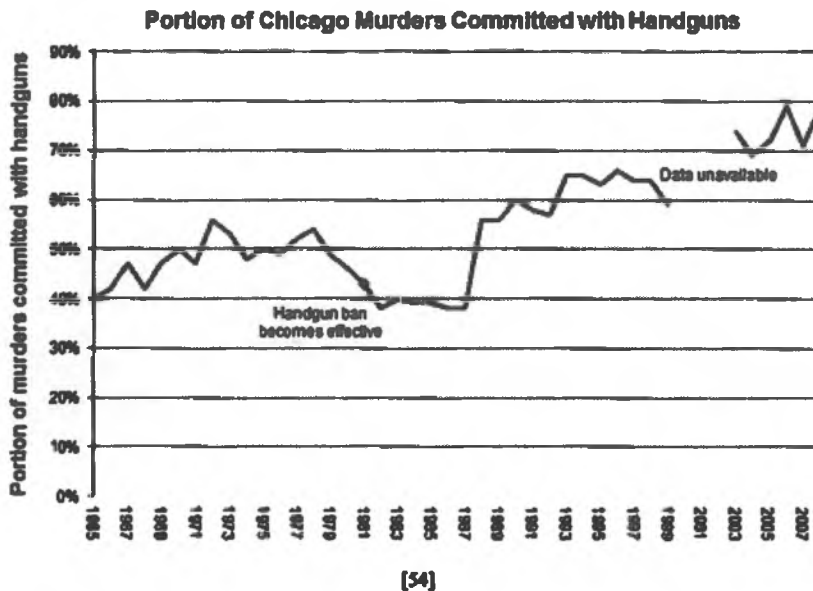
• In 1982, the city of Chicago instituted a ban on handguns. This ban barred civilians from possessing handguns except for those registered with the city government prior to enactment of the law. The law also specified that such handguns had to be re-registered every two years or owners would forfeit their right to possess them. In 1994, the law was amended to require annual re-registration.[43] [44] [45]

• In the wake of Chicago's handgun ban, at least five suburbs surrounding Chicago instituted similar handgun bans. When the Supreme Court overturned the District of Columbia's handgun ban in June 2008, at least four of these suburbs repealed their bans.[46] [47] [48] [49] [50]

• In June 2010, the U.S. Supreme Court ruled (5-4) that Chicago's ban is unconstitutional.[51]



• Since the outset of the Chicago handgun ban, the Chicago murder rate has averaged 17% lower than it was before the law took effect, while the U.S. murder rate has averaged 25% lower. [52]



• Since the outset of the Chicago handgun ban, the percentage of Chicago murders committed with handguns has averaged about 40% higher than it was before the law took effect. [55]

• In 2005, 96% of the firearm murder victims in Chicago were killed with handguns. [56]

**Background Checks and Criminals' Sources of Guns**

• Under federal law:

• It is illegal and punishable by up to 10 years in prison for the following people to receive, possess, or transport any firearm or ammunition:

someone convicted of or under indictment for a felony punishable by more than one year in prison, someone convicted of a misdemeanor punishable by more than two years in prison, a fugitive from justice, an unlawful user of any controlled substance, someone who has been ruled as mentally defective or has been committed to any mental institution, an illegal alien, someone dishonorably discharged from the military, someone who has renounced his or her U.S. citizenship, someone subject to certain restraining orders, or someone convicted of a domestic violence misdemeanor. [57] [58] [59] [60]

• It is illegal and punishable by up to 10 years in prison to sell or transfer any firearm or ammunition to someone while "knowing" or having "reasonable cause to believe" this person falls into any of the

prohibited categories listed above.[61] [62]

- It is illegal to "engage in the business of importing, manufacturing, or dealing in firearms" without a federal license to do so.[63] [64] [65]
- It is illegal for any federally licensed firearms business to sell or transfer any firearm without first conducting a background check to see if the buyer/recipient falls into any of the prohibited categories listed above.[66] [67]
- It is illegal for anyone except a federally licensed firearms business to sell, buy, trade, or transfer a firearm across state lines.[68]
- Under federal law, private individuals are not required to conduct a background check before selling or transferring a firearm to someone who lives in the same state, but it is illegal and punishable by up to 10 years in prison for a private individual to sell or transfer a firearm while "knowing" or having "reasonable cause to believe" that the recipient falls into one of the prohibited categories above.[69] [70]
- Some states such as California require background checks for all firearms transactions, including those conducted between private individuals.[71] [72] [73]

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#### ↳ Denials

- In the 10-year period from November 30, 1998 to December 31, 2008, about 96 million background checks for gun purchases were processed through the federal background check system. Of these, approximately 681,000 or about 1% were denied.[74] [75]
- During 2002 and 2003, out of 17 million background checks resulting in 120,000 denials, the federal government prosecuted 154 people (about one-tenth of 1% of the denials).[76] [77]
- According to federal agents interviewed in a 2004 U.S. Justice Department investigation, the "vast majority" of denials under the federal background check system are issued to people who are not "a danger to the public because the prohibiting factors are often minor or based on incidents that occurred many years in the past." As examples of such, agents stated that denials have been issued due to a 1941 felony conviction for stealing a pig and a 1969 felony conviction for stealing hubcaps.[78] [79]
- The same investigation audited 200 background check denials and found that 8% of denied applicants were not prohibited from lawfully possessing a firearm.[80]
- During 2008, applicants appealed about 19% of the 70,725 background check denials issued that year. Of these, about 23% were later overturned and the applications approved.[81]

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#### ↳ Allowances

- As of 2010, federal law does not prohibit members of terrorist organizations from purchasing or possessing firearms or explosives.[82]
- Between February 2004 and February 2010, 1,225 firearm and three explosives background checks for people on terrorist watch lists were processed through the federal background check system. Of these, 91% of the firearm transactions and 100% of the explosives transactions were allowed.[83]
- Under federal law, individuals who have been convicted of a felony offense that would typically prohibit them from possessing firearms can lawfully possess firearms if their civil rights are restored by the requisite government entities.[84]
- As of 2002, 15 states automatically restore the firearm rights of convicts upon their release from prison or completion of parole, and 6 other states automatically restore the firearm rights of juvenile convicts upon their release from prison or completion of parole. In 2004, the Office of the Inspector General of the U.S. Department of Justice wrote that this system

may result in a paradoxical situation in which someone convicted of a misdemeanor crime of domestic violence is permanently barred from owning a firearm, while someone who kills his spouse has his firearm rights restored after serving his sentence.[85]

---

#### ↳ Enforcement

- To undergo a background check, prospective gun buyers are required by federal regulations to present "photo-identification issued by a government entity." [86]
- Using fake driver's licenses bearing fictitious names, investigators with the Government Accountability Office had a 100% success rate buying firearms in five states that met the minimum requirements of the federal background check system.[87] [88] A 2001 report of this investigation states that the federal background check system "does not positively identify purchasers of firearms," and thus, people using fake IDs are not flagged by the system.[89]

---

#### ↳ Gun Shows

\* "A gun show is an exhibition or gathering where guns, gun parts, ammunition, gun accessories, and literature are displayed, bought, sold, traded, and discussed." [90]

\* Roughly 2,000-5,200 gun shows take place in the United States each year. [91]

\* Gun shows "provide a venue for the sale and exchange of firearms by federal firearms licensees (FFLs)... Such shows also are a venue for private sellers who buy and sell firearms for their personal collections or as a hobby. In these situations, the sellers are not required to have a federal firearms license. Although federal firearms laws apply to both FFLs and private sellers at gun shows, private sellers, unlike FFLs, are under no legal obligation to ask purchasers whether they are legally eligible to buy guns or to verify purchasers' legal status through background checks..." [92]

\* In the three-year period from October 2003 through September 2006, the Bureau of Alcohol, Tobacco and Firearms (ATF) conducted 202 operations at 195 gun shows, leading to 121 arrests and 83 convictions (with some cases still pending as of June 2007). [93]

\* A 1997 U.S. Justice Department survey of 14,285 state prison inmates found that among those inmates who carried a firearm during the offense for which they were sent to jail, 0.7% obtained the firearm at a gun show, 1% at a flea market, 3.8% from a pawn shop, 8.3% from a retail store, 39.2% through an illegal/street source, and 39.6% through family or friends. [94]

**Right-to-Carry Laws**

\* Right-to-carry laws permit individuals who meet certain "minimally restrictive" criteria (such as completion of a background check and gun safety course) to carry concealed firearms in most public places. [95] Concealed carry holders must also meet the minimum federal requirements for gun ownership as detailed above.

\* Each state has its own laws regarding right-to-carry and generally falls into one of three main categories:

- 1) "shall-issue" states, where concealed carry permits are issued to all qualified applicants
- 2) "may-issue" states, where applicants must often present a reason for carrying a firearm to an issuing authority, who then decides based on his or her discretion whether the applicant will receive a permit
- 3) "no-issue" states, where concealed carry is generally forbidden

\* As of January 2012:

• 40 states are shall-issue:

Alaska	Arizona	Arkansas	Colorado
Florida	Georgia	Idaho	Indiana
Iowa	Kansas	Kentucky	Louisiana
Maine	Michigan	Minnesota	Mississippi
Missouri	Montana	Nebraska	Nevada
New Hampshire	New Mexico	North Carolina	North Dakota
Ohio	Oklahoma	Oregon	Pennsylvania
Rhode Island	South Carolina	South Dakota	Tennessee
Texas	Utah	Vermont	Virginia
Washington	West Virginia	Wisconsin	Wyoming

[96]

NOTE: Alaska, Arizona, Vermont, and Wyoming allow lawful firearm owners to carry concealed firearms without a permit. All other shall-issue states require firearm owners to obtain a permit to carry concealed firearms [97]

• 9 states are may-issue:

Alabama	California	Connecticut	Delaware
Hawaii	Maryland	Massachusetts	New Jersey
New York			

[99]

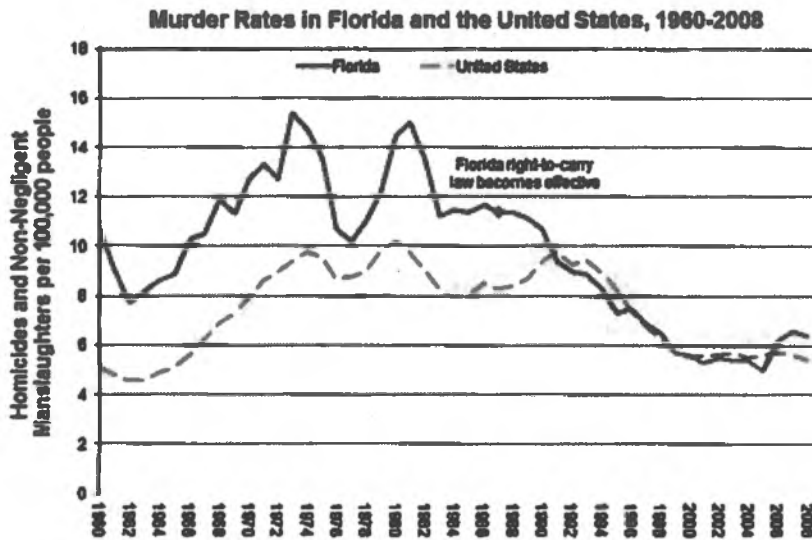
NOTE: May-issue states vary significantly in the implementation of their laws. Some, such as Connecticut, [100] act effectively as shall-issue states, while others, such as New Jersey, act effectively as no-issue states. [101]

• 1 state is no-issue: Illinois [102]

\* [Click here](#) to see why the following commonly cited statistic does not meet Just Facts' Standards of Credibility: In right-to-carry states, the violent crime rate is 24% lower than the rest of the U.S., the murder rate is 28% lower, and the robbery rate is 50% lower.

↳ Florida

- On October 1, 1987, Florida's right-to-carry law became effective.[103]
- This law requires that concealed carry licensees be 21 years of age or older, have clean criminal/mental health records, and complete a firearms safety/training course.[104]
- As of July 31, 2010, Florida has issued 1,825,143 permits and has 746,430 active licensees,[105] constituting roughly 5.4% of the state's population that is 21 years of age or older.[106]

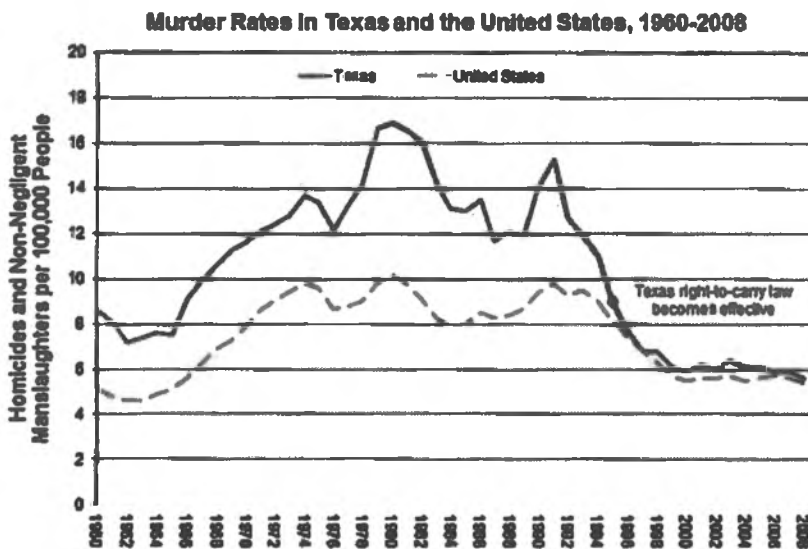


[107]

- Since the outset of the Florida right-to-carry law, the Florida murder rate has averaged 36% lower than it was before the law took effect, while the U.S. murder rate has averaged 15% lower.[108]
- From the outset of the Florida right-to-carry law through July 31, 2010, Florida has revoked 5,674 or 0.3% of all issued permits. Of these:
  - 522 permits were revoked for crimes committed prior to licensure
  - 4,955 permits were revoked for crimes committed after licensure, of which 168 involved the usage of a firearm.[109]

↳ Texas

- In January 1996, Texas's right-to-carry law became effective.[110]
- This law requires that concealed carry licensees be at least 21 years of age (or 18 years of age if a member or veteran of the U.S. armed forces), have clean criminal/mental health records, and complete a handgun proficiency course.[111]
- In 2009, Texas had 402,914 active licensees,[112] constituting roughly 2.4% of the state's population that is 21 years of age or older.[113]



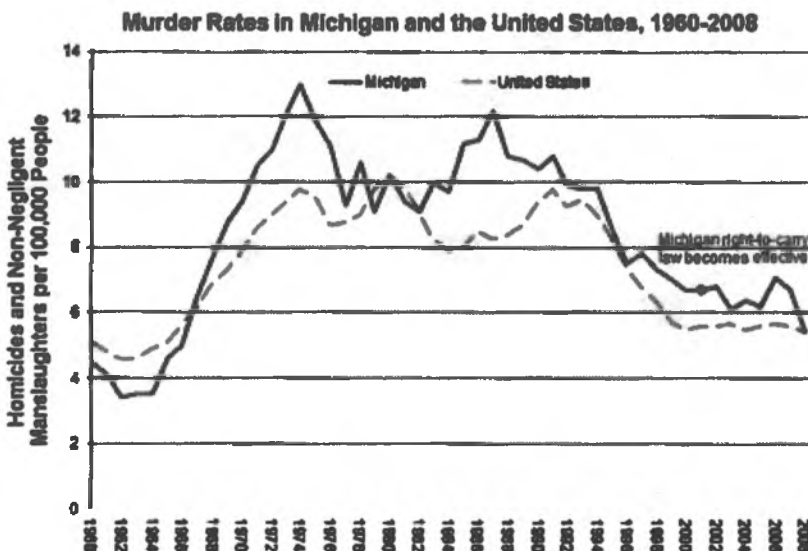
[114]

\* Since the outset of the Texas right-to-carry law, the Texas murder rate has averaged 30% lower than it was before the law took effect, while the U.S. murder rate has averaged 28% lower.[115]

↳ Michigan

\* On July 1, 2001, Michigan's right-to-carry law became effective.[116]

\* This law requires that concealed carry licensees be at least 18 years of age (or 21 years of age if purchasing a handgun from a licensed dealer), have clean criminal/mental health records, and pass a written firearms safety test.[117]



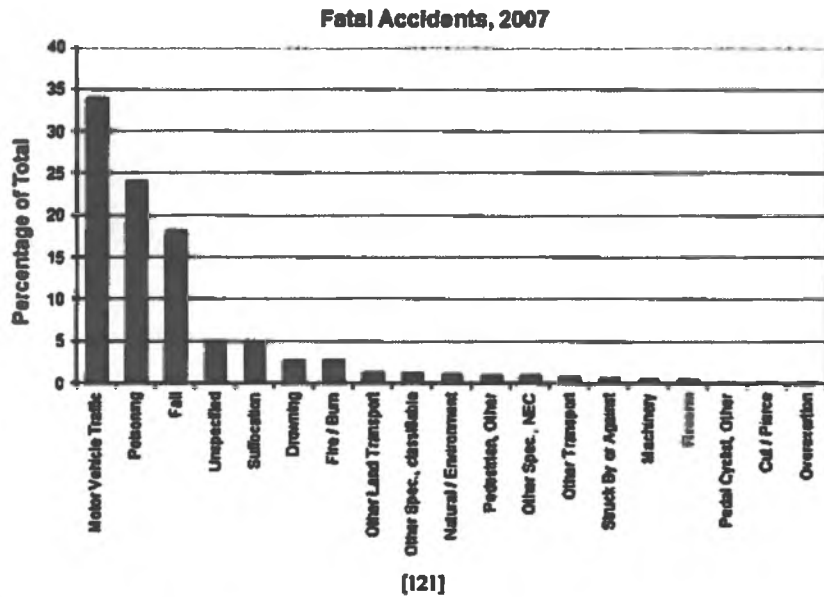
[118]

\* Since the outset of the Michigan right-to-carry law, the Michigan murder rate has averaged 4% lower than it was before the law took effect, while the U.S. murder rate has averaged 2% lower.[119]

Accidents

↳ Fatal

\* In 2007, there were 613 fatal firearm accidents in the United States, constituting 0.5% of 123,706 fatal accidents that year.[120]



\* Fatal firearm accidents in 2007 by age groups:

Age Group	Fatal Firearm Accidents	
	Raw number	Portion of fatal accidents from all causes
<1 yrs	1	0.1%
1-4 yrs	18	1.1%
5-9 yrs	20	2.1%
10-14 yrs	26	2.1%
15-24 yrs	155	1.0%
25-34 yrs	94	0.6%
35-44 yrs	91	0.5%
45-54 yrs	82	0.4%
55-64 yrs	57	0.5%
65+ yrs	69	0.2%

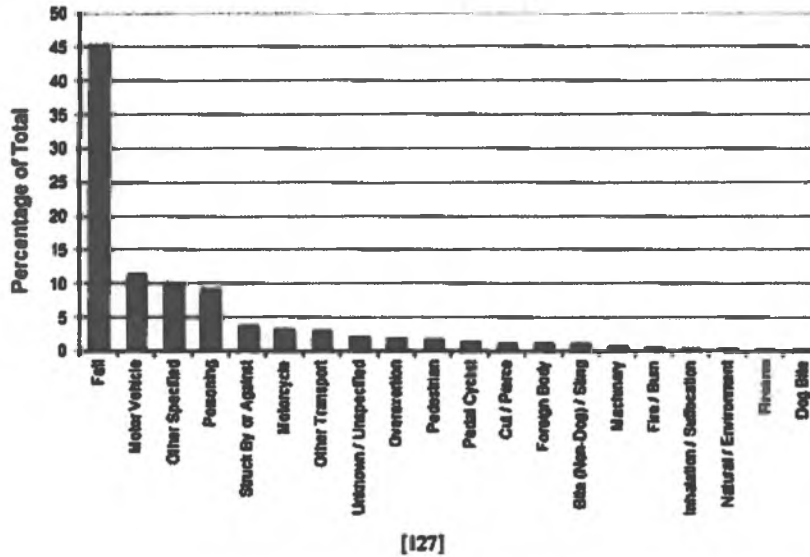
(122)

**Non-Fatal**

\* In 2007, there were roughly 15,698 emergency room visits for non-fatal firearm accidents, [123] constituting 0.05% of 27.7 million emergency room visits for non-fatal accidents that year. [124]

\* These emergency room visits for non-fatal firearm accidents resulted in 5,045 hospitalizations, [125] constituting 0.4% of 1.4 million non-fatal accident hospitalizations that year [126]

Non-Fatal Accident Hospitalizations, 2007



↳ Harm vs. Benefit

\* In *D.C. v Heller*, the 2008 Supreme Court ruling striking down Washington's D.C.'s handgun ban, Justice Stephen Breyer authored a dissenting opinion that was joined by Justices John Paul Stevens, David Souter, and Ruth Bader Ginsburg. The opinion states:

First, consider the facts as the legislature saw them when it adopted the District statute. As stated by the local council committee that recommended its adoption, the major substantive goal of the District's handgun restriction is "to reduce the potentiality for gun-related crimes and gun-related deaths from occurring within the District of Columbia." ...

... [A]ccording to the committee, "[f]or every intruder stopped by a homeowner with a firearm, there are 4 gun-related accidents within the home." [128]

\* This committee report cites no source or evidence for this statistic. [129]

\* A 1994 survey conducted by the U.S. Centers for Disease Control and Prevention (CDC) found that Americans use guns to frighten away intruders who are breaking into their homes about 498,000 times per year. [130]

\* According to the CDC, there were about 18,498 gun-related accidents that resulted in death or an emergency room visit during 2001 [131] (the earliest year such data is available from the CDC [132]). This is roughly 27 times lower than the CDC's 1994 estimate for the number of times Americans use guns to frighten away intruders who are breaking into their homes. [133]

↳ Safety

\* Five critical rules of gun safety from the NRA and other sources.

- 1) Always keep the gun pointed in a safe direction (whether loaded or unloaded).
- 2) Always keep your finger off the trigger until ready to shoot.
- 3) Always keep the gun unloaded until ready to shoot.
- 4) Be aware of what is behind your target.
- 5) When handling firearms, never use alcohol or any drug that might impair your awareness or judgment (including prescription drugs). [134]

Politics

↳ Interest Groups

\* From the 1990 election cycle through August 22, 2010, the following political contributions were made by gun rights and gun control interest groups to federal candidates:

	Total Contributions	Donations to Democrats	Donations to Republicans	Percent to Dem	Percent to Repubs
Gun Rights	\$22,467,579	\$3,231,405	\$19,195,400	14%	85%
Gun Control	\$1,888,886	\$1,776,310	\$112,326	94%	6%

[135] [136]

- \* In the 2008, 2006, 2004, 2002, and 2000 election cycles, neither gun rights nor gun control interest groups were among the top 50 interest groups donating to incumbent members of Congress.[137]
- \* In the 2008 election cycle, gun rights groups donated \$2,397,743 to federal candidates,[138] equating to about 1% of the money donated by lawyers/law firms.[139]
- \* In the 2008, election cycle, gun control groups donated \$57,919 to federal candidates, equating to about 2% of the money donated by gun rights groups.[140]

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#### ↳ Party Platforms

- \* The 2008 Republican Party Platform voices support for the Second Amendment and the Supreme Court's 2008 decision in *D.C. v Heller*, which overturned Washington's D.C.'s handgun ban. The Platform calls for "the next president to appoint judges who will similarly respect the Constitution." [141]
- \* The 2008 Democratic Party Platform voices support for the Second Amendment, states that the "right to own firearms is subject to reasonable regulation," and calls for "closing the gun show loophole, improving our background check system, and reinstating the assault weapons ban." [142]

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#### ↳ Politicians

- \* The President of the United States appoints judges to the Supreme Court. These appointments must be approved by a majority of the Senate.[143] Senate rules allow for a "filibuster," in which a vote to approve a judge can be blocked unless three-fifths of the senators (typically 60 out of 100) agree to let it take place.[144] [145]
- \* Once seated, federal judges serve for life unless they voluntarily resign or are removed through impeachment, which requires a majority vote of the House of Representatives and a two-thirds vote in the Senate.[146]
- \* On June 26, 2008, the U.S. Supreme Court, in a 5-4 decision, ruled that Washington's D.C.'s handgun ban was unconstitutional.[147] Both of the Justices appointed by Democrats voted to uphold the ban, and five of the seven Justices appointed by Republicans voted to strike it down.[148]
- \* Of the five Justices who voted to strike down the D.C. handgun ban, Barack Obama voted against the nomination of two of them and identified two of the others as judges he would not have nominated.[149] [150] [151] Of the four justices who voted to uphold the handgun ban, John McCain identified all of them as judges he would not have nominated.[152]
- \* In May 2009, President Obama announced Sonya Sotomayor as his first nominee to the Supreme Court.[153] She was confirmed in a 68-31 Senate vote, with 100% of Democrats voting for her confirmation and 78% of Republicans voting against it.[154]
- \* Within a year of being confirmed to the Supreme Court,[155] Sotomayor joined in a dissenting opinion declaring that Chicago's handgun ban was constitutional, that "the use of arms for private self-defense does not warrant federal constitutional protection from state regulation," and that the Framers of the Constitution "did not write the Second Amendment in order to protect a private right of armed self-defense." [156]
- \* In May 2010, Obama announced his second nominee to the Supreme Court, Elena Kagan.[157] As a law clerk for Supreme Court Justice Thurgood Marshall, Kagan wrote a memo recommending Marshall deny hearing an appeal from a man who was convicted of violating Washington, D.C.'s gun laws. She wrote in the memo:

[The man's] sole contention is that the District of Columbia's firearms statutes violate his constitutional right to "keep and bear arms." I'm not sympathetic.[158]

- \* Kagan was confirmed to the Supreme Court by the Senate in a 63-37 vote, with 98% of Democrats voting for her confirmation and 88% of Republicans voting against it.[159]

#### Constitution

- \* In the Bill of Rights, the Second Amendment to the Constitution reads:

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms shall not be infringed.[160]

- \* Gun control proponents have argued and some federal courts have ruled that the Second Amendment does not apply to individual citizens of the United States but only to members of militias, which, they assert, are now the state National Guard units.[161] [162] In 2002, a federal appeals court panel ruled that "the people" only "have the right to bear arms in the service of the state." [163]
- \* Gun rights proponents have argued and some federal courts have ruled that the Second Amendment recognizes "an individual right to keep and bear arms." [164] In 2001, a federal appeals court panel ruled that the Second Amendment "protects the right of individuals, including those not then actually a member of any militia or engaged in active military service or training, to privately possess and bear their own firearms..." [165]

\* James Madison was the primary author of the Bill of Rights,[166] is known as the "Father of the Constitution" for his central role in its formation,[167] and was one of three authors of the Federalist Papers, a group of essays published in newspapers and books to explain and lobby for ratification of the Constitution.[168] [169]

\* In Federalist Paper 46, James Madison addressed the concern that a standing federal army might conduct a coup to take over the nation. He argued that this was implausible because, based on the country's population at the time, a federal standing army couldn't field more than 25,000-30,000 men. He then wrote:

To these would be opposed a militia amounting to near half a million of citizens with arms in their hands, officered by men chosen from among themselves, fighting for their common liberties, and united and conducted by governments possessing their affections and confidence.

Besides the advantage of being armed, which the Americans possess over the people of almost every other nation, the existence of subordinate governments, to which the people are attached, and by which the militia officers are appointed, forms a barrier against the enterprises of ambition, more insurmountable than any which a simple government of any form can admit of. Notwithstanding the military establishments in the several kingdoms of Europe, which are carried as far as the public resources will bear, the governments are afraid to trust the people with arms. [170]

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#### ↳ *D.C. v Heller*

\* In 1976, the Washington, D.C. City Council passed a law generally prohibiting residents from possessing handguns and requiring that all firearms in private homes be (1) kept unloaded and (2) rendered temporarily inoperable via disassembly or installation of a trigger lock.[171] [172]

\* On June 26, 2008, the U.S. Supreme Court, in a 5-4 ruling known as *D.C. v Heller*, struck down this law as unconstitutional.[173]

\* Excerpts from the majority ruling (Justice Scalia, joined by Roberts, Kennedy, Thomas, and Alito):

The District's total ban on handgun possession in the home amounts to a prohibition on an entire class of "arms" that Americans overwhelmingly choose for the lawful purpose of self-defense. Under any of the standards of scrutiny the Court has applied to enumerated constitutional rights, this prohibition ... would fail constitutional muster.

Similarly, the requirement that any lawful firearm in the home be disassembled or bound by a trigger lock makes it impossible for citizens to use arms for the core lawful purpose of self-defense and is hence unconstitutional.

The Second Amendment is naturally divided into two parts: its prefatory clause and its operative clause. The former does not limit the latter grammatically, but rather announces a purpose. The Amendment could be rephrased, "Because a well regulated Militia is necessary to the security of a free State, the right of the people to keep and bear Arms shall not be infringed."

\* Excerpts from a minority dissent (Justice Stevens, joined by Souter, Ginsburg, and Breyer):

[T]he words "the people" in the Second Amendment refer back to the object announced in the Amendment's preamble. They remind us that it is the collective action of individuals having a duty to serve in the militia that the text directly protects and, perhaps more importantly, that the ultimate purpose of the Amendment was to protect the States' share of the divided sovereignty created by the Constitution.

As used in the Second Amendment, the words "the people" do not enlarge the right to keep and bear arms to encompass use or ownership of weapons outside the context of service in a well-regulated militia.

\* Excerpt from a minority dissent (Justice Breyer, joined by Stevens, Souter, and Ginsburg):

[The Framers were] unlikely then to have thought of a right to keep loaded handguns in homes to confront intruders in urban settings as *central*. And the subsequent development of modern urban police departments, by diminishing the need to keep loaded guns nearby in case of intruders, would have moved any such right even further away from the heart of the amendment's more basic protective ends.

\* The Bill of Rights includes two Amendments other than the Second that use the phrase "right of the people":

Amendment 1: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of

speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." [174]

Amendment 4: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." [175]

\* In *D.C. v Heller*, the Supreme Court Justices debated the meaning of the phrase "right of the people" in the Second Amendment. Below are excerpts of this debate:

• Majority Opinion (Justice Scalia, joined by Roberts, Kennedy, Thomas, and Alito):

The unamended Constitution and the Bill of Rights use the phrase "right of the people" two other times... The Ninth Amendment uses very similar terminology... All three of these instances unambiguously refer to individual rights, not "collective" rights, or rights that may be exercised only through participation in some corporate body. ...

... Nowhere else in the Constitution does a "right" attributed to "the people" refer to anything other than an individual right.

What is more, in all six other provisions of the Constitution that mention "the people," the term unambiguously refers to all members of the political community, not an unspecified subset.

• Dissenting Opinion (Justice Stevens, joined by Souter, Ginsburg, and Breyer):

The Court also overlooks the significance of the way the Framers used the phrase "the people" in these constitutional provisions. In the First Amendment, no words define the class of individuals entitled to speak, to publish, or to worship; in that Amendment it is only the right peaceably to assemble, and to petition the Government for a redress of grievances, that is described as a right of "the people." These rights contemplate collective action. While the right peaceably to assemble protects the individual rights of those persons participating in the assembly, its concern is with action engaged in by members of a group, rather than any single individual. Likewise, although the act of petitioning the Government is a right that can be exercised by individuals, it is primarily collective in nature. For if they are to be effective, petitions must involve groups of individuals acting in concert. ...

As used in the Fourth Amendment, "the people" describes the class of persons protected from unreasonable searches and seizures by Government officials. It is true that the Fourth Amendment describes a right that need not be exercised in any collective sense. But that observation does not settle the meaning of the phrase "the people" when used in the Second Amendment.

• Majority Opinion (Justice Scalia, joined by Roberts, Kennedy, Thomas, and Alito):

*Justice Stevens* is of course correct ... that the right to assemble cannot be exercised alone, but it is still an individual right, and not one conditioned upon membership in some defined "assembly," as he contends the right to bear arms is conditioned upon membership in a defined militia. And *Justice Stevens* is dead wrong to think that the right to petition is "primarily collective in nature." *Ibid.* See *McDonald v. Smith*, 472 U. S. 479, 482-484 (1985) (describing historical origins of right to petition).

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↳ *McDonald v Chicago*

\* In an 1833 Supreme Court case known as *Barron v Baltimore*, the Court ruled that the rights of the people in the Constitution and the Bill of Rights only had to be respected by the federal government and could be infringed by state governments. [176]

\* During the aftermath of the Civil War in 1868, the United States adopted the 14th Amendment to the Constitution, the first section of which reads:

... No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. ... [177]

\* Senator Jacob Howard of Michigan served on the committee that drafted the 14th Amendment, and he introduced it on the floor of the Senate. In this speech, he stated that that the "great object" of the first section of the amendment is "to restrain the power of the States and compel them at all times to respect" the "personal rights guaranteed and secured by the first eight amendments of the Constitution" including "the right to keep and to bear arms...." [178]

\* In 1982, the city of Chicago instituted a ban on handguns. This ban barred civilians from possessing handguns except for those registered with the city government prior to enactment of the law. The law also

specified that such handguns had to be re-registered every two years or owners would forfeit their right to possess them. In 1994, the law was amended to require annual re-registration.[179] [180] [181]

• On June 28, 2010, the U.S. Supreme Court ruled (5-4) that this ban is unconstitutional.[182]

• Excerpt from the majority ruling (Justice Alito, joined by Roberts, Scalia, Kennedy, and Thomas):

In sum, it is clear that the Framers and ratifiers of the Fourteenth Amendment counted the right to keep and bear arms among those fundamental rights necessary to our system of ordered liberty.

• Excerpt from a concurring opinion (Justice Thomas):

[An 1876 decision by the Supreme Court] holding that blacks could look only to state governments for protection of their right to keep and bear arms enabled private forces, often with the assistance of local governments, to subjugate the newly freed slaves and their descendants through a wave of private violence designed to drive blacks from the voting booth and force them into peonage, an effective return to slavery. Without federal enforcement of the inalienable right to keep and bear arms, these militias and mobs were tragically successful in waging a campaign of terror against the very people the Fourteenth Amendment had just made citizens.

• Excerpt from a minority dissent (Justice Breyer, joined by Ginsburg and Sotomayor):

[T]he use of arms for private self-defense does not warrant federal constitutional protection from state regulation.

• Excerpt from a minority dissent (Justice Stevens):

[T]he strength of the individual's liberty interests and the State's regulatory interests must always be assessed and compared.

#### Footnotes

[1] Paper: "Estimating intruder-related firearm retrievals in U.S. households, 1994." By Robin M. Ikeda and others. *Violence and Victims*, Winter 1997. Pages 363-372. <http://www.ncbi.nlm.nih.gov/pubmed/9291354>

Page 370: "Obtaining information on the protective use of firearms in an efficient and unbiased manner is difficult. These data can be collected through official records, such as police reports, or through special studies. Police reports are more likely to include events with untoward outcomes. Cross-sectional surveys may also be subject to reporting biases and may not yield a sufficient number of episodes to analyze because these events are rare. Nevertheless, surveys are likely to be the most common investigatory tool because of their simplicity and apparent straightforwardness."

[2] Book: *Firearms and Violence: A Critical Review*. By the Committee to Improve Research and Data on Firearms and the Committee on Law and Justice, National Research Council of the National Academies. Edited by Charles F. Wellford, John V. Pepper, and Carol V. Petrie. National Academies Press, 2005. Page 35.

While surveys of firearms acquisitions, possession, and use are of varying quality and scope, they all share common methodological and survey sampling-related problems. The most fundamental of these is the potential for response errors to survey questionnaires. Critics argue that asking people whether they own a firearm, what kind it is, and how it is used may lead to invalid responses because ownership is a controversial matter for one or more reasons: some people may own a firearm illegally, some may own it legally but worry that they may use it illegally, and some may react to the intense public controversy about firearm ownership by becoming less (or even more) likely to admit to ownership (Blackman, 2003).<sup>7</sup>

<sup>7</sup> While in most surveys respondents are provided confidentiality, the concern is still expressed that violations of confidentiality directly or through data mining could lead to the identification of specific respondents in a way that might allow the identification of firearms owners.

[3] Report: "Guns Used in Crime." By Marianne W. Zawitz. U.S. Department of Justice, Bureau of Justice Statistics, July 1995. <http://bjs.ojp.usdoj.gov/content/pub/pdf/GUJIC.PDF>

Page 2:

**What are the different types of firearms?**

**Handgun** A weapon designed to fire a small projectile from one or more barrels when held in one hand with a short stock designed to be gripped by one hand.

**Revolver** A handgun that contains its ammunition in a revolving cylinder that typically holds five to nine cartridges, each within a separate chamber. Before a revolver fires, the cylinder rotates, and the next chamber is aligned with the barrel.

**Pistol** Any handgun that does not contain its ammunition in a revolving cylinder. Pistols can be manually operated or semiautomatic. A semiautomatic pistol generally contains cartridges in a

magazine located in the grip of the gun. When the semiautomatic pistol is fired, the spent cartridge that contained the bullet and propellant is ejected, the firing mechanism is cocked, and a new cartridge is chambered.

**Derringer** A small single- or multiple-shot handgun other than a revolver or semiautomatic pistol.

**Rifle** A weapon intended to be fired from the shoulder that uses the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

**Shotgun** A weapon intended to be fired from the shoulder that uses the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

[4] Report: "Firearm Use by Offenders." By Caroline Wolf Harlow, U.S. Department of Justice, November 2001. <http://bia.ojp.usdoj.gov/index.cfm?tv=pbdetail&id=940>

Page 15:

A semiautomatic gun is a firearm in which a shell is ejected and the next round of ammunition is loaded automatically from a magazine or clip. The trigger must be pulled for each shot. Semiautomatic guns may be classified as handguns, rifles, or shotguns.

A machine gun is an automatic gun which, if the trigger is held down, will fire rapidly and continuously. It is not a semi-automatic gun for which the trigger must be pulled for each shot. (Classified as *fully automatic* for analysis)

[5] Dataset: "Annual Estimates of the Resident Population for the United States, Regions, States, and Puerto Rico: April 1, 2000 to July 1, 2008." U.S. Census Bureau, December 2009. <http://www.census.gov/popest/states/NST-ann-est.html>

As of July 1, 2009, total people = 307,006,550

[6] Book: *Firearms and Violence: A Critical Review*. By the Committee to Improve Research and Data on Firearms and the Committee on Law and Justice, National Research Council of the National Academies. Edited by Charles F. Wellford, John V. Pepper, and Carol V. Petrie. National Academies Press, 2005. Pages 56-57:

Firearm production statistics are derived from reports of firearms manufacture, import, and export made the Bureau of Alcohol, Tobacco, and Firearms. Estimates of firearm availability are derived by adding the net growth in the number of firearms (manufactures plus imports minus exports) to a base measure of firearms stock.<sup>4</sup>

<sup>4</sup> Production-based estimates have limitations in that they account for neither additions to the stock from illegal or other uncounted means nor losses from seized, lost, or nonworking firearms. These data also exclude firearms manufactured or exported for the military but include firearms purchased by domestic law enforcement agencies.

Page 57: "Table 3-2 presents production-based estimates of the size of the civilian firearms stock based on a cumulated total since 1999."

1999, total firearms (258,322,465), handguns (93,742,357)

[7] Web page: "Firearms Fact Card, 2010." National Rifle Association, January 20, 2010. <http://www.nraile.org/Issues/FactSheets/Read.aspx?ID=83>

"Privately owned firearms in the U.S.: Approaching 300 million, including nearly 100 million handguns. The number of firearms rises over 4 million annually."

NOTE: Although the NRA does not state that this data is derived from production-based estimates, it is consistent with the 1999 production-based estimates in the citation above.

[8] Data from and calculations performed with information from the following sources:

a) Web page: "Firearms Fact Card, 2010." National Rifle Association, January 20, 2010. <http://www.nraile.org/Issues/FactSheets/Read.aspx?ID=83>

"Gun owners in the U.S.: 70-80 million; 40-45 million own handguns"

"American households that have firearms: 40-45%"

NOTES:

- Although the NRA does not state that this data is derived from surveys, Just Facts found that it is consistent with a broad range of surveys.

- Just Facts requested data on firearm ownership from the U.S. Department of Justice on February 17, 2010. The Department of Justice responded that this information is "not maintained by this Agency."

b) Dataset: "Average Number of People per Household, by Race and Hispanic Origin, Marital Status, Age, and Education of Householder: 2009." U.S. Census Bureau, January 2009. <http://www.census.gov/population/www/specdemo/hh-fam/cen2009.html>  
Total households = 117,181,000

c) Dataset: "Annual Estimates of the Resident Population for the United States, Regions, States, and Puerto Rico: April 1, 2000 to July 1, 2008." U.S. Census Bureau, December 2009.

<http://www.census.gov/noninst/states/NST-ann-est.html>  
As of July 1, 2009, total people = 307,006,550

d) Web page: "State & County QuickFacts." U.S. Census Bureau. Last revised November 17, 2009.  
<http://quickfacts.census.gov/qfd/states/00000.html>  
Persons under 18 years old, percent, 2008 = 24.3%

#### CALCULATIONS:

- 1) Number of households with a gun = 117,181,000 households in the U.S. × .040-.045 households with a gun = 46,872,400-52,731,450
- 2) Percentage of adults owning a gun = 70-80 million people owning a gun / (307,006,550 people in the U.S. × (1-.243 persons under 18 years old)) = 30.1% - 34.4%
- 3) Percentage of adults owning a handgun = 40-45 million people owning a handgun / (307,006,550 people in the U.S. × (1-.243 persons under 18 years old)) = 17.2% - 19.4%

[9] Article: "Gun Ownership and Use in America." By Joseph Carroll. Gallup Poll, November 22, 2005.  
<http://www.gallup.com/poll/20098/gun-ownership-use-america.aspx>

[10] Article: "Gun Ownership and Use in America." By Joseph Carroll. Gallup Poll, November 22, 2005.  
<http://www.gallup.com/poll/20098/gun-ownership-use-america.aspx>

[11] Report: "2008 Crime in the United States, Expanded Homicide Data – Table 9." Federal Bureau of Investigation, U.S. Department of Justice, September 2009.  
<http://www2.fbi.gov/ucr/cius2008/offenses/expanded...>

NOTE: This table states that 66.9% of all murders were committed with firearms, but this data does not account for all homicides – only those for which a "Supplemental Homicide Report" was filed (correspondence from U.S. Department of Justice to Just Facts, January 15, 2010). Hence, this table shows 14,180 total murder victims, while the UCR states: "An estimated 16,272 persons were murdered nationwide in 2008." Assuming the proportion of murders committed with firearms is approximately the same regardless of whether or not a Supplemental Homicide Report is filed:

$$16,272 \times .669 \approx 10,886 \text{ people murdered with firearms}$$

[12] Paper: "Armed Resistance to Crime: The Prevalence and Nature of Self-Defense with a Gun." By Gary Kleck and Marc Gertz. *Journal of Criminal Law and Criminology*, Fall 1995.  
<http://www.law.northwestern.edu/jclc/backissues/86-1.html>

Page 160: "The present survey ... was carefully designed to correct all of the known correctable or avoidable flaws of previous surveys.... We interviewed a large nationally representative sample...."

Pages 160-161: "A professional telephone polling firm, Research Network of Tallahassee, Florida, carried out the sampling and interviewing."

Page 161: "Each interview began with a few general 'throat-clearing' questions about problems facing the R's community and crime. The interviewers then asked the following question: 'Within the past five years, have you yourself or another member of your household used a gun, even if it was not fired, for self-protection or for the protection of property at home, work, or elsewhere? Please do not include military service, police work, or work as a security guard.'"

Page 172: "While estimates of DGU frequency are reliable because they are based on a very large sample of 4,977 cases, results pertaining to the details of DGU incidents are based on 213 or fewer sample cases, and readers should treat these results with appropriate caution."

Page 163: "An additional step was taken to minimize the possibility of DGU [defensive gun use] frequency being overstated. The senior author went through interview sheets on every one of the interviews in which a DGU was reported, looking for any indication that the incident might not be genuine. ... There were a total of twenty-six cases where at least one of these problematic indications was present ... Estimates using all of the DGU cases are labeled herein as 'A' estimates, while the more conservative estimates based only on cases devoid of any problematic indications are labeled 'B' estimates."

Page 176: "Another way of assessing how serious these incidents appeared to the victims is to ask them how potentially fatal the encounter was. We asked Rs [respondents]: "If you had not used a gun for protection in this incident, how likely do you think it is that you or someone else would have been killed? Would you say almost certainly not, probably not, might have, probably would have, or almost certainly would have been killed?" Panel K indicates that 15.7% of the Rs stated that they or someone else "almost certainly would have" been killed ..."

NOTES: Table 2 on page 184 lists the results of the survey. In keeping with Just Facts' *Standards of Credibility*, we are using the most cautious plausible interpretations of this data, which is for households (as opposed to individuals) and a five-year recall period based "only on cases devoid of any problematic indications." As shown in this table, this amounts to 3.456% of households or 1,029,615 defensive gun uses per year. Accounting for the 15.7% figure from page 176 (cited above): 1,029,615 defensive gun uses per year × .157 of respondents stating someone "almost certainly would have been killed" if they "had not used a gun for protection" = 161,650 such incidents. Using percentages for the same calculation: 3.456% × .157 = 0.54%.

[13] Web page: "Definitions." U.S. Department of Justice, Bureau of Justice Statistics. Last revised May 3, 2010. <http://bis.ojp.usdoj.gov/index.cfm?ty=stdp>

Aggravated assault

(1) Intentionally and without legal justification causing serious bodily injury, with or without a deadly weapon or (2) using a deadly or dangerous weapon to threaten, attempt, or cause bodily injury, regardless of the degree of injury, if any. Includes attempted murder, aggravated battery, felonious assault, and assault with a deadly weapon.

#### Robbery

Completed or attempted theft, directly from a person, of property or cash by force or threat of force, with or without a weapon, and with or without injury.

#### Simple assault

Attack without a weapon resulting either in no injury, minor injury (for example, bruises, black eyes, cuts, scratches or swelling) or in undetermined injury requiring less than 2 days of hospitalization. Also includes attempted assault without a weapon.

[14] NOTE: The U.S. government publishes two primary crime measures: The FBI's "Uniform Crime Report" (UCR) and the Department of Justice's "National Crime Victimization Survey" (NCVS). The UCR is based upon incidents reported to law enforcement authorities and does not account for unreported crimes. The NCVS is based upon data gathered from extensive interviews, and hence, provides more accurate estimates of crime than the UCR.\* The NCVS, however, does not provide data on: murders and nonnegligent manslaughters (because the victims cannot be interviewed), crimes committed against children under the age of 12, and commercial crimes such as robberies of banks and convenience stores.† Therefore, Just Facts uses the NCVS data as a baseline and extrapolates the missing information from UCR and NCVS data.

\* Book: *Firearms and Violence: A Critical Review*. By the Committee to Improve Research and Data on Firearms and the Committee on Law and Justice, National Research Council of the National Academies. Edited by Charles F. Wellford, John V. Pepper, and Carol V. Petrie. National Academies Press, 2005. Page 21: "The National Crime Victimization Survey ... is widely viewed as a "gold standard for measuring crime victimization."

Page 30: "Although the NCVS data do many things right, they are, like any such system, beset with methodological problems of surveys in general as well as particular problems associated with measuring illicit, deviant, and deleterious activities...."

† Report: "The Nation's two crime measures." U.S. Department of Justice, October 2004.

<http://bia.ojp.usdoj.gov/content/pub/pdf/mcsm.pdf>

The U.S. Department of Justice administers two statistical programs to measure the magnitude, nature, and impact of crime in the Nation: the Uniform Crime Reporting (UCR) Program and the National Crime Victimization Survey (NCVS). Each program produces valuable information about aspects of the Nation's crime problem. Because the UCR and NCVS programs are conducted for different purposes, use different methods, and focus on somewhat different aspects of crime, the information they produce together provides a more comprehensive panorama of the Nation's crime problem than either could produce alone. ...

The FBI's UCR program ... collects information on the following crimes reported to law enforcement authorities: homicide, forcible rape, robbery, aggravated assault, burglary, larceny-theft, motor vehicle theft, and arson. ...

[Regarding the NCVS:] Two times a year, U.S. Census Bureau personnel interview household members in a nationally representative sample of approximately 42,000 households (about 75,000 people). Approximately 150,000 interviews of persons age 12 or older are conducted annually. ...

[The NCVS] does not measure homicide or commercial crimes (such as burglaries of stores). ...

Second, the two programs measure an overlapping but non-identical set of crimes. The NCVS includes crimes both reported and not reported to law enforcement. The NCVS excludes, but the UCR includes, homicide, arson, commercial crimes, and crimes against children under age 12.

#### [15] CALCULATION:

4,856,510 NCVS violent victimizations (not including: (a) fatal crimes, (b) crimes committed against children under the age of 12, and (c) commercial crimes)\*  
 + (a) 16,272 UCR murders and nonnegligent manslaughters (i.e., fatal crimes)†  
 + (b) 244,866 nonfatal violent victimizations committed against children under age 12 (extrapolated)‡  
 + (c) 222,125 commercial robberies (extrapolated)§  
 = 5,339,773 violent criminal victimizations

\* Bulletin: "National Crime Victimization Survey: Criminal Victimization, 2008." By Michael R. Rand. Bureau of Justice Statistics, U.S. Department of Justice, September 2009.

<http://bia.ojp.usdoj.gov/content/pub/pdf/cv08.pdf>

Page 1: "Violent crimes" include "rape/sexual assault, robbery, and aggravated and simple assault."

Page 1, Table 1 shows 4,856,510 violent criminal victimizations, of which 551,830 are robberies.

† Report: "2008 Crime in the United States, Murder." Federal Bureau of Investigation, U.S. Department of Justice, September 2009. [http://www2.fbi.gov/ucr/cius2008/offenses/violent\\_crime/murder\\_homicide.html](http://www2.fbi.gov/ucr/cius2008/offenses/violent_crime/murder_homicide.html)  
 "The FBI's Uniform Crime Reporting (UCR) Program defines murder and nonnegligent manslaughter as the willful (nonnegligent) killing of one human being by another. ... An estimated 16,272 persons were murdered nationwide in 2008."

NOTE: Although the verbiage above could imply that "nonnegligent manslaughter" and "murder" are categorized as separate offenses, this is not the case. As explained in correspondence from the U.S. Department of Justice to Just Facts (January 15, 2010), "These two are counted as one offense, and numbers defining them are not separated." Hence, the 16,272 murders cited above also includes nonnegligent

manslaughters.

‡ Report: "2008 Crime in the United States, Expanded Homicide Data – Table 9." Federal Bureau of Investigation, U.S. Department of Justice, September 2009.  
<http://www2.fbi.gov/ucr/cius2008/offenses/expanded...>

NOTE: Extrapolating data from this source (further details available upon request), approximately 4.8% of murder victims were under the age of 12. If a similar percentage of nonfatal violent victimizations occur in this age group:

$$y = \text{violent victimizations, ages 0-11}$$

$$y \approx (0.048 \times 4,856,510 \text{ NCVS violent victimizations}) / (1 - 0.048)$$

$$y \approx 244,866$$

§ Report: "2008 Crime in the United States, Robbery." Federal Bureau of Investigation, U.S. Department of Justice, September 2009. [http://www2.fbi.gov/ucr/cius2008/offenses/violent\\_crime/robbery.html](http://www2.fbi.gov/ucr/cius2008/offenses/violent_crime/robbery.html)

NOTE: Excluding hold-ups of lemonade stands, it is fairly safe to assume there are few commercial robberies of children under the age of 12. Extrapolating data from this source (further details available upon request), approximately 28.7% of robberies are commercial and 71.3% are private. Applying these proportions to the NCVS data:

$$y = \text{commercial robberies}$$

$$y \approx (0.287 \times 551,830 \text{ NCVS (private) robberies}) / (1 - 0.287)$$

$$y \approx 222,125$$

#### [16] CALCULATION:

343,550 NCVS violent victimizations in which the offender was armed with a firearm (not including:  
(a) fatal crimes, (b) crimes committed against children under the age of 12, and (c) commercial crimes).<sup>\*</sup>  
+ (a) 10,886 murders and nonnegligent manslaughters in which a firearm was used (extrapolated)<sup>†</sup>  
+ (b) 17,385 nonfatal violent victimizations committed against children under age 12 in which the offender was armed with a firearm (extrapolated)<sup>‡</sup>  
+ (c) 53,310 commercial robbery victimizations in which the offender was armed with a firearm (extrapolated)<sup>§</sup>  
+ 10,706 rapes/sexual assaults in which the offender was armed with a firearm (extrapolated)<sup>#</sup>  
≈ 435,837 violent victimizations in which the offender was armed with a firearm

\* Bulletin: "National Crime Victimization Survey: Criminal Victimization, 2008." By Michael R. Rand. Bureau of Justice Statistics, U.S. Department of Justice, September 2009.

<http://bjs.ojp.usdoj.gov/content/pub/pdf/cv08.pdf>

Page 6: "An offender was armed with a gun, knife, or other object used as a weapon in an estimated 20% of all incidents of violent crime in 2008 (table 7)."

Page 6, "Text table 3. Firearm use in violent crime, 1999 and 2008": violent victimizations involving a firearm = 343,550

Page 6, "Table 7. Presence of weapons in violent incidents, by type, 2008":

- percentage of robberies involving a firearm = 24%
- number of rapes/sexual assaults involving a firearm = 0 (Note: Just Facts does not take this figure at face value and instead, extrapolates an estimated number.)

NOTE: With regard to guns and other weapons, this report employs the words "presence" and "use" interchangeably. This is evident by the fact that "Text table 3. Firearm use in violent crime, 1999 and 2008" and "Table 7. Presence of weapons in violent incidents, by type, 2008" cite the same figure (303,880) for the number of violent firearm incidents. Thus, the word "use" does not necessarily mean the offender fired the gun. Instead, the word "use" means the offender was armed with a gun.

† Report: "2008 Crime in the United States, Expanded Homicide Data – Table 9." Federal Bureau of Investigation, U.S. Department of Justice, September 2009.

<http://www2.fbi.gov/ucr/cius2008/offenses/expanded...>

NOTE: This table states that 66.9% of all murders were committed with firearms, but this data does not account for all homicides – only those for which a "Supplemental Homicide Report" was filed (correspondence from U.S. Department of Justice to Just Facts, January 15, 2010). Hence, this table shows 14,180 total murder victims, while the UCR states: "An estimated 16,272 persons were murdered nationwide in 2008." Assuming the proportion of murders committed with firearms is approximately the same regardless of whether or not a Supplemental Homicide Report is filed:

$$16,272 \times .669 \approx 10,886 \text{ people murdered with firearms}$$

‡ 2008 NCVS data shows 4,856,510 nonfatal violent victimizations of people ages 12 and over, of which 343,550 or 7.1% involved the use of firearms. Based upon the extrapolation above, roughly 244,866 nonfatal violent victimizations were committed against children under the age of 12. Assuming the proportion of victimizations committed with firearms is approximately the same regardless of whether or not the victims are under the age of 12 (probably a high estimate):

$$244,866 \times .071 \approx 17,385 \text{ nonfatal violent victimizations committed against children under age 12 in which the offender was armed with a firearm}$$

§ Based upon the extrapolation above, roughly 222,125 commercial robberies were committed in 2008. 2008 NCVS data shows 24% of noncommercial robberies are committed using firearms. Assuming the proportion of robberies committed with firearms is approximately the same regardless of whether or not they are commercial (probably a low estimate):

$$222,125 \times .24 \approx 53,310 \text{ commercial robbery victimizations in which the offender was armed with a firearm}$$

# 2008 NCVS data shows zero rape/sexual assaults committed by an offender armed with a gun, and the 2008 UCR explicitly states, "Weapon data are not collected for forcible rape offenses." [Report: "2008 Crime in the United States, Violent Crime." Federal Bureau of Investigation, U.S. Department of Justice, September 2009. [http://www2.fbi.gov/ucr/cius2008/offenses/violent\\_crime/index.html](http://www2.fbi.gov/ucr/cius2008/offenses/violent_crime/index.html)] Hence, Just Facts

extrapolates the number of rape/sexual assaults involving firearms based upon several reliable NCVS and UCR metrics (further details available upon request).

[17] Paper: "Measuring Civilian Defensive Firearm Use: A Methodological Experiment." By David McDowall and others. *Journal of Quantitative Criminology*, March 2000.  
<http://www.springerlink.com/content/man3274255v6167/>

Page 7:

The most important of the other set of questions asked:

*Within the past 12 months, have you yourself used a gun, even if it was not fired, to protect yourself or someone else, or for the protection of property at home, work, or elsewhere?*

This is largely identical to the standard question from the other surveys, but the reference period is 1 year rather than 5 years. The question also refers to the respondent alone, rather than to all household members.

Page 8: "Because gun ownership is a strong correlate of firearm resistance (e.g., Kleck and Gertz, 1996, p. 187), we selected a national sample from commercial lists of likely gun owners. Of the eventual respondents, 83% did report the presence of a gun in their home."

Page 8: "This left 3006 households, an 81% response rate. The interviewers selected a single respondent from within each household. In a random 75% of the cases, the interviewers asked for the male head of household. In the remaining 25% they asked for the female head."

Page 10: "Table II. Types of Incidents of Firearm Defense...."

Type of Incident	Number of Respondents	Percentage of Respondents
No incident	2851	94.8%
Civilian against offender, clear	48	1.6%
Civilian against offender, ambiguous	24	0.8%
Law enforcement and security work	30	1.0%
Civilian against possible offender, no contact	20	0.7%
Against animals	13	0.4%
Carries gun for protection only	10	0.3%
Target shooting	8	0.3%
Military duties	2	0.1%

[18] As shown in the previous footnote, this study did not use a nationally representative population. To correct for this, Just Facts used the following equation:

$$i = c \times g \times p / [n \times r \times [(s \times d / f) + [(1-s) \times (1-d) / (1-f)]]]$$

Where:

- i = Total defensive gun uses in a nationally representative population
- c = Defensive gun uses in this survey, civilian against offender, clear = 48
- g = Minimum proportion of households with a gun = 0.34\*
- p = Population, ages 25-70 = 158,799,375†
- n = Survey sample size = 3006
- r = Proportion of survey respondents with a gun in their home = .83
- s = Proportion of survey respondents who are female = .25
- d = Proportion of defensive gun uses by females = .46‡
- f = Proportion of population (ages 25-70) who are females = .51†

**NOTES:**

In keeping with Just Facts' Standards of Credibility, we have given preferentiality to figures that are contrary to our viewpoints and used the most cautious plausible interpretations of this data. Details of how we have done this are explained in the following notes.

\* This equation operates under the conservative assumption that respondents in homes without firearms had no defensive gun uses, even though such people may have used others' firearms for defense. In a range of surveys stretching over the previous 30 years, 34% is the lowest figure we have found for the percentage of homes with guns. [Paper: "Estimating intruder-related firearm retrievals in U.S. households, 1994." By Robin M. Ickeda and others. *Violence and Victims*, Winter 1997. Pages 363-372.  
<http://www.ncbi.nlm.nih.gov/pubmed/9591354>

Page 369: "A second concern about representativeness of the sample is that the prevalence of households with firearms in our survey (34%) is lower than that reported in polls (41%) for the same year (Maguire & Pastore, 1995). ... It is similar, however, to that observed in the 1994 National Health Interview Survey (37%) (personal communication, National Center for Health Statistics) and another national telephone survey about using firearms for protection (36%) (Kleck & Gertz, 1995)."

† Data file: "U.S. Interim Projections by Age, Sex, Race, and Hispanic Origin: 2000-2050, Detailed Data File." Population Projections Branch, U.S. Census Bureau, May 11, 2004.  
[http://www.census.gov/population/www/projections/...](http://www.census.gov/population/www/projections/)

NOTE: The survey in the footnote above selected respondents by asking for the male/female head of

household. Just Facts used a conservative estimate of this population by only including people from 25 to 70 years old.

‡ Paper: "Armed Resistance to Crime: The Prevalence and Nature of Self-Defense with a Gun." By Gary Kleck and Marc Gertz. *Journal of Criminal Law and Criminology*, Fall 1995.

<http://www.law.northwestern.edu/jclc/backissues/86-1.html>

Page 178: "Perhaps the most surprising finding of the survey was the large share of reported DGUs [defensible gun uses] that involved women. Because of their lower victimization rates and lower gun ownership rates, one would expect women to account for far less than half of DGUs. Nevertheless, 46% of our sample DGUs involved women."

[19] Paper: "Armed Resistance to Crime: The Prevalence and Nature of Self-Defense with a Gun." By Gary Kleck and Marc Gertz. *Journal of Criminal Law and Criminology*, Fall 1995.

<http://www.law.northwestern.edu/jclc/backissues/86-1.html>

Page 160: "The present survey ... was carefully designed to correct all of the known correctable or avoidable flaws of previous surveys.... We interviewed a large nationally representative sample...."

Pages 160-161: "A professional telephone polling firm, Research Network of Tallahassee, Florida, carried out the sampling and interviewing."

Page 161: "Each interview began with a few general 'throat-clearing' questions about problems facing the R's community and crime. The interviewers then asked the following question: 'Within the past five years, have you yourself or another member of your household used a gun, even if it was not fired, for self-protection or for the protection of property at home, work, or elsewhere? Please do not include military service, police work, or work as a security guard.'"

Page 172: "While estimates of DGU frequency are reliable because they are based on a very large sample of 4,977 cases, results pertaining to the details of DGU incidents are based on 213 or fewer sample cases, and readers should treat these results with appropriate caution."

Page 163: "An additional step was taken to minimize the possibility of DGU [defensive gun use] frequency being overstated. The senior author went through interview sheets on every one of the interviews in which a DGU was reported, looking for any indication that the incident might not be genuine. ... There were a total of twenty-six cases where at least one of these problematic indications was present. ... Estimates using all of the DGU cases are labeled herein as 'A' estimates, while the more conservative estimates based only on cases devoid of any problematic indications are labeled 'B' estimates."

NOTES: Table 2 on page 184 lists the results of the survey. In keeping with Just Facts' Standards of Credibility, we have cited the most conservative result of this survey, which is for households (as opposed to individuals) and a five-year recall period based "only on cases devoid of any problematic indications." As shown in this table, this amounts to 3.456% of households or 1,029,615 defensive gun uses per year.

[20] Paper: "Estimating intruder-related firearm retrievals in U.S. households, 1994." By Robin M. Ikeda and others. *Violence and Victims*, Winter 1997. <http://www.ncbi.nlm.nih.gov/pubmed/9591354>

Page 363:

To estimate the frequency of firearm retrieval because of a known or presumed intruder, the authors analyzed data from a 1994 national random digit dialing telephone survey (n = 5,238 interviews). ... National projections based on these self-reports reveal an estimated 1,896,842 (95% CI [confidence interval] = 1,480,647-2,313,035) incidents in which a firearm was retrieved, but no intruder was seen; 503,481 (95% CI = 305,093-701,870) incidents occurred in which an intruder was seen, and 497,646 (95% CI = 266,060-729,231) incidents occurred in which the intruder was seen and reportedly scared away by the firearm.

Page 364: "A specified random selection procedure was used to ensure that approximately one half of respondents were male and one half were female. If more than one eligible individual was in the selected gender category, the interviewer asked for the respondent with the most recent birthday. Households occupied by minorities were oversampled to ensure adequate minority representation and then weighted to adjust for unequal selection probabilities."

[21] Book: *Armed and Considered Dangerous: A Survey of Felons and Their Firearms* (Expanded Edition). By James D. Wright and Peter D. Rossi. Aldine De Gruyter, 1986 (Expanded edition published in 1994).

Page 1: "Almost all of the information presented here was obtained from a survey of men serving sentences for felony offenses in 11 state prisons scattered throughout the country. However uncertain one may be about their reliability as sources, convicted criminals are about the only source of empirical information on this topic that can be tapped at reasonable cost. (We also show later that convicted felons are not totally unreliable informants.)"

Page 26: "[W]e restricted the study to felons who had been out "on the street" recently enough to possess useful, current information; operationally, this meant a restriction to men who began their current prison term on or after 1 January 1979."

Page 32:

The definitive study of the quality of prisoner self-report data is Marquis (1981), a data quality analysis of the RAND "Criminal Careers" survey. In this study, data quality was assessed by comparing prisoners' self reports with information contained in official criminal justice records. Since the format and procedures of the RAND survey were very similar to those followed in our survey, it is

reasonable to assume that Marquis' findings generalize. Summarizing briefly, Marquis found:

1. There is no evidence that prisoners attempt to deny salient aspects of their criminal past. ...
2. Comparisons of self-reported conviction-offense data with official records showed that "on a general level, the data are close to unbiased" (Marquis, 1981: 32). Moderate biases were found on some items, but in general, reliability of the self-report data was "moderately high."

[22] Same as above. Page 155:

2. Have you ever been scared off, shot at, wounded, or captured by an armed victim? No: 66%, Yes: 34%, (N) = (1673)
3. Was there ever a time in your life when you decided not to do a crime because you knew or believed that the victim was carrying a gun? No, never: 61%, Yes, just once: 10%, Yes, a few times: 22%, Yes, many times: 8%, (N) = (1627)
4. [H]ave any of the criminals you have known personally ever been scared off, shot at, wounded, or captured by an armed victim? No, none: 31%, Yes, but only one: 10%, Yes, a few: 48%, Yes, many: 11%, (N) = (1627)

[23] Calculations performed with data from the following sources:

- a) Report: "2008 Crime in the United States, Murder." Federal Bureau of Investigation, U.S. Department of Justice, September 2009. [http://www2.fbi.gov/ucr/cius2008/offenses/violent\\_crime/murder\\_homicide.html](http://www2.fbi.gov/ucr/cius2008/offenses/violent_crime/murder_homicide.html)  
"An estimated 16,272 persons were murdered nationwide in 2008."
- b) Dataset: "Annual Estimates of the Resident Population for the United States, Regions, States, and Puerto Rico: April 1, 2000 to July 1, 2008." U.S. Census Bureau, December 22, 2008. <http://www.census.gov/popest/states/NST-ann-est.html>  
"July 1, 2008, United States: 304,059,724"
- c) Report: "Deaths: Preliminary Data for 2007." By Jiaquan Xu and others. U.S. Centers for Disease Control and Prevention, Division of Vital Statistics, August 19, 2009. [http://www.cdc.gov/nchs/data/nvsr/nvsr58/nvsr58\\_01.pdf](http://www.cdc.gov/nchs/data/nvsr/nvsr58/nvsr58_01.pdf)  
Page 1: "Life expectancy at birth rose by 0.2 years to 77.9 years."

NOTE: The calculations that determine this fact were performed by a licensed actuary using two different methodologies, both of which yield the same answer. An Excel file containing these calculations is available upon request.

[24] Report: "Lifetime Likelihood of Victimization." By Herbert Koppel. Bureau of Justice Statistics, U.S. Department of Justice, March 1987. <http://www.ncjrs.gov/pdffiles1/bis/104274.pdf>

Page 1:

Annual victimization rates alone do not convey the full impact of crime as it affects people. No one would express his or her concern by saying, "I am terribly afraid of being mugged between January and December of this year." People are worried about the possibility that at some time in their lives they will be robbed or raped or assaulted, or their houses will be burglarized.

Annual rates can provide a false sense of security by masking the real impact of crime. Upon hearing that the homicide rate is about 8 to 10 per 100,000 population, one feels safe; after all, 1 chance in 10,000 is not very frightening. Actually, however, at recent homicide rates about 1 of every 133 Americans will become a murder victim; for black males the proportion is estimated to be 1 of every 30. Similarly, while 16 out of 10,000 women are rape victims annually, the lifetime chances of suffering a rape are much greater.

The problem lies with people's perception of the meaning of annual rates with respect to their own lives. If the Earth revolved around the sun in 180 days, all of our annual crime rates would be halved, but we would not be safer. ...

Because of the assumptions involved in the calculations and because the data derive from a sample survey, the numbers presented in this report are estimates only; they should be interpreted only as indications of approximate magnitude, not as exact measures. Essentially they are calculated values of lifetime risk rather than descriptions of what has been observed.

Page 2: "The estimates of lifetime likelihood of victimization are derived under the assumption that, throughout their lifetimes, people in the U.S. have incurred, and will continue to incur, criminal victimization at the same annual rates as were observed in the years 1975 through 1984."

Page 2 (Table 1): "Lifetime likelihood of victimization"

Percent of Persons Who Will be Victimized by Violent Crime Starting at 12 Years of Age	Number of Victimizations			
	Total	one	two	three or more
Violent Crime	83%	30%	27%	25%
Violent Crime, Completed	42%	32%	9%	2%

[25] Report: "Firearm Use by Offenders." By Caroline Wolf Harlow, U.S. Department of Justice, November

2001. <http://bis.oia.usdoj.gov/index.cfm?tv=pbdetail&iid=940>

Page 2: "Data for this report are based primarily on personal interviews with large nationally representative samples of State and Federal prison inmates."

Page 13: "A total of 14,285 interviews were completed for the State survey and 4,041 for the Federal survey, for overall response rates of 92.5% in the State survey and 90.2% in the Federal survey."

Page 1: "Among inmates in prison for homicide, a sexual assault, robbery, assault or other violent crime, 30% of State offenders and 35% of Federal offenders carried a firearm when committing the crime."

[26] Report: "Crime in the United States, Table 25: Percent of Offenses Cleared by Arrest or Exceptional Means, by Population Group, 2008." U.S. Department of Justice, Federal Bureau of Investigation, September 2009. [http://www2.fbi.gov/ucr/cius2008/data/table\\_25.html](http://www2.fbi.gov/ucr/cius2008/data/table_25.html)

Total, All Agencies, Percent cleared by arrest:<sup>o</sup>  
 Murder and nonnegligent manslaughter = 63.6%  
 Forcible rape = 40.4%  
 Robbery = 26.8%  
 Aggravated assault = 54.9%

Data Declaration ([http://www2.fbi.gov/ucr/cius2008/data/table\\_25\\_dd.html](http://www2.fbi.gov/ucr/cius2008/data/table_25_dd.html)): "The data used in creating this table were from all law enforcement agencies submitting at least 6 months of complete offense reports for 2008."

**NOTE:**

<sup>o</sup> Report: "Crime in the United States, Offenses Cleared." U.S. Department of Justice, Federal Bureau of Investigation, September 2009. <http://www2.fbi.gov/ucr/cius2008/offenses/clearances/index.html>

**Cleared by Arrest**

In the UCR Program, a law enforcement agency reports that an offense is cleared by arrest, or solved for crime reporting purposes, when at least one person is:

- Arrested.
- Charged with the commission of the offense.
- Turned over to the court for prosecution (whether following arrest, court summons, or police notice).

To qualify as a clearance, all of the conditions listed above must have been met. In its calculations, the UCR Program counts the number of offenses that are cleared, not the number of arrestees. Therefore, the arrest of one person may clear several crimes, and the arrest of many persons may clear only one offense. In addition, some clearances that an agency records in a particular calendar year, such as 2004, may pertain to offenses that occurred in previous years.

[27] NOTE: As shown in the following three articles, the data cited above is suspect because it is based on reports from local law enforcement agencies:

a) Article: "Retired Officers Raise Questions on Crime Data." By William K. Rashbaum. *New York Times*, February 7, 2010. <http://www.nytimes.com/2010/02/07/nyregion/07crime.html?hp>

"More than a hundred retired New York Police Department captains and higher-ranking officers said in a survey that the intense pressure to produce annual crime reductions led some supervisors and precinct commanders to manipulate crime statistics, according to two criminologists studying the department."

b) Article: "Reducing rape with an eraser" By Judith Riesman. Dr. Judith Riesman, September 12, 2006. [http://www.drjudithriesman.com/archives/2006/09/reducing\\_rape\\_w.html](http://www.drjudithriesman.com/archives/2006/09/reducing_rape_w.html)

c) Article: "Brooklyn's 81st Precinct probed by NYPD for fudging stats; felonies allegedly marked as misdemeanors." By Rocco Parascandola. *New York Daily News*, February 2, 2010. [http://www.nydailynews.com/news/ny\\_crime/2010/02/02...](http://www.nydailynews.com/news/ny_crime/2010/02/02...)

"A Brooklyn precinct is under investigation for manipulating statistics to make its cops look like better crimefighters, the Daily News has learned. ... Schoolcraft told The News the top brass are so concerned with numbers that one precinct lieutenant is known as 'The Shredder' because he's often spotted destroying documents."

[28] Web page: "Definitions." U.S. Department of Justice, Bureau of Justice Statistics. Last revised May 3, 2010. <http://bis.oia.usdoj.gov/index.cfm?tv=udfp>

**Aggravated assault**

(1) Intentionally and without legal justification causing serious bodily injury, with or without a deadly weapon or (2) using a deadly or dangerous weapon to threaten, attempt, or cause bodily injury, regardless of the degree of injury, if any. Includes attempted murder, aggravated battery, felonious assault, and assault with a deadly weapon.

**Robbery**

Completed or attempted theft, directly from a person, of property or cash by force or threat of force, with or without a weapon, and with or without injury.

**Simple assault**

Attack without a weapon resulting either in no injury, minor injury (for example, bruises, black eyes, cuts, scratches or swelling) or in undetermined injury requiring less than 2 days of hospitalization.

Also includes attempted assault without a weapon.

[29] NOTE: The U.S. government publishes two primary crime measures: The FBI's "Uniform Crime Report" (UCR) and the Department of Justice's "National Crime Victimization Survey" (NCVS). The UCR is based upon incidents reported to law enforcement authorities and does not account for unreported crimes. The NCVS is based upon data gathered from extensive interviews, and hence, provides more accurate estimates of crime than the UCR.\* The NCVS, however, does not provide data on: murders and nonnegligent manslaughters (because the victims cannot be interviewed), crimes committed against children under the age of 12, and commercial crimes such as robberies of banks and convenience stores.† Therefore, Just Facts uses the NCVS data as a baseline and extrapolates the missing information from UCR and NCVS data.

\* Book: *Firearms and Violence: A Critical Review*. By the Committee to Improve Research and Data on Firearms and the Committee on Law and Justice, National Research Council of the National Academies. Edited by Charles F. Wellford, John V. Pepper, and Carol V. Petrie. National Academies Press, 2005. Page 21: "The National Crime Victimization Survey ... is widely viewed as a "gold standard for measuring crime victimization."

Page 30: "Although the NCVS data do many things right, they are, like any such system, beset with methodological problems of surveys in general as well as particular problems associated with measuring illicit, deviant, and deleterious activities...."

† Report: "The Nation's two crime measures." U.S. Department of Justice, October 2004. <http://bis.ojp.usdoj.gov/content/pub/pdf/nctm.pdf>

The U.S. Department of Justice administers two statistical programs to measure the magnitude, nature, and impact of crime in the Nation: the Uniform Crime Reporting (UCR) Program and the National Crime Victimization Survey (NCVS). Each program produces valuable information about aspects of the Nation's crime problem. Because the UCR and NCVS programs are conducted for different purposes, use different methods, and focus on somewhat different aspects of crime, the information they produce together provides a more comprehensive panorama of the Nation's crime problem than either could produce alone. ...

The FBI's UCR program ... collects information on the following crimes reported to law enforcement authorities: homicide, forcible rape, robbery, aggravated assault, burglary, larceny-theft, motor vehicle theft, and arson. ...

[Regarding the NCVS:] Two times a year, U.S. Census Bureau personnel interview household members in a nationally representative sample of approximately 42,000 households (about 75,000 people). Approximately 150,000 interviews of persons age 12 or older are conducted annually. ...

[The NCVS] does not measure homicide or commercial crimes (such as burglaries of stores). ...

Second, the two programs measure an overlapping but non-identical set of crimes. The NCVS includes crimes both reported and not reported to law enforcement. The NCVS excludes, but the UCR includes, homicide, arson, commercial crimes, and crimes against children under age 12.

[30] Calculations performed with data from the following sources:

a) Report: "Felony Sentences in State Courts, 2006 – Statistical Tables." By Sean Rosenmerkel and others. U.S. Department of Justice, Bureau of Justice Statistics, December 2009.

<http://bis.ojp.usdoj.gov/content/pub/pdf/fssc06st.pdf>

Page 2 (in pdf): "Felonies are widely defined as crimes with the potential of being punished by more than 1 year in prison. State courts sentenced an estimated 1,132,290 persons for a felony in 2006, including 206,140 (or 18% of all felony convictions) for a violent felony (table 1.1) ... In 2006 an estimated 69% of all persons convicted of a felony in state courts were sentenced to a period of confinement—41% to state prison and 28% to local jails (table 1.2). Jail sentences are usually a year or less in a county or city facility, while prison sentences are usually more than a year and are served in a state facility."

Page 4 (in pdf): "Table 1.2. Types of felony sentences imposed in state courts, by offense, 2006"

Violent offenses, incarceration rate = 77%

NOTE: As table 1.1 shows, "Violent offenses" in this report include murder/nonnegligent manslaughter, rape, other sexual assault, robbery, aggravated assault, and other violent crimes such as negligent manslaughter and kidnapping. Simple assault is not included in these figures because it is a misdemeanor offense.

b) Report: "Federal Justice Statistics, 2006 - Statistical Tables." Prepared by the Urban Institute under the supervision of Mark Motivans of the Bureau of Justice Statistics, United States Department of Justice, May 1, 2009. <http://bis.ojp.usdoj.gov/content/pub/html/fjst/2006/fjst06st.pdf>

Page 32 (in pdf): Table 5.2. "Type and length of federal sentences imposed, by offense, October 1, 2005 - September 30, 2006."

Incarcerations for violent offenses = 2,311

NOTE: As page 32 (in the pdf) shows, violent felony offenses in this report include murder, negligent manslaughter, assault, robbery, sexual abuse, kidnapping, threats against the President. Simple assault is not included in these figures because it is a misdemeanor offense.

c) CALCULATION:

1,595,600 aggravated assaults, robberies, and rapes/sexual assaults (not including: (a) fatal crimes, (b) crimes committed against children under the age of 12, and (c) commercial crimes)\*

+ (a) 16,272 UCR murders and nonnegligent manslaughters (i.e., fatal crimes)†

+ (b) 80,450 aggravated assaults, robberies, and rapes/sexual assaults committed against children under age 12 (extrapolated)‡

+ (c) 222,125 commercial robberies (extrapolated)§

≈ 1,914,447 aggravated assaults, robberies, and rapes/sexual assaults

\* Bulletin: "National Crime Victimization Survey: Criminal Victimization, 2008." By Michael R. Rand. U.S. Department of Justice, Bureau of Justice Statistics, September 2009.

<http://bjs.ojp.usdoj.gov/content/pub/pdf/cv08.pdf>

Page 1, Table 1 shows 839,940 aggravated assaults, 551,830 robberies, and 203,830 rapes/sexual assaults.

Total of these crimes = 1,595,600

† Report: "2008 Crime in the United States, Murder." Federal Bureau of Investigation, U.S. Department of Justice, September 2009. [http://www2.fbi.gov/ucr/cius2008/offenses/violent\\_crime/murder\\_homicide.html](http://www2.fbi.gov/ucr/cius2008/offenses/violent_crime/murder_homicide.html)

"The FBI's Uniform Crime Reporting (UCR) Program defines murder and nonnegligent manslaughter as the willful (nonnegligent) killing of one human being by another. ... An estimated 16,272 persons were murdered nationwide in 2008."

NOTE: Although the verbiage above could imply that "nonnegligent manslaughter" and "murder" are categorized as separate offenses, this is not the case. As explained in correspondence from the U.S. Department of Justice to Just Facts (January 15, 2010), "These two are counted as one offense, and numbers defining them are not separated." Hence, the 16,272 murders cited above also includes nonnegligent manslaughters.

‡ Report: "2008 Crime in the United States, Expanded Homicide Data – Table 9." Federal Bureau of Investigation, U.S. Department of Justice, September 2009.

<http://www2.fbi.gov/ucr/cius2008/offenses/expanded...>

NOTE: Extrapolating data from this source (further details available upon request), approximately 4.8% of murder victims were under the age of 12. If a similar percentage of nonfatal violent victimizations occur in this age group:

$y = \text{violent victimizations, ages 0-11}$

$y = (0.048 \times 1,595,600 \text{ aggravated assaults, robberies, and rapes/sexual assaults}) / (1 - 0.048)$

$y = 80,450$

§ Report: "2008 Crime in the United States, Robbery." Federal Bureau of Investigation, U.S. Department of Justice, September 2009. [http://www2.fbi.gov/ucr/cius2008/offenses/violent\\_crime/robbery.html](http://www2.fbi.gov/ucr/cius2008/offenses/violent_crime/robbery.html)

NOTE: Excluding hold-ups of lemonade stands, it is fairly safe to assume there are few commercial robberies of children under the age of 12. Extrapolating data from this source (further details available upon request), approximately 28.7% of robberies are commercial and 71.3% are private. Applying these proportions to the NCVS data:

$y = \text{commercial robberies}$

$y = (0.287 \times 551,830 \text{ NCVS (private) robberies}) / (1 - 0.287)$

$y = 222,125$

#### CALCULATIONS:

a) 206,140 violent felony convictions in state courts × 0.77 incarceration rate for violent felony convictions in state courts = 158,728 incarcerations for violent felonies in states courts

b) 2,311 incarcerations for violent offenses in federal courts + 158,728 incarcerations for violent felonies in states courts = 161,039 incarcerations for violent crimes

c) 1,914,447 aggravated assaults, robberies, and rapes/sexual assaults / 161,039 incarcerations for such crimes = 11.9 violent crimes for every incarceration

NOTES: The latest available data were used for these calculations, and there is a three-year chronological variance between the annual totals in the sources cited. However, given the slight changes in such data from year to year, the approximation is valid.

[31] Report: "Recidivism of Prisoners Released in 1994." By Patrick A. Langan and David J. Levin. Bureau of Justice Statistics, June 2, 2002. <http://bjs.ojp.usdoj.gov/content/pub/pdf/ror94.pdf>

Page 1:

This study of the rearrest, reconviction, and reincarceration of prisoners tracked 272,111 former inmates for 3 years after their release in 1994. The 272,111 – representing two-thirds of all prisoners released in the United States that year – were discharged from prisons in 15 States....

• Within 3 years from their release in 1994 –

67.5% of the prisoners were rearrested for a new offense (almost exclusively a felony or a serious misdemeanor)

Page 2: "To an unknown extent, recidivism rates based on State and FBI criminal history repositories understate actual levels of recidivism. The police agency making the arrest or the court disposing of the case may fail to send the notifying document to the State or FBI repository. Even if the document is sent, the repository may be unable to match the person in the document to the correct person in the repository or may neglect to enter the new information. For these reasons, studies such as this one that rely on these repositories for complete criminal history information will understate recidivism rates."

Page 4: "The 67.5% of releases rearrested within 3 years, or 183,675 persons, were charged with 744,480 new crimes, or an average of 4 new crimes each (table 3). Over 100,000 were new charges for a violent crime, including 2,900 new homicides, 2,400 new kidnappings, 2,400 rapes, 3,200 other sexual assaults, 21,200 robberies, 54,600 assaults, and nearly 13,900 other violent crimes." (Table 3 on this page has the precise figures cited by Just Facts.)

Page 4: "Over their adult criminal history (both prior to and following their release) the 272,111 offenders were arrested for nearly 4.9 million offenses altogether: 4.1 million prior to release plus nearly 0.8 million after release. That is an average of about 17.9 charges each."

Page 5: How many of the 272,111 were ever arrested for violence[?]. Although 22.5% of the 272,111 were released from prison in 1994 following an arrest and conviction for a violent crime, 53.7% of all the prisoners had a prior arrest for violence, and 21.6% were arrested for a violent crime after their release.



Population in DC as of July 1, 2009 = 599,657

d) Dataset: "Uniform Crime Reporting Program, United States, 1960-2008." Federal Bureau of Investigation, Criminal Justice Information Services Division. Data supplied to Just Facts on June 15, 2010. Data available upon request.

[37] Calculated with data from:

Dataset: "Uniform Crime Reporting Program, District of Columbia, 1960-2008." Federal Bureau of Investigation, Criminal Justice Information Services Division. Data supplied to Just Facts on June 15, 2010. Data available upon request.

Dataset: "Uniform Crime Reporting Program, United States, 1960-2008." Federal Bureau of Investigation, Criminal Justice Information Services Division. Data supplied to Just Facts on June 15, 2010. Data available upon request.

NOTE: The averages were calculated by averaging the murder rates from all years in which the ban was effective for at least 6 months of the year.

[38] Law: "Firearms Act, 1920." Office of Public Sector Information.  
[http://www.opsi.gov.uk/acts/acts1920/pdf/ukpga\\_19200043\\_en.pdf](http://www.opsi.gov.uk/acts/acts1920/pdf/ukpga_19200043_en.pdf)

Chapter 43, Section 1:

(1) A person shall not purchase, have in his possession, or carry any firearm or ammunition unless he holds a certificate (in this Act called a firearm certificate) granted under this section, and in force at the time. ...

(2) A firearm certificate shall be granted by the chief officer of police of the district in which the applicant for the certificate resides, if he is satisfied that the applicant is a person who has a good reason for requiring such a certificate and can be permitted to have in his possession, use, and carry a firearm or ammunition without danger to the public safety or to the peace, and on payment of the prescribed fee....

(3) A firearm certificate shall be in the prescribed form and shall specify the nature and number of the firearms to which it relates, and, as respects ammunition, the quantities authorised to be purchased and to be held at any one time thereunder, and the certificate may on the application of the holder thereof be varied from time to time by the chief officer of police of the district in which the holder for the time resides. ...

(5) A firearm certificate shall, unless previously revoked or cancelled, continue in force for three years, but shall be renewable for a further period of three years by the chief officer of police of the district in which the holder of the certificate resides....

(7) The fee to be paid on the grant or renewal of a firearm certificate shall be such as is specified in the First Schedule to this Act.

(8) If any person purchases, has in his possession, uses, or carries a firearm or ammunition without holding a firearm certificate or otherwise than as authorised by such a certificate or, in the case of ammunition, in quantities in excess of those so authorised, or fails to comply with any condition subject to which the certificate is granted, he shall be liable in respect of each offence on summary conviction to a fine not exceeding fifty pounds, or to imprisonment, with or without hard labour, for a term not exceeding three months, or to both such imprisonment and fine....

Chapter 43, Section 12:

(1) In this Act, unless the context otherwise requirestion. The expression "firearm" means any lethal firearm or other weapon of any description from which any shot, bullet, or other missile can be discharged, or any part thereof, and the expression "ammunition" means ammunition for any such firearms, and includes grenades, bombs, and other similar missiles, whether such missiles are capable of use with a firearm or not, and ingredients and components thereof:

Provided that a smooth bore shot-gun or air-gun or air-rifle (other than air-guns and air-rifles of a type declared by rules made by a Secretary of State under this Act to be specially dangerous) and ammunition therefor shall not in Great Britain be deemed to be a firearm and ammunition for the purpose of the provisions of this Act other than those relating to the removal of firearms and ammunition from one place to another or for export:

[39] Law: "Firearms Act, 1968." Office of Public Sector Information.  
[http://www.opsi.gov.uk/RevisedStatutes/Acts/ukpga/1968/...](http://www.opsi.gov.uk/RevisedStatutes/Acts/ukpga/1968/)

**Part I: Provisions as to Possession, Handling and Distribution of Weapons and Ammunition;  
Prevention of Crime and Measures to Protect Public Safety  
General restrictions on possession and handling of firearms and ammunition.**

Section 1: Requirement of firearm certificate.

- (1) Subject to any exemption under this Act, it is an offence for a person—
- (a) to have in his possession, or to purchase or acquire, a firearm to which this section applies without holding a firearm certificate in force at the time, or otherwise than as authorised by such a certificate;
  - (b) to have in his possession, or to purchase or acquire, any ammunition to which

this section applies without holding a firearm certificate in force at the time, or otherwise than as authorised by such a certificate, or in quantities in excess of those so authorised.

(2) It is an offence for a person to fail to comply with a condition subject to which a firearm certificate is held by him. ...

**Section 2: Requirement of certificate for possession of shot guns.**

(1) Subject to any exemption under this Act, it is an offence for a person to have in his possession, or to purchase or acquire, a shot gun without holding a certificate under this Act authorising him to possess shot guns.

(2) It is an offence for a person to fail to comply with a condition subject to which a shot gun certificate is held by him. ...

**Part II: Firearm and Shot Gun Certificates; Registration of Firearms Dealers  
Grant, renewal, variation and revocation of firearm and shot gun certificates**

**Section 26 A: Applications for firearm certificates.**

(1) An application for the grant of a firearm certificate shall be made in the prescribed form to the chief officer of police for the area in which the applicant resides and shall state such particulars as may be required by the form. ...

**Section 26B: Applications for shot gun certificates.**

(1) An application for the grant of a shot gun certificate shall be made in the prescribed form to the chief officer of police for the area in which the applicant resides and shall state such particulars as may be required by the form.

**Section 27: Special provisions about firearm certificates. ....**

(2) A firearm certificate shall be in the prescribed form and shall specify the conditions (if any) subject to which it is held, the nature and number of the firearms to which it relates [including if known their identification numbers,] and, as respects ammunition, the quantities authorised to be purchased and to be held at any one time thereunder. ...

**Section 28: Special provisions about shot gun certificates. ...**

(2A) A shot gun certificate shall specify the description of the shot guns to which it relates including, if known, the identification numbers of the guns.]

[40] Report: "Home Office: Handgun Surrender and Compensation." House of Commons, Committee of Public Accounts, June 21, 1999. <http://www.parliament.the-stationery-office.co.uk/pa/...>

6. Over 162,000 handguns and 700 tonnes of ammunition were compulsorily surrendered to local police stations between July 1997 and February 1998. The surrender was the main measure in response to the tragic events of 13 March 1996, when Thomas Hamilton walked into Dunblane Primary School armed with four handguns and 743 rounds of ammunition and shot dead 16 children and their teacher, and wounded 10 other children and three other teachers. Under the first Firearms (Amendment) Act of 1997 large-calibre handguns became prohibited from 1 July 1997, with owners having until 30 September 1997 to dispose of them lawfully, and small-calibre handguns became prohibited from 1 February 1998, with disposal by 28 February 1998.

7. As a first step in managing the surrender and compensation schemes, the Home Office and the police needed to contact handgun owners and dealers to ensure that they were aware of the terms of the prohibition and surrender. The Home Office provided booklets for the police to distribute to handgun owners and dealers, explaining the requirements of the legislation and the terms of the compensation.

13. The Home Office could not provide absolute assurance that no handguns had been unlawfully retained, but was reasonably satisfied that individual police forces had ensured that prohibited handguns in their area had either been surrendered or otherwise lawfully disposed of. The Home Office assured us that individual forces had accurate records of firearms held on firearms certificates. They had used these to follow up firearms which were to be surrendered under the terms of the Acts, and had made adequate checks on handguns claimed to have been otherwise lawfully disposed of, for example by owners sending them abroad. Sixteen of the 26 police forces the National Audit Office visited considered that they had satisfied themselves that all relevant handguns had been traced and those prohibited surrendered. The remaining ten had been unable to account for the handguns held by a total of 35 owners by the end of the surrender period, although by September 1998 over three-quarters of these cases had been resolved. ...

15. The intention of the prohibition under the 1997 firearms legislation was to remove handguns from civilian ownership, and thereby also from the risk of being used in crime.

[41] Graph constructed with data from:

Report: "Homicides, Firearm Offences and Intimate Violence 2008/09."  
Edited by Kevin Smith and John Flatley. UK Home Office, January 21, 2010.  
<http://rds.homeoffice.gov.uk/rds/pdfs10/hosb0110.pdf>

Page 9:

Data presented in this chapter have been extracted from the Homicide Index. Since it is continually being updated with revised information from the police and the courts, the Homicide Index is a better source of data than the main recorded crime dataset. ...

[On] 24 November 2009, the ... the Homicide Index database was 'frozen' so that analysis could be conducted.

Page 10:

The term 'homicide' covers the offences of murder, manslaughter and infanticide. ...

Homicide offences up to the financial year 2008/09 are presented in this chapter, with offences shown according to the year in which the police initially recorded the offence as homicide. This is not necessarily the year in which the incident took place or the year in which any court decision was made.

Caution is needed when looking at homicide trend figures, primarily because they are based on the year in which offences are recorded by the police rather than the year in which the incidents took place. As an example of this, the 172 homicides attributed to Dr Harold Shipman as a result of Dame Janet Smith's inquiry took place over a long period of time but were all recorded by the police during 2002/03 (same as fiscal year 2002 in the chart made by Just Facts). Also, where several people are killed by the same principal suspect (such as the cockle pickers who drowned in Morecambe Bay and the 7 July 2005 London bombing victims), the number of homicides counted is the total number of persons killed rather than the number of incidents.

Page 11: "Figure 1.1 Offences recorded by the police in England and Wales, 1957 to 2008/09"

Page 20: "Table 1.01 Offences initially recorded by the police as homicide by current classification: England and Wales, 1956 to 2008/09"

[42] Calculated with data from the source above.

NOTES:

- The 52% figure was calculated by averaging the homicide rates from 1969 through fiscal year 2008, and comparing this figure to 1968.
- The 15% figure was calculated by averaging the homicide rates from fiscal years 1998-2008 and comparing this figure to fiscal year 2007 (which happens to be the same figure as calendar year 2007).

[43] Ruling number 1-95-1779: "Hunt v. Daley." Appellate Court of Illinois, First District, Third Division, February 19, 1997. <http://caselaw.findlaw.com/il-court-of-appeals/1056110.html>

This proceeding involves the 1982 Chicago Weapons Ordinance, passed by the Chicago City Council on March 19, 1982 ... rendering certain firearms unregistrable in the City of Chicago. Under that ordinance, several categories of firearms, including handguns, became unregistrable in the City of Chicago. ... However, pursuant to a grandfathering provision provided in the 1982 ordinance, handgun owners whose handguns were validly registered prior to the effective date of the handgun ban could continue to re-register their handguns. ... The 1982 ordinance also required that such re-registration take place every two years. ... [It was] ... amended and recodified in 1994 to require annual re-registration. ... The failure to re-register firearms every two years after the enactment of the 1982 ordinance rendered such firearms permanently unregistrable, and thereby caused handgun owners to forfeit their right to possess such firearms within the City of Chicago.

[44] Ruling number 83-1431: "Sklar v. Byrne." United States Court of Appeals, Seventh Circuit, February 8, 1984 (as amended April 17, 1984). <http://openurl.org/727/724/633>

On March 19, 1982, the Chicago City Council passed an ordinance amending Chapter 11.1 of the Municipal Code of the City of Chicago which regulates the sale, possession and registration of firearms and ammunition. The ordinance requires that all firearms in Chicago be registered with the city. ... The ordinance also classifies some firearms as "unregistrable," thus making illegal their possession in the City of Chicago. Among the categories of "unregistrable" firearms are "Handguns, except those validly registered to a current owner in the City of Chicago prior to the effective date of this Chapter." ... The effective date of the Chapter was April 10, 1982.

[45] Case file: *McDonald v Chicago*. Plaintiff's complaint. Filed June 26, 2008. <http://www.chicagocourts.com/wp-content/uploads/2008/>

"Chicago Municipal Code § 8-20-200 provides: (a) Every registrant must renew his registration certificate annually. Applications for renewal shall be made by such registrants 60 days prior to the expiration of the current registration certificate. (b) The application for renewal shall include the payment of a renewal fee as follows: 1 firearm ... \$20.00...."

[46] Article: "Evanston latest suburb to repeal handgun ban in wake of high court ruling." By Deborah Horan, *Chicago Tribune*, August 12, 2008. <http://chicagotribune.com>

"Following the lead of at least two other Chicago suburbs [presumably Morton Grove and Wilmette], the City of Evanston has repealed its handgun ban in the wake of the June U.S. Supreme Court decision that ruled blanket prohibitions of handguns in the home for self-defense violated 2nd Amendment rights."

NOTE: According to their demographics page (<https://cityofevanston.org/pdf/DemographicProfile.pdf>), the City of Evanston has a population of 74,239 as of the 2000 Census. Accessed September 9, 2010.

[47] Article: "Morton Grove repeals 27-year-old gun ban." By Robert Channick, *Chicago Tribune*, July 28, 2008. <http://chicagotribune.com>

"Morton Grove's landmark handgun ban, imposed 27 years ago, died quietly Monday night, as the suburb's

Village Board bowed to a new legal reality and repealed the ordinance. The board's 5-1 vote came in response to last month's ruling by a divided U.S. Supreme Court that struck down a similar ban. The high court ruled that the 2nd Amendment protects a person's right to own a firearm for self-defense."

NOTE: According to their website, (<http://www.mortongroveil.org/>) Morton Grove is a village comprising 22,451, as of March 28, 2009. No date is given for the estimate or census result.

[48] Article: "Wilmette Handgun Ban Dead, 7-0 Vote Repeals Law." *WBBM 780 Chicago*. July 23, 2008. <http://www.wbbm780.com>

"The village board voted Tuesday night 7-0 to repeal the 19-year-old ban, following 45 minutes of discussion and public comment. The ordinance has not been enforced since last month's U.S. Supreme Court ruling affirming individual gun ownership rights in the case of the District of Columbia vs. Heller."

NOTE: According to their demographics page, (<http://www.wilmette.com/about/demographics.aspx>) Wilmette is a city with a population estimated in 2004 to number 27,628. Accessed March 28, 2009.

[49] Article: "Winnetka repeals handgun ban." By Lisa Black, *Chicago Breaking News Center*, November 19, 2008. <http://www.chicagobreakingnews.com/2008/11/winnetka-...>

"Winnetka Village Council voted unanimously Tuesday night to repeal the suburb's 20-year-old ban on possessing handguns but kept intact other portions of its ordinance regulating firearm use.... The action followed a recent Supreme Court decision and the filing of a lawsuit by the National Rifle Association and three village residents who asserted the ban violated their 2nd Amendment rights."

NOTE: According to their demographics page ([http://www.villageofwinnetka.org/pdf/documents/winn\\_census\\_data.pdf](http://www.villageofwinnetka.org/pdf/documents/winn_census_data.pdf)), Winnetka Village had a total population of 12,419 in the 2000 census. Accessed March 28, 2009.

[50] Article: "City wins 1st round in handgun ban challenge." By Carlos Sadovi and Hal Dardick, *Chicago Breaking News Center*, December 18, 2008. <http://www.chicagobreakingnews.com/2008/12/...>

"On Thursday, U.S. District Judge Milton Shadur rejected the gun rights group's effort to extend the D.C. ruling to Chicago and Oak Park."

NOTES:

- See <http://www.nraa.org/media/PDFs/oakpark.pdf> for the original complaint filed against Oak Park by the NRA.

- Oak Park is a village comprising 50,824 people, according to their demographics page, ([http://www.oak-park.us/Village\\_Background/Village\\_Profile.html](http://www.oak-park.us/Village_Background/Village_Profile.html)). No date is given for the estimate or census figure. Accessed March 28, 2009.

[51] Ruling: *McDonald v Chicago*. U.S. Supreme Court, June 28, 2010. Case 08-1521. Decided 5-4. Majority: Alito, Roberts, Scalia, Kennedy, Thomas. Dissenting: Stevens, Ginsburg, Breyer, Sotomayor. <http://www.law.cornell.edu/supct/html/08-1521.ZS.html>

Two years ago, in *District of Columbia v. Heller* ... we held that the Second Amendment\* protects the right to keep and bear arms for the purpose of self-defense, and we struck down a District of Columbia law that banned the possession of handguns in the home. The city of Chicago (City) and the village of Oak Park, a Chicago suburb, have laws that are similar to the District of Columbia's, but Chicago and Oak Park argue that their laws are constitutional because the Second Amendment has no application to the States. ... Applying the standard that is well established in our case law, we hold that the Second Amendment right is fully applicable to the States.

NOTE: Second Amendment to the Constitution of the United States. Ratified December 15, 1791. <http://justfacts.com/constitution.asp#Amendment2>

"A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms shall not be infringed."

[52] Graph constructed with data from:

a) Dataset: "Uniform Crime Reporting Program, United States, 1960-2008." Federal Bureau of Investigation, Criminal Justice Information Services Division. Data supplied to Just Facts on June 15, 2010. Data available upon request.

b) Amicus Brief No. 08-1521: *McDonald v Chicago*. By Maureen Martin and Nancy Lee Carlson. Heartland Institute. [http://www.americanbar.org/...](http://www.americanbar.org/)

Appendix I (page 22 in pdf).

NOTE: Just Facts compared the data in this brief with comparable data obtained from the Census Bureau and FBI (available upon request). Notwithstanding some minor differences, the data was largely congruent. Just Facts chose to use the data in this brief because it is more complete than the other sources.

[53] Calculated with data from the footnote above. The averages were calculated by averaging the murder rates from all years in which the ban was effective for at least 6 months of the year.

[54] Graph constructed with data from Amicus Brief No. 08-1521: *McDonald v Chicago*. By Maureen Martin and Nancy Lee Carlson. Heartland Institute. [http://www.americanbar.org/...](http://www.americanbar.org/)

Appendix 1 (page 22 in pdf).

[55] Calculated with data from the footnote above. The averages were calculated by averaging the data from all years in which the ban was effective for at least 6 months of the year.

[56] "2005 Chicago Murder Analysis Report." Chicago Police Department. Table 6 (page 25), Table 7 (page 26), and Figure 13 (page 27). <http://portal.chicagopolice.org/portal/page/portal/ClearPath/...>

NOTE: The following is paraphrased from tables and figure cited above. Table 6: "Shot: 339 (75.7%) of Victims." Table 7: "Shot - Handgun: 327; Rifle: 5; Shotgun: 2 victims. Stabbing - Knife: 39 victims." Figure 13: This is a graph showing the trend of shootings and stabbings in murders from 1991 to 2005. The lowest percentage of murders that were shootings is 69.0% (1992); the highest is 80.2% (2003). There is not, however, any statistically significant trend of an increase in shootings, (it is only coincidence that the lowest percentage occurred in 1992 and the highest in 2003).

CALCULATION: 327 handgun victims / 339 firearm victims = .965

[57] Web page: "Identify Prohibited Persons." Bureau of Alcohol, Tobacco, and Firearms. Accessed July 23, 2010 at <http://www.atf.gov/firearms/how-to-identify-prohibited-persons.html>

The Gun Control Act (GCA) makes it unlawful for certain categories of persons to ship, transport, receive, or possess firearms. 18 USC 922(g). Transfers of firearms to any such prohibited persons are also unlawful. 18 USC 922(d).

These categories include any person:

- Under indictment or information in any court for a crime punishable by imprisonment for a term exceeding one year;
- convicted of a crime punishable by imprisonment for a term exceeding one year;
- who is a fugitive from justice;
- who is an unlawful user of or addicted to any controlled substance;
- who has been adjudicated as a mental defective or has been committed to any mental institution;
- who is an illegal alien;
- who has been discharged from the military under dishonorable conditions;
- who has renounced his or her United States citizenship;
- who is subject to a court order restraining the person from harassing, stalking, or threatening an intimate partner or child of the intimate partner; or
- who has been convicted of a misdemeanor crime of domestic violence ....

[58] United States Code Title 18, Part I, Chapter 44, Section 922: "Firearms, Unlawful Acts." Current as of February 1, 2010. Accessed July 23, 2010 at [http://www.law.cornell.edu/uscode/uscode18/usc\\_sec\\_18\\_...](http://www.law.cornell.edu/uscode/uscode18/usc_sec_18_...)

(g) It shall be unlawful for any person—

- (1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year; (In this law, the words, "crime punishable by imprisonment for a term exceeding one year," do not mean what they plainly state. See the next footnote for full clarification. The implications of this are addressed shortly later in this research.)
- (2) who is a fugitive from justice;
- (3) who is an unlawful user of or addicted to any controlled substance...
- (4) who has been adjudicated as a mental defective or who has been committed to a mental institution;
- (5) who, being an alien—
  - (A) is illegally or unlawfully in the United States...
- (6) who has been discharged from the Armed Forces under dishonorable conditions;
- (7) who, having been a citizen of the United States, has renounced his citizenship;
- (8) who is subject to a court order that—...
  - (B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child...
- (9) who has been convicted in any court of a misdemeanor crime of domestic violence, to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

[59] United States Code Title 18, Part I, Chapter 44, Section 921: "Definitions." Current as of February 1, 2010. Accessed July 31, 2010 at [http://www.law.cornell.edu/uscode/uscode18/usc\\_sec\\_18\\_...](http://www.law.cornell.edu/uscode/uscode18/usc_sec_18_...)

(a)(20) The term "crime punishable by imprisonment for a term exceeding one year" does not include—

- (A) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices, or
- (B) any State offense classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.

What constitutes a conviction of such a crime shall be determined in accordance with the law of the jurisdiction in which the proceedings were held. Any conviction which has been expunged, or set aside or for which a person has been pardoned or has had civil rights restored shall not be considered a conviction for purposes of this chapter, unless such pardon, expungement, or restoration of civil rights

expressly provides that the person may not ship, transport, possess, or receive firearms

[60] United States Code Title 18, Part I, Chapter 44, Section 924: "Firearms, Penalties." Current as of February 1, 2010. Accessed July 23, 2010 at [http://www.law.cornell.edu/uscode/uscode18/uscode18usc\\_smp\\_01...](http://www.law.cornell.edu/uscode/uscode18/uscode18usc_smp_01...)

"(a)(2) Whoever knowingly violates subsection (a)(6), (d), (g), (h), (i), (j), or (o) of section 922 shall be fined as provided in this title, imprisoned not more than 10 years, or both."

[61] United States Code Title 18, Part I, Chapter 44, Section 922: "Firearms, Unlawful Acts." Current as of February 1, 2010. Accessed July 23, 2010 at [http://www.law.cornell.edu/uscode/uscode18/uscode18usc\\_sec\\_18...](http://www.law.cornell.edu/uscode/uscode18/uscode18usc_sec_18...)

(d) It shall be unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person—

- (1) is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;
- (2) is a fugitive from justice;
- (3) is an unlawful user of or addicted to any controlled substance...
- (4) has been adjudicated as a mental defective or has been committed to any mental institution;
- (5) who, being an alien—
  - (A) is illegally or unlawfully in the United States...
- (6) who ... has been discharged from the Armed Forces under dishonorable conditions;
- (7) who, having been a citizen of the United States, has renounced his citizenship;
- (8) is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child...
- (9) has been convicted in any court of a misdemeanor crime of domestic violence. ...

[62] United States Code Title 18, Part I, Chapter 44, Section 924: "Firearms, Penalties." Current as of February 1, 2010. Accessed July 23, 2010 at [http://www.law.cornell.edu/uscode/uscode18/uscode18usc\\_smp\\_01\\_18...](http://www.law.cornell.edu/uscode/uscode18/uscode18usc_smp_01_18...)

"(a)(2) Whoever knowingly violates subsection (a)(6), (d), (g), (h), (i), (j), or (o) of section 922 shall be fined as provided in this title, imprisoned not more than 10 years, or both."

[63] United States Code Title 18, Part I, Chapter 44, Section 922: "Firearms, Unlawful Acts." Current as of February 1, 2010. Accessed July 23, 2010 at [http://www.law.cornell.edu/uscode/uscode18/uscode18usc\\_sec\\_18...](http://www.law.cornell.edu/uscode/uscode18/uscode18usc_sec_18...)

(a) It shall be unlawful—

- (1) for any person—
  - (A) except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing, manufacturing, or dealing in firearms, or in the course of such business to ship, transport, or receive any firearm in interstate or foreign commerce...

[64] United States Code Title 18, Part I, Chapter 44, Section 921: "Definitions." Current as of February 1, 2010. Accessed July 23, 2010 at [http://www.law.cornell.edu/uscode/uscode18/uscode18usc\\_sec\\_18...](http://www.law.cornell.edu/uscode/uscode18/uscode18usc_sec_18...)

(a) As used in this chapter— ...

- (21) The term "engaged in the business" means—
  - (A) as applied to a manufacturer of firearms, a person who devotes time, attention, and labor to manufacturing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms manufactured;
  - (B) as applied to a manufacturer of ammunition, a person who devotes time, attention, and labor to manufacturing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition manufactured;
  - (C) as applied to a dealer in firearms, as defined in section 921 (a)(11)(A), a person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms, but such term shall not include a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms;
  - (D) as applied to a dealer in firearms, as defined in section 921 (a)(11)(B), a person who devotes time, attention, and labor to engaging in such activity as a regular course of trade or business with the principal objective of livelihood and profit, but such term shall not include a person who makes occasional repairs of firearms, or who occasionally fits special barrels, stocks, or trigger mechanisms to firearms;
  - (E) as applied to an importer of firearms, a person who devotes time, attention, and labor to importing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms imported; and
  - (F) as applied to an importer of ammunition, a person who devotes time, attention, and labor to importing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition imported.

(22) The term "with the principal objective of livelihood and profit" means that the intent underlying the sale or disposition of firearms is predominantly one of obtaining livelihood and pecuniary gain, as opposed to other intents, such as improving or liquidating a personal firearms collection: Provided, That proof of profit shall not be required as to a person who engages in the regular and repetitive purchase and disposition of firearms for criminal purposes or terrorism.

[65] United States Code Title 18, Part I, Chapter 44, Section 924: "Firearms, Penalties." Current as of

February 1, 2010. Accessed July 23, 2010 at [http://www.law.cornell.edu/uscode/uscode18/uscode18usc\\_sec\\_01...](http://www.law.cornell.edu/uscode/uscode18/uscode18usc_sec_01...)

"(n) A person who, with the intent to engage in conduct that constitutes a violation of section 922 (a)(1)(A), travels from any State or foreign country into any other State and acquires, or attempts to acquire, a firearm in such other State in furtherance of such purpose shall be imprisoned for not more than 10 years."

[66] United States Code Title 18, Part I, Chapter 44, Section 922: "Firearms, Unlawful Acts." Current as of February 1, 2010. Accessed July 23, 2010 at [http://www.law.cornell.edu/uscode/uscode18/uscode18usc\\_sec\\_18...](http://www.law.cornell.edu/uscode/uscode18/uscode18usc_sec_18...)

(t)(1) Beginning on the date that is 30 days after the Attorney General notifies licensees under section 103(d) of the Brady Handgun Violence Prevention Act that the national instant criminal background check system is established [November 30, 1998\*], a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a firearm to any other person who is not licensed under this chapter, unless—

(A) before the completion of the transfer, the licensee contacts the national instant criminal background check system established under section 103 of that Act..

\* NOTE: Review of the Bureau of Alcohol, Tobacco, Firearms and Explosives' Enforcement of Brady Act Violations Identified Through the National Instant Criminal Background Check System." U.S. Department of Justice, Office of the Inspector General, July 2004.

<http://www.justice.gov/oig/reports/ATF/a0406/exas.htm>

"The Brady Act of 1993 created a 3-day waiting period before a purchaser can take possession of a firearm, and it established a background check system - the NICS [National Instant Criminal Background Check System] - that firearms dealers were required to contact before the transfer of any firearm to ensure that a person receiving a firearm was not prohibited under the GCA [1968 Gun Control Act] from possessing firearms. The FBI implemented the NICS on November 30, 1998."

[67] Web page: "National Instant Criminal Background Check System Fact Sheet." U.S. Department of Justice, Federal Bureau of Investigation. Accessed July 24, 2010 at <http://www2.fbi.gov/hq/cisid/nics/nicsfact.htm>

Mandated by the Brady Handgun Violence Prevention Act (Brady Act) of 1993 ... the National Instant Criminal Background Check System (NICS) was established for Federal Firearms Licensees (FFLs) to contact by telephone, or other electronic means, for information to be supplied immediately on whether the transfer of a firearm would be in violation of Section 922 (g) or (n) of Title 18, United States Code, or state law. ...

The NICS is a national system that checks available records on persons who may be disqualified from receiving firearms. The FBI developed the system through a cooperative effort with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and local and state law enforcement agencies. The NICS is a computerized background check system designed to respond within 30 seconds on most background check inquiries so the FFLs receive an almost immediate response. Depending on the willingness of state governments to act as a liaison for the NICS, the FFLs contact either the FBI or a designated state Point of Contact (POC) to initiate background checks on individuals purchasing or redeeming firearms. The background check process, as performed by the FBI and by state POCs, is described below.

[68] United States Code Title 18, Part I, Chapter 44, Section 922: "Firearms, Unlawful Acts." Current as of February 1, 2010. Accessed July 23, 2010 at [http://www.law.cornell.edu/uscode/uscode18/uscode18usc\\_sec\\_18...](http://www.law.cornell.edu/uscode/uscode18/uscode18usc_sec_18...)

(e) It shall be unlawful—...

(3) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector to transport into or receive in the State where he resides ... any firearm purchased or otherwise obtained by such person outside that State, except that this paragraph (A) shall not preclude any person who lawfully acquires a firearm by bequest or intestate succession in a State other than his State of residence from transporting the firearm into or receiving it in that State, if it is lawful for such person to purchase or possess such firearm in that State...

(5) for any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) to transfer, sell, trade, give, transport, or deliver any firearm to any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) who the transferor knows or has reasonable cause to believe does not reside in .. the State in which the transferor resides; except that this paragraph shall not apply to

(A) the transfer, transportation, or delivery of a firearm made to carry out a bequest of a firearm to, or an acquisition by intestate succession of a firearm by, a person who is permitted to acquire or possess a firearm under the laws of the State of his residence...

[69] United States Code Title 18, Part I, Chapter 44, Section 922: "Firearms, Unlawful Acts." Current as of February 1, 2010. Accessed July 23, 2010 at [http://www.law.cornell.edu/uscode/uscode18/uscode18usc\\_sec\\_18...](http://www.law.cornell.edu/uscode/uscode18/uscode18usc_sec_18...)

(d) It shall be unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person—

(1) is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) is a fugitive from justice;

(3) is an unlawful user of or addicted to any controlled substance...

(4) has been adjudicated as a mental defective or has been committed to any mental institution;

(5) who, being an alien—

(A) is illegally or unlawfully in the United States...

(6) who ... has been discharged from the Armed Forces under dishonorable conditions;

(7) who, having been a citizen of the United States, has renounced his citizenship;

(8) is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child...

(9) has been convicted in any court of a misdemeanor crime of domestic violence. ...

[70] United States Code Title 18, Part I, Chapter 44, Section 924: "Firearms, Penalties." Current as of February 1, 2010. Accessed July 23, 2010 at [http://www.law.cornell.edu/uscode/uscode18/uscode18\\_usc\\_sup\\_01...](http://www.law.cornell.edu/uscode/uscode18/uscode18_usc_sup_01...)

"(a)(2) Whoever knowingly violates subsection (a)(6), (d), (g), (h), (i), (j), or (o) of section 922 shall be fined as provided in this title, imprisoned not more than 10 years, or both."

[71] "First Reports Evaluating the Effectiveness of Strategies for Preventing Violence: Firearms Laws." Prepared by Robert A. Hahn and others. U.S. Centers for Disease Control and Prevention, October 3, 2003. <http://www.cdc.gov/mmwr/preview/mmwrhtml/r5214a2.htm>

The Brady Law ... established national restrictions on acquisition of firearms and ammunition from federal firearms licensees. The interim Brady Law (1994--1998) mandated a 3-day waiting period to allow background checks. The permanent Brady Law, enacted in 1998, eliminated the required waiting period. It normally allows 3 days for a background check, after which, if no evidence of a prohibited characteristic is found, the purchase may proceed.... Certain states have established additional restrictions, and some require background checks of all firearms transactions, not only those conducted by federal firearms licensees.

[72] Web page: "Federal and State Firearms Laws." National Rifle Association Institute for Legislative Action. Accessed July 24, 2010 at <http://www.nra-ila.org/GunLaws/>

NOTE: This page contains a clickable map with links to synopses of the firearm laws in each state. In California for example, "All firearms sales, transfers or loans, including private transactions and sales at gun shows, must go through a California licensed firearms dealer." As explained above, federal law requires all dealers to conduct a background check to sell or transfer any firearm. Thus, this California law effectively requires background checks for all firearms transactions.

[73] Report: "State Laws and Published Ordinances — Firearms, 2008 — 29th Edition." U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives. Revised December 2009. <http://www.atf.gov/publications/firearms/state-laws/29th-edition/index.html>

NOTE: For those looking for more detail than is provided in the previous source, this report contains the laws of every state.

[74] "National Instant Criminal Background Check System (NICS) 2008 Operations Report." U.S. Department of Justice, Federal Bureau of Investigation. [http://www2.fbi.gov/hq/cisid/nics/ops\\_report2008/ops\\_report2008.htm](http://www2.fbi.gov/hq/cisid/nics/ops_report2008/ops_report2008.htm)

"From November 30, 1998, to December 31, 2008, a total of 95,984,008 transactions were processed through the NICS. ... From November 30, 1998, to December 31, 2008, the NICS Section has denied a total of 680,905 background check transactions."

CALCULATION: 680,905 denied transactions / 95,984,008 transactions processed = 0.0071 denial rate

[75] On July 30, 2010, Just Facts sent a letter to the Bureau of Alcohol, Tobacco, Firearms and Explosives requesting data on the number of prosecutions and convictions stemming from these 681,000 denials. We are awaiting a reply.

[76] Executive Summary: Review of the Bureau of Alcohol, Tobacco, Firearms and Explosives' Enforcement of Brady Act Violations Identified Through the National Instant Criminal Background Check System." U.S. Department of Justice, Office of the Inspector General, July 2004. <http://www.justice.gov/oig/reports/ATF/e0406/exec.htm>

During calendar years (CY) 2002 and 2003, the FBI processed 8.5 million NICS [National Instant Criminal Background Check System] background checks and state POCs [points of contact] processed 8.2 million NICS background checks. ...

The FBI refers to the ATF [Bureau of Alcohol, Tobacco, Firearms and Explosives] the names of all prohibited persons who attempted to or succeeded in obtaining a firearm from an FFL [Federal Firearms Licensee].

... During CYs [calendar years] 2002 and 2003, only 154 (less than 1 percent) of the 120,000 persons who were denied during the NICS background check were prosecuted. Historically, USAOs [U.S. Attorneys' offices] have been unsuccessful in achieving convictions in many of these cases and consequently have been unwilling to expend their limited resources on prosecuting most NICS cases. ...

We believe that the number of referrals and prosecutions is low because of the difficulty in obtaining convictions in NICS cases. These cases lack "jury appeal" for various reasons. The factors prohibiting someone from possessing a firearm may have been nonviolent or committed many years ago. The basis for the prohibition may have been noncriminal (e.g., a dishonorable discharge from the U.S. military). It is also difficult to prove that the prohibited person was aware of the prohibition and intentionally lied to the FFL. We were also told that in parts of the United States where hunting historically has been part of the regional culture, juries are reluctant to convict a person who attempted to purchase a hunting rifle. ...

CALCULATIONS:

8.5 million checks processed by the federal government + 8.2 million processed by the states = 16.7 million NICS background checks

120,000 denied transactions / 16,700,000 transactions processed = 0.0072 denial rate

154 prosecutions / 120,000 denied transactions = 0.0013 prosecution rate

[77] Report: "Review of the Bureau of Alcohol, Tobacco, Firearms and Explosives' Enforcement of Brady Act Violations Identified Through the National Instant Criminal Background Check System." U.S. Department of Justice, Office of the Inspector General, July 2004.  
<http://www.justice.gov/oig/reports/ATF/e0406/results.htm>

Despite the large number of Brady Act violations identified by the FBI, these violations rarely have been prosecuted. Historically, the USAOs [U.S. Attorneys' offices] have been unsuccessful in achieving convictions in many of these types of cases. Consequently, they have been unwilling to prosecute most NICS cases. ...

According to Section 1117 of the U.S. Attorneys' Criminal Resource Manual, one of the factors to be used in determining if a particular case merits federal prosecution is whether the potential defendant was "on notice" that his or her possession of a firearm was illegal.<sup>48</sup> Several ATF special agents stated that when they contact individuals, many said they did not realize they were prohibited from possessing a firearm. Some knew that they had been convicted of a crime, but did not realize that the charge was a felony. Others did not realize that they were subject to the prohibition of misdemeanor crimes of domestic violence because they actually were charged with another type of offense, such as assault or disorderly conduct. ...

<sup>48</sup> Other factors to consider are the date of the previous conviction, the circumstances under which the firearm was obtained, the existence of indicators of current potential for violence, available alternatives to federal prosecution, and whether false statements were made.

[78] Executive Summary: "Review of the Bureau of Alcohol, Tobacco, Firearms and Explosives' Enforcement of Brady Act Violations Identified Through the National Instant Criminal Background Check System." U.S. Department of Justice, Office of the Inspector General, July 2004.  
<http://www.justice.gov/oig/reports/ATF/e0406/exec.htm>

The Office of the Inspector General (OIG) reviewed the Bureau of Alcohol, Tobacco, Firearms and Explosives' (ATF) enforcement of violations of the Brady Handgun Violence Prevention Act of 1993 (Brady Act) (Public Law 103-159) that are identified through the Federal Bureau of Investigation's (FBI) National Instant Criminal Background Check System (NICS). Specifically, we reviewed the extent to which the ATF investigated violations of the Brady Act referred by the FBI, whether the ATF retrieved firearms issued to prohibited persons in a timely manner, and the extent to which Brady Act violations were referred to and prosecuted by the U.S. Attorneys' offices (USAO) ...

The FBI refers to the ATF the names of all prohibited persons who attempted to or succeeded in obtaining a firearm from an FFL [Federal Firearms Licensee].

[79] Report: "Review of the Bureau of Alcohol, Tobacco, Firearms and Explosives' Enforcement of Brady Act Violations Identified Through the National Instant Criminal Background Check System." U.S. Department of Justice, Office of the Inspector General, July 2004.  
<http://www.justice.gov/oig/reports/ATF/e0406/results.htm>

Despite the large number of Brady Act violations identified by the FBI, these violations rarely have been prosecuted. Historically, the USAOs [U.S. Attorneys' offices] have been unsuccessful in achieving convictions in many of these types of cases. Consequently, they have been unwilling to prosecute most NICS [National Instant Criminal Background Check System] cases. ..

#### NICS Subjects Are Not Considered Dangerous

The special agents we spoke with generally commented that they do not consider the vast majority of NICS referral subjects a danger to the public because the prohibiting factors are often minor or based on incidents that occurred many years in the past. For example, one group supervisor cited a retrieval case in which the person was prohibited from owning a firearm because of a felony conviction for stealing four hubcaps from a car. In another example, a Brady Operations Branch specialist cited a case where the person was prohibited due to a 1941 felony conviction for stealing a pig. We also were told that "bad guys" generally do not purchase their firearms through legitimate dealers; instead, they have someone with a clean record purchase the firearm for them (known as a "straw purchase") through an FFL, buy a firearm on the black market, or purchase the firearm at a flea market or gun show from a non-FFL.

[80] Executive Summary: "Review of the Bureau of Alcohol, Tobacco, Firearms and Explosives' Enforcement of Brady Act Violations Identified Through the National Instant Criminal Background Check System." U.S. Department of Justice, Office of the Inspector General, July 2004.  
<http://www.justice.gov/oig/reports/ATF/e0406/exec.htm>

#### Some Denied Persons Are Subsequently Determined by the ATF Not to Be Prohibited

After performing additional research, the ATF frequently determines that the denied individual is not prohibited from possessing a firearm. Generally this occurs because the FBI could not readily determine the individual's prohibited status due to inaccurate and incomplete automated state records.

We found that 69 of the 197 (35 percent) delayed denials and 16 of the 200 (8 percent) standard denials in our sample were applicants who should not have been prohibited from purchasing a

firearm.<sup>34</sup> Special agents in each of the four divisions we visited stated that this was a common occurrence. Although the investigative files did not specify why the subjects in our sample were found not to be prohibited, our discussions with ATF personnel identified several reasons why this generally occurs: (1) the subject's firearm rights had been restored under state law, (2) the subject's prohibition for a misdemeanor crime of violence did not meet the federal criteria, or (3) a protective order had expired or was about to expire. These circumstances are discussed in detail in the following sections.

[81] "National Instant Criminal Background Check System (NICS) 2008 Operations Report." U.S. Department of Justice, Federal Bureau of Investigation.  
[http://www2.fbi.gov/hq/cjisid/nics/ops\\_report2008/ops\\_report2008.htm](http://www2.fbi.gov/hq/cjisid/nics/ops_report2008/ops_report2008.htm)

... 12,709,023 background checks [were] processed through the NICS [National Instant Criminal Background Check System] in 2008....

... 70,725 denial decisions were provided in 2008. ....

In 2008, the NICS Section received a total of 13,396 appeal requests....

[I]n 2008, approximately 23 percent of appealed deny transactions were overturned and proceeded.

CALCULATION: 13,396 appeal requests / 70,725 denial decisions = 0.189 appeal rate

[82] Summary: "Terrorist Watchlist Screening." Government Accountability Office, May 5, 2010.  
<http://www.gao.gov/products/GAO-10-703T>

"Membership in a terrorist organization does not prohibit a person from possessing firearms or explosives under current federal law."

[83] Report: "Terrorist Watchlist Screening." Government Accountability Office, May 5, 2010.  
<http://www.gao.gov/new.items/d10703t.pdf>

Page 5: "In total, individuals on the terrorist watchlist have been involved in firearm and explosives background checks 1,228 times since NICS started conducting these checks in February 2004, of which 1,119 (about 91 percent) of the transactions were allowed to proceed while 109 were denied...."

Page 4:

In May 2009, we reported that from February 2004 through February 2009, a total of 963 NICS background checks resulted in valid matches with individuals on the terrorist watchlist.<sup>8</sup> Of these transactions, approximately 90 percent (865 of 963) were allowed to proceed because the checks revealed no prohibiting information, such as felony convictions, illegal immigrant status, or other disqualifying factors. Two of the 865 transactions that were allowed to proceed involved explosives background checks. The FBI does not know how often a firearm was actually transferred or if a firearm or explosives license or permit was granted, because gun dealers and explosives dealers are required to maintain but not report this information to the NICS [National Instant Criminal Background Check System] Section. About 10 percent (98 of 963) of the transactions were denied based on the existence of prohibiting information. No transactions involving explosives background checks were denied.

Pages 4-5:

For today's hearing, we obtained updated statistics from the FBI through February 2010. Specifically, from March 2009 through February 2010, FBI data show that 272 NICS background checks resulted in valid matches with individuals on the terrorist watchlist.<sup>9</sup> One of the 272 transactions involved an explosives background check, which was allowed to proceed because the check revealed no disqualifying factors under the Safe Explosives Act. According to FBI officials, several of the 272 background checks resulted in matches to watchlist records that—in addition to being in the FBI's Known or Suspected Terrorist File—were on the Transportation Security Administration's "No Fly" list. In general, persons on the No Fly list are deemed to be a threat to civil aviation or national security and therefore should be precluded from boarding an aircraft. According to FBI officials, all of these transactions were allowed to proceed because the background checks revealed no prohibiting information under current law.

[84] United States Code Title 18, Part I, Chapter 44, Section 921: "Firearms, Definitions." Current as of February 1, 2010. Accessed July 31, 2010 at [http://www.law.cornell.edu/uscode/uscode18/uscode\\_sec\\_18...](http://www.law.cornell.edu/uscode/uscode18/uscode_sec_18...)

(a)(20) The term "crime punishable by imprisonment for a term exceeding one year" does not include—

(A) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices, or

(B) any State offense classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.

What constitutes a conviction of such a crime shall be determined in accordance with the law of the jurisdiction in which the proceedings were held. Any conviction which has been expunged, or set aside or for which a person has been pardoned or has had civil rights restored shall not be considered a conviction for purposes of this chapter, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

NOTE: The term "crime punishable by imprisonment for a term exceeding one year" is used in the section of this code governing who can legally purchase and possess firearms ([see here](#)).

[85] Report: "Review of the Bureau of Alcohol, Tobacco, Firearms and Explosives' Enforcement of Brady Act Violations Identified Through the National Instant Criminal Background Check System." U.S. Department of Justice, Office of the Inspector General, July 2004.  
<http://www.justice.gov/oig/reports/ATF/e0406/results.htm>

Currently, when a federal crime is the prohibiting factor, the person's firearm rights can only be restored through a presidential pardon. ...

All but two states have provisions for restoring firearm rights.<sup>37</sup> [<sup>37</sup> Statistics on states' restorations of rights provisions used in this section were extracted from the Survey of State Procedures Related to Firearm Sales, Midyear 2002, published by the DOJ's Bureau of Justice Statistics, October 15, 2003 (revised version) and from ATF P 5300.5 State Laws and Published Ordinances - Firearms (2003 - 24th Edition). The two states that do not have provisions for restoration rights are Alabama and Vermont.] Firearm rights are restored automatically or through application. The conditions for restoration vary greatly among the states by age (juveniles versus adults), type of crime, and the time frame between release from prison or parole and restoration of rights. In some states, restoration rights specifically apply only to convicted felons, which may result in a paradoxical situation in which someone convicted of a misdemeanor crime of domestic violence is permanently barred from owning a firearm, while someone who kills his spouse has his firearm rights restored after serving his sentence.

Twenty-one states automatically restore firearm rights upon release from prison or completion of parole.<sup>38</sup> [<sup>38</sup> In six of these states, automatic restoration only applies to juveniles.] Forty-five states have provisions for restoring firearm rights through application.<sup>39</sup> [<sup>39</sup> In 21 of these states, restoration of firearm rights only occurs through pardons or expungements of records.]

[86] Report: "Firearms Purchased From Federal Firearm Licensees Using Bogus Identification." Government Accountability Office, March 19, 2001.

Page 3: "Bureau of Alcohol, Tobacco and Firearms (ATF) regulations implementing the Brady Act provide that before an FFL [Federal Firearms Licensee] may sell or deliver a firearm, the prospective purchaser must provide photo-identification issued by a government entity."

[87] Summary: "Firearms Purchased from Federal Firearms Licensees Using Bogus Identification." In "Counterfeit Identification and Identification Fraud Raise Security Concerns." Government Accountability Office, September 9, 2003. <http://www.gao.gov/new.items/d031147i.pdf>

Page 8:

From October 2000 through February 2001, we used counterfeit driver's licenses with fictitious identifiers to purchase firearms from federal firearm licensees in five states—Virginia, West Virginia, Montana, New Mexico, and Arizona. The weapons purchased included (1) a 9mm stainless semiautomatic pistol, (2) a .380 semiautomatic pistol, (3) a 7.62mm Russian-manufactured rifle, (4) a .22 caliber semiautomatic rifle, (5) a 9mm semiautomatic pistol, and (6) a .25 caliber semiautomatic pistol.

The five states in which we purchased firearms conformed to the Brady Handgun Violence Prevention Act of 1993<sup>7</sup> by requiring instant background checks. For the most part, the federal firearm licensees we contacted adhered to then-existing federal and state laws regarding such purchases, including the instant background checks. Because we used counterfeit driver's licenses and fictitious identities there was no negative information in the system about the names we created.

[88] Article: "Undercover Federal Probe Finds Defects in Gun Background Checks." *Associated Press*, March 22, 2001. <http://articles.latimes.com/2001/mar/22/news/mn-41268>

The background check system can determine if a potential gun buyer has a criminal history, but there is no safeguard to verify whether the name or identification being used by the buyer is valid, the General Accounting Office investigation found. ...

Officials at the GAO used off-the-shelf software and laminators to create counterfeit driver's licenses, inventing fictitious names, Social Security numbers and dates of birth. ...

The agents told committee members at a hearing that they were sold guns every time they tried.

[89] Report: "Firearms Purchased From Federal Firearm Licensees Using Bogus Identification." Government Accountability Office, March 19, 2001.

Page 1. "The five states that we selected to purchase firearms in ... conformed to the Brady Act's minimum requirements, relying on an instant background check."

Page 2: "Consistent with the Brady Act ... we found that the instant background check does not positively identify purchasers of firearms. Rather, it is a negative check that cannot ensure that the prospective purchaser is not a felon or other prohibited person..."

[90] Executive Summary: "The Bureau of Alcohol, Tobacco, Firearms and Explosives' Investigative Operations at Gun Shows." U.S. Department of Justice, Office of the Inspector General, June 2007.  
<http://www.justice.gov/oig/reports/ATF/e0707/exec.htm>

[91] Executive Summary: "The Bureau of Alcohol, Tobacco, Firearms and Explosives' Investigative

Operations at Gun Shows." U.S. Department of Justice, Office of the Inspector General, June 2007. <http://www.justice.gov/oig/reports/ATF/e0707/exec.htm>

"We found no definitive source for the number of gun shows held annually. ... Available estimates of the number of gun shows in the United States ranged from 2,000 to 5,200 annually."

[92] Executive Summary: "The Bureau of Alcohol, Tobacco, Firearms and Explosives' Investigative Operations at Gun Shows." U.S. Department of Justice, Office of the Inspector General, June 2007. <http://www.justice.gov/oig/reports/ATF/e0707/exec.htm>

[93] Executive Summary: "The Bureau of Alcohol, Tobacco, Firearms and Explosives' Investigative Operations at Gun Shows." U.S. Department of Justice, Office of the Inspector General, June 2007. <http://www.justice.gov/oig/reports/ATF/e0707/exec.htm>

We found that ATF does not have a formal gun show enforcement program, but conducts investigative operations at gun shows when it has law enforcement intelligence that illegal firearms activity has occurred or is likely to occur at specific gun shows. ...

ATF conducted investigative operations at gun shows based on law enforcement intelligence. ...

From fiscal year (FY) 2004 through FY 2006, ATF opened approximately 6,233 firearms trafficking investigations. During this 3-year period, ATF Special Agents conducted 202 operations at 195 gun shows.... ATF's operations at these gun shows led to 121 arrests, resulting in 83 convictions. (Some cases are still pending, so their final dispositions are unknown.) Additionally, ATF seized 5,345 firearms during investigative operations related to these shows.

Seventy-seven percent of ATF's investigative operations at gun shows were covert operations that targeted specific individuals suspected of firearms trafficking. ...

Of the 202 investigative operations conducted by ATF at gun shows, only 23 percent (46) targeted general firearms trafficking at the shows. Further, only 6 of the ATF's 23 field divisions – Columbus, Houston, New Orleans, Phoenix, San Francisco, and Washington, D.C. – conducted these types of operations. The operations were not part of investigations of specific individuals, but rather were initiated based on intelligence from law enforcement and other sources such as FFLs, that various firearms trafficking crimes were occurring at gun shows in those six divisions' geographic areas of responsibility.

[94] Report: "Firearm Use by Offenders." By Caroline Wolf Harlow, U.S. Department of Justice, November 2001. <http://bia.oia.usdoj.gov/index.cfm?tv=obdetail&iid=940>

Page 2: "Data for this report are based primarily on personal interviews with large nationally representative samples of State and Federal prison inmates."

Page 13: "A total of 14,285 interviews were completed for the State survey and 4,041 for the Federal survey, for overall response rates of 92.5% in the State survey and 90.2% in the Federal survey."

Page 6, Table 8: "Source of firearms possessed during the current offense of State prison inmates, 1997 and 1991."

[95] Book: "Guns in American Society: An Encyclopedia of History, Politics, Culture, and the Law." Edited by Gregg Lee Carter. ABC-CLIO, 2002. Section: "Right-to-Carry Laws." By James A. Beckman. Page 502:

Right-to-carry laws, often also called "shall issue" laws, refer to those state laws that mandate that state law enforcement officials or courts shall issue concealed firearm-carrying permits to applicants who meet fair and minimally restrictive statewide standards established by the state legislature. The right-to-carry laws make the allocation or distribution of firearm-carrying permits mandatory upon state officials so long as the applicants meet the minimum statewide standards.

[96] Web page: "Concealed Firearm Permit Information By State." USA Carry. Accessed November 6, 2012 at [http://www.usacarry.com/concealed\\_carry\\_permit\\_information.html](http://www.usacarry.com/concealed_carry_permit_information.html)

"[A]s long as you are legally able to own a firearm and [are] 21 year of age or older, you can carry concealed in the State of Arizona without a concealed weapon permit."

"Alaska Statute 11.61.220 allows anyone 21 or older, who may legally carry a firearm to also carry it concealed without having to obtain a special permit."

"It is lawful to carry a firearm [in Vermont] openly or concealed provided the firearm is not carried with the intent or avowed purpose of injuring a fellow man."

"As of July 8, 2011, anyone who meets the same requirements to obtain a Wyoming concealed weapons permit can legally carry a firearm in any place that is not specifically prohibited."

#### NOTES:

- Overviews of the laws in each state are provided via the clickable map.
- USA Carry was the only comprehensive, up-to-date, and easily accessible source that Just Facts was able to locate for this information. For detailed information on the laws of each state, see the report: "State Laws and Published Ordinances — Firearms, 2009-2010 — 30th Edition." U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives. Revised December 2010. <http://www.atf.gov...>

[97] Web page: "Concealed Firearm Permit Information By State." USA Carry. Accessed January 22, 2012

at [http://www.usacarry.com/concealed\\_carry\\_permit\\_information.html](http://www.usacarry.com/concealed_carry_permit_information.html)

"[A]s long as you are legally able to own a firearm and [are] 21 year[s] of age or older, you can carry concealed in the State of Arizona without a concealed weapon permit."

"Alaska Statute 11 61.220 allows anyone 21 or older, who may legally carry a firearm to also carry it concealed without having to obtain a special permit."

"It is lawful to carry a firearm [in Vermont] openly or concealed provided the firearm is not carried with the intent or avowed purpose of injuring a fellow man."

"As of July 8, 2011, anyone who meets the same requirements to obtain a Wyoming concealed weapons permit can legally carry a firearm in any place that is not specifically prohibited."

**NOTES:**

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[99] Web page: "Concealed Firearm Permit Information By State." USA Carry. Accessed January 22, 2012 at [http://www.usacarry.com/concealed\\_carry\\_permit\\_information.html](http://www.usacarry.com/concealed_carry_permit_information.html)

**NOTES:**

- Overviews of the laws in each state are provided via the clickable map.  
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[100] Connecticut law allows local police, wardens, or selectmen to issue temporary concealed carry permits to private citizens, which the state government reviews for issuance of "a state permit to carry a pistol or revolver." \* † Between January 1, 2000 and December 31, 2009, the state of Connecticut issued 166,190 permits, while during almost the same period (January 1, 2000- February 24, 2010), the state denied 436 permits (2.6% of the total). ‡

**NOTES:**

\* Report: "Gun Permit Issues." By Veronica Rose. Connecticut Office of Legislative Research, April 10, 2008. <http://www.ct.gov/bfne/cwrn/view.asp?a=1838&O=418126&PM=1>  
"Connecticut is a "may issue" state, in that the permit-issuing official has discretion to determine whether to issue or revoke a permit."

† Connecticut Law: Title 29, Chapter 529, Section 29-28(b): "Permit to carry pistol or revolver." Accessed March 17, 2010 at <http://law.justia.com/connecticut/codes/title29/sec29-28.html>

‡ Correspondence from the Connecticut Special Licensing & Firearms Unit to Just Facts, February 24, 2010 and March 18, 2010.

[101] Article: "The State (by State) of Right-To-Carry." By Dave Kopel. National Rifle Association Institute for Legislative Action, July 28, 2006 <http://www.nraifa.org/Issues/Articles/Read.aspx?ht=192&issue=003>

**Do-Issue:** Three states—Alabama, Connecticut and Iowa—have statutes that are not completely Shall-Issue, but that reserve some discretion to the issuing law enforcement agency. In these states, local law enforcement will generally issue a permit to the same kinds of persons who would qualify for a permit in a Shall-Issue state, and many times these states are included on Shall-Issue state lists.

**Capricious-Issue:** Eight coastal states have permit laws but give local law enforcement almost unlimited discretion to deny permits. Although there can be significant variation from one locality to another, permits are rarely issued in most jurisdictions, except to celebrities or other influential people. These Capricious-Issue states are Hawaii, California, Delaware (not as bad as the others, in practice), Maryland, New Jersey (the worst), New York, Massachusetts and Rhode Island.

[102] Web page: "Concealed Firearm Permit Information By State." USA Carry. Accessed January 22, 2012 at [http://www.usacarry.com/concealed\\_carry\\_permit\\_information.html](http://www.usacarry.com/concealed_carry_permit_information.html)

**NOTES:**

- Overviews of the laws in each state are provided via the clickable map.  
- USA Carry was the only comprehensive, up-to-date, and easily accessible source that Just Facts was able to locate for this information. For detailed information on the laws of each state, see the report: "State Laws and Published Ordinances — Firearms, 2009-2010 — 30th Edition." U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives. Revised December 2010. [http://www.atf.gov/...](http://www.atf.gov/)

[103] Paper: "Carrying Concealed Weapons in Self-Defense: Florida Adopts Uniform Regulations for the Issuance of Concealed Weapons Permits." By Richard Getchall. Florida State University Law Review, 1987. Pages 751-791. <http://www.saf.org/LawReviews/Getchall1.htm>

Page 777: "The concealed weapons Act is named the Jack Hagler Self Defense Act..."

Page 789: "The Jack Hagler Self Defense Act became law on October 1, 1987."

[104] Florida Law 790.06: "Weapons and Firearms, License to Carry Concealed Weapon or Firearm." Accessed August 30, 2010 at <http://law.justia.com/florida/codes/TitleXLVI/ch0790.html>

- (2) The Department of Agriculture and Consumer Services shall issue a license if the applicant:
- (a) Is a resident of the United States...
  - (b) Is 21 years of age or older;
  - (c) Does not suffer from a physical infirmity which prevents the safe handling of a weapon or firearm;
  - (d) Is not ineligible to possess a firearm pursuant to s. 790.23 by virtue of having been convicted of a felony;
  - (e) Has not been committed for the abuse of a controlled substance or been found guilty of a crime under the provisions of chapter 893 or similar laws of any other state relating to controlled substances within a 3-year period immediately preceding the date on which the application is submitted;
  - (f) Does not chronically and habitually use alcoholic beverages or other substances to the extent that his or her normal faculties are impaired. ...
  - (g) Desires a legal means to carry a concealed weapon or firearm for lawful self-defense;
  - (h) Demonstrates competence with a firearm by any one of the following:
    1. Completion of any hunter education or hunter safety course approved by the Fish and Wildlife Conservation Commission or a similar agency of another state;
    2. Completion of any National Rifle Association firearms safety or training course;
    3. Completion of any firearms safety or training course or class available to the general public offered by a law enforcement, junior college, college, or private or public institution or organization or firearms training school, utilizing instructors certified by the National Rifle Association, Criminal Justice Standards and Training Commission, or the Department of Agriculture and Consumer Services;
    4. Completion of any law enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement;
    5. Presents evidence of equivalent experience with a firearm through participation in organized shooting competition or military service;
    6. Is licensed or has been licensed to carry a firearm in this state or a county or municipality of this state, unless such license has been revoked for cause; or
    7. Completion of any firearms training or safety course or class conducted by a state-certified or National Rifle Association certified firearms instructor...
  - (i) Has not been adjudicated an incapacitated person under s. 744.331, or similar laws of any other state, unless 5 years have elapsed since the applicant's restoration to capacity by court order;
  - (j) Has not been committed to a mental institution under chapter 394, or similar laws of any other state, unless the applicant produces a certificate from a licensed psychiatrist that he or she has not suffered from disability for at least 5 years prior to the date of submission of the application;
  - (k) Has not had adjudication of guilt withheld or imposition of sentence suspended on any felony or misdemeanor crime of domestic violence unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled, or the record has been sealed or expunged;
  - (l) Has not been issued an injunction that is currently in force and effect and that restrains the applicant from committing acts of domestic violence or acts of repeat violence; and
  - (m) Is not prohibited from purchasing or possessing a firearm by any other provision of Florida or federal law.

[105] Web page: "Concealed Weapon / Firearm Summary Report." Florida Department of Agriculture and Consumer Services, Division of Licensing, July 31, 2010. [http://licgweb.doacs.state.fl.us/stats/cw\\_monthlv.html](http://licgweb.doacs.state.fl.us/stats/cw_monthlv.html)

Note: This web page is constantly updated to reflect the latest data. These are the figures as of August 31, 2010:

	10/1/87 - 07/31/10
Licenses Issued	1,825,143
Licenses Valid	746,430

[106] Calculation performed with data from the citation above and the dataset: "Estimates of the Resident Population by Selected Age Groups for the United States, States, and Puerto Rico: July 1, 2009." U.S. Census Bureau, June 2010. <http://www.census.gov/popest/states/totl/sc-EST2009-01.html>

Florida population:  
 18 years and older = 14,480,196  
 18-24 years = 1,667,090

**CALCULATIONS:**

- a) Estimate of Florida population, 21 years and older:  $14,480,196 - (3/7 \times 1,667,090) = 13,765,729$  people
- b)  $746,430$  valid licensees /  $13,765,729$  people =  $0.054$

[107] Graph constructed with data from:

- a) Dataset: "Uniform Crime Reporting Program, Florida, 1960-2008." Federal Bureau of Investigation, Criminal Justice Information Services Division. Data supplied to Just Facts on June 15, 2010. Data available upon request.
- b) Dataset: "Uniform Crime Reporting Program, United States, 1960-2008." Federal Bureau of Investigation,

Criminal Justice Information Services Division. Data supplied to Just Facts on June 15, 2010. Data available upon request.

[108] Calculated with data from the footnote above.

NOTE: The averages were calculated by averaging the murder rates from all years in which the ban was effective for at least 6 months of the year.

[109] Web page: "Concealed Weapon / Firearm Summary Report." Florida Department of Agriculture and Consumer Services, Division of Licensing, July 31, 2010.  
[http://licweb.doacs.state.fl.us/stat/cw\\_monthly.html](http://licweb.doacs.state.fl.us/stat/cw_monthly.html)

Note: This web page is constantly updated to reflect the latest data. These are the figures as of August 31, 2010:

	10/1/87 - 07/31/10
Applications Received	1,848,835
Licenses Issued	1,825,143
Licenses Valid	746,430
Applications Denied	12,648
Criminal History	4,242
Incomplete Application	8,406
Licenses Revoked	5,674
Clemency Rule Change or Legislative Change	66
Illegible Prints With No Response	10
Crime Prior to Licensure	522
Crime After Licensure	4,955
--Firearm Utilized--	[168]
Other	121
Reinstated*	633

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

[110] Article: "Guns in America: Part II: Texas Massacre, fear of crime spur concealed-gun laws." By Ralph Wingham, *San Antonio Express News*, 1997.

<http://www.chron.com/content/chronicle/nation/guns/part2/gunside1.html>

"In January 1996, a law took effect allowing Texans to carry loaded handguns if they obtain a license and complete a safety course."

[111] Texas Law Chapter 411, Subchapter H: "License to Carry a Concealed Handgun." Accessed August 31, 2010 at <http://law.justia.com/texas/codes/cv/004.00.000411.00.htm>

#### Section 411.172: "Eligibility"

(a) A person is eligible for a license to carry a concealed handgun if the person:

- (1) is a legal resident of this state for the six-month period preceding the date of application under this subchapter or is otherwise eligible for a license under Section 411.173(a);
- (2) is at least 21 years of age;
- (3) has not been convicted of a felony;
- (4) is not charged with the commission of a Class A or Class B misdemeanor or an offense under Section 42.01, Penal Code, or of a felony under an information or indictment;
- (5) is not a fugitive from justice for a felony or a Class A or Class B misdemeanor;
- (6) is not a chemically dependent person;
- (7) is not incapable of exercising sound judgment with respect to the proper use and storage of a handgun;
- (8) has not, in the five years preceding the date of application, been convicted of a Class A or Class B misdemeanor or an offense under Section 42.01, Penal Code;
- (9) is fully qualified under applicable federal and state law to purchase a handgun;
- (10) has not been finally determined to be delinquent in making a child support payment administered or collected by the attorney general;
- (11) has not been finally determined to be delinquent in the payment of a tax or other money collected by the comptroller, the tax collector of a political subdivision of the state, or any agency or subdivision of the state;
- (12) has not been finally determined to be in default on a loan made under Chapter 57, Education Code;
- (13) is not currently restricted under a court protective order or subject to a restraining order affecting the spousal relationship, other than a restraining order solely affecting (14) has not, in the 10 years preceding the date of application, been adjudicated as having engaged in delinquent conduct violating a penal law of the grade of felony; and
- (15) has not made any material misrepresentation, or failed to disclose any material fact, in an application submitted pursuant to Section 411.174 or in a request for application submitted pursuant to Section 411.175. ...

(g) Notwithstanding Subsection (a)(2), a person who is at least 18 years of age but not yet 21 years of age is eligible for a license to carry a concealed handgun if the person:

- (1) is a member or veteran of the United States armed forces, including a member or veteran of the reserves or national guard;
- (2) was discharged under honorable conditions, if discharged from the United States armed forces, reserves, or national guard....

**Section 411.174: "Application"**

- (a) An applicant for a license to carry a concealed handgun must submit to the director's designee described by Section 411.176: ...
- (7) a handgun proficiency certificate described by Section 411.189....

**Section 411.188: "Handgun Proficiency Requirement"**

- (a) The director by rule shall establish minimum standards for handgun proficiency and shall develop a course to teach handgun proficiency and examinations to measure handgun proficiency. The course to teach handgun proficiency must contain training sessions divided into two parts. One part of the course must be classroom instruction and the other part must be range instruction and an actual demonstration by the applicant of the applicant's ability to safely and proficiently use the category of handgun for which the applicant seeks certification. An applicant may not be certified unless the applicant demonstrates, at a minimum, the degree of proficiency that is required to effectively operate a handgun of .32 caliber or above. The department shall distribute the standards, course requirements, and examinations on request to any qualified handgun instructor.
- (b) Only a qualified handgun instructor may administer a handgun proficiency course. The handgun proficiency course must include at least 10 hours and not more than 15 hours of instruction on...

[112] Calendar Year Report: "Active License Holders and Instructors 2009." Texas Department of Public Safety, Regulatory Licensing Service, Concealed Handgun Licensing Bureau.  
[http://www.txdps.state.tx.us/administration/crime\\_records/...](http://www.txdps.state.tx.us/administration/crime_records/)

Active License Holders = 402,914

[113] Calculations performed with data from the citation above and the dataset: "Estimates of the Resident Population by Selected Age Groups for the United States, States, and Puerto Rico: July 1, 2009." U.S. Census Bureau, June 2010. <http://www.census.gov/popes/states/est/SC-EST2009-01.html>

Texas population:  
 18 years and older = 17,886,333  
 18-24 years = 2,523,258

**CALCULATIONS:**

- a) Estimate of Texas population, 21 years and older:  $17,886,333 - (3/7 \times 2,523,258) = 16,804,937$  people
- b)  $402,914$  active licenses /  $16,804,937$  people = 0.024

[114] Graph constructed with data from:

a) Dataset: "Uniform Crime Reporting Program, Texas, 1960-2008." Federal Bureau of Investigation, Criminal Justice Information Services Division. Data supplied to Just Facts on June 15, 2010. Data available upon request.

b) Dataset: "Uniform Crime Reporting Program, United States, 1960-2008." Federal Bureau of Investigation, Criminal Justice Information Services Division. Data supplied to Just Facts on June 15, 2010. Data available upon request.

[115] Calculated with data from the footnote above.

NOTE: The averages were calculated by averaging the murder rates from all years in which the ban was effective for at least 6 months of the year.

[116] Michigan Law Section 28.421a: "Firearms, Concealed pistol licenses; issuance; creation of standardized system." Accessed September 2, 2010 at <http://law.justia.com/michigan/codes/mcl-chan28/mcl-28-421a.html>

"It is the intent of the legislature to create a standardized system for issuing concealed pistol licenses to prevent criminals and other violent individuals from obtaining a license to carry a concealed pistol, [and] to allow law abiding residents to obtain a license to carry a concealed pistol. ... Effective July 1, 2001."

[117] Michigan Law Section 28.422: "License to purchase, carry, or transport pistol; issuance; qualifications; applications..." Accessed September 2, 2010 at <http://law.justia.com/michigan/codes/mcl-chan28/mcl-28-422a.html>

**Section 2:**

- (1) Except as provided in subsection (2), a person shall not purchase, carry, or transport a pistol in this state without first having obtained a license for the pistol as prescribed in this section. ...
- (3) The commissioner or chief of police of a city, township, or village police department that issues licenses to purchase, carry, or transport pistols, or his or her duly authorized deputy, or the sheriff or his or her duly authorized deputy, in the parts of a county not included within a city, township, or village having an organized police department, in discharging the duty to issue licenses shall with due speed and diligence issue licenses to purchase, carry, or transport pistols to qualified applicants residing within the city, village, township, or county, as applicable unless he or she has probable cause to believe that the applicant would be a threat to himself or herself or to other individuals, or would

commit an offense with the pistol that would violate a law of this or another state or of the United States. An applicant is qualified if all of the following circumstances exist:

- (a) The person is not subject to an order or disposition for which he or she has received notice and an opportunity for a hearing, and which was entered into the law enforcement information network pursuant to any of the following....
- (b) The person is 18 years of age or older or, if the seller is licensed pursuant to section 923 of title 18 of the United States Code, 18 USC 923\*, is 21 years of age or older.
- (c) The person is a citizen of the United States and is a legal resident of this state.
- (d) A felony charge against the person is not pending at the time of application.
- (e) The person is not prohibited from possessing, using, transporting, selling, purchasing, carrying, shipping, receiving, or distributing a firearm under section 224f of the Michigan penal code, 1931 PA 328, MCL 750.224f.
- (f) The person has not been adjudged insane in this state or elsewhere unless he or she has been adjudged restored to sanity by court order.
- (g) The person is not under an order of involuntary commitment in an inpatient or outpatient setting due to mental illness.
- (h) The person has not been adjudged legally incapacitated in this state or elsewhere. This subdivision does not apply to a person who has had his or her legal capacity restored by order of the court.
- (i) The person correctly answers 70% or more of the questions on a basic pistol safety review questionnaire approved by the basic pistol safety review board and provided to the individual free of charge by the licensing authority. If the person fails to correctly answer 70% or more of the questions on the basic pistol safety review questionnaire, the licensing authority shall inform the person of the questions he or she answered incorrectly and allow the person to attempt to complete another basic pistol safety review questionnaire. The person shall not be allowed to attempt to complete more than 2 basic pistol safety review questionnaires on any single day. The licensing authority shall allow the person to attempt to complete the questionnaire during normal business hours on the day the person applies for his or her license.

\* NOTE: This refers to a federally licensed firearms dealer.

United States Code Title 18, Part 1, Chapter 44, Section 923: "Licensing." Current as of February 1, 2010.

Accessed September 2, 2010 at [http://www.law.cornell.edu/uscode/html/uscode18/uscode18.usc\\_sec\\_...](http://www.law.cornell.edu/uscode/html/uscode18/uscode18.usc_sec_...)

"(a) No person shall engage in the business of importing, manufacturing, or dealing in firearms, or importing or manufacturing ammunition, until he has filed an application with and received a license to do so from the Attorney General."

[118] Graph constructed with data from:

a) Dataset: "Uniform Crime Reporting Program, Michigan, 1960-2008." Federal Bureau of Investigation, Criminal Justice Information Services Division. Data supplied to Just Facts on June 15, 2010. Data available [upon request](#).

b) Dataset: "Uniform Crime Reporting Program, United States, 1960-2008." Federal Bureau of Investigation, Criminal Justice Information Services Division. Data supplied to Just Facts on June 15, 2010. Data available [upon request](#).

[119] Calculated with data from the footnote above.

NOTE: The averages were calculated by averaging the murder rates from all years in which the ban was effective for at least 6 months of the year.

[120] Dataset: "20 Leading Causes of Unintentional Injury Deaths, United States, 2007." U.S. Centers for Disease Control and Prevention, National Center for Injury Prevention and Control. Accessed September 1, 2010 at <http://webappa.cdc.gov/sasweb/ncipc/leadcaus10.html>

NOTES:

- Data from 2007 was the most recent available on September 1, 2010.
- Data available [upon request](#).
- This top-20 list stops at item number 19, suggesting this covers all such deaths. Just Facts doubled-checked the data on total accidental deaths from another source to ensure this is the case.

[121] Dataset: "20 Leading Causes of Unintentional Injury Deaths, United States, 2007." U.S. Centers for Disease Control and Prevention, National Center for Injury Prevention and Control. Accessed September 1, 2010 at <http://webappa.cdc.gov/sasweb/ncipc/leadcaus10.html>

NOTES:

- Data from 2007 was the most recent available on September 1, 2010.
- Data available [upon request](#).
- This top-20 list stops at item number 19, suggesting this covers all such deaths. Just Facts doubled-checked the data on total accidental deaths from another source to ensure this is the case.
- "Other Spec., classifiable" = Other Specified, classifiable
- "Other Spec., NEC" = Specified, not elsewhere classified

[122] Dataset: "20 Leading Causes of Unintentional Injury Deaths, United States, 2007." U.S. Centers for Disease Control and Prevention, National Center for Injury Prevention and Control. Accessed September 1, 2010 at <http://webappa.cdc.gov/sasweb/ncipc/leadcaus10.html>

NOTES:

- Data from 2007 was the most recent available on September 1, 2010.
- Data available [upon request](#).
- This top-20 list stops at item number 19, suggesting this covers all such deaths. Just Facts doubled-checked the data on total accidental deaths from another source to ensure this is the case.

[123] Dataset: "Unintentional Firearm Gunshot Nonfatal Injuries, 2007, Disposition: All Cases." U.S. Centers for Disease Control and Prevention, National Center for Injury Prevention and Control. Accessed September 1, 2010 at <http://webappa.cdc.gov/sasweb/ncinc/nfirates2001.html>

Firearm = 15,698

NOTE "Disposition" is defined as "Where the injured person went when released from emergency department"

[124] Dataset: "Unintentional All Nonfatal Injuries, 2007, Disposition: All Cases." U.S. Centers for Disease Control and Prevention, National Center for Injury Prevention and Control. Accessed September 1, 2010 at <http://webappa.cdc.gov/sasweb/ncinc/nfirates2001.html>

Number of injuries = 27,731,818

NOTE: "Disposition" is defined as "Where the injured person went when released from emergency department"

[125] Dataset: "20 Leading Causes of Nonfatal Unintentional Injury, United States, 2007, Disposition: Hospitalized." U.S. Centers for Disease Control and Prevention, National Center for Injury Prevention and Control. Accessed September 1, 2010 at <http://webappa.cdc.gov/sasweb/ncinc/nfilead2001.html>

Firearm = 5,045

[126] Dataset: "Unintentional, All Injury Causes, Nonfatal Injuries, 2007, Disposition: Hospitalized." U.S. Centers for Disease Control and Prevention, National Center for Injury Prevention and Control. Accessed September 1, 2010 at <http://webappa.cdc.gov/sasweb/ncinc/nfirates2001.html>

Total hospitalizations = 1,420,190

[127] Constructed with data from the following sources:

a) Dataset: "20 Leading Causes of Nonfatal Unintentional Injury, United States, 2007, Disposition: Hospitalized." U.S. Centers for Disease Control and Prevention, National Center for Injury Prevention and Control. Accessed September 1, 2010 at <http://webappa.cdc.gov/sasweb/ncinc/nfilead2001.html>

NOTE: Data available upon request.

b) Dataset: "Unintentional, All Injury Causes, Nonfatal Injuries, 2007, Disposition: Hospitalized." U.S. Centers for Disease Control and Prevention, National Center for Injury Prevention and Control. Accessed September 1, 2010 at <http://webappa.cdc.gov/sasweb/ncinc/nfirates2001.html>

Total hospitalizations = 1,420,190

[128] Ruling: *District Of Columbia v. Heller*. U.S. Supreme Court, June 26, 2008. Case 07-290. Decided 5-4. Majority: Scalia, Roberts, Kennedy, Thomas, Alito. Dissenting: Stevens, Souter, Ginsburg, Breyer. <http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=...>

Opinion: "Justice Breyer, with whom Justice Stevens, Justice Souter, and Justice Ginsburg join, dissenting." Section IV, A, 1.

[129] Report: "Firearms control regulations act of 1975, Council act no. 1-142 : hearing and disposition before the Committee on the District of Columbia, House of Representatives, Ninety-fourth Congress, second session on H. Con. Res. 694." August 25, 1976. [http://www.archive.org/stream/firearmscontrol00coluanaa/...](http://www.archive.org/stream/firearmscontrol00coluanaa/)

[130] Paper: "Estimating intruder-related firearm retrievals in U.S. households, 1994 " By Robin M. Ikeda and others. *Violence and Victims*, Winter 1997. <http://www.ncbi.nlm.nih.gov/pubmed/92591354>

Page 363:

To estimate the frequency of firearm retrieval because of a known or presumed intruder, the authors analyzed data from a 1994 national random digit dialing telephone survey (n = 5,238 interviews). ... National projections based on these self-reports reveal an estimated 1,896,842 (95% CI [confidence interval] = 1,480,647-2,313,035) incidents in which a firearm was retrieved, but no intruder was seen; 503,481 (95% CI = 305,093-701,870) incidents occurred in which an intruder was seen, and 497,646 (95% CI = 266,060-729,231) incidents occurred in which the intruder was seen and reportedly scared away by the firearm.

Page 364: "A specified random selection procedure was used to ensure that approximately one half of respondents were male and one half were female. If more than one eligible individual was in the selected gender category, the interviewer asked for the respondent with the most recent birthday. Households occupied by minorities were oversampled to ensure adequate minority representation and then weighted to adjust for unequal selection probabilities."

[131] Calculated with data from the following sources:

a) Dataset: "Unintentional Firearm Gunshot Nonfatal Injuries, 2001, Disposition: All Cases." U.S. Centers for Disease Control and Prevention, National Center for Injury Prevention and Control. Accessed September 1, 2010 at <http://webappa.cdc.gov/sasweb/ncinc/nfirates2001.html>

Number of injuries = 17,696

NOTE: "Disposition" is defined as "Where the injured person went when released from emergency department"

b) Dataset: "Unintentional Firearm Deaths, 2001." U.S. Centers for Disease Control and Prevention, National Center for Injury Prevention and Control. Accessed September 1, 2010 at [http://webncdc.cdc.gov/sasweb/ncipc/mortrate10\\_gv.html](http://webncdc.cdc.gov/sasweb/ncipc/mortrate10_gv.html)  
Number of Deaths = 802

CALCULATION:  $17,696 + 802 = 18,498$

[132] As of September 1, 2010, CDC's "Web-based Injury Statistics Query and Reporting System" (<http://www.cdc.gov/injury/wisqars/>) has accidental death rates from 1994 (the year that would be ideal to compare to the CDC survey regarding the number of Americans who use guns to frighten away intruders who are breaking into their homes). However, it does not have nonfatal, accidental injury rates for any earlier than 2000, and the 2000 data is not reliable: "Annualized national estimates are based on emergency department visits from 7/1-12/31 2000. Therefore, estimates may be affected by seasonality." Thus, Just Facts is using the earliest year possible, which is 2001.

[133] CALCULATION:  $498,000 / 18,498 = 26.9$

NOTE: In keeping with Just Facts' *Standards of Credibility*, we are giving preferentiality to figures that are contrary to our viewpoints by citing all gun-related accidents (within and outside the home) for comparison with the D.C. council committee's claim that, "[fo]r every intruder stopped by a homeowner with a firearm, there are 4 gun-related accidents within the home."

[134] Adapted from the NRA, a firearms safety course, and the article: "So You've Bought Yourself a Gun." By Sunni Maravillosa. *Sierra Times*, November 27, 2001.  
<http://www.sunnimaravillosa.com/guns/boughtaun.html>

[135] Web page: "Gun Rights: Long-Term Contribution Trends." Center for Responsive Politics. Accessed September 2, 2010 at <http://www.opensecrets.org/industries/totals.php?cycle=2010&ind=Q13>

NOTE: The data presented is from the Federal Election Commission and is current as of August 22, 2010.

[136] Web page: "Gun Control: Long-Term Contribution Trends." Center for Responsive Politics. Accessed September 2, 2010 at <http://www.opensecrets.org/industries/totals.php?cycle=2010&ind=Q12>

NOTE: The data presented is from the Federal Election Commission and is current as of August 22, 2010.

[137] Web pages: "Top Industries Giving to Members of Congress, 2008, 2006, 2004, 2002, 2000 Cycles." Center for Responsive Politics. Accessed September 5, 2010 at <http://www.opensecrets.org/industries/mems.php>

Who's got the most juice on Capitol Hill? Here's a list of the top industries contributing to members of the 111th Congress during the 2009-2010 election cycle. The first list shows the overall 50 biggest industries. The other two highlight the top 25 industries giving to members of each of the two major parties. In all cases, the Top Recipient listed is the individual member of the 111th Congress who received the most from the industry. Totals shown here include only the money that went to current incumbents in Congress.

NOTE: Neither gun rights nor gun control interest groups appear in these lists for any of the years.

[138] Web page: "Gun Rights: Long-Term Contribution Trends." Center for Responsive Politics. Accessed September 5, 2010 at <http://www.opensecrets.org/industries/totals.php?cycle=2010&ind=Q13>

2008 Total Contributions = \$2,397,743

NOTE: The data presented is from the Federal Election Commission and is current as of August 22, 2010.

[139] Web page: "Lawyers / Law Firms: Long-Term Contribution Trends." Center for Responsive Politics. Accessed September 5, 2010 at <http://www.opensecrets.org/industries/totals.php?cycle=2010&ind=K01>

2008 Total Contributions = \$233,916,242

NOTE: The data presented is from the Federal Election Commission and is current as of August 22, 2010.

CALCULATION:  $\$2,397,743 / \$233,916,242 = 0.010$

[140] Web page: "Gun Control: Long-Term Contribution Trends." Center for Responsive Politics. Accessed September 5, 2010 at <http://www.opensecrets.org/industries/totals.php?cycle=2010&ind=Q12>

2008 Total Contributions = \$57,919

NOTE: The data presented is from the Federal Election Commission and is current as of August 22, 2010.

CALCULATION:  $\$57,919 / \$2,397,743 = .024$

[141] "2008 Republican Party Platform." Republican National Committee, September, 2008.  
<http://www.gop.com/2008Platform/>

Page 51:

We uphold the right of individual Americans to own firearms, a right which antedated the Constitution and was solemnly confirmed by the Second Amendment. We applaud the Supreme Court's decision in *Heller* affirming that right, and we assert the individual responsibility to safely use and store firearms. We call on the next president to appoint judges who will similarly respect the Constitution. Gun ownership is responsible citizenship, enabling Americans to defend themselves, their property, and communities.

[142] "2008 Democratic Party Platform." Democratic National Committee, August 25, 2008.  
<http://www.democrats.org/n/harty/platform.html>

Page 48:

We recognize that the right to bear arms is an important part of the American tradition, and we will preserve Americans' Second Amendment right to own and use firearms. We believe that the right to own firearms is subject to reasonable regulation, but we know that what works in Chicago may not work in Cheyenne. We can work together to enact and enforce common-sense laws and improvements – like closing the gun show loophole, improving our background check system, and reinstating the assault weapons ban, so that guns do not fall into the hands of terrorists or criminals. Acting responsibly and with respect for differing views on this issue, we can both protect the constitutional right to bear arms and keep our communities and our children safe.

[143] Constitution of the United States. Signed September 17, 1787. Enacted June 21, 1788.  
<http://justfacts.com/constitution.asp#Constitution>

Article 2, Clause 2, Section 2: "[The President] with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court...."

[144] Report: "Filibusters and Cloture in the Senate." By Richard S. Beth & Stanley Bach. Congressional Research Service. Updated March 28, 2003. <http://www.senate.gov/reference/resources/pdf/RL30360.pdf>

Summary (page 2 in pdf):

The filibuster is widely viewed as one of the Senate's most characteristic procedural features. Filibustering includes any use of dilatory or obstructive tactics to block a measure by preventing it from coming to a vote. The possibility of filibusters exists because Senate rules place few limits on Senators' rights and opportunities in the legislative process. ...

Senate Rule XXII, however, known as the "cloture rule," enables Senators to end a filibuster on any debatable matter the Senate is considering. Sixteen Senators initiate this process by presenting a motion to end the debate. The Senate does not vote on this cloture motion until the second day after the motion is made. Then it usually requires the votes of at least three-fifths of all Senators (normally 60 votes) to invoke cloture. Invoking cloture on a proposal to amend the Senate's standing rules requires the support of two-thirds of the Senators present and voting.

Page CRS-10:

Invoking cloture usually requires a three-fifths vote of the entire Senate—"three-fifths of the Senators duly chosen and sworn." If there are no vacancies, therefore, 60 Senators must vote to invoke cloture. In contrast, most other votes require only a simple majority (that is, 51%) of the Senators present and voting, assuming that those Senators constitute a quorum. In the case of a cloture vote, the key is the number of Senators voting for cloture, not the number voting against. Failing to vote on a cloture motion has the same effect as voting against the motion: it deprives the motion of one of the 60 votes needed to agree to it.

There is an important exception to the three-fifths requirement to invoke cloture. Under Rule XXII, an affirmative vote of two-thirds of the Senators present and voting is required to invoke cloture on a measure or motion to amend the Senate rules. This exception has its origin in the recent history of the cloture rule. Before 1975, two-thirds of the Senators present and voting (a quorum being present) was required for cloture on all matters. In early 1975, at the beginning of the 94th Congress, Senators sought to amend the rule to make it somewhat easier to invoke cloture. However, some Senators feared that if this effort succeeded, that would only make it easier to amend the rule again, making cloture still easier to invoke. As a compromise, the Senate agreed to move from a maximum of 67 votes (two-thirds of the Senators present and voting) to a minimum of 60 votes (three-fifths of the Senators duly chosen and sworn) on all matters except future rules changes, including changes in the cloture rule itself.<sup>11</sup>

[145] "Standing Rules of the Senate: Rule XXII: Precedence Of Motions." Accessed September 9, 2010.  
<http://rules.senate.gov/public/index.cfm?n=RuleXXII>

2. Notwithstanding the provisions of rule II or rule IV or any other rule of the Senate, at any time a motion signed by sixteen Senators, to bring to a close the debate upon any measure, motion, other matter pending before the Senate, or the unfinished business, is presented to the Senate, the Presiding Officer, or clerk at the direction of the Presiding Officer, shall at once state the motion to the Senate, and one hour after the Senate meets on the following calendar day but one, he shall lay the motion before the Senate and direct that the clerk call the roll, and upon the ascertainment that a quorum is present, the Presiding Officer shall, without debate, submit to the Senate by a yea-and-nay vote the question:

"Is it the sense of the Senate that the debate shall be brought to a close?" And if that question shall be

decided in the affirmative by three-fifths of the Senators duly chosen and sworn — except on a measure or motion to amend the Senate rules, in which case the necessary affirmative vote shall be two-thirds of the Senators present and voting — then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of.

Thereafter no Senator shall be entitled to speak in all more than one hour on the measure, motion, or other matter pending before the Senate, or the unfinished business, the amendments thereto, and motions affecting the same, and it shall be the duty of the Presiding Officer to keep the time of each Senator who speaks. Except by unanimous consent, no amendment shall be proposed after the vote to bring the debate to a close, unless it had been submitted in writing to the Journal Clerk by 1 o'clock p.m. on the day following the filing of the cloture motion if an amendment in the first degree, and unless it had been so submitted at least one hour prior to the beginning of the cloture vote if an amendment in the second degree. No dilatory motion, or dilatory amendment, or amendment not germane shall be in order. Points of order, including questions of relevancy, and appeals from the decision of the Presiding Officer, shall be decided without debate.

After no more than thirty hours of consideration of the measure, motion, or other matter on which cloture has been invoked, the Senate shall proceed, without any further debate on any question, to vote on the final disposition thereof to the exclusion of all amendments not then actually pending before the Senate at that time and to the exclusion of all motions, except a motion to table, or to reconsider and one quorum call on demand to establish the presence of a quorum (and motions required to establish a quorum) immediately before the final vote begins. The thirty hours may be increased by the adoption of a motion, decided without debate, by a three-fifths affirmative vote of the Senators duly chosen and sworn, and any such time thus agreed upon shall be equally divided between and controlled by the Majority and Minority Leaders or their designees. However, only one motion to extend time, specified above, may be made in any one calendar day.

[146] Constitution of the United States. Signed September 17, 1787. Enacted June 21, 1788.  
<http://justfacts.com/constitution.asp#Constitution>

Article III, Section 1: "The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour...."

Article II, Section 4: "The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors."

Article I, Section 2, Clause 5: "The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment."

Article I, Section 3, Clause 6: "The Senate shall have the sole Power to try all Impeachments. ... And no Person shall be convicted without the Concurrence of two thirds of the Members present."

[147] Ruling: *District Of Columbia v. Heller*. U.S. Supreme Court, June 26, 2008. Case 07-290. Decided 5-4. Majority: Scalia, Roberts, Kennedy, Thomas, Alito. Dissenting: Stevens, Souter, Ginsburg, Breyer.  
<http://caselaw.lc.findlaw.com/scripts/getcase.pl?court=...>

[148] Web page: "Shifting Median: An Obama Supreme Court." *Wall Street Journal*. Accessed September 5, 2010 at <http://online.wsj.com/public/resources/documents/scntus...>

NOTE: Stevens was appointed by Ford. Scalia and Kennedy were appointed by Reagan. Thomas and Souter were appointed by G.H. Bush. Ginsburg and Breyer were appointed by Clinton. Alito and Roberts by were appointed by G.W. Bush.

[149] Article: "McCain Promises Judges Like Roberts, Alito." *Associated Press*, May 6, 2008.  
<http://www.cbsnews.com/stories/2008/05/06/politics/main4073792.shtml>

"Obama, on the other hand, voted against Roberts and Alito."

[150] Article: "Obama, McCain talk issues at pastor's forum." By Ed Hornick. *CNN*, August 17, 2008.  
[http://www.cnn.com/2008/POLITICS/08/16/warren\\_forum/index.html](http://www.cnn.com/2008/POLITICS/08/16/warren_forum/index.html)

"Neither candidate shied away from a question about which current Supreme Court justice they would not have nominated. Obama's reply: Clarence Thomas."

[151] Article: "Obama: I Would Not Have Nominated Clarence Thomas." By Sam Stein. *Huffington Post*, August 16, 2008. <http://www.huffingtonpost.com/2008/08/16/...>

[Quoting Obama:] "I would not have nominated Justice Scalia ..."

[152] Article: "Obama, McCain talk issues at pastor's forum." By Ed Hornick. *CNN*, August 17, 2008.  
[http://www.cnn.com/2008/POLITICS/08/16/warren\\_forum/index.html](http://www.cnn.com/2008/POLITICS/08/16/warren_forum/index.html)

"McCain said he would have never nominated Justices Ruth Bader Ginsburg, Stephen Breyer, David Souter and John Paul Stevens."

[153] Web page: "Associate Justice of the U.S. Supreme Court - Sonia Sotomayor." United States Senate. Accessed September 5, 2010 at <http://judiciary.senate.gov/nominations/SupremeCourt/Sotomayor/index.cfm>

"On May 26, 2009, President Obama announced that he would nominate Judge Sonia Sotomayor to be an

Associate Justice of the United States Supreme Court.\*

[154] Vote Number 262: "Confirmation of Sonya Sotomayor to be an Associate Justice of the Supreme Court." United States Senate, August 6, 2009. [http://www.senate.gov/legislative/LIS/roll\\_call\\_lists/...](http://www.senate.gov/legislative/LIS/roll_call_lists/)

[155] Article: "Senate confirms Sonia Sotomayor for Supreme Court." *CNN*, August 06, 2009. <http://articles.cnn.com/2009-08-06/politics/sonia.sotomayor...>

"Sotomayor was easily confirmed in a 68-31 vote. Nine Republicans joined a unanimous Democratic caucus in supporting her nomination."

[156] Ruling: *McDonald v Chicago*. U.S. Supreme Court, June 28, 2010. Case 08-1521. Decided 5-4. Majority: Alito, Roberts, Scalia, Kennedy, Thomas. Dissenting: Stevens, Ginsburg, Breyer, Sotomayor. <http://www.law.cornell.edu/supct/html/08-1521.ZS.html>

Breyer dissent (<http://www.law.cornell.edu/supct/html/08-1521.ZD1.html>):

Justice Breyer, with whom Justice Ginsburg and Justice Sotomayor join, dissenting. ...

The Court ... asks whether the Second Amendment right to private self-defense is "fundamental" so that it applies to the States through the Fourteenth Amendment.\* ...

... the use of arms for private self-defense does not warrant federal constitutional protection from state regulation....

In sum, the Framers did not write the Second Amendment in order to protect a private right of armed self-defense.

NOTE: Fourteenth Amendment to the Constitution of the United States. Ratified July 9, 1868.

<http://justfacts.com/constitution.asp#Amendment14>

"Section 1. ... No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

[157] Web page: "Associate Justice of the U.S. Supreme Court - Elena Kagan." United States Senate. Accessed September 5, 2010 at <http://judiciary.senate.gov/nominations/SupremeCourt/KaganIndex.cfm>

"On May 10, 2010, President Obama nominated Solicitor General Elena Kagan to be an Associate Justice of the United States Supreme Court."

[158] Article: "Kagan Was 'Not Sympathetic' as Law Clerk to Gun-Rights Argument." By Greg Stohr and Kristin Jensen. *Bloomberg*, May 13, 2010. <http://www.bloomberg.com/news?pid=20601087&tid=PI35&uR6Gs>

Elena Kagan said as a U.S. Supreme Court law clerk in 1987 that she was "not sympathetic" toward a man who contended that his constitutional rights were violated when he was convicted for carrying an unlicensed pistol.

Kagan, whom President Barack Obama nominated to the high court this week, made the comment to Justice Thurgood Marshall, urging him in a one-paragraph memo to vote against hearing the District of Columbia man's appeal.

NOTE: A copy of the memo can be seen at [http://www.cbsnews.com/htdocs/pdf/Kagan\\_guns.pdf?tag=...](http://www.cbsnews.com/htdocs/pdf/Kagan_guns.pdf?tag=...)

[159] Vote Number 229: "Confirmation of Elena Kagan to be an Associate Justice of the Supreme Court." United States Senate, August 5, 2010. [http://www.senate.gov/legislative/LIS/roll\\_call\\_lists/roll\\_call...](http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call...)

[160] Second Amendment to the Constitution of the United States. Ratified December 15, 1791. <http://justfacts.com/constitution.asp#Amendment2>

[161] Web page: "The Second Amendment: No Right to Keep and Bear Arms." Violence Policy Center, 1998. Accessed September 4, 2010 at [http://www.vpc.org/fact\\_sht/secondfa.htm](http://www.vpc.org/fact_sht/secondfa.htm)

"The purpose of the Second Amendment is to guarantee the states' ability to maintain independent militias composed of state residents available to be called upon to defend the country should its security be threatened."

[162] Article: "Appeals Court Says Gun Ban Violates 2nd Amendment." By Adam Liptak, *New York Times*, March 9, 2007. <http://query.nytimes.com/gst/fullpage.html?res=...>

"Most federal appeals courts have said that the amendment, read as a whole, protects only a collective right of the states to maintain militias — in modern terms, the National Guard."

[163] Ruling: *Silveira v Lockyer*. United States Court of Appeals, Ninth Circuit, December 05, 2002. Case 01-15098. Before: Reinhardt, Magill, and Fisher, Circuit Judges. <http://caselaw.findlaw.com/us-9th-circuit/1464183.html>

In any event, it is clear that the drafters believed the militia that provides the best security for a free state to be the permanent state militia, not some amorphous body of the people as a whole, or whatever random and informal collection of armed individuals may from time to time appear on the scene for one purpose or another. ...

The debates of the founding era demonstrate that the second of the first ten amendments to the Constitution was included in order to preserve the efficacy of the state militias for the people's defense -- not to ensure an individual right to possess weapons. Specifically, the amendment was enacted to guarantee that the people would be able to maintain an effective state fighting force -- that they would have the right to bear arms in the service of the state.

[164] Article: "A Primer on the Constitutional Right to Keep and Bear Arms." By Nelson Lund. Virginia Institute for Public Policy, June 2002. [http://www.virginiainstitute.org/publications/primer\\_on\\_const.php](http://www.virginiainstitute.org/publications/primer_on_const.php)

"The Second Amendment unambiguously and irrefutably establishes an individual right to keep and bear arms. This conclusion, which is dictated by the language of the Constitution, is confirmed by an abundance of historical evidence. Nor is it contradicted by anything yet discovered in the Constitution's legislative history or in the historical background that illuminates the intentions of those who adopted the Bill of Rights."

[165] Ruling: *United States v. Emerson*. United States Court of Appeals, Fifth Circuit, October 16, 2001. Case 99-10331. Decided 3-0. Before: Garwood, Demoss, and Parker, Circuit Judges. <http://caselaw.findlaw.com/5th-circuit/1332436.html>

"We reject the collective rights and sophisticated collective rights models for interpreting the Second Amendment. We hold, consistent with *Miller*, that it protects the right of individuals, including those not then actually a member of any militia or engaged in active military service or training, to privately possess and bear their own firearms...."

[166] Book: *The Bill of Rights and the States: The Colonial and Revolutionary Origins of American Liberties*. Edited by Patrick T. Conley & John P. Kaminski. Madison House Publishers, 1992. Pages 461-514: "The Bill of Rights: A Bibliographic Essay." By Gaspare J. Saladino. Page 484:

The best historical treatments of the legislative history of the Bill of Rights in the first federal Congress are... [six works mentioned]. All agree that James Madison, against considerable odds, took the lead in the House of Representatives, and that without his efforts there probably would have been no Bill of Rights. Madison's amendments, a distillation of those from the state conventions (especially Virginia's) were, for the most part, those that the House eventually adopted.

[167] Article: "Madison, James." Contributor: Robert J. Brugger (Ph.D., Editor, *Maryland Historical Magazine*, *Maryland Historical Society*). *World Book Encyclopedia*, 2007 Deluxe Edition.

Madison, James (1751-1836), the fourth president of the United States, is often called the Father of the Constitution. He played a leading role in the Constitutional Convention of 1787, where he helped design the checks and balances that operate among Congress, the president, and the Supreme Court. He also helped create the U.S. federal system, which divides power between the central government and the states.

[168] *The Federalist Papers*. By Alexander Hamilton, John Jay and James Madison. October 27, 1787- May 28, 1788. <http://www.gutenberg.org/dirs/etext98/feder10a.txt>

Federalist Paper 1: "General Introduction." By Alexander Hamilton. From the *Independent Journal*. October 27, 1787.

"Yes, my countrymen, I own to you that, after having given it an attentive consideration, I am clearly of opinion it is your interest to adopt it. I am convinced that this is the safest course for your liberty, your dignity, and your happiness."

[169] Book: "The Federalist." Edited with an introduction and notes by Jacob E. Cooke. Wesleyan University Press, 1961.

Page xi: "The Federalist, addressed to the People of the State of New York, was occasioned by the objections of many New Yorkers to the Constitution which had been proposed.... [T]he pages of New York newspapers were filled with articles denouncing the new frame of government. ... The decision to publish [the] series of essays... was made by Alexander Hamilton."

Pages xiv-xv:

The first edition, printed by J. and A. McLean and corrected by Hamilton, is the source from which most editions of *The Federalist* have been taken. ... McLean, having observed "the avidity" with which the "Publius" essays had been sought after by politicians and persons of every description," announced plans for the publication of "The FEDERALIST, A Collection of Essays, written in favour of the New Constitution, By a Citizen of New-York, Corrected by the Author, with Additions and alterations. [The first 36 essays were collectively published in a book dated March 22, 1788. On May 28 of the same year, the rest of the essays that appeared in newspapers were published in book form along with eight more written by Hamilton. These last eight essays were subsequently published in newspapers.]

[170] *The Federalist Papers*. By Alexander Hamilton, John Jay and James Madison. October 27, 1787- May 28, 1788. <http://www.gutenberg.org/dirs/etext98/feder10a.txt>

Federalist Paper 46: "The Influence of the State and Federal Governments Compared." By James Madison. From the *New York Packet*, January 29, 1788.

The only refuge left for those who prophesy the downfall of the State governments is the visionary supposition that the federal government may previously accumulate a military force for the projects of

ambition. The reasonings contained in these papers must have been employed to little purpose indeed, if it could be necessary now to disprove the reality of this danger. That the people and the States should, for a sufficient period of time, elect an uninterrupted succession of men ready to betray both; that the traitors should, throughout this period, uniformly and systematically pursue some fixed plan for the extension of the military establishment; that the governments and the people of the States should silently and patiently behold the gathering storm, and continue to supply the materials, until it should be prepared to burst on their own heads, must appear to every one more like the incoherent dreams of a delirious jealousy, or the misjudged exaggerations of a counterfeit zeal, than like the sober apprehensions of genuine patriotism. Extravagant as the supposition is, let it however be made. Let a regular army, fully equal to the resources of the country, be formed; and let it be entirely at the devotion of the federal government; still it would not be going too far to say, that the State governments, with the people on their side, would be able to repel the danger. The highest number to which, according to the best computation, a standing army can be carried in any country, does not exceed one hundredth part of the whole number of souls; or one twenty-fifth part of the number able to bear arms. This proportion would not yield, in the United States, an army of more than twenty-five or thirty thousand men. To these would be opposed a militia amounting to near half a million of citizens with arms in their hands, officered by men chosen from among themselves, fighting for their common liberties, and united and conducted by governments possessing their affections and confidence. It may well be doubted, whether a militia thus circumstanced could ever be conquered by such a proportion of regular troops. Those who are best acquainted with the last successful resistance of this country against the British arms, will be most inclined to deny the possibility of it. Besides the advantage of being armed, which the Americans possess over the people of almost every other nation, the existence of subordinate governments, to which the people are attached, and by which the militia officers are appointed, forms a barrier against the enterprises of ambition, more insurmountable than any which a simple government of any form can admit of. Notwithstanding the military establishments in the several kingdoms of Europe, which are carried as far as the public resources will bear, the governments are afraid to trust the people with arms. And it is not certain, that with this aid alone they would not be able to shake off their yokes. But were the people to possess the additional advantages of local governments chosen by themselves, who could collect the national will and direct the national force, and of officers appointed out of the militia, by these governments, and attached both to them and to the militia, it may be affirmed with the greatest assurance, that the throne of every tyranny in Europe would be speedily overturned in spite of the legions which surround it. Let us not insult the free and gallant citizens of America with the suspicion, that they would be less able to defend the rights of which they would be in actual possession, than the debased subjects of arbitrary power would be to rescue theirs from the hands of their oppressors. Let us rather no longer insult them with the supposition that they can ever reduce themselves to the necessity of making the experiment, by a blind and tame submission to the long train of insidious measures which must precede and produce it.

[171] Article: "A History of D.C. Gun Ban." Compiled by Meg Smith and Leah Carlimer. *Washington Post*, June 26, 2008. <http://www.washingtonpost.com/wp-dyn/content/article/...>

June 1976: [T]he D.C. Council votes 12 to 1 in favor of a bill restricting city residents from acquiring handguns. The law exempts guards, police officers and owners who had registered their handguns before it took effect. Under the bill, all firearms (including rifles and shotguns, which were not restricted by the law) must be kept unloaded and disassembled, except those in business establishments.

September 1976: Attempts in Congress to block the District law fail, clearing the way for it to go into effect.

[172] Legal brief 07-290: "District of Columbia and Adrian M. Fenty, Mayor of the District Of Columbia, Petitioners, v. Dick Anthony Heller, Respondent. In the Supreme Court of the United States." By Linda Singer (Attorney General for the District of Columbia) and others. January 4, 2008. <http://www.abanet.org/publiced/preview/briefs/pdf/07-08/...>

Pages 1-2:

Relevant portions of the D.C. Code provide:

§ 7-2502.02. Registration of certain firearms prohibited.

(a) A registration certificate shall not be issued for a:

- (1) Sawed-off shotgun;
- (2) Machine gun;
- (3) Short-barreled rifle; or
- (4) Pistol not validly registered to the current registrant in the District prior to September 24, 1976, except that the provisions of this section shall not apply to any organization that employs at least 1 commissioned special police officer or other employee licensed to carry a firearm and that arms the employee with a firearm during the employee's duty hours or to a police officer who has retired from the Metropolitan Police Department.

(b) Nothing in this section shall prevent a police officer who has retired from the Metropolitan Police Department from registering a pistol.

§ 7-2507.02. Firearms required to be unloaded and disassembled or locked.

Except for law enforcement personnel described in § 7-2502.01(b)(1), each registrant shall keep any firearm in his possession unloaded and disassembled or bound by a trigger lock or similar device unless such firearm is kept at his place of business, or while being used for lawful recreational purposes within the District of Columbia.

[173] Ruling: *District Of Columbia v. Heller*. U.S. Supreme Court, June 26, 2008. Case 07-290. Decided 5-4. Majority: Scalia, Roberts, Kennedy, Thomas, Alito. Dissenting: Stevens, Souter, Ginsburg, Breyer. <http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=...>

[174] First Amendment to the Constitution of the United States. Ratified December 15, 1791.  
<http://justfacts.com/constitution.asp#Amendment1>

[175] Fourth Amendment to the Constitution of the United States. Ratified December 15, 1791.  
<http://justfacts.com/constitution.asp#Amendment4>

[176] Ruling: *Barron v Baltimore*. U.S. Supreme Court, January Term, 1833.  
<http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=...>

The plaintiff in error contends, that it comes within that clause in the fifth amendment to the constitution, which inhibits the taking of private property for public use, without just compensation. He insists, that this amendment being in favor of the liberty of the citizen, ought to be so construed as to restrain the legislative power of a state, as well as that of the United States. If this proposition be untrue, the court can take no jurisdiction of the cause.

The question thus presented is, we think, of great importance, but not of much difficulty. The constitution was ordained and established by the people of the United States for themselves, for their own government, and not for the government of the individual states. Each state established a constitution for itself, and in that constitution, provided such limitations and restrictions on the powers of its particular government, as its judgment dictated. The people of the United States framed such a government for the United States as they supposed best adapted to their situation and best calculated to promote their interests. The powers they conferred on this government were to be exercised by itself; and the limitations on power, if expressed in general terms, are naturally, and, we think, necessarily, applicable to the government created by the instrument. They are limitations of power granted in the instrument itself; not of distinct governments, framed by different persons and for different purposes.

If these propositions be correct, the fifth amendment must be understood as restraining the power of the general government, not as applicable to the states.

[177] Fourteenth Amendment to the Constitution of the United States. Ratified July 9, 1868.  
<http://justfacts.com/constitution.asp#Amendment14>

[178] Supplemental materials for Brest, Levinson, Balkin, Amar and Siegel, *Processes of Constitutional Decisionmaking* (5th ed. 2006): "Senator Jacob Howard, Speech Introducing the Fourteenth Amendment." Speech delivered in the U.S. Senate, May 23, 1866. <http://www.yale.edu/lawweb/balkin/conlaw...>

[Senator Jacob Howard of Michigan was a member of the Joint Committee on Reconstruction that drafted the Fourteenth Amendment. He was the floor manager for the Amendment in the Senate. In this speech, he introduces the Amendment on the floor of the Senate and explains its purposes.]

I can only promise to present to the Senate, in a very succinct way, the views and the motives which influenced th[e] committee, so far as I understand those views and motives, in presenting the report which is now before us for consideration, and the ends it aims to accomplish. ...

The first section [of the 14th Amendment] ... relates to the privileges and immunities of citizens of the several States, and to the rights and privileges of all persons, whether citizens or others, under the laws of the United States. ...

To these privileges and immunities, whatever they may be—for they are not and cannot be fully defined in their entire extent and precise nature—to these should be added the personal rights guaranteed and secured by the first eight amendments of the Constitution; such as the freedom of speech and of the press; the right of the people peaceably to assemble and petition the Government for a redress of grievances, a right appertaining to each and all the people; the right to keep and to bear arms; the right to be exempted from the quartering of soldiers in a house without the consent of the owner; the right to be exempt from unreasonable searches and seizures, and from any search or seizure except by virtue of a warrant issued upon a formal oath or affidavit; the right of an accused person to be informed of the nature of the accusation against him, and his right to be tried by an impartial jury of the vicinage; and also the right to be secure against excessive bail and against cruel and unusual punishments.

Now, sir, here is a mass of privileges, immunities, and rights, some of them secured by the second section of the fourth article of the Constitution, which I have recited, some by the first eight amendments of the Constitution; and it is a fact well worthy of attention that the course of decision of our courts and the present settled doctrine is, that all these immunities, privileges, rights, thus guaranteed by the Constitution or recognized by it, are secured to the citizen solely as a citizen of the United States and as a party in their courts. They do not operate in the slightest degree as a restraint or prohibition upon State legislation. States are not affected by them, and it has been repeatedly held that the restriction contained in the Constitution against the taking of private property for public use without just compensation is not a restriction upon State legislation, but applies only to the legislation of Congress.

Now, sir, there is no power given in the Constitution to enforce and to carry out any of these guarantees. They are not powers granted by the Constitution to Congress, and of course do not come within the sweeping clause of the Constitution authorizing Congress to pass all laws necessary and proper for carrying out the foregoing or granted powers, but they stand simply as a bill of rights in the Constitution, without power on the part of Congress to give them full effect; while at the same time the States are not restrained from violating the principles embraced in them except by their own local constitutions, which may be altered from year to year. The great object of the first section of this amendment is, therefore, to restrain the power of the States and compel them at all times to respect these great fundamental guarantees....

[179] Ruling number 1-95-1779: *Hunt v Daley*. Appellate Court of Illinois, First District, Third Division, February 19, 1997. <http://caselaw.findlaw.com/il-court-of-appeals/1056110.htm>

This proceeding involves the 1982 Chicago Weapons Ordinance, passed by the Chicago City Council on March 19, 1982 ... rendering certain firearms unregistrable in the City of Chicago. Under that ordinance, several categories of firearms, including handguns, became unregistrable in the City of Chicago. ... However, pursuant to a grandfathering provision provided in the 1982 ordinance, handgun owners whose handguns were validly registered prior to the effective date of the handgun ban could continue to re-register their handguns. ... The 1982 ordinance also required that such re-registration take place every two years. ... [It was] ... amended and recodified in 1994 to require annual re-registration.... The failure to re-register firearms every two years after the enactment of the 1982 ordinance rendered such firearms permanently unregistrable, and thereby caused handgun owners to forfeit their right to possess such firearms within the City of Chicago.

[180] Ruling number 83-1431: *Sklar v Byrns*. United States Court of Appeals, Seventh Circuit, February 8, 1984 (as amended April 17, 1984). <http://openurl.org/727/172d/633>

On March 19, 1982, the Chicago City Council passed an ordinance amending Chapter 11.1 of the Municipal Code of the City of Chicago which regulates the sale, possession and registration of firearms and ammunition. The ordinance requires that all firearms in Chicago be registered with the city. ... The ordinance also classifies some firearms as "unregistrable," thus making illegal their possession in the City of Chicago. Among the categories of "unregistrable" firearms are "Handguns, except those validly registered to a current owner in the City of Chicago prior to the effective date of this Chapter." ... The effective date of the Chapter was April 10, 1982.

[181] Case file: *McDonald v Chicago*. Plaintiff's complaint. Filed June 26, 2008. [http://www.chicagoguncase.com/wp-content/uploads/2008/...](http://www.chicagoguncase.com/wp-content/uploads/2008/)

"Chicago Municipal Code § 8-20-200 provides: (a) Every registrant must renew his registration certificate annually. Applications for renewal shall be made by such registrants 60 days prior to the expiration of the current registration certificate. (b) The application for renewal shall include the payment of a renewal fee as follows: 1 firearm ... \$20.00...."

[182] Ruling: *McDonald v Chicago*. U.S. Supreme Court, June 28, 2010. Case 08-1521. Decided 5-4. Majority: Alito, Roberts, Scalia, Kennedy, Thomas. Dissenting: Stevens, Ginsburg, Breyer, Sotomayor. <http://www.law.cornell.edu/supct/html/08-1521.ZS.html>

Two years ago, in *District of Columbia v. Heller* ... we held that the Second Amendment\* protects the right to keep and bear arms for the purpose of self-defense, and we struck down a District of Columbia law that banned the possession of handguns in the home. The city of Chicago (City) and the village of Oak Park, a Chicago suburb, have laws that are similar to the District of Columbia's, but Chicago and Oak Park argue that their laws are constitutional because the Second Amendment has no application to the States. ... Applying the standard that is well established in our case law, we hold that the Second Amendment right is fully applicable to the States.

NOTE: \* Second Amendment to the Constitution of the United States. Ratified December 15, 1791. <http://justfacts.com/constitution.asp#Amendment2>

"A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms shall not be infringed."

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Crime & Justice

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## Despite Policy, Weapons Still Appear on University Campus

By [EMILY SCHWING](#) / PEOPLE/EMILY.SCHWING@KUAC

Fairbanks, AK - It's not illegal to carry a concealed weapon in Alaska and the state doesn't require a permit. But according to a seventeen-year-old policy created by the University of Alaska Board of Regents, guns are amongst a number of weapons that are not allowed on University property. On December 8th, a former employee violated the weapons policy, carried a gun into the University of Alaska Fairbanks library and shot himself the incident sparked questions about how the policy is enforced.

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5:25

Scan McGee is the Chief of Police at the University of Alaska, Fairbanks. His history at the school extends over nearly three decades. He began as a student in 1985. "In 85 it was not uncommon to see people cleaning their guns in the parking lots or things like that," he says. "You just don't see that kind of thing taking place in this day and age as often."

30 years ago, that kind of activity wasn't illegal. In fact, it still isn't. Guns are allowed on the UAF campus as long as they are locked in a vehicle or secured in storage at the University Police Department. In 1995, the UA Board of Regents established a policy that does not allow anyone to carry concealed guns, knives and explosives on to University property, inside University buildings and classrooms off campus or at University sanctioned events. But Chief McGee says Alaska's conceal and carry laws may keep him from enforcing that policy. "As the police chief and as a resident here in the state of Alaska, I think there's probably a greater number of firearms on campus than any of us really know about. It's just that these people aren't using their firearms to commit criminal acts," admits McGee.

On December eighth, 63 year-old Tschon Ombadykow walked into the library with a gun and shot himself in a fifth-floor study room. It's the second gun-related death on campus in 20 years. In 1993, 20-year old student Sophie Sergie was shot to death in Bartlett Hall. Her murder remains unsolved. Since 2009, three violations of the University's gun policy have resulted in disciplinary action by the administration.

Don Foley is the Dean of Students and the Associate Vice Chancellor for Student Life at UAF. "Short of having some sort of airport-like TSA set up for every single building on campus," he says, "there's no real way to ensure that someone is not carrying something in a backpack, concealed on them."

In April of 2010, journalism student George Hines organized a protest on the University of Alaska campus in Anchorage. He argued that the Board of Regents' policy violated his second amendment right. When discussions between the Board and Hines broke down, he and 20 other students gathered on the Anchorage campus, weapons in hand. University police escorted the group off campus shortly thereafter.

Hines threatened to take the University to court over the issue, but three years later, he has yet to file suit.

Spokeswoman Kate Waddum says if someone did bring a case against the University

system regarding the weapons policy, it would be a difficult one to argue. "The University of Alaska Board of Regents has a gun policy for our campuses and that policy doesn't violate the second amendment and doesn't break state law," explains Waddum.

Last March, Colorado's State Supreme Court ruled to allow students to carry weapons on university campuses. A similar ruling in 2011, allowed weapons on campuses in the state of Oregon. Mississippi, Wisconsin and Utah also allow weapons at post-secondary educational institutions.

It's unclear if the cases in Colorado and Oregon set a precedent for policies like the University of Alaska's, but Alaska statute also gives the Board of Regents' the authority to govern its premises.

UAF Dean Don Foley says when he speaks with parents during orientation each fall, he tries to guarantee them that their kids will be safe. "But then, I can't guarantee my safety walking across the parking lot either," he says. "However, what I can guarantee is that we are all making our best efforts to coordinate information and make sure that we are doing what we can to see that students have a safe place to study, that faculty and staff has a safe place to work and that the community has a safe place to come and make use of the university facilities," says Foley.

He and Police Chief Sean McGee are part of a behavioral intervention team. Together they address areas and individuals of concern. Foley says his challenge now is to convince people to come forward with concerns and take advantage of university resources. "I probably heard two or three people come to me and express concerns with the library incident," he says. "I think most people just scan beyond it, I'm not sure that's the best thing either."

Foley says the incident in the library and the recent shooting at Sandy Hook Elementary School in Connecticut did prompt some discussion among University administration but there are no plans to change the campus weapons policy.

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