

ALASKA LEGISLATURE

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TEN MYTHS ABOUT GUN CONTROL

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* Facts we can all live with.

 Ten Myths About "Gun Control"

"We will never fully solve our nation's horrific problem of gun violence unless we ban the manufacture and sale of handguns and semi-automatic assault weapons."--USA Today, December 29, 1993

"Why should America adopt a policy of near-zero tolerance for private gun ownership?... (W)ho can still argue compellingly that Americans can be trusted to handle guns safely? We think the time has come for Americans to tell the truth about guns. They are not for us, we cannot handle them."--Los Angeles Times, December 28, 1993

These editorial opinions expressed by two of the nations most widely read newspapers represent the absolute extreme in the firearms controversy: that no citizen can be trusted to own a firearm. It is the product of a series of myths which--through incessant repetition--have been mistaken for truth. These myths are being exploited to generate fear and mistrust of the 60-65 million decent and responsible Americans who own firearms. Yet, as this document proves, none of these myths will stand up under the cold light of fact.

MYTH 1: "The majority of Americans favor strict new additional federal gun controls."

Polls can be slanted by carefully worded questions to achieve any desired outcome. It is a fact that most people do not know what laws currently exist; thus, it is meaningless to assert that people favor "stricter" laws when they do not know how "strict" the laws are in the first place. Asking about a waiting period for a police background check presumes, incorrectly, that police can and will actually conduct a check during the wait. Similarly, it is meaningless to infer anything from support of a 7- or 5-day waiting period when respondents live in a state with a 15-day wait or a 1-6 month permit scheme in place. Asked whether they favor making any particular law "stricter," however, most people do not. Unbiased, scientific polls have consistently shown that most people:

- * Oppose costly registration of firearms.
- * Oppose giving police power to decide who should own guns.
- * Do not believe that stricter gun laws would prevent criminals from illegally obtaining guns.

In 1993, Luntz Weber Research and Strategic Services found that only 9% of the American people believe "gun control" to be the most important thing that could be done to reduce crime. By a margin of almost 3-1, respondents said mandatory prison would reduce crime more than "gun control." This poll, unlike many others, allowed respondents to answer more honestly by using open ended questions without leading introductions. The result was an honest appraisal of the attitude of the American people: "gun control" is not crime control.

One clear example of a poll done which used biased questions and flawed procedures was conducted by Louis Harris Research Inc. (LHRI) in the summer of 1993. The poll reported unprecedented levels of gun abuse by high school students. However, after examining the poll, Professor Gary Kleck of Florida State University, the nation's leading scholar on crime and firearms, called the findings "...implausible, being inconsistent with more sophisticated prior research." Prof. Kleck found the Harris findings of students who had been shot at or who had actually shot at someone to be insupportable by crime and victimization statistics as reported by the Department of Justice: "Even if the percent of handgun crime victimization had doubled from the average for the 1979-1987 period, the LHRI results would still be overstated by a factor of 100." In the end, he labeled the LHRI poll "advocacy polling."¹

A more direct measure of the public's attitude on "gun control" comes when the electorate has a chance to speak on the issue. Public opinion polls do not form public policy, but individual actions by hundreds of thousands of citizens do. For example, in 1993, the voters of Madison, Wisconsin, were presented with a referendum calling for a ban on handgun ownership in that city. Pollsters predicted an overwhelming win for the gun banners. When Second Amendment rights activists rallied opposition and educated the electorate on the facts about gun ownership, the referendum was defeated.

In the 1993 gubernatorial elections, the incumbent governor in New Jersey and the front-runner in Virginia made "gun control" a central theme of their campaigns. Both candidates lost to opponents who stressed real criminal justice reforms, not "gun control."

In November 1982, Californians rejected, by a 63-37% margin, a statewide handgun initiative that called for the registration of all handguns and a "freeze" on the number of handguns allowed in the state. Again, pre-election pollsters reported support for the measure. That initiative was also opposed by the majority of California's law enforcement community. Fifty-one of the state's 58 working sheriffs opposed Proposition 15, as did 101 chiefs of police. Nine law enforcement organizations, speaking for rank-and-file police, went on record against the initiative.

Increasingly, the American people are voicing support for reform of the criminal justice system. The NRA also actively supports initiatives calling for mandatory jail time for violent criminals. In 1982, the residents of Washington, D.C., enacted an NRA-endorsed mandatory penalty bill, actively opposed by the anti-gun D.C. City Council, that severely punishes those who use firearms to commit a violent crime. In 1988, the residents of Oregon approved, by a 78-22% margin, an NRA-supported initiative mandating prison sentences for repeat offenders after the state legislature and governor failed to act on the issue. In 1993, the residents of Washington state overwhelmingly approved the "three strikes you're out" initiative calling for life sentences without parole for anyone convicted of a third serious crime. NRA's CrimeStrike program was instrumental in collecting the needed signatures to put that question on the ballot.

In 1993, the Southern States Police Benevolent Association conducted a scientific poll of its members. Sixty-five percent of the respondents identified "gun control" as the least effective method of combating violent crime. Only 1% identified guns as a cause of violent crime, while 48%

selected drug abuse, and 21% said the failure of the criminal justice system was the most pressing cause. The officers also revealed that 97% support the right of the people to own firearms, and 90% said they believed the Constitution guarantees that right.

The SSPBA findings affirmed a series of polls conducted by the National Association of Chiefs of Police of every chief and sheriff in the country, representing over 15,000 departments. In 1991 the poll discovered for the third year in a row that law enforcement officers overwhelmingly agree that "gun control" measures have no effect on crime. A clear majority of 93% of the respondents said that banning firearms would not reduce a criminal's ability to get firearms, while 89% said that the banning of semi-automatic firearms would not reduce criminal access to such firearms. Ninety-two percent felt that criminals obtain their firearms from illegal sources; 90% agreed that the banning of private ownership of firearms would not result in fewer crimes. Seventy-three percent felt that a national waiting period would have no effect on criminals getting firearms. An overwhelming 90% felt that such a scheme would instead make agencies less effective against crime by reducing their manpower and only serve to open them up to liability lawsuits.

These are the only national polls of law enforcement officers in the country, with the leadership of most other major groups adamantly refusing to poll their membership on firearms issues.

1 Kleck, "Reasons for Skepticism on the Results from a New Poll on: The Incidence of Gun Violence Among Young People," The Public Perspective, Sept./Oct. 1993.

MYTH 2: "The only purpose of a handgun is to kill people."

This often repeated statement is patently untrue, but to those Americans whose only knowledge of firearms comes from the nightly violence on television, it might seem believable. When anti-gun researcher James Wright, then of the University of Massachusetts, studied all the available literature on firearms, he concluded: "Even the most casual and passing familiarity with this literature is therefore sufficient to belie the contention that handguns have 'no legitimate sport or recreational use.' "

There are an estimated 75-80 million privately owned handguns in the United States that are used for hunting, target shooting, protection of families and businesses, and other legitimate and lawful purposes. By comparison, handguns were used in an estimated 13,000 homicides in 1994--less than 0.02% (two hundredths of 1%) of the handguns in America. Many of these reported homicides (1,500-2,800) were self-defense or justifiable and, therefore, not criminal. That fact alone renders the myth about the "only purpose" of handguns absurd, for more than 99% of all handguns are used for no criminal purpose.

By far the most commonly cited reason for owning a handgun is protection against criminals. At least one-half of handgun owners in America own handguns for protection and security. A handgun's function is one of insurance as well as defense. A handgun in the home is a contingency, based on the knowledge that if there ever comes a time when it is needed, no substitute will do. Certainly no violent intent is implied, any more than a purchaser of life insurance intends to die soon.

MYTH 3: "Since a gun in a home is many times more likely to kill a family member than to stop a criminal, armed citizens are not a deterrent to crime. "

This myth, stemming from a superficial "study" of firearm accidents in the Cleveland, Ohio, area, represents a comparison of 148 accidental deaths (including suicides) to the deaths of 23 intruders killed by home owners over a 16-year period. 2

Gross errors in this and similar "studies"--with even greater claimed ratios of harm to good--include: the assumption that a gun hasn't been used for protection unless an assailant dies; no distinction is made between handgun and long gun deaths; all accidental firearm fatalities were counted whether the deceased was part of the "family" or not; all accidents were counted whether they occurred in the home or not, while self-defense outside the home was excluded; almost half the self-defense uses of guns in the home were excluded on the grounds that the criminal intruder killed may not have been a total stranger to the home defender; suicides were sometimes counted and some self-defense shootings misclassified. Cleveland's experience with crime and accidents during the study period was atypical of the nation as a whole and of Cleveland since the mid-1970s. Moreover, in a later study, the same researchers noted that roughly 10% of killings by civilians are justifiable homicides. 3

The "guns in the home" myth has been repeated time and again by the media, and anti-gun academics continue to build on it. In 1993, Dr. Arthur Kellermann of Emory University and a number of colleagues presented a study that claimed to show that a home with a gun was much more likely to experience a homicide. 4 However, Dr. Kellermann selected for his study only homes where homicides had taken place--ignoring the millions of homes with firearms where no harm is done--and a control group that was not representative of American households. By only looking at homes where homicides had occurred and failing to control for more pertinent variables, such as prior criminal record or histories of violence, Kellermann et al. skewed the results of this study. Prof. Kleck wrote that with the methodology used by Kellermann, one could prove that since diabetics are much more likely to possess insulin than non-diabetics, possession of insulin is a risk factor for diabetes. Even Dr. Kellermann admitted this in his study: "It is possible that reverse causation accounted for some of the association we observed between gun ownership and homicide." Law Professor Daniel D. Polsby went further, "Indeed the point is stronger than that: 'reverse causation' may account for most of the association between gun ownership and homicide. Kellermann's data simply do not allow one to draw any conclusion." 5

Research conducted by Professors James Wright and Peter Rossi,⁶ for a landmark study funded by the U.S. Department of Justice, points to the armed citizen as possibly the most effective deterrent to crime in the nation. Wright and Rossi questioned over 1,800 felons serving time in prisons across the nation and found:

- * 81% agreed the "smart criminal" will try to find out if a potential victim is armed.
- * 74% felt that burglars avoided occupied dwellings for fear of being shot.
- * 80% of "handgun predators" had encountered armed citizens.
- * 40% did not commit a specific crime for fear that the victim was armed.
- * 34% of "handgun predators" were scared off or shot at by armed victims
- * 57% felt that the typical criminal feared being shot by citizens more than he feared being shot by police.

Professor Kleck estimates that annually 1,500-2,800 felons are legally killed in "excusable self-defense" or "justifiable" shootings by civilians, and 8,000-16,000 criminals are wounded. This compares to 300-600 justifiable homicides by police. Yet, in most instances, civilians used a firearm to threaten, apprehend, shoot at a criminal, or to fire a warning shot without injuring anyone.

Based on his extensive independent survey research, Kleck estimates that

each year Americans use guns for protection from criminals more than 2.5 million times annually. 7 U.S. Department of Justice victimization surveys show that protective use of a gun lessens the chance that robberies, rapes, and assaults will be successfully completed while also reducing the likelihood of victim injury. Clearly, criminals fear armed citizens.

- 2 Rushforth, et al., "Accidental Firearm Fatalities in a Metropolitan County, " 100 American Journal of Epidemiology 499 (1975).
- 3 Rushforth, et al., "Violent Death in a Metropolitan County," 297 New England Journal of Medicine 531, 533 (1977).
- 4 Kellermann, et al., "Gun Ownership as a Risk Factor for Homicide in the Home," New England Journal of Medicine 467 (1993).
- 5 Polsby, "The False Promise of Gun Control," The Atlantic Monthly, March 1994.
- 6 Wright and Rossi, Armed and Considered Dangerous: A Survey of Felons and Their Firearms (N.Y.: Aldine de Gruyter, 1986).
- 7 Gary Kleck and Mark Gertz, "Armed Resistance to Crime: The Prevalence and Nature of Self-Defense with a Handgun," The Journal of Criminal Law and Criminology, 86 (1995): 150.

MYTH 4: "Honest citizens have nothing to fear from gun registration and licensing which will curb crime by disarming criminals."

"Gun control" proponents tout automobile registration and licensing as model schemes for firearm ownership. Yet driving an automobile on city or state roads is a privilege and, as such, can be regulated, while the individual right to possess firearms is constitutionally protected from infringement. Registration and licensing do not prevent criminal misuse nor accidental fatalities involving motor vehicles in America, where more than 40,000 people die on the nation's highways each year. By contrast, about 1,400 persons are involved in fatal firearm accidents each year.

Registration and licensing have no effect on crime, as criminals, by definition, do not obey laws. Indeed, a national survey of prisoners conducted by Wright and Rossi for the Department of Justice found that 82% agreed that "gun laws only affect law-abiding citizens; criminals will always be able to get guns."

Further, felons are constitutionally exempt from a gun registration requirement. According to the U.S. Supreme Court's decision in Haynes v. U.S., since felons are prohibited by law from possessing a firearm, compelling them to register firearms would violate the Fifth Amendment protection against self-incrimination. 8 Only law-abiding citizens would be required to comply with registration--citizens who have neither committed crimes nor have any intention of doing so.

Registration and licensing of America's 60-65 million gun owners and their 200 million firearms would require the creation of a huge bureaucracy at tremendous cost to the taxpayer, with absolutely no tangible anti-crime return. Indeed, New Zealand authorities repealed registration in the 1980s after police acknowledged its worthlessness, and a similar recommendation was made by Australian law enforcement. Law enforcement would be diverted from its primary responsibility, apprehending and arresting criminals, to investigating and processing paperwork on law-abiding citizens.

In the U.S., after President Clinton, Attorney General Reno, and others announced support for registration and licensing, police response was immediate and non-supportive. Dewey Stokes, President of the Fraternal Order of Police said "... I don't want to get into a situation where we have gun registration." Other law enforcement officers responded even more strongly. Charles Canterbury, President of the South Carolina FOP said, "On behalf of the South Carolina law enforcement, I can say we are adamantly

opposed to registration of guns." Dennis Marrin, President of the National Association of Chiefs of Police reported, "I have had a lot of calls from police chiefs and sheriffs who are worried about this. They are afraid that we're going to create a lot of criminals out of law-abiding people who don't want to get a license for their gun."

Finally, a national registration/licensing scheme would violate an individual's right to privacy protected by the Fourth Amendment and establish a basis upon which gun confiscation could be implemented. More than 60,000 rifles and shotguns were confiscated in April, 1989 from honest citizens who had dutifully registered their guns with the authorities in Soviet Georgia (Chicago Sun-Times, April 12, 1989, The Atlanta Journal and Constitution, May 21, 1989). Could that happen in America? Gun prohibitionists in Massachusetts, Ohio, and Washington, D.C., have already proposed using registration lists for such purposes. And, since 1991, New York City authorities have used registration lists to enforce a ban on semi-automatic rifles and shotguns. Avowed handgun prohibitionist Charles Morgan, as director of the American Civil Liberties Union's Washington office, in a 1975 hearing before the House Subcommittee on Crime stated: "I have not one doubt, even if I am in agreement with the National Rifle Association, that kind of a record-keeping procedure is the first step to eventual confiscation under one administration or another."

Reasonable fears of such confiscation lead otherwise law-abiding citizens to ignore such laws, creating a disrespect for law and a lessened support for government. In states and cities which recently required registration of semi-automatic firearms, estimates of compliance range from 5 to 10% .

8 Haynes v. U.S., 309 U.S. 85 (1968).

MYTH 5: "Stiff 'gun control' laws work as shown by the low crime rates in England and Japan, while U. S crime rates continue to soar."

All criminologists studying the firearms issue reject simple comparisons of violent crime among foreign countries. It is impossible to draw valid conclusions without taking into account differences in each nation's collection of crime data, and their political, cultural, racial, religious, and economic disparities. Such factors are not only hard to compare, they are rarely, if ever, taken into account by "gun control" proponents. 9

Only one scholar, attorney David Kopel, has attempted to evaluate the impact of "gun control" on crime in several foreign countries. In his book The Samurai, The Mountie and The Cowboy: Should America adopt the gun controls of other democracies?, named a 1992 Book of the Year by the American Society of Criminology, Kopel examined numerous nations with varying gun laws, and concluded: "Contrary to the claims of the American gun control movement, gun control does not deserve credit for the low crime rates in Britain, Japan, or other nations." He noted that Israel and Switzerland, with more widespread rates of gun ownership, have crime rates comparable to or lower than the usual foreign examples. And he stated: "Foreign style gun control is doomed to failure in America. Foreign gun control comes along with searches and seizures, and with many other restrictions on civil liberties too intrusive for America. Foreign gun control...postulates an authoritarian philosophy of government fundamentally at odds with the individualist and egalitarian American ethos." 10

America's high crime rates can be attributed to revolving-door justice. In a typical year in the U.S., there are 8.1 million serious crimes like homicide, assault, and burglary. Only 724,000 adults are arrested and fewer still (193,000) are convicted. Less than 150,000 are sentenced to prison, with 36,000 serving less than a year (U.S. News and World Report, July 31,

1989). A 1987 National Institute of Justice study found that the average felon released due to prison overcrowding commits upwards of 187 crimes per year, costing society approximately \$430,000.

Foreign countries are two to six times more effective in solving crimes and punishing criminals than the U.S. In London, about 20% of reported robberies end in conviction; in New York City, less than 5% result in conviction, and in those cases imprisonment is frequently not imposed. Nonetheless, England annually has twice as many homicides with firearms as it did before adopting its tough laws. Despite tight licensing procedures, the handgun-related robbery rate in Britain rose about 200% during the past dozen years, five times as fast as in the U.S.

Part of Japan's low crime rate is explained by the efficiency of its criminal justice system, fewer protections of the right to privacy, and fewer rights for criminal suspects than exist in the United States. Japanese police routinely search citizens at will and twice a year pay "home visits" to citizens' residences. Suspect confession rate is 95% and trial conviction rate is over 99.9%. The Tokyo Bar Association has said that the Japanese police routinely "...engage in torture or illegal treatment. Even in cases where suspects claimed to have been tortured and their bodies bore the physical traces to back their claims, courts have still accepted their confessions." Neither the powers and secrecy of the police nor the docility of defense counsel would be acceptable to most Americans. In addition, the Japanese police understate the amount of crime, particularly covering up the problem of organized crime, in order to appear more efficient and worthy of the respect the citizens have for the police.

Widespread respect for law and order is deeply ingrained in the Japanese citizenry. This cultural trait has been passed along to their descendants in the United States where the murder rate for Japanese-Americans (who have access to firearms) is similar to that in Japan itself.

If gun availability were a factor in crime rates, one would expect European crime rates to be related to firearms availability in those countries, but crime rates are similar in European countries with high or relatively high gun ownership, such as Switzerland, Israel, and Norway, and in low availability countries like England and Germany. Furthermore, one would expect American violent crime rates to be more similar to European rates in crime where guns are rarely used, such as rape, than in crimes where guns are often used, such as homicide. But the reverse is true: American non-gun violent crime rates exceed those of European countries.

9 Wright, et al., Under the Gun: Weapons, Crime and Violence in America (N.Y.: Aldine, 1983). 10 Kopel, "The Samurai, The Mountie, and the Cowboy: Should America adopt the gun controls of other democracies?" (Buffalo, N.Y.: Prometheus Books, 1992), 431-32.

MYTH 6: "Most murders are argument-related 'crimes of passion' against a relative, neighbor, friend or acquaintance. "

The vast majority of murders are committed by persons with long established patterns of violent criminal behavior. According to analyses by the U.S. Senate Subcommittee on Juvenile Delinquency, the FBI, and the Chicago, New York City, and other police departments, about 70% of suspected murderers have criminal careers of long standing--as do nearly half their victims. FBI data show that roughly 47% of murderers are known to their victims.

The waiting period, or "cooling-off" period, as some in the "gun control" community call it, is the most often cited solution to "crimes of passion." However, state crime records show that in 1992, states with waiting periods and other laws delaying or denying gun purchases had an overall violent

crime rate more than 47% higher and a homicide rate 19% higher than other states. In the five states that have some jurisdictions with waiting periods (Georgia, Kansas, Nevada, Ohio and Virginia), the non-waiting period portions of all five states have far lower violent crime and homicide rates.

Recent studies by the Justice Department suggest that persons who live violent lives exhibit those violent tendencies "both within their home and among their family and friends and outside their home among strangers in society." A National Institute of Justice study reveals that the victims of family violence often suffer repeated problems from the same person for months or even years, and if not successfully resolved, such incidents can eventually result in serious injury or death. A study conducted by the Police Foundation showed that 90% of all homicides, by whatever means committed, involving family members, had been preceded by some other violent incident serious enough that the police were summoned, with five or more such calls in half the cases.

Circumstances which might suggest "crimes of passion" or "spontaneous" arguments, such as a lover's triangle, arguments over money or property, and alcohol-related brawls, comprise 29% of criminal homicides, according to FBI data.

Professor James Wright of the University of Massachusetts describes the typical incident of family violence as "that mythical crime of passion" and rejects the notion that it is an isolated incident by otherwise normally placid and loving individuals. His research shows that it is in fact "the culminating event in a long history of interpersonal violence between the parties."

Wright also speaks to the protective use of handguns. "Firearms equalize the means of physical terror between men and women. In denying the wife of an abusive man the right to have a firearm, we may only be guaranteeing her husband the right to beat her at his pleasure," says Wright. 11

11 Wright, "Second Thoughts About Gun Control," 91 [The] Public Interest, 23 (Spring 1988).

MYTH 7: "Semi-automatic firearms have no legitimate sporting purpose, are the preferred weapon of choice of criminals, and should be banned."

Use of this myth by gun prohibitionists is predicated purely on pragmatism: whichever "buzzword" can produce the most anti-gun emotionalism--"Saturday Night Special," "assault weapons," and "plastic guns"--will be utilized in efforts to generate support for a ban on entire classes of firearms.

Examples of this anti-gun legislative history abound. A "Saturday Night Special" ban bill enacted in Maryland establishes a politically appointed "Handgun Roster Board" with complete authority to decide which handguns will be permitted in the so-called "Free State"-- any handgun could therefore be banned. Federal legislation aimed at the nonexistent "plastic gun" would have banned millions of metal handguns suitable for personal protection. In the 1994 crime bill, Congress did ban semi-automatic "assault weapons," based on their cosmetic appearance. After passage, however, not even the virulently anti-gun Washington Post pretended the ban would have a crime fighting effect, labeling it "mainly symbolic."

Criminals and law-abiding citizens both follow the lead of police and military in choosing a gun. Criminals generally pick as handguns .38 Spl. and .357 Mag. revolvers, with barrels about 4" long and retailing (an unimportant matter for criminals) at over \$200. Only about one-sixth fit

the classic description of the so-called "Saturday Night Special"--small caliber, short barrel and inexpensive. While criminals are unconcerned with the cost of a firearm, the law-abiding certainly are. A ban on inexpensive handguns will have a disproportionate impact on low income Americans, effectively disarming them. This is particularly unfair, since it is the poor who more often must live and work in high crime areas.

As more and more police departments, following the lead of the military, switch from revolvers to 9 mm semi-auto pistols, criminals and honest citizens will both follow suit. Indeed, semi-auto pistols have risen from one-fourth of American handgun manufacturing in the 1970s to three-fourths today.

Criminals rarely use long guns and, when they do, are more apt to use a sawed-off shotgun than a semi-automatic rifle, whether military style or not. In America's largest and most crime ravaged cities, only about 1/2-3% of "crime guns" are military-style semi-autos. As military establishments adopted medium-velocity rifles with straight-stock configuration, target shooters, hunters, and collectors have acquired the semi-automatic models of these firearms.

While not all guns incorrectly attacked as "preferred by criminals" are popular for hunting, many are, but hunting is not the only valid purpose for owning a firearm. Small handguns, which may be ill-suited for hunting or long-range target shooting, are useful for personal protection, where the accuracy range rarely needs to exceed ten feet. Semi-automatic rifles and shotguns are suitable for hunting a variety of game. Semi-automatic, military and military-style rifles, including the M1 Garand, Springfield M1A, and the Colt Sporter, are used in thousands of sanctioned Highpower Tournaments each year and the National Matches at Camp Perry, Ohio. Hundreds of thousands of individuals use these rifles for recreational target shooting and plinking.

The Second Amendment clearly protects ownership of firearms which are useful "for the security of a free state" and semi-automatic versions of military arms are clearly appropriate for that purpose. It was the clear intention of the Framers of our Constitution that the citizenry possess arms equal or superior to those held by the government. That was viewed as the best deterrent to tyranny, and it has worked for over 200 years. It was also the intention of the Founding Fathers that citizens be able to protect themselves from criminals, and that doesn't necessarily require a gun suitable for hunting, target shooting, or plinking. All modern firearms may be used for such protective purposes.

MYTH 8: "The right guaranteed under the Second Amendment is limited specifically to the arming of a 'well-regulated Militia' that can be compared today to the National Guard."

The Second Amendment 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." In contrast to other portions of the Constitution, this Amendment contains no qualifiers, no "buts" or "excepts." It is a straightforward statement affirming the people's right to possess firearms.

The perception that the Second Amendment guarantees a "collective right" or a "right of states to form militias" rather than an individual right is a wholly inaccurate 20th-century invention. Historically, the term "militia" refers to the people at large, armed and ready to defend their homeland and their freedom with arms supplied by themselves (U.S. v. Miller, 1939). Federal law (Title 10, Section 311 of the U.S. Code) states:

"The militia of the United States consists of all able-bodied males at least 17 years of age...."

Moreover, historical records, including Constitutional Convention debates and the Federalist Papers, clearly indicate that the purpose of the Second Amendment was to guard against the tyranny that the Framers of the Constitution feared could be perpetrated by any professional armed body of government. The arms, records and ultimate control of the National Guard today lie with the Federal Government, so that it clearly is not the "militia" protected from the federal government.

The Supreme Court recently affirmed this virtually unlimited control of the Guard by the federal government in the case of *Ferpich v. Department of Defense* (1990). The Court held that the power of Congress over the National Guard is plenary (entire, absolute, unlimited) and such power is not restricted by the Constitution's Militia Clause. The Second Amendment was not even mentioned by the Court, undoubtedly because it does not serve as a source of power for a state to have a National Guard.

In *The Federalist No. 29*, Alexander Hamilton argued that the army would always be a "select corps of moderate size" and that the "people at large (were) properly armed" to serve as a fundamental check against the standing army, the most dreaded of institutions. James Madison, in *The Federalist No. 46*, noted that unlike the governments of Europe which were "afraid to trust the people with arms," the American people would continue under the new Constitution to possess "the advantage of being armed," and thereby would continually be able to form the militia when needed as a "barrier against the enterprises of despotic ambition."

A 1990 Supreme Court decision regarding searches and seizures confirmed that the right to keep and bear arms was an individual right, held by "the people"--a term of art employed in the Preamble and the First, Second, Fourth, Ninth, and Tenth Amendments referring to all "persons who are part of a national community" (*U.S. v. Verdugo-Urquidez*, 1990).

The case of *U.S. v. Miller* (1939) is frequently, though erroneously, cited as the definitive ruling that the right to keep and bear arms is a "collective" right, protecting the right of states to keep a militia rather than the individual right to possess arms. But that was not the issue in *Miller*, and no such ruling was made; the word "collective" is not used any place in the court's decision.

While such a decision was sought by the Justice Department, the Court decided only that the National Firearms Act of 1934 was constitutional in the absence of evidence to the contrary. The case hinged on the narrow question of whether a sawed-off shotgun was suitable for militia use, and its ownership by individuals thus protected by the Second Amendment.

The Court ruled that: "In the absence of (the presentation of) any evidence tending to show that possession or use of a 'shotgun having a barrel of less than eighteen inches in length' at this time has some reasonable relationship to the preservation or efficiency of a well-regulated militia, we cannot say that the Second Amendment guarantees the right to keep and bear such an instrument. Certainly it is not within judicial notice--common knowledge, that need not be proven in court--that this weapon is any part of the military equipment or that its use could contribute to the common defense."

Because no evidence or argument was presented except by the federal government, the Court was not made aware that some 30,000 short-barreled shotguns were used as "trench guns" during World War I.

The Supreme Court has ruled on only three other cases relating to the Second Amendment--all during the last half of the nineteenth century. In

each of these cases, the Court held that the Second Amendment only restricted actions of the federal government, not of private individuals (U.S. v. Cruikshank, 1876) or state governments (Presser v. Illinois, 1886, and Miller v. Texas, 1894). The Court also held, in Presser, that the First Amendment guarantee of freedom of assembly did not apply to the states; and in Miller v. Texas, it held that the Fourth Amendment guarantee against unreasonable search and seizure did not apply to the states, since the Court believed that all the amendments comprising the Bill of Rights were limitations solely on the powers of Congress, not upon the powers of the states.

It was not until two generations later that the Court began to rule, through the Fourteenth Amendment, that the First, Fourth, and other provisions of the Bill of Rights limited both Congress and state legislatures. No similar decision concerning the Second Amendment has ever been made in spite of contemporary scholarship proving that the purpose of the Fourteenth Amendment was to apply all of the rights in the Bill of Rights to the states. 12 That research proves that the Fourteenth Amendment was made a part of the Constitution to prevent states from depriving the newly freed slaves of the rights guaranteed in the Bill of Rights, including what the Supreme Court's Dred Scott decision referred to as one of the rights of citizens, the right "to keep and carry arms wherever they went."

The only significance of the Supreme Court's refusal to hear a challenge to the hand-gun ban imposed by Morton Grove, Illinois, is that the Court will still not rush to apply the Second Amendment to the states. The refusal to hear the case has no legal significance and, indeed, it would have been very unusual for the Court to make a decision involving the U.S. Constitution when the Illinois courts had not yet decided if Morton Grove's ban conflicted with the state's constitution.

12 Halbrook, *That Every Man Be Armed: The Evolution of a Constitutional Right* (Albuquerque: University of New Mexico Press, 1984).

MYTH 9: "A person in a public place with a gun is looking for trouble."

Gun prohibitionists use this myth to oppose legislative proposals to allow law-abiding citizens to obtain permits to carry concealed firearms. In spite of this opposition, numerous states have adopted favorable concealed carry laws over the past few years. In each case, anti-gun activists and politicians predicted that allowing law-abiding people to carry firearms would result in more deaths and injuries as people would resort to gunfire to settle minor disputes. Shoot-outs over fender-benders and Wild-West lawlessness were predicted in an effort to stir up public fear of reasonable laws.

This tactic--seeking to frighten people into supporting desired positions--is employed more and more frequently by gun prohibitionists. Prof. Gary Kleck explains the reasoning thusly: "Battered by a decade of research contradicting the central factual premises underlying gun control, advocates have apparently decided to fight more exclusively on an emotional battlefield, where one terrorizes one's targets into submission rather than honestly persuading them with credible evidence." 13

When the concealed carry laws were passed and put into practice, the result was completely different from the hysterical claims of the gun prohibitionists. In Florida, since the concealed carry law was changed in 1987, the homicide rate has dropped 21% , while the national rate has risen 12% . Across the nation, states with favorable concealed carry laws have a 33% lower homicide rate overall and 37% lower robbery rate than states that

allow little or no concealed carry.

Gun prohibitionists have also acted to penalize and discourage gun ownership by imposing mandatory prison terms on persons carrying or possessing firearms without a license or permit, a license or permit they have also made impossible or very difficult to obtain. Massachusetts' Bartley-Fox Law and New York's Koch-Carey Law are premier examples of this "gun control" strategy. Such legislation is detrimental only to peaceful citizens, not to criminals.

By the terms of such a mandatory or increased sentence proposal, the unlicensed carrying of a firearm--no matter how innocent the circumstances--is penalized by a six-to-twelve month jail sentence. It is imposed on otherwise law-abiding citizens although in many areas it is virtually impossible for persons to obtain a carry permit. It is easy to see circumstances in which an otherwise law-abiding person would run afoul of this law: fear of crime, arbitrary denial of authorization, red-tape delay in obtaining official permission to carry a firearm, or misunderstanding of the numerous and vague laws governing the transportation of firearms.

The potential for unknowingly or unwittingly committing a technical violation of a licensing law is enormous. Myriad legal definitions of "carrying" vary from state to state and city to city, including most transportation of firearms--accessible or not, loaded or not, in a trunk or case. And out-of-state travelers are exceedingly vulnerable because of these various definitions.

One need only examine the first persons arrested under the Massachusetts and New York City "mandatory penalty" laws for proof that such laws are misdirected: an elderly woman passing out religious pamphlets in a dangerous section of Boston and an Ohio truck driver coming to the aid of a woman apparently being kidnapped in New York City.

In New York City--prior to the enactment of the Koch-Carey mandatory sentence for possession law--the bureaucratic logjam in the licensing division, combined with a soaring crime rate, forced law-abiding citizens to obtain guns illegally for self-protection. In effect, citizens admitted that they would rather risk a mandatory penalty for illegally owning a firearm than risk their lives and property at the hands of New York's violent, uncontrolled criminals. Honest citizens feared the streets more than the courtrooms.

By contrast, the city's criminal element faces no similar threat of punishment. A report carried in the March 1, 1984, issue of the New York Times says it all: "Conviction on felony charges is rare. Because of plea-bargaining, the vast majority of those arrested on felony charges are tried on lesser, misdemeanor charges." In one year, according to the Times, there were 106,171 felony arrests in New York City, but only 25,987 cases received felony indictments and only 20,641 resulted in convictions, with imprisonment a rarity. This condition persists, the New York Times reported again on June 23, 1991: in 1990 felony indictments were resolved by plea bargains in over 83% of cases. Only 5.7% of cases ended with a trial verdict, with only 3.8% ending in conviction. Not surprisingly, with just 3% of the nation's population, in 1992 New York City accounted for 12% of the nation's homicides.

In championing New York's tough Koch-Carey Law, then Mayor Ed Koch said contemptuously of gun owners, "Nice guys who own guns aren't nice guys." No such rancor was expressed about the city's revolving-door criminal justice system where the chances of hardened criminals being arrested on felony charges are one in one hundred. Later, the Police Foundation study of New York's Koch-Carey Law found that it failed to reduce the number of guns on the street and did not reduce gun use in rape, robbery or assault.

Such legislation invites police to routinely stop and frisk people randomly on the street on suspicion of firearms possession. In fact, the Police Foundation has called for the random use of metal detectors on the streets to apprehend people carrying firearms without authorization. In disregarding the constitutionally guaranteed right to privacy and against unreasonable searches and seizures, police would be empowered under the Police Foundation's blueprint for disarmament to "systematically stop a certain percentage of people on the streets... in business neighborhoods and run the detectors by them, just as you do at the airport. If the detectors produce some noise then that might establish probable cause for a search."

While admitting that such "police state" tactics would require "methods... that liberals instinctively dislike," government researchers James Q. Wilson and Mark H. Moore called for more aggressive police patrolling in public places, saying: "To inhibit the carrying of handguns, the police should become more aggressive in stopping suspicious people and, where they have reasonable grounds for their suspicions, frisking (i.e. patting down) those stopped to obtain guns. Hand-held magnetometers, of the sort used by airport security guards, might make the street frisks easier and less obtrusive. All this can be done without changing the law." (The Washington Post, April 1, 1981) Note, they said "people," not criminals.

13 Kleck, "Reasons for Skepticism on the Results from a New Poll on: The Incidence of Gun Violence Among Young People," The Public Perspective, Sept./Oct. 1993.

MYTH 10: "Gun control reduces crime."

This is perhaps, the greatest myth that is perpetrated today by national gun ban groups.

No empirical study of the effectiveness of gun laws has shown any positive effect on crime. To the dismay of the prohibitionists, such studies have shown a negative effect. That is, in areas having greatest restrictions on private firearms ownership, crime rates are typically higher, because criminals are aware that their intended victims are less likely to have the means with which to defend themselves.

If gun laws worked, the proponents of such laws would gleefully cite examples of reduced crime. Instead, they uniformly blame the absence of tougher or wider spread measures for the failures of the laws they advocated. Or they cite denials of applications for permission to buy a firearm as evidence the law is doing something beyond preventing honest citizens from being able legally to acquire firearms. They cite Washington, D.C., as a jurisdiction where gun laws are "working." Yet crime in Washington has risen dramatically since 1976, the year before its handgun ban took effect. Washington, D.C., now has outrageously higher crime rates than any of the states (D.C. 1992 violent crime rate: 2832.8 per 100,000 residents; U.S. rate: 757.5), with a homicide rate 8 times the national rate (1992 rate 75.4 per 100,000 for D.C., 9.3 nationally.)

No wonder former D.C. Police Chief Maurice Turner said, "What has the gun control law done to keep criminals from getting guns? Absolutely nothing... [City residents] ought to have the opportunity to have a handgun."

Criminals in Washington have no trouble getting either prohibited drugs or prohibited handguns, resulting in a skyrocketing of the city's murder rate. D.C.'s 1991 homicide rate of 80.6 per 100,000 population was the highest ever recorded by an American big city, and marked a 200% rise in homicide since banning handguns, while the nation's homicide rate rose just 11%. Since 1991, the homicide rate has remained near 75 per 100,000, while the

national rate hovers around 9-10.

Clearly, criminals do not bother with the niceties of obeying laws--for a criminal is, by definition, someone who disobeys laws. Those who enforce the law agree.

In addition, restrictive gun laws create a "Catch-22" for victims of violent crime. Under court decisions, the police have no legal obligation to protect any particular individual. This concept has been tested numerous times including cases as recent as 1993. In each case the courts have ruled that the police are responsible for protecting society as a whole, not any individual. This means that under restrictive gun laws, people may be unable to protect themselves or their family from violent criminals.

The evidence that restrictive gun laws create scofflaws is evident to anyone willing to look. In New York City, there are only about 70,000 legally-owned handguns, yet survey research suggests that there are at least 750,000 handguns in the city, mostly in the hands of otherwise law-abiding citizens. In Chicago, a recent mandatory registration law has resulted in compliance by only a fraction of those who had previously registered their guns. The rate of compliance with the registration requirement of California's and New Jersey's semi-automatic bans have been very low. The same massive noncompliance--not by criminals, whom no one expects will comply, but by people fearful of repression--is evident wherever stringent gun laws are enacted.

FACTS WE CAN ALL LIVE WITH

Laws aimed at criminal misuse of firearms are proven crime deterrents. After adopting a mandatory penalty for using a firearm in the commission of a violent crime in 1975, Virginia's murder rate dropped 23% and robbery 11% in 15 years. South Carolina recorded a 24% murder rate decline between 1975 and 1990 with a similar law. Other impressive declines were recorded in other states using mandatory penalties, such as Florida (homicide rate down 33% in 17 years), Delaware (homicide rate down 33% in 19 years), Montana (down 42% 1976-1992) and New Hampshire (homicide rate down 50% 1977-1992).

The solution to violent crime lies in the promise, not the mere threat, of swift, certain punishment.

Our challenge: To reform and strengthen our federal and state criminal justice systems. We must bring about a sharp reversal in the trend toward undue leniency and "revolving door justice." We must insist upon speedier trials and upon punishments which are commensurate with crimes. Rehabilitation should be tempered with a realization that not all can be rehabilitated, and that prisons cost society less than the crime of active predatory criminals.

NRA is meeting that challenge with its CrimeStrike division, established to advance real solutions to the crime problem while protecting the rights of all honest citizens. Working in states across the nation, CrimeStrike has worked for passage of "truth in sentencing laws" which require that criminals actually serve at least 85% of time sentenced, "Victim's Bill of Rights" constitutional amendments, and "Three Strikes You're Out" laws.

The job ahead will not be an easy one. The longer "gun control" advocates distract the nation from this task by embracing that single siren song, the longer it will take and the more difficult our job will be. Beginning is the hardest step, and the NRA's Institute for Legislative Action has taken it.

Join the NRA. Support ILA. Work with us. We need your help.

FINAL WORDS FROM THE FOUNDING FATHERS
ON THE RIGHT TO KEEP AND BEAR ARMS

"I ask, sir, what is the militia? It is the whole people... To disarm the people is the best and most effectual way to enslave them..."--George Mason

"No free man shall ever be debarred the use of arms. "--Thomas Jefferson

"Arms in the hands of citizens may be used at individual discretion...in private self-defense. "--John Adams

"The Constitution shall never be construed to prevent the people of the United States who are peaceable citizens from keeping their own arms. "--Samuel Adams

"...arms discourage and keep invader and plunderer in awe, and preserve order in the world as well as property...Horrid mischief would ensue were [the law-abiding] deprived of the use of them. "--Thomas Paine

"[The Constitution preserves] the advantage of being armed which Americans possess over the people of almost every other nation...(where) the governments are afraid to trust the people with arms."--James Madison

"A militia, when properly formed, are in fact the people themselves...and include all men capable of bearing arms...To preserve liberty it is essential that the whole body of the people always possess arms and be taught alike...how to use them."--Richard Henry Lee

"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."--Amendment II, Constitution of the United States

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FBI NATIONAL PRESS OFFICE

For Release January 5, 1997

A 3-percent decrease in serious crime was reported by the Nation's law enforcement agencies during the first six months of 1996, according to preliminary Uniform Crime Reporting Program figures released today by the Federal Bureau of Investigation.

An Index of violent and property crimes is used to measure serious crime. Violent crime decreased 5 percent, and property crime decreased 2 percent.

In the violent crime category, murder dropped 7 percent; robbery and aggravated assault both fell 5 percent; and forcible rape declined 1 percent. Among the property crimes, burglary decreased 5 percent; motor vehicle theft, 4 percent; and larceny-theft, 1 percent. Arson was the only offense to show an increase, 2 percent.

Serious crime declined in three of the four geographic regions. The declines were 8 percent in the West, 7 percent in the Northeast, and 2 percent in the Midwest. In the South, a 3-percent increase was recorded.

The Nation's largest cities, those with populations over 1 million, recorded the greatest decline -- 6 percent -- in serious crime for the 6-month period. Those with 500,000 to 999,999 inhabitants recorded no change, and the remaining city groupings showed declines. The decreases reported by rural and suburban county law enforcement agencies were 3 and 1 percent, respectively.

The Complete Semiannual UNIFORM CRIME REPORT - this report is a pdf file and will display in Acrobat Reader-



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Bureau of Justice Statistics

Statistics About Crime and Victims

BJS' National Crime Victimization Survey (NCVS) is the Nation's second largest ongoing household survey. Survey data tell us how many rapes, sexual assaults, robberies, assaults, thefts, household burglaries, and motor vehicle thefts U.S. residents age 12 or older and their households experience each year.

For the most recent data, see the National Crime Victimization Survey, 1995: Preliminary Findings.

- 1995 preliminary findings showed that U.S. residents age 12 or older experienced approximately 39.6 million crimes, according to the National Crime Victimization Survey. Twenty-nine million (74%) were property crimes, 9.9 million (25%) were crimes of violence and (1%) were personal thefts.
- The violent crime rate declined 10% from 1994 to 1995 after having been essentially unchanged since 1992. Property crime continued a 16-year decline.
- In 1995 for every 1,000 persons age 12 or older, there occurred
 - 2 rapes or attempted rapes
 - 2 assaults with serious injury
 - 5 robberies
- In 1994, the young, blacks, and males were most vulnerable to violent crime:
 - 1 in 9 persons age 12 to 15, compared to 1 in 196 age 65 or more
 - 1 in 16 blacks, compared to 1 in 20 whites
 - 1 in 17 males, compared to 1 in 24 females
- Women age 12 + annually sustained 5 million violent victimizations in 1994. Persons whom the victim knew were responsible for the majority of these victimizations.
- In 1994, women were about twice as likely as men to experience violence committed by a relative.

Additional information about crimes reported to police is available from the Federal Bureau of Investigation's Uniform Crime Reports Program (UCR). The Nation's Two Crime Measures describes the purposes and advantages of the UCR and the NCVS.

Nontechnical users can explore homicide data and arrest statistics using Easy Access to the FBI's Supplementary Homicide Reports, 1980-94 and to FBI arrest statistics, 1990-94, packages of software and data available on the Internet from the Office of Juvenile Justice and Delinquency Prevention.

BJS Crime and Victims Publications
BJS Criminal Victimization Statistical Programs
BJS home page

BJS Crime and Victims Publications

Choose one of these headings:

- Criminal Victimization, general
 - Victims
 - Characteristics of crime
 - Redesign of the National Crime Victimization Survey
-

To see a full abstract of a publication and to download electronic versions of the publication, click on the title.

Criminal Victimization, general

National Crime Victimization Survey, 1995: Preliminary Findings, 9/96. Reports in a press release on the 1995 preliminary National Crime Victimization Survey (NCVS) findings that crimes of nonfatal violence and theft in the Nation declined by almost 7 percent in 1995, almost 3 million fewer offenses than in 1994. NCJ 162603

Criminal Victimization in the United States 1993, 5/96. Gives detailed data tables for the final 1993 National Crime Victimization Survey, presenting the major variables measured in the survey. NCJ 151657

Criminal Victimization 1994: National Crime Victimization Survey, 4/14/96. Presents the first 1994 findings from National Crime Victimization Survey (NCVS), based on an ongoing survey of households, each year interviewing about 100,000 persons in 50,000 household. NCJ 158022

Criminal Victimization 1993: National Crime Victimization Survey, 5/31/95. Summarizes 1993 findings from the redesigned NCVS and presents the first tabulations of 1992 data based on the redesigned survey, an ongoing survey of households, each year interviewing about 100,000 persons in 50,000 households. NCJ 151658

Criminal Victimization in the United States: 1973-92 Trends, 8/94. Presents the victimization rates for selected major crimes, based on victims' demographic characteristics and reporting of the crimes. NCJ147006

Criminal Victimization in the United States 1992, 3/94. Gives detailed, final 1992 National Crime Victimization Survey findings on rape, robbery, assault, personal and household larceny, household burglary, and motor vehicle theft. NCJ 145125

Criminal Victimization 1992: National Crime Victimization Survey, 11/93. Summarizes 1992 findings from the NCVS and presents change estimates from 1991. NCJ 144776

The Costs of Crime to Victims, 2/94. Provides information on both the overall and the average cost of crime to victims. NCJ 145865

Highlights from 20 years of Surveying Crime Victims: The National Crime Victimization Survey, 1973-92, 11/93. Reports 20 years of the most interesting and important findings from the NCVS. NCJ 144525

Highlights from 20 years of Surveying Crime Victims: The National Victimization Survey, 1973-92 -- Color Slides. Includes 39 slides of figures from the Highlights report, 5 bonus slides of homicide graphs from Vital Statistics of the United States, paper copies of the figures for making overheads, the data tables on which the graphics are based, the Highlights report, and a list of slides keyed to report page numbers, all in a three-ring binder. NCJ 148140

Crime and the Nation's Households, 1992, 9/93. Presents the percentages of households touched by rape, robbery, assault, burglary, theft, and motor vehicle theft, as well as the victims' race, ethnicity, income, region, and place of residence. NCJ143288

Victims

Female Victims of Violent Crime, 12/96. Summarizes data collected from the National Crime Victimization Survey and the FBI's Uniform Crime Reports on the number of violent incidents involving female victims. NCJ 162602

Domestic and Sexual Violence Data Collection: A Report to Congress Under Violence Against Women Act, 7/96. Reports how States and the Federal government collect data on the incidence of sexual and

domestic violence offenses. NCJ 161405

Violence Against Women: Estimates from the Redesigned National Crime Victimization Survey, 8/16/95. The first release of the 1992-93 estimates of violence against women after an extended effort to improve the victimization survey's ability to measure violence against women. NCJ 154348

Violence between Intimates, 11/94. Examines murders, rapes, robberies, and assaults committed by spouses, ex-spouses, boyfriends, or girlfriends using data from a variety of sources. NCJ 149259

Child Rape Victims, 1992, 6/22/94. Provides information on the ages of female rape victims in the 15 States that compile such detailed data. NCJ 147001

Elderly Crime Victims, 3/94. Summarizes levels and rates of violent and non-violent crimes against persons 65 or older (using data from the National Crime Victimization Survey). NCJ 147186

Characteristics of crime

Violence and Theft in the Workplace, 7/24/94. Profiles victims of workplace crime and discusses the extent to which workplace violence occurs, offender weapon use, victim/offender relationship, and the extent of injury and time lost from work resulting from these crimes. NCJ 148199

Crime and Neighborhoods, 7/19/94. Compares victimization levels and perceptions of neighborhood crime for the Nation's households using data from a variety of sources. NCJ 147005

Guns and Crime: Handgun Victimization, Firearm Self-Defense, and Firearm Theft, 5/15/94. Provides estimates of the extent of handgun crime in the United States through 1992, as well as estimates from the National Crime Victimization Survey of thefts of firearms and the extent of firearm use for self-defense. NCJ 147003

Violent Crime, 4/94. Summarizes 1973-92 trends in rape, robbery, and assault from the National Crime Victimization Survey; homicide data from *Vital Statistics of the United States*, National Center for Health Statistics; and 1992 murder data from the *FBI Uniform Crime Reports*. NCJ 147486

Carjacking, 3/15/94. Presents the first National Crime Victimization Survey estimates of the extent and characteristics of the recently identified crime of carjacking. NCJ 147002

School Crime 1991, 9/91. Analyzes the experiences of U.S. students in grades 6-12 regarding crime victimization at school, the availability of illicit substances, gang presence, fear of crime, and school security measures. NCJ 131645

Redesign of the National Crime Victimization Survey

National Crime Victimization Survey (NCVS) Redesign: Press Release, 10/30/94. Provides basic findings on the first data for 1993 from the NCVS, comparing levels and rates of crime in 1993 versus 1992. NCJ 151169

National Crime Victimization Survey (NCVS) Redesign: Fact Sheet 10/94. Summarizes the redesign of the National Crime Victimization Survey. NCJ 151170

National Crime Victimization Survey Redesign: Technical Background, 10/30/94. Explains changes in the questionnaire and survey procedures and shows the impact on findings of the redesign. NCJ 151172

National Crime Victimization Survey (NCVS) Redesign: Questions & Answers, 10/30/94. Provides answers to frequently asked questions about the redesign. NCJ 151171

The Nation's Two Crime Measures, 11/95. Describes the purposes and advantages of the Uniform Crime Reports of the FBI and the National Crime Victimization Survey of the Bureau of Justice Statistics. NCJ-122795

BJS Criminal Victimization Statistical Programs

National Crime Victimization Survey (NCVS) is the Nation's primary source of information on criminal victimization. Each year, data are obtained from a nationally representative sample of roughly 49,000 households

comprising more than 100,000 persons on the frequency, characteristics and consequences of criminal victimization in the United States. The survey fully reports the likelihood of victimization by rape, sexual assault, robbery, assault, theft, household burglary, and motor vehicle theft for the population as a whole as well as for segments of the population such as women, the elderly, members of various racial groups, city dwellers, or other groups. The NCVS provides the largest national forum for victims to describe the impact of crime and characteristics of violent offenders. Ongoing from 1973; Redesign 1992.

Codebooks and Datasets

Emergency Room Statistics on Intentional Violence collects data on intentional injuries, such as domestic violence, rape, and child abuse, from a national sample of hospital emergency rooms. Through the Consumer Product Safety Commission's National Electronic Injury Surveillance System information is obtained on characteristics of the victim and perpetrator, victim-perpetrator relationship, alcohol/drug involvement in the incident, and description of circumstances of injury.
1994.

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NCIC 2000



Linking It All Together

February 15, 1996
Volume 1, Number 1

What is NCIC 2000?

Since its development in the sixties, improvements and additions to National Crime Information Center (NCIC) have been implemented to satisfy new requirements and to keep pace with growing transaction volumes. NCIC 2000 is a new system being developed to replace NCIC. NCIC 2000 will perform the existing NCIC functions augmented with new capabilities. NCIC 2000 will increase capacity, update technology and add fingerprint and image processing functions. NCIC 2000 will provide increased flexibility to meet future user requirements and will be easier to maintain. New and improved capabilities associated with NCIC 2000 include:

- Addition of image processing (i.e., mugshot, signature, identifying marks),
- Addition of automated single-finger fingerprint matching,
- Automation of some NCIC functions that are currently manually performed (e.g., validation, collection of benefits data),
- Access to new databases (e.g., Convicted Person on Supervised Release),
- Addition of linkage fields, providing the ability to associate multiple records with the same criminal or the same crime,
- Access to external databases (e.g., the Canadian Police Information Center (CPIC) and the Federal Bureau of Prisons' "SENTRY" database), and;
- Automatic collection of statistics for system evaluation.

Implementation Schedule and Necessary Equipment

The FBI originally scheduled NCIC 2000 to be fully operational in December of 1995. Significant problems and addition of new requirements have delayed the implementation of this system. NCIC 2000 is now expected to be fully operational in the fall of 1999. Many Control Terminal Agencies (CTA) have already begun gearing up to take full advantage of this program. Although NCIC 2000 will support existing interfaces and equipment, it is recommended that agencies begin to replace existing NCIC terminals with newer equipment. To take advantage of all the features of NCIC 2000, the user will need a workstation at a centralized site and special equipment in the patrol car. Equipment needed at the workstation includes at least a 386 personal computer or compatible newer technology, a flat bed scanner, a livescan device, an image printer, and two-way radio equipment. The patrol car will need a mobile display, keyboard, a one-finger livescan, radio interface, and a camera. Of course, an agency does not have to have all of this equipment. An agency can have partial implementation of NCIC 2000 functionality but all agencies need to be able to receive NCIC 2000 text responses when NCIC 2000 is installed and need to be able to send NCIC 2000 transaction formats within three years of its initial implementation. Within that three year span, agencies must migrate from bisync protocols to one of the newer protocols (X.25, SNA, or TCP/IP). The FBI will make all its workstation design and software available for implementation and/or customization by the user. Hopefully, this will assist the agencies in quickly developing their interfaces. However, it should be noted that once you have customized the software, upgrades may be more difficult to integrate.

New Faces

NCIC 2000 project development and administration has moved from the Criminal Justice Information Services (CJIS) division of the FBI to the Information Resources Division (IRD). Ms. JoAnn Casteel, the new project manager, brings extensive experience in monitoring and administrating large projects. In addition, the FBI has hired or transferred system analysts, risk management personnel, and program administrators into the NCIC 2000 Program Office. The FBI is also in the process of hiring additional data processing professionals to keep this project on time and on budget. The FBI has sought out varied technical advice as well. MITRE and User Technology Associates, expert systems/software engineering firms, have personnel on site to assist with the technical oversight of the project development. The Illinois State Police (ISP) has temporarily assigned two staff members, a system analyst and an operational expert, to IRD for six months. The FBI has confidence that this new team will ensure the successful and timely development and implementation of the NCIC 2000 system.

Progress, Plans and Problems

As stated previously, NCIC 2000 has had significant design and implementation challenges. The following is a list of some problems with which the FBI is still wrestling with. Although this list is not all inclusive, it will provide you with the flavor of the problems encountered by NCIC 2000.

- Harris Corporation, the company that is developing NCIC 2000, has submitted Change Order Proposal (COP) 8 which contains their technical approach to complete development of NCIC 2000. In addition, it includes the cost and schedule estimates to finish the effort. After intense negotiations, the FBI has accepted a modified COP 8.
- The Advisory Policy Board (APB) has levied new requirements, such as the Violent Gang/Terrorist Organization File, the Protective Order File and the Deported Felon file, that will be implemented into the current NCIC in 1996. These new files will also be operational in the NCIC 2000 environment.
- Preliminary design is incomplete for new functionality such as On-Line Special Requests (SPRQ), delayed query and data extracts.
- The FBI was just recently provided with the Workstation (WS), MIU and Computer Based Training (CBT) software for product evaluation. Hands-on review may uncover unforeseen problems. This newsletter will keep you posted on how the FBI's review progresses.
- The images captured by the patrol car segment are gray scale, but are not the ANSI/NIST standard. The size of ANSI/NIST standard fingerprint images prohibits transmission over mobile radio frequency networks. If an agency wants to submit an image to the local or state Automated Fingerprint Identification System (AFIS), it will have to develop modifications in the Mobile Imaging Unit and the Workstation software.

APB Meeting Update

At the APB meeting in December, the APB had three recommendations for the NCIC 2000 program. One recommendation requires the NCIC 2000 program staff to write an impact document on cessation of all work on the MIU and the WS. Another recommendation requires the NCIC 2000 program office to study the feasibility of integrating NCIC 2000 and Integrated Automated Fingerprint Identification System (IAFIS) imaging by adopting the same format and compression standard. The NCIC 2000 staff was to develop a contingency plan in the event that negotiations with Harris Corporation failed or if Harris is unable to meet discrete milestones.

STATE YOUR OPINION

This space is provided for authorized criminal justice agencies to provide commentary, questions, or suggestions. We will provide an answer to all questions. If you would like to submit an article, send it to:

**Federal Bureau of Investigation
Attn: Ms. Katina Mackall
Room 9504
NCIC 2000 Program Office
935 Pennsylvania Avenue, NW
Washington, DC 20535**

This first article was submitted by the Illinois State Police.

Each state eagerly anticipates the new functions that NCIC 2000 will bring to the local agency and the individual police officer. Illinois is no different. In this highly mobile world, it is even more imperative that officers know with whom they are dealing. The functionality that will be available through NCIC 2000 is much needed by the law enforcement community. Getting information to the officer in the car, having photographic images available and using single fingerprint technology to provide immediate positive identification will ensure increased officer safety while minimizing the risk of detaining the wrong individual. As such, Illinois has several initiatives underway that fit under the umbrella of providing NCIC 2000 type functionality to police officers.

One of these initiatives involves upgrading and expanding the ALERTS mobile data network. Currently, the ALERTS network, which was created and is managed by the Illinois Criminal Justice Information Authority, provides mobile data service to over 200 law enforcement agencies in an 18 county area. In March 1995, the Illinois State Police formed a partnership with the Authority for the purpose of expanding and enhancing the ALERTS network. Since that time, a number of other agencies, realizing the benefits the new network can provide, have joined the partnership and will be providing funding to make Phase I of the project a reality. The goal of this cooperative, three-phased project is to upgrade the existing system so that it is a statewide, high speed network capable of transmitting images and meeting state and local agencies' mobile data needs now and in the future.

The Illinois State Police is also releasing an image-based Violent Crime Tracking and Linking system application called VITAL that provides photographic images of known gang members. While currently being used as an intelligence tool, the true value of such technology will come when the officer is capable of receiving these images in the vehicle. ISP is also completing the groundwork necessary to rewrite our 26 year old statewide data network known as LEADS. Once completed, it will be a WAN based network capable of supporting applications such as VITAL.

Another objective is the positive and rapid identification of those arrested for reportable crimes by upgrading our AFIS and adding single print identification. Illinois is also reviewing use of single fingerprint technology for visitor control in maximum security prisons. As the state pursues these initiatives, one of the primary goals is to ensure images are compatible in all systems. Therefore, the Illinois State Police is urging the use of the IAFIS approved ANSI/NIST standards. If these standards are adopted, states, such as Illinois, will be able to link photos to positive identification of individuals and share information across systems.

Our two primary concerns in implementing NCIC 2000 are the need for standards and funding. Illinois is looking to the NCIC 2000 project to continue setting federal standards for positive identification technology and the exchange of criminal history information. We encourage the meshing of standards between the IAFIS and NCIC 2000 projects. Standards defined at the federal level have a rippling effect throughout state and local government. The leadership exercised in the NCIC 2000 project will benefit all levels of law enforcement if the program is given proper support and commitment from law enforcement agencies across the country.

Implementation of NCIC 2000 will require each state to update its law enforcement network. This will be a major expense for each state and many large cities and counties. A unified and aggressive effort is needed within each state and across the country to ensure necessary funding is provided for each level of government. With federal funding agencies moving toward block grants and perhaps a decreased role for state planning agencies in awarding these funds, care must be taken to ensure



Milbank Memorial Fund

Preventing Violence Against Women and Children

Ronald B. Taylor

INTRODUCTION

Domestic violence is a deadly crime, a social menace, and a costly public health problem. Most of the victims are women and children. Community leaders and legislators continue to search for workable — and affordable — policies to curb the violence and heal the wounds.

Domestic violence can explode anywhere, anytime, and within any economic class. In Los Angeles, for example, a doctor was arrested, in September, 1995, after shooting and killing his ex-wife in a crowded courthouse hallway as the couple's young daughter watched in horror. He had previously been arrested for battering his wife, and, after the divorce, had violated court orders to stay away from her. Weeks before her death, this frightened, battered woman had reported that her ex-husband was still harassing her. According to the *Los Angeles Times*, she told the court, "I cannot free myself from his attempts to dominate and control my life."

Domestic violence can take the form of threats, verbal abuse, battering, rape, and murder. It is an escalating pattern of coercive behavior that includes physical, sexual, and psychological assaults against a current or former intimate partner or against children.

Researchers Evan Stark and Anne H. Flitcraft, co-directors of the University of Connecticut Health Care Center's Domestic Violence Training Project, have concluded that domestic violence may be the single most

common cause of injury among women seeking medical attention, surpassing auto accidents, muggings, and rape combined. Their studies show that 40 percent of the women seeking medical attention are, or have been, victims of such violence. They estimate that from 20 to 25 percent of the women in the United States — more than 12 million — are at risk of being abused by an intimate male partner. As many as 4 million women are battered each year in this country; nearly three thousand are killed.

Child abuse and domestic violence are closely linked. Clinical studies show that men who batter women frequently abuse their children. Some battered women neglect their children, fail to protect them, abuse, and even kill them.

The statistics are grim: two thousand children die in outbursts of family violence each year; 140,000 are injured physically and emotionally. In at least half of these cases there is evidence of both child abuse and domestic violence. Child abuse and woman battering have often been (and in many areas continue to be) addressed as separate issues. Although child abuse laws predate domestic violence legislation by decades, the term "domestic violence" as it is applied by the law and by battered women's advocates tends to obscure its impact on children.

VIOLENCE AGAINST WOMEN AND CHILDREN:
IMPACTS AND REACTIONS

Many women, victims of domestic violence, live in fear of pain and death. They are isolated, often lacking in self-esteem. They tend to blame themselves for what is happening and they try to explain away the bruises and broken bones. They may suffer depression and anxiety; some turn to drugs or alcohol and attempt suicide. A surprising number of them prove to be survivors; they develop strategies to endure and to protect themselves and their children. However, without help, escape is terrifyingly difficult. Few can simply walk away. Even if they flee, they may be stalked, harassed, or killed.

The traumatic impact of domestic violence on children is well documented. Rich or poor, these are children at risk. Most survive (often at great physical and emotional cost), others do poorly in school, drop out, or run away. Some turn to violent crime, some find marginal jobs, and others may even have successful careers. They have children and repeat the violent cycle: abused boys and girls who become abusive parents.

Long-range studies of school children show that youngsters from violent homes are twice as likely to commit brutal acts as children growing up in nonviolent homes; victims of child abuse and/or neglect are far more apt to become violent teenagers; the highest rates of youth violence and criminal conduct occur where there is both spouse abuse and child abuse.

These studies show an alarming connection between family violence and violent juvenile behavior. Violence of all kinds is on the increase. U. S. Justice Department reports show that the number of juveniles charged with violent crimes is up sharply; teen murder rates have more than doubled in two decades; the suicide rate has doubled.

While their numbers may be relatively small, the most violent of these youngsters display shocking behavior. The damage they do is horrendous. The cost of apprehending and incarcerating these violent young criminals runs into the billions of dollars.

New York Times reporter Fox Butterfield, in his book, *All God's Children*, gives examples of these costs. Nearly 100,000 youngsters were incarcerated in the United States in 1995, which represents a tripling of the numbers in two decades. The chronic juvenile offenders often end up in adult prisons. The cost of running the nation's adult prisons (including parole and probation) totaled \$50 billion, up from just \$4 billion in 1975. These figures do not include the billions spent on police work.

Butterfield traces the costly origins of violence by looking closely at a single case, that of convicted murderer Willie Bosket, considered the most violent criminal in the New York penal system where it costs \$75,000 a year to jail a juvenile. Bosket has

a quick mind but lacks empathy or conscience. He bragged about committing scores of robberies and stabbings before he shot and killed two Manhattan subway riders in separate 1978 crimes. He was 15 at the time, a violent, abused, and neglected child who had been in and out of foster care and juvenile lockups.

"The seeds of Willie's problems were planted early," writes Butterfield. When Bosket was born his father was in prison for murder. His mother lived in Brooklyn with men who beat her and the boy. She neglected him, beat him. In Butterfield's words, Willie began the "long journey into a kind of social void" at an early age. In public school, he threw tantrums, hit teachers, fought other kids, skipped class, and ran the streets robbing and, finally, killing.

"Children who are beaten learn to treat others the same way, using aggression to get what they want," Butterfield concludes. In other words, they are conditioned to react violently.

The Willie Bosket case is an extreme example of how a violent personality was formed and at what cost.

Recent studies of brain development and function reveal that the impact of parenting on emotional competence and stability starts very early. Children who are cared for and loved learn self-worth, empathy, and self-control.

"The emotional lessons we learn as children at home and at school shape the emotional circuits," writes psychologist and *New York Times* reporter Daniel Coleman in the best-selling book *Emotional Intelligence*. This means that childhood and adolescence are critical times in shaping the powerful emotions that govern our lives. A chaotic, brutal family environment can be a school for violent, deviant behavior.

Domestic violence can be found anywhere: the inner city, suburbia, rural areas. Reactions to it are most often crisis oriented: a 911 call to police, a bloody victim rushed to the hospital. If there are children in the home and they are uninjured, police take them to a juvenile hall or an emergency shelter and report the case to child welfare workers. If the children are in danger, they may be placed in foster care.

If charges are filed against the batterer, he is booked and sometimes jailed briefly. The woman's wounds are treated and, when she is released from the hospital, she may find temporary safety in a crisis shelter. In many communities little else is done to change the dynamics of violence. Eventually the woman and her children may go home or they may move to a safer place. Even when the courts order the batterer to stay away, a woman may be attacked again.

Take Nicole Brown Simpson, for example. Los Angeles police responded to

police. The police department has a mandatory arrest policy. Arrests and conviction rates are up. Most convicted batterers (92 percent) choose group counseling and therapy rather than jail.

While the long-term results are not spectacular, they offer hope. A five-year follow-up shows that 40 percent of the convicted batterers returned to their violent ways, but 60 percent have stopped being abusive.

DDAIP's aggressive victim advocacy helps battered women and children find safety. DDAIP provides legal aid, counseling, and support groups. The project has instituted cross-training programs to bring domestic violence advocates and child protection workers together in a coordinated effort.

In addition, DDAIP operates the Duluth Visitation Center where children can safely visit an abusive father and where separated parents can meet and work out custody issues. DDAIP has a 911 tracking system to monitor police responses. Funded by the Centers for Disease Control and Prevention, DDAIP is developing domestic violence assessment tools to help the justice system detect such violence before it becomes fatal.

Prosecution and the Courts

Domestic violence laws and court practices vary among states, counties, and cities.

Prosecutors and judges are not always well

trained in domestic violence issues. Protective orders are often difficult to obtain and are not always enforced. Sentencing is uneven and too often biased against women. Many women who murdered their abusive partners have received longer prison sentences than men who killed their wives, girlfriends, or ex-lovers.

The National Council of Juvenile and Family Court Judges has acknowledged that there are problems in the court system and that it is in need of overhaul. "The whole area of family violence has long been a troublesome one for the courts. Frankly, we have not handled these cases well," said Judge Stephen B. Herrell, chairman of the council's Family Violence Committee.

The council has published a manual, *Family Violence: Improving Court Practices*, and launched a Family Violence Project to help find ways to improve the system. The FVP recommends domestic violence training for all criminal and civil justice officials, including judges.

The Family Violence Project has developed a package of model laws — a model state code — to guide policy makers in drafting effective criminal and civil justice legislation.

The code does the following:

1. Defines domestic violence.
2. Sets criminal penalties and procedures.
3. Establishes civil orders protecting victims and their children.
4. Sets custody procedures and protective

visitation rights.

5. Suggests prevention and treatment modalities.

While the model code is proving useful in drafting new laws in some states, all sections of the document have not been embraced by all advocates for battered women. Proponents, like the Family Violence Prevention Fund, give the model code high marks. Others say the code fails to define adequately critical words, like "abuse" and "self-defense."

Joan Zorza, former senior attorney with the New York-based National Center on Women and Family Law, expressed the view that the code gives judges too much discretion in a sensitive area like court-ordered mediation where issues of divorce, child custody, income, and property settlement are decided. Such a well-intended but ill-conceived court order forcing an abused and intimidated woman into mediation with a man she fears can tip the scales in the batterer's favor, Zorza explained. And mediation can quickly turn to violent confrontation if the man feels he is losing control.

Under the code's guidelines, each state would have a Domestic Violence Advisory Council to set statewide policies. Each community would have a Family Violence Council operating under the state council's guidelines to advise and coordinate local efforts. These state and local councils are

to be appointed by governors, county commissioners, or boards of supervisors and chaired by a supervising judge.

Representatives from government departments, private agencies, community organizations, and women's advocacy programs should sit on these councils.

Several states have established advisory councils, with mixed results. In Minnesota, critics say these councils tend to be heavy-handed, top-down operations that are dominated by the judges, that battered women and their community-based advocates are underrepresented, and that there are questions about conflicts of interest. For example, should a judge preside over a council that includes child welfare workers, probation officers, and women's advocates who later may have to represent clients in that judge's court?

The model code's usefulness as a resource will depend entirely on how well domestic violence experts, policy makers, and legislators within a particular state can adapt the model to meet the needs of their community and region.

Battered Woman Syndrome. At least 14 of the 33 women on death row in the United States in 1991 had killed men who battered them.

Hundreds more are serving long sentences for murder or assault with deadly intent.

For years the courts refused to hear a

defendant's testimony about prior abusive conduct: the "Battered Woman Syndrome" was not an allowable self-defense. Today, after years of trials and appeals, the courts and legislatures in some states recognize that the use of deadly force is sometimes justified, but only if a woman is defending herself, not acting in retribution or to stop anticipated assaults.

In Ohio the supreme court ruled that under the language of the then-current law, the Battered Woman Syndrome could not be used as a defense in criminal cases. Reacting to this, the Ohio legislature changed the law, explicitly permitting such a defense in criminal cases. No mention was made of its use in civil cases where child custody, property settlements, and other issues are heard. Battered women's legal advocates considered this a setback.



Community-Based Services and Advocacy

Community by community, women's advocates have put together services for abused women. Most often, these efforts have not included the child advocacy groups or child welfare workers.

The relationship between domestic violence advocates and child welfare advocates has not always been cordial. That situation is beginning to change in a few states — Minnesota, Michigan, and Massachusetts —

where the two parties are trying to work out a common, community-based approach. To support the development of coordinated strategies, the AMA has produced a guidebook for working at the local level and is sponsoring regional training conferences to provide multidisciplinary community teams with skills in assessment and collaboration and to share information about ongoing successful efforts.

The domestic violence movement is a loosely federated group of organizations and individuals. At last count there were more than 1,800 community-based groups and organizations focused on domestic violence issues, including 1,200 shelter programs. Finding public and private funding where they can, these groups have responded to victims' needs and have made domestic violence a public issue.

State Coalitions

Statewide coalitions were usually outgrowths of the battered women's movement. The oldest, the Pennsylvania Coalition Against Domestic Violence (PCADV), was founded in 1976 by nine independent domestic violence organizations that had come to the state capitol in Harrisburg to lobby for changes in the law.

Over the next few years similar coalitions were formed in other states. They provide technical assistance to local programs, offer

JUNEAU EMPIRE

Legislation would ease gun permit rules

By MARK SABBATINI
JUNEAU EMPIRE

Easing concealed handgun permit requirements, including mandatory temporary permits when delays in background checks occur, is being proposed by a state lawmaker.

The bill by Sen. Lyda Green, a Wasilla Republican, would reduce permit and renewal costs, allow people with permits from other states to carry weapons, create emergency permits for domestic violence victims, and allow carriers into restaurants that serve alcoholic beverages. It would also require agencies wanting to exclude carriers from meetings to post a sign and

provide a locked strongbox for weapons.

Excluded are some of the more controversial provisions from a similar bill by Green last year, including allowing concealed weapons in bars, which passed the Legislature but was vetoed by Gov. Tony Knowles.

Green did not return phone calls made to her office today about SB 141. She stated the intent of her previous bill was to lower fees to their actual cost and lift restrictions that could cause carriers to inadvertently violate the law while going about their daily business.

Please see Guns, Page 8

MONDAY
MARCH 17, 1997

“ (The bill) causes me a whole lot of concern. We're walking into a dangerous area, where there's a question of whether there's been a check of a permit.

Senate Minority Leader Jim Duncan

Guns . . .

Continued from Page 1

Among the bill's provisions is requiring the Department of Public Safety to issue a temporary permit within 15 days of receiving an application if the Federal Bureau of Investigation has not provided the results of a fingerprint check. The permit would be revoked if the fingerprint information revealed the person was ineligible.

Senate Minority Leader Jim Duncan, a Juneau Democrat, said he hasn't read Green's bill, but hearing about that provision "causes me a whole lot of concern."

ous area, where there's a question of whether there's been a check of a permit," he said.

A concern of Department of Public Safety officials is allowing carriers in other states to carry concealed weapons up to 90 days in Alaska, with a notification to the state required for longer periods.

Alaska requires a fingerprint check, a criminal background check and weapons training, said Sandy Perry-Provost, a special assistant for the department. She said many states have less stringent requirements - Vermont, for example, requires merely a signature.

"As I read it, Senator Green's bill permits someone who has a

come into Alaska and not have to follow our laws," she said.

The bill reduces the \$125 application fee to \$99 and the \$60 renewal fee to \$30. Domestic violence victims could obtain a free non-renewable 90-day permit without a background check once every five years.

Carriers could also bring their weapons onto Alaska Marine Highway Vessels, but would be required to turn them over to a purser if they have a place to store the firearm.

A draft memo from Green's office states nearly 6,000 concealed weapons permits have been issued in Alaska and none of the permit holders has used their weapons to



Senator resubmits gun bill

The Associated Press

JUNEAU — A bill that would ease the state's concealed handgun law has been reintroduced, but the measure has been toned down this time around.

The bill by Sen. Lyda Green, R-Wasilla, would reduce permit costs, create emergency permits for victims of domestic violence, and allow the weapons in some restaurants that serve alcoholic beverages.

Green filed a bill last year that would have loosened restrictions on where the handguns could be carried, including allowing the

weapons to be brought to bars. Though it passed the Legislature, Gov. Tony Knowles vetoed the measure in June, saying it would have undermined safeguards in the concealed weapons law and would have jeopardized public safety.

Green said last year's legislation would not have allowed permittees to drink while carrying their weapons. She said allowing the concealed handguns in bars was dropped from the new bill because of administration concerns.

"We're trying to work to get some of the other provisions in place. They're more

important," Green said Monday.

Under her new bill, most state, federal and municipal offices could restrict permittees from bringing in their concealed weapon by posting a notice barring the handguns. The offices also would have to provide a secure place for storage.

The bill would require the state to issue temporary permits to applicants if the Federal Bureau of Investigation did not complete a fingerprint check within 15 days. The permit would be revoked if the applicant was later determined ineligible.

RECEIVED

MAR 20 1997

Ans'd.....

Testimony concerning SB-141

My approach to acceptance of SB-141 is mixed. I wish to testify in support of the following provisions of SB-141:

a. increasing the number of places where a permittee can legally carry a concealed handgun..

b. the reciprocity provisions for persons who have concealed carry permits in other states. However, when nonresident who wish to "carry" and report to the Department of Public Safety about carrying, the non-resident should be issued a copy of applicable Alaska Statutes.

c. with distribution of "concealed carry" application forms, the providing of copies of Alaska law related to "concealed carrying" ..

d. provisions which shorten waiting time for the issuance of a a permit to eligible applicants.

e. amendments to the law which allows the concealed carry of firearm which previously were described as a "miniature handgun" or "derringer". While these are less than ideal for defensive purposes, they can be effective. Their use for defense purposes should be at the discretion of the trained permittee.

f. reduction in the cost of initial permit applications and renewals, though it is conceivable that with modified background checks, the cost of original application could be further reduced. See Notation below.

I support the concept of a temporary "Emergency Permit" victims of domestic violence or other threatened individuals. However, I oppose issuing such permits as prescribed in Sec. 18.65.702 without rudimentary training. Instead SB-141 should specify that a candidate be subjected to an "instant" computer background check.and

1. A candidate for an emergency permit should demonstrate (a) safe handgun handling, (b) proficiency in firing a handgun, and the (c) key provisions of the the Alaska Statute as it addresses the use of deadly force. Additionally, the candidate should be advised where concealed carry is not permitted, especially as this may apply to the candidate's situation or concerns..

or

2. Participate in a minimum of three hours of intensive training directed at each of the three subjects above. Additionally, for candidates who require training, a revolver of .32 of larger caliber should be specified for the permit, and the candidate should be advised where concealed carry is not permitted, especially as this may apply to the candidate's situation or concerns.. Training should be provided by a volunteer certified instructor or sworn police officer at no cost to the candidate.

Notation: It should be a provision of SB-141, that unless it can be demonstrated that an "instant computer check" as required by U.S. Code for a handgun purchase, is less thorough for detecting an individual who would not qualify for a concealed handgun permit, the instant computer check should substitute for submitting fingerprints for an FBI check. Since the an "instant check" satisfy requirements to purchase a handgun, it should suffice for a concealed handgun permit. This would further reduce the cost of processing an application.

Submitted by:



Robert H. Parkerson, HC-02, Box 7630-A1, Palmer, AK 99645
Ph: (907) 745-4358

TO: Senator Green
FROM: Letitia Raub
PO Box 3663
Kodiak, AK 99615
(907) 487-2782
RE: SB141
DATE: 3/20/97

RECEIVED
MAR 20 1997
ANS'd.....

Violence is a huge problem in our State and weapons concealed or unconcealed, are involved in many of these incidents.

People should plan for their application to carry a concealed weapon and be willing to wait for a background check to be completed. There is no need to rush through the background/fingerprint checking process. I do not support shortening the current process.

The list of people who are not eligible to receive a concealed weapons permit should stay in the law. The more specific the is - the better.

The 1996 DV Act added a person currently charged with or convicted within the five years preceding the application for a permit of a crime involving domestic violence to the list of those who could not qualify for a permit. Anyone who has been convicted of a crime involving domestic violence should not be able to legally carry a concealed weapon, and that provision needs to remain in the statute.

I do not support emergency permits for victims of Domestic Violence, as this may put them in more danger as well as the law enforcement officers who respond to these often volatile situations.

Anyone who is convicted of two class A misdemeanors should lose their right to carry a concealed weapon. Law-abiding citizens will not have to worry about this penalty and those who choose to commit a crime serious enough to be classified as a class A misdemeanor not once but twice deserve a stiff penalty.

In short, please do not support the dilution of requirements for carrying concealed weapons in Alaska.

FEB 06 1997 Const.

Representative Scott Ogan
State Capitol, Room 128
Juneau, AK 99801-1182

January 31, 1997

I urge you to act promptly on reform legislation on the Concealed Carry program. If you wait until late in the session, like last year, it will only be vetoed again with no chance to override the veto. Please do not delay, because the Departments of Law and Public Safety and the Governor are implacably opposed to the entire program and especially any relaxing of the restrictions currently in place.

Here are my suggestions for modifications:

1. The current prohibitions against carrying a weapon into "Licensed Establishments" and Financial Institutions have created "Robber Safety Zones". Criminals know that if they "work" these areas, they are unlikely to encounter armed opposition. This has contributed to an increase in bank robberies and parking lot robberies near restaurants. The current broad definition of "Licensed Establishments" includes any place that sells alcohol, no matter how small the volume. This means I cannot carry a gun into restaurants such as Simon and Seafort's, Cattle Company, or even Skippers, even if I have no intention of consuming any alcohol. If I want to make a late night run to an ATM to get some cash, I cannot take my gun because the ATM is in the "Arctic Entryway", thus "inside" the bank. This is absurd. The people that have the permits are not the problem. The people illegally carrying guns are the problem. I suggest you change the law to allow carrying weapons into "Licensed Establishments" as long as no alcohol is consumed (It is already a separate crime to have a gun and drink). Eliminate the restrictions about carrying into banks. The people that have permits are not going to rob banks, especially at the ATM, late at night.

2. The current restrictions about Schools cause problems. Under current law, I cannot carry a gun, even locked in my trunk, onto any school ground such as a parking lot. So, if I want to take my kid to school, I then have to return home (a 12 mile round trip) to get my gun. Even current Federal School Gun legislation exempts persons with concealed carry permits based on a background check. Change the law to allow permit holders to carry guns onto the grounds, but not into the school buildings (we can leave the gun in the car, if necessary).

3. The current law makes no provisions for Law Enforcement Personnel (Police Officers, Reserve Police Officers, Corrections Officers, Parole Officers, and Retired Officers), who are trained to a much higher standard than required by the statute, to be exempted from the training requirements to get a permit. I convinced the Troopers to include such an exemption in their licensing rules when the program was initiated, but the Department of Law vetoed it, claiming the statute contained no such provision. Change the law to allow exemption for Law Enforcement Personnel that are currently trained and certified to state standards. This is necessary because some departments limit their officers off duty carry authorization. Additionally, Police Officers must now comply with the 5 day "Brady Bill" waiting period. Permit holders do not. Many cops get permits to avoid the waiting period.

The current program has worked well. I am not aware of any permit holder being involved in anything more serious than a traffic ticket. Remember, we are the good guys. Please, treat us as such.

Thank you,

Michael V. Avery

Michael V. Avery

Alaska State Legislature



Official Business:
Fax : (907) 465-3472

Speaker of the House of Representatives

State Capitol
Juneau, Alaska 99801-1182
(907) 465-3720
(907) 465-2689

MEMORANDUM

Date: January 21, 1997

Attn: Representative Jeannette James
Chair, House State Affairs Committee *Jeannette*

From: Representative Gail Phillips
SPEAKER OF THE HOUSE *Gail*

Re: Concealed Permit - Reciprocity

Attached please find a letter from one of my constituents regarding reciprocity for concealed carry legislation. I would appreciate your consideration of Mr. Hoyt's comments and enclosed information during the bill process in State Affairs.

GP:brg
Enclosure

cc: Mr. Roy Hoyt Jr.

Roy E. Hoyt Jr.
P.O. Box 2121
Homer, AK 99603-2121

RECEIVED

DEC 19 1996

December 17, 1996

Ans'd.....

Representative Gail Phillips
Speaker of the House
P.O. Box 3304
Homer, AK 99603

Dear Speaker Phillips:

Enclosed is a copy of the NRA Guide to the Interstate Transportation of Firearms. Additional copies may be obtained from the NRA Institute for Legislative Action, address and toll free telephone number are listed on the back of the pamphlet.

I understand that the concealed carry legislation may be revisited this session. I strongly feel that reciprocity for visitors to the state should be included in this legislation. Reciprocity would also allow Alaska Licensees to carry concealed firearms in some other states while traveling. We often carry large sums of money and valuables. A number of other states have reciprocal privileges, why not Alaska?

I also feel that when someone establishes residency in the state, even by the obtaining of an Alaska drivers licence, they should be required to complete the same requirements of classroom and weapons proficiency as any other resident. In other words a resident must hold an State of Alaska Concealed Handgun Permit. Their out of state permit would be void once an individual becomes a resident.

I request your help in in obtaining the inclusion of reciprocity in any concealed carry legislation.

Thanking you in advance for your consideration of the above I remain,

Sincerely

Roy E. Hoyt Jr.
Roy E. Hoyt Jr.

*BR - Sent to
Rep. James for
her information.
Thanks -
G
235-6387 Homer*

RECEIVED

FEB 07 1997

Ans'd.....

Senator Lyda Green
State Capitol, Room 125
Juneau, AK 99801-1182

January 31, 1997

I urge you to act promptly on reform legislation on the Concealed Carry program. If you wait until late in the session, like last year, it will only be vetoed again with no chance to override the veto. Please do not delay, because the Departments of Law and Public Safety and the Governor are implacably opposed to the entire program and especially any relaxing of the restrictions currently in place.

Here are my suggestions for modifications:

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Reserve

3. The current law makes no provisions for Law Enforcement Personnel (Police Officers, Reserve Police Officers, Corrections Officers, Parole Officers, and Retired Officers), who are trained to a much higher standard than required by the statute, to be exempted from the training requirements to get a permit. I convinced the Troopers to include such an exemption in their licensing rules when the program was initiated, but the Department of Law vetoed it, claiming the statute contained no such provision. Change the law to allow exemption for Law Enforcement Personnel that are currently trained and certified to state standards. This is necessary because some departments limit their officers off duty carry authorization. Additionally, Police Officers must now comply with the 5 day "Brady Bill" waiting period. Permit holders do not. Many cops get permits to avoid the waiting period.

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Thank you,

Michael V. Avery
Michael V. Avery

MV Avery
800 Win Circle
Wasilla, AK 99654

RECEIVED BY

NOV 25 1996

Rep. Joannette Ja

Frank E. Rice
3641 Hazen Circle
Anchorage, AK 99515
November 20, 1996

Representative James
Post Office Box 56622
North Pole, AK 99705

Dear Representative James:

Recently, I have noticed some material that might be of assistance to you in your efforts to remedy our concealed carry law. Hopefully, the next legislature will be veto proof.

The first item is a copy of the Alaska part of a Second Amendment Symposium conducted by the Tennessee Law Review. It begins with the observation that Alaska's law seems similar to other laws examined, but contains surprising differences. It then goes on to list some of the differences.

Alaska limits the types and calibres of handguns which may be carried. It has a renewal fee of \$60.00 and requires a permit holder to again demonstrate competence by retaking qualifying training. It restricts concealed carry in many places where other states provide no such restrictions. It also provides authority to cities to prohibit concealed carry. The Symposium then observes that Alaska law certainly suggests less trust in its people than many other states. Then having made its case, it adds a superfluous discussion of derringers.

The Symposium does not provide a cost analysis of licensing fees other than to comment on the \$60.00 renewal fee. Perhaps it was unaware of the \$123.00 fee for the initial license. Anyway a renewal permit seems to have the same requirements as the issuance of the original permit. Assuming a new background investigation, why does the original permit cost \$123.00? Assuming no new background, why does it cost \$60.00 to do nothing more than issue the permit? As an aside, why does it cost a Montana Sheriff only \$50.00 to provide a background and issue a permit? And for an additional \$5.00 he provides the license picture and takes the required fingerprints.

The second item is a copy of a brochure put out by the Montana Shooting Sports Association explaining Montana's concealed carry law and containing a copy of the law. There are differences between the Montana and Alaska laws, of course, just as there are different circumstances in the two States. Generally the Montana law is much more relaxed. At least until their Supreme Court rules otherwise, it does not appear that most people who need to carry a weapon need a permit.

Handguns carried in purses, backpacks, briefcases, etc. are considered to be carried in personal luggage rather than conceal on the person. Concealed or partially under the clothing requires a permit.

Note to. training requirements differ. Most of the training that is readily available to the general public is that conducted by NRA instructors, e.g. training that

utilizes instructors certified by a national firearms association. All of these courses provide safety training. Only the pistol and the personal protection courses provide handgun proficiency training.

For Montana this is probably O. K. Its population of 87,000 people is made up of almost entirely of people who have lived there all of their lives. Except for the Yellowstone County metropolitan area this population is scattered rather evenly throughout the State in small towns, ranches, and farms. Even in the metropolitan area most of the people have moved there from the outlying areas. In other words, these are people who grew up with guns, have used them all their lives, and probably a safety course is sufficient.

Alaska's population is somewhat different. Half of our population is in Anchorage and is highly mobile. Many of the people have come here from cities stateside where guns are not common or even prohibited. The people we see at the rifle ranges are often not familiar with guns. Many have never fired a handgun. Thus our initial training is necessary both from the standpoint of the individual and and public safety.

The third item is copies of the application forms for Yellowstone and Carbon Counties. You will note first that the forms are not appropriate for Alaska. But note, the two counties are providing different information attachments. Yellowstone, Montana's principal metropolitan center, provides a detailed cover memo and an attachment dealing

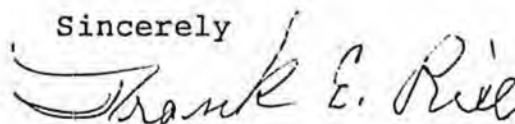
mostly with the legalities of concealed carry. Carbon, on the other hand, provides the application and the legalities but also deals with the situation when a permit is not required, in a purse etc. The section "Reasons for Requesting a Permit" is not a rating factor, but at least in Carbon County is used to advise the person wishing to carry while hunting or fishing that they do not need a permit. They can still have one if they want it.

Montana's concealed carry permits program differs from Alaska's probably because everyone involved is an elected official, the persons passing the law, the persons administering the law, and the persons enforcing the law. Additionally the principal advisor to the legislature was the Montana Shooting Sports Association. In Alaska the principal advisor seems to have been unelected or opposed and the regulations were written by the unelected. Most of unelected seems to have been less than gleeful over its passage. Something only the legislature can correct.

cc: Bob Brumlow

NRA Training Counselor

Sincerely

A handwritten signature in cursive script that reads "Frank E. Rice". The signature is written in dark ink and is positioned above the printed name.

Frank E. Rice

March 18, 1997

RECEIVED
MAR 21 1997
Ans'd.....

Reference: Senate Bill 141

Dear Senators,

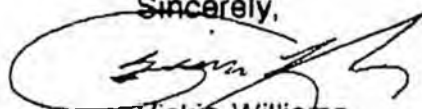
After reviewing Senator Greens bill to arm victims with guns, I find it very reactionary.

I thought the whole idea in our country was to stop the violence and teach adults and children better skills around the whole issue of anger. Do you honestly think it will teach non-violence to just arm more people to shoot other people to solve problems?

Wouldn't it be a more positive thought to teach children from early kindergarten about conflict resolution, and then continue teaching it all the way through school? Wouldn't it make more sense to help children in dysfunctional families so that they don't feel like they have to use force and control on other people to get what they want or need in our society. Doesn't it make sense to make games people play more fair and less win/lose so everyone feels better about playing. If we continue to teach and preach violence and control as a way of life then we certainly will "reap the whirlwind", we already are, aren't we learning anything?

I definitely oppose SB141. Violence and control have become a way of life in America, we need to learn....

Sincerely,



Vickie Williams
PO Box 113
Valdez, AK 99686



RECEIVED

MAR 17 1997

Ans'd.....

advocates for victims of violence

P.O. Box 524 • Valdez, Alaska 99686
24 Hour Crisis Line (907) 835-2999 • Office (907) 835-2980

Date: March 18, 1997

To: Senator Green

From: Debra Pexa

Re: SB141

I am writing in response to Senate Bill 141, introduced on Friday, March 14th. I have grave concerns about weakening existing laws on concealed weapons. I am especially concerned about the provision for victims of domestic violence to gain permits to concealed weapons. I strongly oppose any measure that provides for violence as an answer to violence. What message does this send to our children? To our community? As a state, Alaska must have the foresight and vision to address the underlying causes of domestic violence in our society, rather than implement band-aid measures which will only perpetuate the cycle of violence. Please reconsider this bill.

Sincerely,

Debra Pexa
Executive Director



Public Opinion Message

Anchorage Legislative Information Office (LIO)
716 W. 4th Ave. Suite 250 Anchorage, AK 99501 • Phone: 258-8111 Fax 258-1266

RECEIVED
MAR 20 1997
ANS 4

From: Print your name and address as it appears on your voter registration card.

NAME (LAST, FIRST, MIDDLE) Susan J Pearson	MAILING ADDRESS 814 W/ 11th Ave Anchorage AK 99501
PHONE NUMBER (AREA CODE) (907) 279 9585	DATE 3/20/97

To: Write an H or an S in a Committee box; put a ✓ in a Caucus or Member's box.

Committees (H or S)	House members	Senate members
<input type="checkbox"/> Community & Regional Affairs (ca)	<input type="checkbox"/> Avastman (aus)	<input type="checkbox"/> Adams (ada)
<input type="checkbox"/> Finance (fn)	<input type="checkbox"/> Barris (bar)	<input type="checkbox"/> Conway (con)
<input type="checkbox"/> Health, Ed. & Social Services (hes)	<input type="checkbox"/> Bice (bi)	<input checked="" type="checkbox"/> Duncan (dun)
<input type="checkbox"/> Judiciary (ju)	<input type="checkbox"/> Brown (br)	<input type="checkbox"/> Eise (ei)
<input type="checkbox"/> Labor & Commerce (lc)	<input type="checkbox"/> Blunde (blun)	<input type="checkbox"/> Frank (fra)
<input type="checkbox"/> Resources (res)	<input type="checkbox"/> Davies (dav)	<input checked="" type="checkbox"/> Green (gre)
<input type="checkbox"/> Rules (ru)	<input type="checkbox"/> Davis, B. (dab)	<input type="checkbox"/> Harford (har)
<input type="checkbox"/> State Affairs (sa)	<input type="checkbox"/> Davis, G. (dag)	<input type="checkbox"/> Hoffman (hof)
<input type="checkbox"/> Transportation (ta)	<input type="checkbox"/> Eilon (ei)	<input type="checkbox"/> Kelly, T. (ke)
<input type="checkbox"/> Other:	<input type="checkbox"/> Finkelsztin (fk)	<input type="checkbox"/> Leman (lem)
<input type="checkbox"/> Other:	<input type="checkbox"/> Foster (fos)	<input type="checkbox"/> Lincoln (lin)
CAUCUSES	<input type="checkbox"/> Green (gm)	<input checked="" type="checkbox"/> Miller (mil)
<input type="checkbox"/> Anchorage (age)	<input type="checkbox"/> Grossencliff (gr)	<input type="checkbox"/> Pearce (par)
<input type="checkbox"/> B. S. (bus)	<input type="checkbox"/> Hanley (han)	<input type="checkbox"/> Phillips, R. (ph)
<input type="checkbox"/> Fairbanks (interior) (int)	<input type="checkbox"/> Ivan (iva)	<input type="checkbox"/> Rieger (rie)
<input type="checkbox"/> Kodiak (kdi)	<input type="checkbox"/> James (jam)	<input type="checkbox"/> Salo (sal)
<input type="checkbox"/> Majority (maj)	<input type="checkbox"/> Kelly, P. (ki)	<input type="checkbox"/> Sharp (sha)
<input type="checkbox"/> Minority (min)	<input type="checkbox"/> Karring (kar)	<input type="checkbox"/> Taylor (tay)
	<input type="checkbox"/> Kot (kot)	<input type="checkbox"/> Torgerson (tor)
	<input type="checkbox"/> Kubisa (kub)	<input type="checkbox"/> Zharoff (zha)
		<input checked="" type="checkbox"/> Mackie Ward

Subject: Enter a bill number and check one box below OR enter a subject.

HB or SB SB	Bill Number 141	and check one:	<input checked="" type="checkbox"/> Support	<input type="checkbox"/> Oppose	<input type="checkbox"/> Amend	OR	SUBJECT
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Message: * This form MUST be completely filled out, including a phone number. You may phone, fax, or deliver your POM to any LIO. Please PRINT. Your message cannot exceed 30 words (one word per box) and cannot contain any vulgar language.

I	oppose	the	legislation	being
introduced	to	weaken	the	concealed
weapons	law.	easy	access	to
a	gun	because	a	person
is	involved	in	domestic	violence
as	a	victim	or	perpetrator
creates	an	even	more	dangerous
situation.	keeping	in	place	a
waiting	period	for	all	citizens
is	more	effective	than	placing

a of person. lockers near. I.L.

gun an Please for a

in angry also concealed victims

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hand emotional using anywhere batterers

Public Opinion Message

Anchorage Legislative Information Office (LIO)
 716 W. 4th Avenue, Suite 200 Anchorage, AK 99501 • Phone: 258-8111 Fax 258-1261

RECEIVED

From: Print your name and address as it appears on your voter registration card.

NAME (LAST, FIRST, MIDDLE)	LAST NAME	MAILING ADDRESS	ZIP CODE
US Lisa M Johnson		1734 Thunderbird Place	99578
PHONE NUMBER (Area code)	OTHER INFORMATION (if applicable)		
277-3885	None		

To: Write an H or an S in a Committee box; put a ✓ in a Caucus or Member's box.

Committees (enter H or S)	House members	Senate members
<input type="checkbox"/> Community & Regional Affairs (ca)	<input type="checkbox"/> Austerman (aus)	<input type="checkbox"/> Adams (ada)
<input type="checkbox"/> Finance (fin)	<input type="checkbox"/> Barnes (bar)	<input type="checkbox"/> Dewey (dew)
<input type="checkbox"/> Health, Ed. & Social Services (hes)	<input type="checkbox"/> Bice (bri)	<input type="checkbox"/> Duncan (dun)
<input type="checkbox"/> Judiciary (jud)	<input type="checkbox"/> Brown (bro)	<input type="checkbox"/> Ellis (eli)
<input type="checkbox"/> Labor & Commerce (l&c)	<input type="checkbox"/> Bunde (bun)	<input type="checkbox"/> Frank (fra)
<input type="checkbox"/> Resources (res)	<input type="checkbox"/> Davies (dav)	<input type="checkbox"/> Green (gre)
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<input type="checkbox"/> State Affairs (sta)	<input type="checkbox"/> Davis, G. (dag)	<input type="checkbox"/> Hoffman (hof)
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<input type="checkbox"/> Other:	<input type="checkbox"/> Foster (fos)	<input type="checkbox"/> Lincoln (lin)
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	<input type="checkbox"/> Grossbart (gro)	<input type="checkbox"/> Pearce (pea)
	<input type="checkbox"/> Hanley (han)	<input type="checkbox"/> Phillips, R. (phr)
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	<input type="checkbox"/> James (jam)	<input type="checkbox"/> Salo (sal)
	<input type="checkbox"/> Kelly, P. (kil)	<input type="checkbox"/> Sharp (shp)
	<input type="checkbox"/> Kohring (koh)	<input type="checkbox"/> Taylor (tay)
	<input type="checkbox"/> Koc (koc)	<input type="checkbox"/> Torgerson (tor)
	<input type="checkbox"/> Kubisa (kub)	<input type="checkbox"/> Zaroff (zra)
		<input type="checkbox"/> Long (lng)
		<input type="checkbox"/> Macke (mak)
		<input type="checkbox"/> Martin (mar)
		<input type="checkbox"/> Meek (mea)
		<input type="checkbox"/> Moses (mos)
		<input type="checkbox"/> Muder (mul)
		<input type="checkbox"/> Nevada (nav)
		<input type="checkbox"/> Nichols (nic)
		<input type="checkbox"/> Ogan (oga)
		<input type="checkbox"/> Patton (pat)
		<input type="checkbox"/> Phillips, G. (phg)
		<input type="checkbox"/> Porter (por)
		<input type="checkbox"/> Robinson (rob)
		<input type="checkbox"/> Rosenberg (rok)
		<input type="checkbox"/> Sanders (san)
		<input type="checkbox"/> Theriault (thy)
		<input type="checkbox"/> Tooley (toe)
		<input type="checkbox"/> Vezy (vez)
		<input type="checkbox"/> Williams (wit)
		<input type="checkbox"/> Wolf (wif)

Subject: Enter a bill number and check one box below OR enter a subject.

HB or SB	Bill number	and check one:	Support	OR	Subject
SB	141	<input checked="" type="checkbox"/> Support			
		<input type="checkbox"/> Oppose			
		<input type="checkbox"/> Amend			

Message: This form MUST be completed in order, including a phone number. You may phone, fax or deliver your POM to any LIO. Please PRINT. Your message cannot exceed 50 words (one word per box), and cannot contain any vulgar language.

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Public Opinion Message

Anchorage Legislative Information Office (LIO)
716 W. 4th Avenue, Suite 250 Anchorage, AK 99501 - Phone: 258-5111 Fax: 258-1287

From: Print your name and address as it appears on your voter registration card.

MR. OR MRS.	First Name	Last Name	City, State, Zip
MRS	Rita	M Johnson	1545 S. Hoyt #72 Anchorage, AK 99508
Home phone	272-4222		Office or work (if different)
			None

To: Write an H or an S in a Committee box; put a ✓ in a Caucus or Member's box.

Committees (enter H or S)		House members		Senate members	
<input type="checkbox"/> Community & Regional Affairs (cra)	<input type="checkbox"/> Austerman (aue)	<input type="checkbox"/> Long (lng)	<input type="checkbox"/> Adams (ada)		
<input type="checkbox"/> Finance (fin)	<input type="checkbox"/> Barnes (bar)	<input type="checkbox"/> Macene (mak)	<input type="checkbox"/> Jorley (jor)		
<input type="checkbox"/> Health, Ed. & Social Services (hes)	<input type="checkbox"/> Erce (er)	<input type="checkbox"/> Marler (mar)	<input type="checkbox"/> Duncan (dun)		
<input type="checkbox"/> Judiciary (jud)	<input type="checkbox"/> Brown (bro)	<input type="checkbox"/> Masak (mas)	<input type="checkbox"/> Ellis (eli)		
<input type="checkbox"/> Labor & Commerce (lca)	<input type="checkbox"/> Bunde (bun)	<input type="checkbox"/> Moses (mos)	<input type="checkbox"/> Frank (fra)		
<input type="checkbox"/> Resources (res)	<input type="checkbox"/> Davies (dav)	<input type="checkbox"/> Muder (mud)	<input type="checkbox"/> Green (gre)		
<input type="checkbox"/> Rules (rs)	<input type="checkbox"/> Davis, B. (dab)	<input type="checkbox"/> Navarro (nav)	<input type="checkbox"/> Harford (har)		
<input type="checkbox"/> State Affairs (sta)	<input type="checkbox"/> Davis, G. (dgg)	<input type="checkbox"/> Nichols (nic)	<input type="checkbox"/> Hoffman (hof)		
<input type="checkbox"/> Transportation (tra)	<input type="checkbox"/> E'lon (el)	<input type="checkbox"/> Ogan (oga)	<input type="checkbox"/> Kelly, T. (kel)		
<input type="checkbox"/> Other:	<input type="checkbox"/> Finkelshteyn (fik)	<input type="checkbox"/> Parnell (par)	<input type="checkbox"/> Leman (lem)		
<input type="checkbox"/> Other:	<input type="checkbox"/> Foster (fos)	<input type="checkbox"/> Phillips, G. (phg)	<input type="checkbox"/> Lincoln (lin)		
	<input type="checkbox"/> Green (grn)	<input type="checkbox"/> Poner (pon)	<input type="checkbox"/> Miller (mil)		
	<input type="checkbox"/> Grussendorf (grs)	<input type="checkbox"/> Robinson (rob)	<input type="checkbox"/> Pearce (pear)		
CAUCUSES	<input type="checkbox"/> Hanley (han)	<input type="checkbox"/> Rosenberg (ros)	<input type="checkbox"/> Phillips, R. (phr)		
<input checked="" type="checkbox"/> Anchorage (aga)	<input type="checkbox"/> Ivan (iva)	<input type="checkbox"/> Sanders (san)	<input type="checkbox"/> Rieger (rie)		
<input type="checkbox"/> Subr. (bus) -	<input type="checkbox"/> James (jam)	<input type="checkbox"/> Thomsen (thr)	<input type="checkbox"/> Selo (sel)		
<input type="checkbox"/> Fairbanks (interior) (int)	<input type="checkbox"/> Kelly, P. (kpf)	<input type="checkbox"/> Toohay (toh)	<input type="checkbox"/> Sharp (sha)		
<input type="checkbox"/> Matliu (mat)	<input type="checkbox"/> Kohring (koh)	<input type="checkbox"/> Vezev (vev)	<input type="checkbox"/> Taylor (tay)		
<input type="checkbox"/> Majority (maj)	<input type="checkbox"/> Koff (kof)	<input type="checkbox"/> Williams (wil)	<input type="checkbox"/> Torgerson (tor)		
<input type="checkbox"/> Minority (min)	<input type="checkbox"/> Kubina (kub)	<input type="checkbox"/> Wiles (wile)	<input type="checkbox"/> Zheroff (zhe)		

Subject: Enter a bill number and check one box below OR enter a subject.

HB or SB	Bill number	and check one:	Support	OR	Subject
SB	141	<input checked="" type="checkbox"/> Support			
		<input type="checkbox"/> Oppose			
		<input type="checkbox"/> Amend			

Message: * The form MUST be completely filled out, including a phone number. You may phone, fax, or deliver your POM to the LIO. Please PRINT. Your message cannot exceed 50 words (one word per box), and must contain any subject language.

I	believe	this	will	lead	1
to	more	vigilance.			12
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Public Opinion Message

Anchorage Legislative Information Office (LIO)
716 W. 4th Avenue, Suite 200 Anchorage, AK 99501 • Phone: 258-5111 Fax 258-1267

From: Print your name and address as it appears on your voter registration card.

First Name Jean	Last Name M Hayes
Address (street address)	
City 4151 E 20th #21 Anch AK 99508	
Phone (area code) 338-9785 AWAIC	

To: Write an H or an S in a Committee box; put a ✓ in a Caucus or Member's box.

Committees (H or S)	House members	Senate members
<input type="checkbox"/> Community & Regional Affairs (cra)	<input type="checkbox"/> Austerman (aue)	<input type="checkbox"/> Adams (ada)
<input type="checkbox"/> Finance (fin)	<input type="checkbox"/> Barnes (bar)	<input type="checkbox"/> Donley (don)
<input type="checkbox"/> Health, Ed. & Social Services (hes)	<input type="checkbox"/> Erbe (er)	<input checked="" type="checkbox"/> Duncan (dun)
<input type="checkbox"/> Judiciary (jud)	<input type="checkbox"/> Brown (bro)	<input type="checkbox"/> Ellis (eli)
<input type="checkbox"/> Labor & Commerce (lbc)	<input type="checkbox"/> Bunde (bun)	<input type="checkbox"/> Frank (fra)
<input type="checkbox"/> Resources (res)	<input type="checkbox"/> Davies (dav)	<input checked="" type="checkbox"/> Green (gre)
<input type="checkbox"/> Rules (ru)	<input type="checkbox"/> Devo. B. (deb)	<input type="checkbox"/> Harford (har)
<input type="checkbox"/> State Affairs (sta)	<input type="checkbox"/> Davis, G. (dgv)	<input type="checkbox"/> Hoffman (hof)
<input type="checkbox"/> Transportation (tra)	<input type="checkbox"/> Elton (ell)	<input type="checkbox"/> Kelly, T. (kel)
<input type="checkbox"/> Other:	<input type="checkbox"/> Feinbstein (fik)	<input type="checkbox"/> Leman (lem)
<input type="checkbox"/> Other:	<input type="checkbox"/> Foster (fos)	<input type="checkbox"/> Lincoln (lin)
	<input type="checkbox"/> Green (grn)	<input checked="" type="checkbox"/> Miller (mil)
Caucuses	<input type="checkbox"/> Grossendorf (gro)	<input type="checkbox"/> Pearce (pear)
<input checked="" type="checkbox"/> Anchorage (aga)	<input type="checkbox"/> Hanley (han)	<input type="checkbox"/> Phillips, R. (phi)
<input type="checkbox"/> Barf (bar)	<input type="checkbox"/> Ivan (iva)	<input type="checkbox"/> Rieger (rie)
<input type="checkbox"/> Fairbanks (interior) (int)	<input type="checkbox"/> James (jam)	<input type="checkbox"/> Sajo (saj)
<input type="checkbox"/> Matou (mat)	<input type="checkbox"/> Kelly, P. (kil)	<input type="checkbox"/> Sharp (sha)
<input type="checkbox"/> Majority (maj)	<input type="checkbox"/> Kohring (kon)	<input type="checkbox"/> Taylor (tay)
<input type="checkbox"/> Minority (min)	<input type="checkbox"/> Kotz (kot)	<input type="checkbox"/> Torgerson (tor)
	<input type="checkbox"/> Kubina (kub)	<input checked="" type="checkbox"/> Zharoff (zha)
		<input checked="" type="checkbox"/> Mackie
		<input checked="" type="checkbox"/> Ward

Subject: Enter a bill number and check one box below OR enter a subject.

HB or SB SB	Bill number 141	and check one:	<input checked="" type="checkbox"/> Support	OR	Subject
			<input type="checkbox"/> Oppose		
			<input type="checkbox"/> Amend		

Message:

* This form MUST be completed. Fill in, including a phone number. You may phone, fax, or deliver your POM to any LIO.
* Please PRINT. Your message cannot exceed 30 words (one word per box) and cannot contain any vulgar language.

This	bill	will	encourage	violence.
to	answer	violence	and	will
allow	people	who	may	have
violent	histories	of	their	own
to	easily	access	weapon	Domestic
violence	situations	that	involve	weapons
have	more	chance	of	leading
to	the	death	of	someone
involved	in	the	situation.	Who
else	needs	to	be	violated?

STOP!

SB 141 Section 18.65.702

RECEIVED

MAR 20 1987

Ans'd.....

Bush Alaska is a haven for transient beach miners, Adventurers & seasonal workers. Who are these people?

LOOK!

Fingerprints must be mandatory before concealed weapon permit is issued.

LISTEN!

Shelters provide safety for women & children without resorting to more violence & deaths! Laws are in place to deal with perpetrators of violence

Fund Shelters Enforce the LAW

To Senator Green, Chair

Senator Ward

Senator Mackie

Senator Miller

Senator Duncan

From Sue Christensen, Bering Sea Unions Co

March 18, 1997

RECEIVED
MAR 27 1997
Ans'd.....

Reference: Senate Bill 141

Dear Senators,

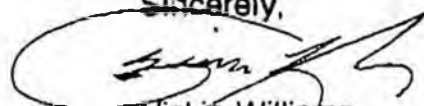
After reviewing Senator Greens bill to arm victims with guns, I find it very reactionary.

I thought the whole idea in our country was to stop the violence and teach adults and children better skills around the whole issue of anger. Do you honestly think it will teach non-violence to just arm more people to shoot other people to solve problems?

Wouldn't it be a more positive thought to teach children from early kindergarten about conflict resolution, and then continue teaching it all the way through school? Wouldn't it make more sense to help children in dysfunctional families so that they don't feel like they have to use force and control on other people to get what they want or need in our society. Doesn't it make sense to make games people play more fair and less win/lose so everyone feels better about playing. If we continue to teach and preach violence and control as a way of life then we certainly will "reap the whirlwind", we already are, aren't we learning anything?

I definitely oppose SB141. Violence and control have become a way of life in America, we need to learn....

Sincerely,



Vickie Williams
PO Box 113
Valdez, AK 99686



RECEIVED
MAR 17 1997
Ans'd.....
advocates for victims of violence

P.O. Box 524 • Valdez, Alaska 99686
24 Hour Crisis Line (907) 835-2999 • Office (907) 835-2980

Date: March 18, 1997

To: Senator Green

From: Debra Pexa

Re: SB141

I am writing in response to Senate Bill 141, introduced on Friday, March 14th. I have grave concerns about weakening existing laws on concealed weapons. I am especially concerned about the provision for victims of domestic violence to gain permits to concealed weapons. I strongly oppose any measure that provides for violence as an answer to violence. What message does this send to our children? To our community? As a state, Alaska must have the foresight and vision to address the underlying causes of domestic violence in our society, rather than implement band-aid measures which will only perpetuate the cycle of violence. Please reconsider this bill.

Sincerely,

Debra Pexa
Executive Director



SIXTY THIRTY NORTH

P.O. Box 783
Cooper Landing, Alaska 99572
Mile 47.5 Sterling Hwy.
(907) 595-1224

FFL 92-03645
February 18, 1997

RECEIVED

FEB 22 1997

ANS U.....

*Janey
Please
call*

The Hon. Lyda Green
State Senate
State Capitol
Juneau, AK 99801

Dear Sen. Green:

I, and a lot of my friends, are wondering whether there are any plans to reintroduce the improved (but not perfect) Handgun Concealed Carry bill that passed both houses last year only to be vetoed by our good governor. I asked our Sen. John Torgerson about this, but he thought there were no such plans because of assumed lack of grassroots support, an opinion echoed by Rep. Gary Davis.

As an NRA Personal Protection Course instructor, I've discussed this with many people and all favor the modified bill and are just waiting to see it come up. There was plenty of grassroots support last session, and there would be a lot more now if this bill is reintroduced with a little publicity. The current law is passable, but certainly needs at least the modifications included in last session's bill. Hopefully, the legislature would have the power to override any veto this year.

I would very much appreciate hearing your ideas on this subject. Thank you.

Sincerely,



Lyman Nichols

Gene A. Carley
13720 Arne Erickson
Anchorage, Alaska 99515
March 22, 1997

RECEIVED
MAR 22 1997
APR 6

Senator Lyda Green
Alaska State Senate
Juneau, AK 99801-1182

cc: Senator Jerry Ward, Alaska State Senate, Juneau, AK 99801-1182
cc: Representative Joe Green, Alaska State House, Juneau, AK 99801-1182

Subject: SB 141

Dear Senator Green:

I heartily support your efforts to make the changes you propose in your bill SB141 concerning concealed handguns.

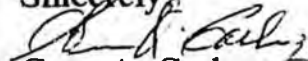
By carbon copy, I urge my Senator Ward and Representative Green to give you their full support in this matter, including any measures necessary to over-ride a probable Knowles veto.

Your observations were very helpful in understanding the intent of the changes.

Thank you very much for sending me the copy of your bill, and also for the questionnaire about the Permanent Fund.

You may want to consider one further amendment to exempt from the fingerprint requirement any person who is a member of the Armed Forces or can show proof of Honorable discharge from the Armed forces on the grounds that their fingerprints are already on file. Most American citizens grown to maturity in the tradition of freedom from intrusion by the Government have, I believe, a natural and well founded reluctance to be fingerprinted every time they turn around. In the Service it had a useful purpose. Once is enough.

Sincerely,


Gene A. Carley
907-345-1697

SIXTY THIRTY NORTH

P.O. Box 783
Cooper Landing, Alaska 99572
Mile 47.5 Sterling Hwy.
(907) 595-1224

FFL 92-03645
February 18, 1997

The Hon. Jeannette A. James
House of Representatives
State Capitol
Juneau, AK 99801

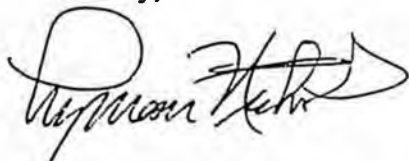
Dear Rep. James:

I, and a lot of my friends, are wondering whether you plan to reintroduce the improved (but not perfect) Handgun Concealed Carry bill that passed both houses last year only to be vetoed by our good governor. I asked our Sen. John Torgerson about this, but he thought there were no such plans because of assumed lack of grassroots support, an opinion echoed by Rep. Gary Davis.

As an NRA Personal Protection Course instructor, I've discussed this with many people and all favor the modified bill and are just waiting to see it come up. You had plenty of grassroots support last session, and would get lots more now if this bill is reintroduced with a little publicity. The current law is passable, but certainly needs at least the modifications included in last session's bill.

I would very much appreciate hearing your ideas on this subject. Thank you.

Sincerely,



Lyman Nichols

RECEIVED BY

FEB 24 1996

Rep. Jeannette James

P.O. Box 5726
Ketchikan, AK 99901
Ph/Fax:(907)225-4618

RECEIVED
MAR 20 1997
Ans'o.....

March 20, 1997

Senator Lyda Green
State Capitol
Juneau, AK 99801-1182

Dear Senator Green:

Thank you for the correspondence reference the Concealed Weapons permits.

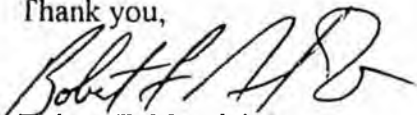
I have no problem with the fingerprints. It keeps honest people honest and safety for the citizens. I do however wonder why all the uproar over people who take time to get the permits and then can't carry their gun into most places. Seems we should be looking at all the people in Alaska who carry concealed weapons who don't have the permits. You can be assured they carry anywhere they wish and don't worry about a permit.

The other question I have is why Honorably Retired Troopers/Police officers can't continue to carry their weapons concealed with their Retired Identification. In the States of **California** and **Oregon** this is done and I'm sure in other states. After a career in law enforcement, where you carried a gun everyday for years and made a lot people mad at you (due to their being arrested), it seem ridiculous to all of a sudden be told you can't carry anymore because you retired.

I went to the CCW class taught by a person who use to work for me and did all the thing necessary to obtain the permit, just to be legal. I could have probably carried for every without anyone knowing, like a lot of other persons in this state.

Just some of my concerns.

Thank you,



Robert F. Nesvick Jr.
Former Police Chief, Metlakatla Indian Community
Retired Alaska State Trooper

WILLIAM E. BLACKBURN
4143 ASPEN STREET
JUNEAU, AK 99801

March 24, 1997

Sen. Lyda Green:
Alaska State Legislature
Juneau, AK. 99801-1102

RECEIVED
MARCH 24 1997
APR 2 1997

Thank you for the opportunity to comment
on S.B. 141.

I question the high fee for a permit when
the fingerprints, photos and 15 to 18 hours of
training is paid for by the applicant. The
6000 permits thus far have cost the applicants
 $6000 \times \$150 = \$900,000$, plus at least $6000 \times$
 $\$100.00$ for instruction, photos, fingerprints, so
added to the $\$900,000.00$ another $600,000.00$
totals $\$1,500,000.00$. That is a high cost
with no crimes committed.

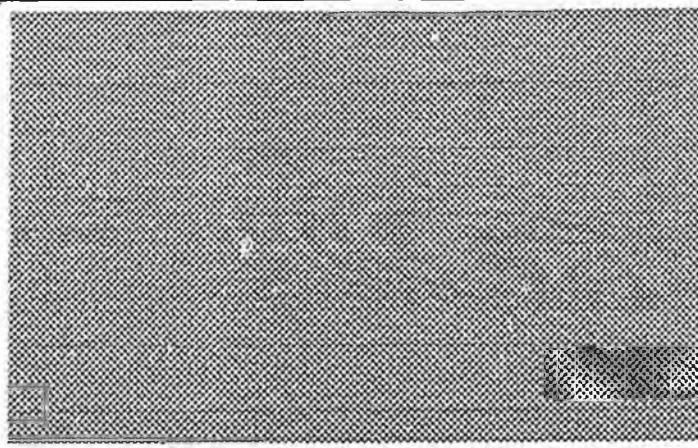
→ I support the Vermont carry concept, and we
should work toward that goal. Until that
goal is reached, I support your efforts with
S.B. 141.

Thank you.

Sincerely

W. E. Blackburn

1-attachment



FAX COVER PAGE

RECEIVED
MAR 28 1997
ANS'D ✓
Janey

To: The Honorable Lyda Green	For Information Call: (907) 488-4438
From : Mark Nix	At: M&M Health Care Billing Services
Pages: 2	Fax Number : (907) 488-4438

Thank you for your letter keeping me informed on possible advances concerning our right as American citizens to keep and possess firearms. The following is your completed questionnaire.

Mark Nix, Owner &
Concerned citizen

PROFESSIONAL PRACTICE MANAGEMENT

- | | |
|--|--------------------------------|
| Electronic Claims | Revenue Enhancement Projects |
| Electronic Statements | Coding Reviews |
| Patient Re-Calls | "End Stage" Collections |
| Birthday/Holiday Greeting Cards | Customized Management Reports |
| Secondary Insurance Billing Services to Patients | Superbill Review and Re-design |
| Software Reselling | Advance Funding |
| Software Leasing (w'/option to buy) | |

Box 783
Cooper Landing, AK 99572
March 29, 1997

RECEIVED
APR 03 1997
Ans d.....

Sen. Lyda Green
State Capitol
Juneau, AK 99801-1182

Dear Lyda;

Many thanks for your reply to my letter asking for info about your SB141. I have gone over it in detail and generally am very much in favor of the bill. Frankly, I would prefer the Vermont system where law-abiding citizens are trusted by "their" government. However, I guess we in Alaska are lucky to have a permit system rather than what we had before.

It's funny that some members of the government and the politically-appointed leaders of the police can't seem to understand that criminals are going to carry whatever weapons they feel like regardless of the law (that's what makes them criminals), so restrictive firearms laws will only affect the law-abiding folks who wouldn't cause any problems with them in the first place.

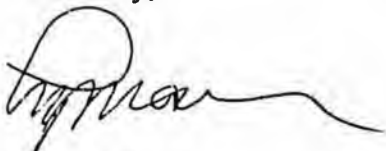
Something I think of every time we have a tragic shooting by some crazy - like the recent school massacre, or the Empire State killings - is that if there had been only one honest person present who was armed and competent, he/she just might have been able to prevent or reduce the tragedy. It's sad that those who want to disarm law-abiding citizens can't see this, too.

Anyhow, back to SB141. I took the liberty of superimposing your new proposals on top of the current law to make it easier to understand the proposed changes, then distributing them among interested friends. I hope you and other legislators will be getting some supportive feedback.

I would very much like to see one addition to the proposed changes: as an NRA instructor in a small village, I have had a problem every class with getting a lawyer to teach the required portion. All of my students have had to drive the 110+ miles into Kenai and back and pay a lawyer there to do this - an obviously expensive and time-consuming nuisance. How do instructors in villages without a road system handle this? We have only one state trooper stationed here, but DPS has made it so difficult for him to get approval to teach this part of the course that he can't or won't do it. Therefore, how about adding in a clause that the legal-instruction portion of this course can be done by an approved video? Such a video could be made by a knowledgeable lawyer and sold to instructors. As I recall, Wayne A. Ross already attempted to do this but was refused by DPS. The attorney we use puts on an excellent class and would probably be willing to do so.

Thanks again for your work on this bill, and my regards to Janey.

Sincerely,



Lyman Nichols

cc: Sens. Halford, Torgerson, Ward
Reps. Davis, Hodgins

PS - This bill needs more publicity to generate more support.

(3) allow a drunken person to enter and remain within licensed premises or to consume an alcoholic beverage within licensed premises;

(4) permit a drunken person to sell or serve alcoholic beverages.

(b) A person receiving compensation for transporting alcoholic beverages may not knowingly deliver alcoholic beverages to a drunken person. (§ 3 ch 131 SLA 1980; am § 6 ch 156 SLA 1988)

Cross references. — For authorization to refuse service, see AS 14.21.055.

Legislative history reports. — For Senate letter

of intent relating to the enactment of (b) of this section by sec. 6, ch. 156, SLA 1988 (HCS CSSB 371 (Jud) am H), see 1988 Senate Journal 2939.

NOTES TO DECISIONS

Legislative history of this section supports the argument that the section does impose an affirmative duty on the employees. *Kavorkian v. Tommy's Elbow Room, Inc.*, 694 P.2d 160 (Alaska 1985).

Legislative history of this section reflects an intent to let the jury evaluate whether or not a patron of a bar has exhibited such outward manifestations as to be recognizable as a drunken person. *Kavorkian v. Tommy's Elbow Room, Inc.*, 694 P.2d 160 (Alaska 1985).

Civil liability. — A vendor of alcoholic beverages may be civilly liable when the sale of his liquor is a substantial factor in causing an injury. *Nazareno v. Uric*, 638 P.2d 671 (Alaska 1981) (decided under former AS 04.15.020(a)), overruled on other grounds, *Kavorkian v. Tommy's Elbow Room, Inc.*, 711 P.2d 521 (Alaska 1985).

Effect of AS 04.21.020. — Section 04.21.020, which provides conditions for the civil liability of persons providing alcoholic beverages, does not immunize vendors who violate this section. *Williford v. L.J. Carr Invs., Inc.*, 783 P.2d 235 (Alaska 1989).

Assuming this section states duties giving rise to tort liability, such liability, in cases arising out of liquor sales, is nonetheless subject to the rule of immunity expressed in AS 04.21.020. *Gonzales v.*

Collateral references. — 45 Am. Jur. 2d, Intoxicating Liquors, §§ 265, 266.

48 C.J.S., Intoxicating Liquors, §§ 257, 258.

Sec. 04.16.040. Access of drunken persons to licensed premises. A drunken person may not knowingly enter or remain on premises licensed under this title. (§ 3 ch 131 SLA 1980)

Sec. 04.16.045. Obligation to enforce restrictions in licensed premises. A licensee, an agent, or employee may not permit the consumption of alcoholic beverages by any person within licensed premises unless it is permitted by the license. (§ 3 ch 131 SLA 1980)

Reviser's notes. — Enacted as AS 04.16.041. Re-numbered in 1980.

Cross references. — For responsibility of licensee for violations, see AS 04.16.150.

Sec. 04.16.049. Access of persons under the age of 21 to licensed premises. (a) A person under the age of 21 years may not knowingly enter or remain in premises licensed under this title unless

(1) accompanied by a parent, guardian, or spouse who has attained the age of 21 years;

(2) the person is at least 16 years of age, the premises are designated by the board as a restaurant for the purposes of this section, and the person enters and remains only for dining; or

(3) the person is under the age of 16 years, is accompanied by a person over the age of 21 years, the parent or guardian of the underaged person consents, the premises are designated by the board as a restaurant for the purposes of this section, and the person enters and remains only for dining.

(b) Notwithstanding (a) of this section, a licensee or an agent or employee of the licensee may refuse entry to a person under the age of 21 years to that part of licensed premises in which alcoholic beverages are sold, served, or consumed, may refuse service to a person under the age of 21 years, or may require a person under the age of 21 years to leave the portion of the licensed premises in which alcoholic beverages are sold, served, or consumed.

(c) Notwithstanding any other provision in this section, a person between 16 and 19 years of age may enter and remain within the licensed premises of a hotel, restaurant, or eating place in the course of employment if (1) the employment does not involve the serving, mixing, delivering, or dispensing of alcoholic beverages; (2) the person has the written consent of a parent or guardian; and (3) an exemption from the prohibition of AS 23.10.355 is granted by the Department of Labor. The board, with the approval of the governing body having jurisdiction and at the licensee's request, shall designate which premises are hotels, restaurants, or eating places for the purposes of this subsection.

(d) Notwithstanding any other provision in this section, a person 19 or 20 years of age may be employed within the licensed premises of a hotel, restaurant, or eating place, may enter and remain within those premises for the purpose of employment, but may not in the course of employment, sell, serve, deliver, or dispense alcoholic beverages. (§ 3 ch 131 SLA 1980; am § 16 ch 28 SLA 1981; am §§ 4 — 7 ch 109 SLA 1983)

NOTES TO DECISIONS

Cited in *Wiko v. State*, 623 P.2d 356 (Alaska Ct. App. 1981); *M.O.W. v. State*, 645 P.2d 1229 (Alaska Ct. App. 1982).

Sec. 04.16.050. Possession, control, or consumption by persons under the age of 21. (a) A person under the age of 21 years may not knowingly consume, possess, or control alcoholic beverages except those furnished persons under AS 04.16.051(b).

(b) A person who violates (a) of this section is guilty of a violation. Upon conviction in the district court, the court may impose a fine of not less than \$100. (§ 3 ch 131 SLA 1980; am § 8 ch 109 SLA 1983; am § 1 ch 81 SLA 1995)

Effect of amendments. — The 1995 amendment, effective September 13, 1995, added subsection (b).
Editor's notes. — Section 6, ch. 81, SLA 1995

provides that subsection (b), added by § 1, ch. 81, SLA 1995, "applies to an offense committed on or after September 13, 1995."

NOTES TO DECISIONS

Comparative negligence. — A licensee who violates this section is not entitled to assert the comparative fault of the minor/consumer, in an action for damages resulting from the unlawful sale of intoxicating liquor. *Loeb v. Raamussen*, 622 P.2d 914 (Alaska 1991).

Stated in *Shumberg v. State*, 762 P.2d 488 (Alaska Ct. App. 1988).

Cited in *M.O.W. v. State*, 645 P.2d 1229 (Alaska Ct. App. 1982); *Alfred v. State*, 768 P.2d 130 (Alaska Ct. App. 1988).

Sec. 04.16.051. Furnishing or delivery of alcoholic beverages to persons under the age of 21. (a) A person may not furnish or deliver an alcoholic beverage to a person under the age of 21 years.

(b) This section does not prohibit the furnishing or delivery of an alcoholic beverage

15 AAC 104.695. THEATRE LICENSE. (a) A theatre license authorizes a beverage dispensary licensee or a restaurant or eating place licensee to sell alcoholic beverages for consumption on licensed premises at a specified theatre site. Sale and consumption may occur only during intermissions and one hour before an event. Alcoholic beverages may only be sold and consumed in designated areas at the site. Alcoholic beverages may not be sold or consumed in the audience viewing area at the theatre site.

(b) A theatre license may not be exercised during events that are expected to attract audiences under 21 years of age.

(c) The biennial fee for a theatre license is \$600.

(d) A theatre license may not be transferred or relocated.

(e) An application for a theatre license must clearly identify designated areas for the sale and consumption of alcoholic beverages. An application will be approved by the board only if it is approved by the local governing body of the municipality in which the theatre site is located, or, for a theatre site outside a municipality, approved by the law enforcement agency that has jurisdiction over the theatre site.

(f) An application for renewal of a theatre license must be accompanied by the fee required by (c) of this section and must contain the information required for a new license.

(g) The board will, in its discretion, deny renewal of a theatre license that was not exercised for at least one event during each calendar year of the license period.

(h) The license must be conspicuously posted in the theatre during times when alcoholic beverages are sold.

(i) For purposes of this section, "theatre" means a location where events, including plays, operas, orchestra concerts, readings, and similar activities approved by the board, are presented by live performers on a stage. (Eff. 10/24/87, Register 104; am 7/30/89, Register 111; am 5/1/94, Register 130)

Authority: AS 04.06.090 AS 04.06.100

ARTICLE 7. RESTAURANT DESIGNATION PERMITS.

Section	Section
715. Application for designation	775. Certificate of designation
725. Dining by persons under the age of 21	785. Termination of designation
745. Employment of persons under the age of 21	795. Suspension or revocation of designation
765. Limitation of designation	

15 AAC 104.715. APPLICATION FOR DESIGNATION. (a) A licensee desiring designation under 15 AAC 104.715 — 15 AAC 104.795 as a bona fide restaurant, hotel, or eating place for purposes of AS 04.16.049 must file with the director an application, on a form prescribed by the board, together with an initial application fee of \$50. Designation will be granted only to a holder of a beverage dispensary,

club, recreational site, or restaurant or eating place license, and only if the requirements of 15 AAC 104.725 and 15 AAC 104.745, as applicable, are met.

(b) The designation application must include

(1) a statement of the type of designation requested, whether for employment under AS 04.16.049(c), for dining under AS 04.16.049(a)(2), for dining under AS 04.16.049(a)(3), or for any combination of those designations;

(2) a description of the location of the premises for which the designation is desired;

(3) a listing of meals to be offered to patrons; if a menu is not available, the applicant shall state what the menu is expected to be;

(4) a detailed floor plan of the proposed designated and undesignated areas of the licensed business;

(5) a description of any entertainment offered or available within the licensed business, and on the proposed designated portions of the premises;

(6) a description of the manner of food and beverage service offered or anticipated, whether table service, buffet service, counter service, or other;

(7) a statement of whether an owner, manager, or assistant manager is always present on the premises during business hours; and

(8) any other information required by the board.

(c) The board will, in its discretion, reduce the premises area requested to be designated in the application. (Eff. 10/24/87, Register 104)

Authority: AS 04.06.100 AS 04.16.019

15 AAC 104.725. DINING BY PERSONS UNDER THE AGE OF 21. (a) Upon application under 15 AAC 104.715 for a designation under AS 04.16.049(a)(2) or (3), or both, the board will, in its discretion, designate a licensed premises for dining by a person under the age of 21 who is not accompanied by a parent, legal guardian, or spouse who has attained the age of 21, only if it finds that

(1) the premises are a bona fide restaurant;

(2) there is supervision on the premises adequate to reasonably ensure that a person under the age of 21 will not obtain alcoholic beverages; and

(3) it is unlikely persons under the age of 21 will enter and remain on the premises for purposes other than dining.

(b) The board will generally presume that the premises are a bona fide restaurant for purposes of (a)(1) of this section if

(1) the premises are licensed as a restaurant or eating place;

(2) at least 50 percent of the gross revenue of the licensed business is from the sale of food and non-alcoholic beverages; or

(3) the premises are a facility at which the patron's primary activity is dining.

(c) For purposes of (a)(3) of this section, the board generally will presume that premises are unlikely to be entered by persons under the age of 21 other than for purposes of dining if no entertainment other than dining is provided or available. "Entertainment" includes live music, dancing, pool and other table games, sports, pinball, and video games.

(d) The presumptions in (b) and (c) of this section are neither conclusive nor exclusive. The board will, in its discretion, find that premises that satisfy the presumptions are not a bona fide restaurant or do not provide adequate supervision. The board will, in its discretion, find that premises not satisfying the presumptions in (b) and (c) of this section are nonetheless a bona fide restaurant with adequate supervision.

(e) An application for a new designation of premises under this section will be approved by the board only if it is approved by the local governing body having jurisdiction over the area in which the licensed premises exists. (Eff. 10/24/87; Register 104)

Authority: AS 04.06.100 AS 04.16.049

15 AAC 104.745. EMPLOYMENT OF PERSONS UNDER THE AGE OF 21. (a) Upon application under 15 AAC 104.715 for a designation under AS 04.16.049(c), the board will, in its discretion, designate licensed premises for employment of persons between the ages of 16 and 19 years only if the board finds that the premises are a bona fide hotel, restaurant, or eating place, and if all the other requirements of AS 04.16.049(c) are met.

(b) For the purpose of AS 04.16.050, an underaged person, who is employed in compliance with AS 04.16.049, is not in possession or control of alcohol if, while supervised by a person over the age of 21 who is also present on the licensed premises, the underaged employee handles empty or partially empty glassware and containers of alcoholic beverages while bussing tables or washing dishes. Any remaining alcohol in the glassware or container must be discarded as soon as possible by placing it in the wastewater, if available, or in a waste container. (Eff. 10/24/87, Register 104; am 5/1/94, Register 130)

Authority: AS 04.06.090 AS 04.16.019
AS 04.06.100 AS 04.16.050

15 AAC 104.765. LIMITATION OF DESIGNATION. (a) The board will, in its discretion, designate only a portion of a licensed premises under 15 AAC 104.725 and 15 AAC 104.745, and will, in its discretion, limit the hours when persons under the age of 21 may be present on the designated premises.

(b) A licensee may make changes to the designated premises only with the prior approval of the board. (Eff. 10/24/87, Register 104)

Authority: AS 04.06.100 AS 04.16.019

15 AAC 104.775. CERTIFICATE OF DESIGNATION. Upon approval by the board of a designation application, the director will issue a certificate of designation of premises, which will state whether the designation is under AS 04.16.049(a)(2), AS 04.16.049(a)(3), AS 04.16.049(c), or a combination of those statutes. The certificate must be prominently displayed in the license premises. (Eff. 10/24/87, Register 104)

Authority: AS 04.06.100 AS 04.16.019

15 AAC 104.785. TERMINATION OF DESIGNATION. A designation issued under 15 AAC 104.715 — 15 AAC 104.795 terminates upon expiration, revocation, transfer, or relocation of the holder's alcoholic beverage license. A local governing body may protest continuation of a designation in the same manner it protests other license actions under AS 04.11.480. (Eff. 10/24/87, Register 104)

Authority: AS 04.06.100 AS 04.16.019

15 AAC 104.795. SUSPENSION OR REVOCATION OF DESIGNATION. A designation under 15 AAC 104.715 — 15 AAC 104.795 is a privilege over and above that of a license, and is issued with the understanding that the board will, in its discretion, suspend or revoke the designation for good cause without a hearing under AS 04.11.510 or the Administrative Procedure Act, AS 44.62. The director will notify a licensee in writing not less than 10 days before board consideration of suspension or revocation of a licensee's designation. The board will afford the licensee an opportunity to be heard. (Eff. 10/24/87, Register 104)

Authority: AS 04.06.100 AS 04.16.049

ARTICLE 9. GENERAL PROVISIONS.

Section	Section
905. Determining population criteria	990. Definition

15 AAC 104.905. DETERMINING POPULATION CRITERIA. (a) The board will use population figures generated by the Department of Community and Regional Affairs to establish a population figure for determining the quota of licenses available under AS 04.11.400(a)(2). The Department of Community and Regional Affairs' figures will be adjusted, however, in the following respects:

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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

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

MEMORANDUM

March 24, 1997

SUBJECT: Possession of Concealed Weapons (SB 141)

TO: Senator Lyda Green
Attn: Tuckerman Babcock

FROM: Gerald P. Luckhaupt *GPL*
Legislative Counsel

RECEIVED
MAR 24 1997
Ans'd.....

You have asked where and when concealed weapons, particularly handguns, may be carried under Alaska law without a concealed handgun permit?

AS 11.61.220(a)(1) makes it a crime to "knowingly possess a deadly weapon, other than an ordinary pocket knife or a defensive weapon, that is concealed on the person. . . ." Various defenses and affirmative defenses are supplied. First, this section does not apply to a peace officer acting within the scope and authority of the officer's employment. AS 11.61.220(c). AS 11.61.220(d) provides a defense to a person who possesses a concealed weapon on business premises owned or leased by the person or on business premises in the course of the person's employment for the owner or lessee of the premises. Finally, AS 11.61.220(b) provides affirmative defenses allowing a person to possess a concealed weapon in the person's dwelling or on land owned or leased by the person or while engaged in "lawful hunting, fishing, trapping, or other outdoor activity that necessarily involves the carrying of a weapon for personal protection."

AS 11.61.220(a)(2) also makes it a crime to possess a loaded firearm on the person (regardless of whether the firearm is concealed or not) in any place where alcoholic beverages are sold for consumption on the premises. AS 11.61.210(a)(1) provides that it is illegal to possess on the person (again, regardless of whether the firearm is concealed or openly displayed) or in the interior of a vehicle in which the person is present, a firearm when the person is impaired by intoxicating liquor or controlled substances. Finally, AS 11.61.210(a)(7) provides that a person may not possess a deadly weapon on school grounds without permission of the chief administrative officer of the school or district.

GPL:jdr
97-211.jdr

24

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51 SLA 1995.]

Sec. 11.56.370. Permitting an escape. (a) A public servant who is required by law to have charge of a person arrested for, charged with or convicted of a crime commits the crime of permitting an escape if with criminal negligence the public servant permits a person under official detention to escape.

(b) Permitting an escape is a class C felony. (§ 6 ch 166 SLA 1978; am § 20 ch 102 SLA 1980)

Legislative history reports. — For a report on 1980 House Journal Supplement, No. 79, May 29, Chapter 102, SLA 1980 (HCS CSSB 511), see 1980 1980. Senate Journal Supplement, No. 44, May 29, 1980, or

NOTES TO DECISIONS

For case construing former AS 11.30.180, concerning an officer's not executing process whereby a person escapes, see *Larson v. State*, 564 P.2d 365 (Alaska 1977). Cited in *Lefever v. State*, 877 P.2d 1298 (Alaska Ct. App. 1994).

Sec. 11.56.375. Promoting contraband in the first degree. (a) A person commits the crime of promoting contraband in the first degree if the person violates AS 11.56.380 and the contraband is

- (1) a deadly weapon or a defensive weapon;
- (2) an article that is intended by the defendant to be used as a means of facilitating an escape; or
- (3) a controlled substance.

(b) Promoting contraband in the first degree is a class C felony. (§ 6 ch 166 SLA 1978; am § 3 ch 59 SLA 1991)

Effect of amendments. — The 1991 amendment, effective September 15, 1991, added “or a defensive weapon” to the end of paragraph (a)(1).

NOTES TO DECISIONS

Constitutionality. — This section is not violative of an inmate's right to privacy in view of the fact that such right of an inmate is substantially limited and does not extend to protect possession of marijuana in a correctional institution. *Cleland v. State*, 759 P.2d 553 (Alaska Ct. App. 1988).

This statute is not unconstitutional in that it punishes the crime of possession of marijuana in a correctional facility more severely than possession of alcohol, since the statute is not inconsistent with the respective legal treatment of alcohol and marijuana for the general population. *Cleland v. State*, 759 P.2d 553 (Alaska Ct. App. 1988).

The term “controlled substance” in this sec-

tion includes marijuana. *State v. Resek*, 706 P.2d 706 (Alaska Ct. App. 1985).

Because neither this section nor AS 11.56.380, both of which outlaw the promotion of contraband, including controlled substances, in correctional facilities, defined “controlled substance,” there was reference to the general definition in the revised code for guidance; as of January 1, 1983, the revised code clearly defined controlled substances to include marijuana. *State v. Resek*, 706 P.2d 706 (Alaska Ct. App. 1985).

Cited in *Jennings v. State*, 713 P.2d 1222 (Alaska Ct. App. 1986); *Brown v. State*, 809 P.2d 421 (Alaska Ct. App. 1991).

Sec. 11.56.380. Promoting contraband in the second degree. (a) A person commits the crime of promoting contraband in the second degree if the person

- (1) introduces, takes, conveys, or attempts to introduce, take, or convey contraband into a correctional facility; or
- (2) makes, obtains, possesses, or attempts to make, obtain, or possess anything that person knows to be contraband while under official detention within a correctional facility.

(b) Promoting contraband in the second degree is a class A misdemeanor. (§ 6 ch 166 SLA 1978)

NOTES TO DECISIONS

Marijuana included. — Because neither AS 11.56.375 nor this section, both of which outlaw the promotion of contraband, including controlled substances, in correctional facilities, defined "controlled substance," there was reference to the general definition in the revised code for guidance: as of January 1, 1983, the revised code clearly defined controlled sub-

stances to include marijuana. State v. Resek, 706 P.2d 706 (Alaska Ct. App. 1985).

Quoted in Cleland v. State, 759 P.2d 553 (Alaska Ct. App. 1988).

Cited in Lefever v. State, 877 P.2d 1296 (Alaska Ct. App. 1994); Milton v. State, 879 P.2d 1031 (Alaska Ct. App. 1994).

Sec. 11.56.390. Definition. In AS 11.56.300 — 11.56.390, "contraband" means any article or thing which persons confined in a correctional facility are prohibited by law from obtaining, making, or possessing in that correctional facility. (§ 6 ch 166 SLA 1978)

Cross references. — For definition of terms used in this chapter, see AS 11.56.900; for definition of terms used in this title, see AS 11.81.900.

Article 4. Offenses Relating to Judicial and Other Proceedings.

Section	Section
510. Interference with official proceedings	590. Jury tampering
520. Receiving a bribe by a witness or juror	600. Misconduct by a juror
540. Tampering with a witness in the first degree	610. Tampering with physical evidence
545. Tampering with a witness in the second degree	620. Simulating legal process

Collateral references. — 58 Am. Jur. 2d, Obstructing Justice, §§ 1-9, 25-29.
67 C.J.S., Obstructing Justice, §§ 1-22.

Sec. 11.56.510. Interference with official proceedings. (a) A person commits the crime of interference with official proceedings if the person

(1) uses force on anyone, damages the property of anyone, or threatens anyone with intent to

- (A) improperly influence a witness or otherwise influence the testimony of a witness;
- (B) influence a juror's vote, opinion, decision, or other action as a juror;
- (C) retaliate against a witness or juror because of participation by the witness or juror in an official proceeding; or

(D) otherwise affect the outcome of an official proceeding; or

(2) confers, offers to confer, or agrees to confer a benefit

(A) upon a witness with intent to improperly influence that witness; or

(B) upon a juror with intent to influence the juror's vote, opinion, decision, or other action as a juror or otherwise affect the outcome of an official proceeding.

(b) Interference with official proceedings is a class B felony. (§ 6 ch 166 SLA 1978)

NOTES TO DECISIONS

For case construing former AS 11.30.320, prohibiting influencing witnesses, judges or jurors or obstructing administration of justice, see Williams v. United States, 265 F.2d 214 (9th Cir. 1959).

This section applies broadly to all official proceedings. State v. Jones, 750 P.2d 828 (Alaska Ct. App. 1988).

Use of parental force. — Paragraph (a)(1) does not, as a matter of law, categorically preclude a defense based on justified use of parental force under AS 11.81.430(a)(1). State v. Jones, 750 P.2d 828 (Alaska Ct. App. 1988).

Indictment charging parents with interference with official proceedings was properly dismissed, where the parents' use of force in arranging for children to fly to Arizona in order to prevent them from testifying in a child abuse case was limited to that typical of any parental or custodial relationship. State v. Jones, 750 P.2d 828 (Alaska Ct. App. 1988).

Where defendant pointed his finger angrily at his child and yelled "Remember the rule" in a menacing tone as police were removing the child from the household after a report of abuse, a reasonable juror could readily have concluded that defendant's words

were spoken as a threat from cooperating with the 820 P.2d 1088 (Alaska Ct. App. 1992).

The parental justification under AS 11.81.430(a)(1) is not available if the defendant's knowledge or belief that the defense is available to her as a lawful custodian of children is a question for the jury. State v. Jones, 750 P.2d 828 (Alaska Ct. App. 1988).

Under the parental justification under AS 11.81.430(a)(1), the defendant's actions were reasonably necessary to promote her child's welfare. In a prosecution for obstruction of justice, the question of whether the defendant's actions were necessary and appropriate, in fact reasonably necessary, is a question for the jury. Cornwall v. State, 915 P.2d 1088 (Alaska Ct. App. 1996).

Retaliation against a witness who has previously testified against the state proved defendant's actions were apparently unprovoked.

Sec. 11.56.520. I crime of receiving a bribe with intent that, or accepting a bribe, or

- (1) the person will receive a bribe;
- (2) the person's will receive a bribe;
- (b) Receiving a bribe

Sec. 11.56.540. Tampering with official proceedings. I commits the crime of tampering with official proceedings if the person

induces or attempts to induce another person to

- (1) testify falsely, or to make a false statement in an official proceeding; or
- (2) be absent from an official proceeding;

(b) Tampering with official proceedings is a class B felony. (§ 6 ch 166 SLA 1978; am § 1 ch 122

Scope of provisions. — This section applies to a witness statute, and its provisions only apply to a witness who is lawfully summoned to appear in court. State v. Jones, 750 P.2d 828 (Alaska Ct. App. 1988).

Evidence sufficient to establish tampering with official proceedings. — Evidence was sufficient to establish tampering with official proceedings where the defendant's attempt to dissuade his wife from giving testimony was sufficient to establish tampering with official proceedings.

Collateral references. — This section begins to run on chapter 11.56, and its provisions apply to a witness who is lawfully summoned to appear in court. State v. Jones, 750 P.2d 828 (Alaska Ct. App. 1988).

Admissibility in criminal proceedings. — Evidence of a witness's guilt, of evidence

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TENNESSEE LAW REVIEW

A SECOND AMENDMENT SYMPOSIUM ISSUE

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"SHALL ISSUE": THE NEW WAVE OF
CONCEALED HANDGUN PERMIT LAWS*

CLAYTON E. CRAMER** AND DAVID B. KOPEL***

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* An earlier version of this article has been published by the Independence Institute.

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Independence Institute is a nonprofit, nonpartisan free-market Colorado think tank.

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What would happen if essentially all adults who passed a background check and safety test could qualify for a permit to carry a concealed handgun? About one-third of all states have adopted laws or practices that enable persons who are legally allowed to possess a handgun in their own home to be eligible for a license to carry a concealed handgun for protection. The laws require that after passing a background check (and sometimes a firearms safety class), eligible persons must be granted the permit if they apply. If the application is rejected, the burden of proof is on the non-issuing sheriff, police chief, or judge to show that an applicant is either unqualified or a danger to public safety. Typically, about one to four percent of a state's population decides to obtain such a permit.¹

This Article examines how these laws have been written to satisfy concerns about public safety. The Article specifically investigates the concern that more permits will lead to more needless killings. After analysis of all available data, the Article concludes that concealed carry laws can be enacted by states with little fear that such laws will compromise public safety. In some cases, such laws may even enhance public safety.

1. A SHORT HISTORY OF CONCEALED HANDGUN PERMITS

In most of the United States, laws prohibiting concealed carrying of handguns without a permit are relatively recent. While some antebellum

1. See *infra* Part II.

In most of the United States, laws prohibiting concealed carrying of handguns without a permit are relatively recent. While some antebellum statutes did address concealed carrying, they did so by outlawing the practice entirely, rather than by setting up a system under which concealed carrying would be lawful only with a permit. These statutes usually had no exemptions for sheriffs or other peace officers, even when on duty.² During the 1920s and 1930s, many states adopted "A Uniform Act to Regulate the Sale and Possession of Firearms." This model law, adopted by the National Conference of Commissioners on Uniform State Laws and supported by the National Rifle Association, prohibited unlicensed concealed carry.³

Recognizing that at least some civilians would have a legitimate need for concealed carry of a handgun, most states adopted provisions allowing a sheriff, police chief, or judge to issue concealed handgun permits. Significantly, such statutes were broadly discretionary; while the law might specify certain minimum standards for obtaining a permit, the decision whether a permit should be issued was not regulated by express statutory standards.⁴

Concealed handgun permit statutes were passed in some parts of the United States as a method of prohibiting blacks from carrying arms. In the words of a Florida Supreme Court justice, "The statute was never intended to be applied to the white population and in practice has never been so applied."⁵

While the motivations behind California's concealed handgun statute are not as clearly understood, the effect has been similar to frankly racist statutes. California's legislative research body studied the issue in 1986

2. See *State v. Reid*, 1 Ala. 612 (1840). See generally CLAYTON E. CRAMER, FOR THE DEFENSE OF THEMSELVES AND THE STATE: THE ORIGINAL INTENT & JUDICIAL INTERPRETATION OF THE RIGHT TO KEEP AND BEAR ARMS 76-78 (1994).

3. See, e.g., CALIFORNIA ASSEMBLY OFFICE OF RESEARCH, SMOKING GUN: THE CASE FOR CONCEALED WEAPON PERMIT REFORM 6 (1986) [hereinafter SMOKING GUN].

4. See *infra* Part II. See also, SMOKING GUN, *supra* note 3, at 6-8. For details of the late arrival of concealed handgun statutes in the North and West, see CRAMER, *supra* note 2, at 172-78, 263-64; Don B. Kates, Jr., *Toward a History of Handgun Prohibition, in* RESTRICTING HANDGUNS: THE LIBERAL SKEPTICS SPEAK OUT 7-30 (Don B. Kates, Jr. ed. 1979).

5. *Watson v. Stone*, 4 So. 2d 700, 703 (Fla. 1941) (Buford, J., concurring specially). Commenting on the historically racist origins of the statute, Justice Buford stated:

[The] Act was passed for the purpose of disarming the negro laborers and to thereby reduce the [number of] unlawful homicides . . . and to give the white citizens in sparsely settled areas a better feeling of security. . . . [T]here has never been, within my knowledge, any effort to enforce the provisions of this statute as to white people, because it has been generally conceded to be in contravention of the Constitution and non-enforceable if contested.

Id.

males."⁶ Because so many victims of violent crime are female or non-white, discriminatory granting of carry permits is especially hard to justify.⁷

Not every state adopted the Uniform Act. Some states had already enacted their own statutes.⁸ Vermont adopted *no* statute prohibiting concealed carry of handguns, at least partly because of the Vermont Supreme Court's expansive reading of the Vermont Constitution's protections in *State v. Rosenthal*.⁹ Even today, Vermont has no laws prohibiting or regulating concealed carry except "with the intent or avowed purpose of injuring a fellow man . . ."¹⁰

A. Modern Discretionary Permits

In many jurisdictions which continue to retain unlimited administrative discretion, abuse of discretion is common. Conversely, persons granted permits are often politically influential, rather than the people really in need of carrying firearms.¹¹

Denver Police Chief Ari Zavaras slashed the number of carry permits, granting only forty-five permits in a city of one-half million people.¹² Detective William Phillips, the administrator of Zavaras' permit program, explained that only applicants with a "true and compelling need" could be granted permits. "Just because you fear for your life is not a compelling reason to have a permit," he elaborated.¹³ After Chief Zavaras retired, he admitted that he carries a handgun almost constantly. "Now, when wandering around Denver, I very rarely go without one."¹⁴

Denver talk-show host Alan Berg was Jewish, passionate, highly provocative, and fond of insulting people with whom he disagreed. When Berg began receiving death threats from white supremacists, he went to a local police department to apply for a handgun carry permit. The police

6. SMOKING GUN, *supra* note 3, at 2.

7. According to the FBI, 49.6% of murder victims in 1991 were black. FEDERAL BUREAU OF INVESTIGATION, UNIFORM CRIME REPORTS FOR THE UNITED STATES 1991 16 tbl. 2.4 (1992).

8. At least one state, California, replaced an existing statute with the Uniform Act. See STATUTES OF CALIFORNIA AND AMENDMENTS TO THE CODES PASSED AT THE FORTY-SECOND SESSION OF THE LEGISLATURE 221 (1917) (comparing the 1917 California concealed handgun statute and the Uniform Act adopted by California in 1923).

9. 55 A. 610, 611 (Vt. 1903).

10. VT. STAT. ANN. tit. 13, § 4003 (1974). The statute also prohibits the non-authorized carrying of a "dangerous or deadly weapon" within the confines and grounds of state institutions. *Id.*

11. See *infra* Part II.

12. Steve Gamass, *Cops Get Tougher on Gun Permits*, DENVER POST, Apr. 24, 1988, at A1.

13. *Id.*

14. *Id.*

chief attempted to dissuade Berg and finally rejected his application. Shortly thereafter, Berg was assassinated by members of the Aryan Nation.¹⁵ No one will ever know whether, had Berg been armed, he might have frightened off his murderers. What is known is that Berg was unarmed and was speedily killed.

From 1984 to 1992, in the City of Los Angeles police administration refused to issue any permits. In a city of over three million people, not one person was found needful of a handgun permit. The Los Angeles policy changed, however, on June 28, 1992. The new police chief, Willie Williams, twice failed practice versions of the POST (Police Officer Standards and Training) test. As a result, although he could retain the appointive position of police chief, Mr. Williams could not legally qualify to be a police officer in Los Angeles. Nonetheless, Mr. Williams was issued a concealed carry permit, the first civilian since 1984 to be so honored. The City of Los Angeles was subsequently sued for its discriminatory handling of permits; the City settled before trial, promising to issue licenses on the basis of need.¹⁶

Despite the City's agreement to the settlement, only five permits were issued in the ensuing nine months. Three permits went to government employees, and two went to private attorneys. On the basis of the absence of a "compelling" need, a permit was denied to a jeweler who 1) routinely carried large amounts of jewelry and valuables, 2) had been burgled, 3) had received police-documented death threats from a criminal he had helped to apprehend, and 4) had passed a defensive handgun class.¹⁷

Licensing in the rest of California is similarly haphazard and local officials enforce their own criteria in determining who is *qualified* to exercise the *privilege* of self-defense with a firearm.¹⁸ For example, in addition to other requirements, the police department of Escalon, California requires applicants to pass a written exam with questions such as the following:

The shock of firing may on occasion place an unusual stress on the gun resulting in damage or a need for adjustments. Which of the following parts are likely to require attention after firing:

15. STEPHEN SINGULAR, TALKED TO DEATH 142 (1987). The police department in question was in Englewood, a suburb of Denver.

16. Patrick McGreevy, *Permit Rules on Concealed Guns Eased*, DAILY NEWS (Los Angeles), June 30, 1993, at 1.

17. John Hurst, *LAPD's Tight Control on Gun Permits May Prompt New Lawsuit*, L.A. TIMES, June 25, 1994, at A30, A31.

18. In Los Angeles County, a female private detective was disqualified from obtaining a permit because of her gender. Paul H. Blackman, *Carrying Handguns for Personal Protection: Issues of Research and Public Policy* 9 (paper presented at annual meeting of the American Society of Criminology, San Diego, Nov. 13-16, 1985).

- the screws of the face plate
- the ejector rod if revolver
- the firing pin
- all of the above.¹⁹

Such questions are equivalent to conditioning the issuance of a driver's license on passing a test for becoming an auto mechanic.

In New York City, carry permits are arguably awarded on the basis of political and social influence. Permits have been awarded to the following individuals:

- Laurence Rockefeller (a gun control advocate whose justification for the permit was "carry large sums of money")
- Gun prohibition advocate and *New York Times* publisher Arthur Ochs "Punch" Sulzberger (justification: "carry large sums of money, securities, etc.")
- Brady Bill advocate William F. Buckley (whose first application cited his need for "protection of personal property while traveling in and about the city")
- The husband of Dr. Joyce Brothers (Dr. Brothers has written that gun ownership is a sign of sexual dysfunction in males.)²⁰
- Celebrities including Bill Cosby, Howard Stern, and publisher Michael Korda.²¹

Other licensees include an aide to a city councilman widely regarded as corrupt, several major slumlords, a Teamsters Union boss who was a defendant in a major racketeering suit, and a restaurateur identified with organized crime and alleged to control important segments of the hauling industry.²²

Conversely, permits are generally not awarded to persons in genuine need of carrying firearms. For example, crime victims are denied permits even though they are cooperating with the police, will testify against a criminal, and are receiving death threats from the criminal. Such persons will not even have their permit applications for home handgun possession processed within the required six months. And while being a publisher of a respectable publication such as the *New York Times* or *National Review*

is apparently sufficient in itself for a carry permit, being the recipient of death threats such as "kill the white creep," "you will be shot," and "This is no joke. We are going to kill Al Goldstein," is not a sufficient basis. Mr. Goldstein, while the recipient of death threats considered serious by the police, is also the publisher of the highly unrespectable *Screw* magazine.²³

Class discrimination pervades the permit application and approval process. New York City taxi drivers, although greatly at risk of robbery, are denied gun permits because they carry less than \$2000 in cash. Many taxi drivers carry weapons anyway. As the courts have ruled, ordinary citizens and storeowners in the city may not receive carry permits because they have no greater need for protection than anyone else in the city.²⁴

Not surprisingly, given the problems inherent with a discretionary permit system, many people have begun calling for—and many legislatures have enacted—laws to regularize the carry permit application process.²⁵

B. The New Breed Of Concealed Handgun Permit Laws

Since 1987, states have increasingly adopted a new breed of concealed handgun permit laws that make easier the process for many adults to get a permit to carry a concealed handgun. While most residents of these states

23. Lehman, *supra* note 21, at 1.

24. *Siatky v. Murphy*, N.Y.L.J., Oct. 14, 1971, at 2.

Class discrimination is not limited to New York City. A federal district court in California recently upheld Los Angeles County's policy of issuing handgun carry permits almost entirely to retired police officers and to celebrities. The court found the county's policy rational "because famous persons and public figures are often subjected to threats of bodily harm." *Hickman v. County of Los Angeles*, No. CV 91-5594-RMT(Bx) (C.D. Cal. Apr. 21, 1994) (Takasugi, J.). The court's point is obviously correct; but the fact that famous persons who are subjected to threats of bodily harm are legitimately issued permits does not prove that nonfamous persons who are also subjected to equally serious threats of bodily harm can rationally be denied permits. Similarly, the court upheld the policy of issuing permits to ex-police officers because they are "particularly well-trained in the use of weapons." *Id.* The fact that ex-police may be particularly well-trained does not provide a justification for denying a permit to an applicant who can prove that he or she is as well-trained (or even better-trained) than a former police officer. The case against Los Angeles County is distinct from the case against the City of Los Angeles, discussed *supra* text accompanying notes 16-17.

25. Courts have sometimes stepped in to deal with egregious licensing abuses. For example, the Supreme Judicial Court of Maine held that the word "may" in a licensing statute means that a police department "must" issue permits to qualified applicants. *Schwanda v. Bonney*, 418 A.2d 163, 167 (Me. 1980). As the discussion on the pages above illustrates, however, the judiciary has been unable or unwilling to stop the rampant abuse of discretion in many jurisdictions; legislative reform remains the surest, most effective remedy for licensing abuse.

19. NRA Institute for Legislative Action, Report, Mar. 23, 1994 (Sacramento, Cal.) (on file with authors).

20. *Permit 29,000 to Pack Guns*, DAILY NEWS (New York), June 22, 1981, at 1; Carol R. Silver & Don B. Kates, Jr., *Self-Defense, Handgun Ownership, and the Independence of Women in a Violent, Sexist Society*, in RESTRICTING HANDGUNS, *supra* note 4, at 153. See also Susan Hall, *Nice People Who Carry Guns*, NEW YORK, Dec. 12, 1977, at 38.

21. Susan Lehman, *If Punch Sulzberger's Packing Heat, Screw Mogul Funes, Why Not Me?* N.Y. OBSERVER, Dec. 21, 1992, at 1; Colum Lynch, *Elite in NYC are Packing Heat*, BOSTON GLOBE, Jan. 8, 1993, at 21.

22. William Bastone, *Born to Gun: 65 Big Shots With Licenses to Carry*, VILLAGE VOICE, Sept. 29, 1987, at 11, 12.

are unlikely ever to apply for a concealed weapon permit, the process is a matter of choice.²⁶

These more permissive, nondiscretionary laws invite certain questions. How many permits have been issued? What happened to the murder rate when these laws took effect? How many serious problems developed because of the laws? The state-by-state analysis below in subpart I. C. will examine (1) the peculiarities of each state's non-discretionary concealed handgun permit law and (2) what happened to murder rates before and after these laws took effect.

C. Methodology for Judging Effects of the Laws

Proponents of carry reform have hoped that such laws would reduce crime of all types, including homicide. Reform advocates suggest that crime will fall not only because lawfully armed citizens will use guns to thwart criminal attack, but also because the general deterrent effect of citizens carrying guns will cause some criminals to desist from confrontational crime.

The expectation of carry advocates is consistent with research performed for the National Institute of Justice. When professors James D. Wright and Peter H. Rossi interviewed and polled felony prisoners in ten state correctional systems, fifty-six percent of the prisoners said that a criminal would not attack a potential victim who was known to be armed. Thirty-nine percent of the felons had personally decided not to commit a crime because they thought the victim might have a gun; and eight percent said that this experience had occurred "many times." Criminals in states with higher civilian gun ownership rates worried the most about armed victims.²⁷

Nonetheless, opponents of carry reform have argued that reform will lead to tragic increases in homicide. While there is a need for further research to examine what, if any, effect the carry reform laws have had on crimes such as rape and robbery, the examination of murder rates is a reasonable starting point for carry reform analysis. In particular, studying the murder rates allows an evaluation of the "worst case" scenario offered by carry opponents: that carry reform will lead to increased homicide.

Simply to compare the murder rates of each reform state after the new laws took effect to that of the national average is not an appropriate comparison. Many of the states that adopted non-discretionary permit laws have always been low murder rate states. Therefore, any comparison that fails to see how much murder rates *changed* because of these laws will give an artificially rosy analysis of the effects of carry reform.

26. See *supra*, Part II.

27. JAMES D. WRIGHT & PETER H. ROSSI, ARMED AND CONSIDERED DANGEROUS: A SURVEY OF FELONS AND THEIR FIREARMS 149-51 (1986).

An examination of simply whether the murder rates declined after the new laws took effect would also be inappropriate because many of the new laws took effect between 1986 and 1990, when the murder rates for the entire country were on the rise. Thus, to necessarily attach significance to a rising murder rate in a reform state when most other states were also experiencing a rise would be misleading.

A more meaningful measurement is *murder rate percentage*: What is the relationship between the murder rate for a particular state and the murder rate for the rest of the United States? As an example, if Florida's murder rate for 1975 was 13.5 per 100,000 people per year, and the murder rate for the rest of the United States was 9.3 per 100,000 people per year, then Florida's murder rate percentage for 1975 was 145%. In other words, for every 100 murders per 100,000 people in the rest of the United States, there were 145 murders per 100,000 people in Florida. Because the murder rates for many states rise and fall roughly in parallel with the rest of the United States, the *murder rate percentage* can be a meaningful measure of how a particular state's policies influence the murder rate.

Recognizing that some readers will regard with suspicion such a synthetic measure (Disraeli's epigram—"lies, damn lies, and statistics"—comes to mind), we supply graphs for the murder rate of each state and the rest of the United States for the years examined.

This study also examines the years in which these laws were passed. The logic behind such an examination is two-fold. First, in some cases the law took effect part-way through the year, as it did in Florida. Second, the deterrent effect of such laws may be related to public discussion of these new laws. Thus, some benefit may be witnessed even before a particular reform law takes effect, as it increases the criminal's fear that the next victim may be armed.

II. STATE-BY-STATE ANALYSIS

A. Washington

The state of Washington adopted the Uniform Pistol & Revolver Act in 1935. In 1961, the state departed from the discretionary permit system, and required that if the applicant for a concealed weapon permit was allowed to possess a handgun under Washington law, the permit had to be issued.²⁸ At first glance, Washington's new policy appears quite remarkable. However, a little reflection on the nature of concealed weapons suggests the state's decision reflected a realistic understanding of handgun ownership.

The only circumstances under which a concealed handgun is likely to come to the attention of the police are that either the weapon was drawn, or that the person carrying it was searched by the police for some other,

28. WASH. REV. CODE ANN. § 9A1.070(1) (West 1988 & Supp. 1994).

presumably criminal reason. If a person is allowed to possess a concealable firearm within the home, practically speaking, that person cannot be prevented from carrying the weapon concealed outside the home. As a New York court upholding New York State's handgun licensing law (the Sullivan Act) observed, "If he has it in his possession, he can readily stick it in his pocket when he goes abroad."²⁹ If large numbers of handgun owners choose to ignore a concealed weapon law, the state has only three ways of responding: repeal the law, restrict handgun ownership at home, or make concealed weapon permits available to nearly anyone who is allowed to own a handgun. Washington State decided to make permits easy to get, thus keeping handgun ownership safe and legal.

Washington's statute is astonishingly forceful:

The judge of a court of record, the chief of police of a municipality, or the sheriff of a county, shall within thirty days after the filing of an application of any person issue a license to such person to carry a pistol concealed on his or her person within this state for four years from date of issue, for the purposes of protection or while engaged in business, sport, or while traveling.³⁰

The statute goes on to list conditions that would cause "[s]uch applicant's constitutional right to bear arms" to be denied. Among others, these conditions include the applicant's being (1) under twenty-one years old, (2) subject to a court order or injunction regarding firearms, (3) out on bail pending trial or appeal, (4) awaiting sentencing for a crime of violence, or (5) subject to an outstanding arrest warrant for a misdemeanor or felony.³¹

The same statute also includes provisions for filing a civil suit against any agency that wrongfully refuses to issue a license or modifies the requirements of the law.³² Notably, the statute allows non-residents to obtain such permits, although the state has up to sixty days to perform a background check on non-residents and on residents who have moved into Washington within the previous ninety days.³³

In 1983, Washington made two important changes. First, the licenses would be valid for a four-year term, increased from two years. Second, license applicants who were improperly denied and who successfully sued an issuing agency for wrongful denial would be automatically awarded attorneys fees.³⁴

As of 1993 there were 241,606 licenses outstanding in Washington.³⁵ Given Washington's population of approximately five million, about four percent of the state population have carry permits.³⁶

The effects of the law in Washington State were subtle. As graphs (1) and (2) below show, after the passage of the nondiscretionary issuance law, murder rates rose and fell largely in line with the national rate. In the two years before the new law took effect, Washington's murder rate was somewhat less than half of the rate for the rest of the United States.³⁷ From 1961 through 1982, the Washington murder percentage rates stayed between forty-four and sixty percent of the rate for the United States. While U.S. murder rates dropped in the early 1980s, the Washington murder rate percentage continued to rise, reaching a peak of sixty-eight percent of the U.S. rate in 1988, before dropping back to more normal levels in 1980-82. The increased rates were most likely not the result of all those Washingtonians carrying concealed handguns. In fact, the murder rate percentage was rising before the new law took effect. In addition, at least part of the increase can be attributed to the actions of one individual, the Green River Killer, who murdered at least forty-eight Washington women during the years 1982-84.³⁸ Another infamous killer, Ted Bundy, murdered at least ten women in Washington State in 1974 before moving on to other states.³⁹ These aberrations must not be allowed to explain too much. The Green River Killer's activities stopped in 1984 for no known reason. Meanwhile, the murder rate percentages in Washington remained unusually high until 1989, when they suddenly plunged to levels typical of the period before 1982.

35. Bill MacKenzie, *Packin' the Heat*, OREGONIAN (Portland), Nov. 4, 1993, at A1.

36. Washington, like Florida and some other states, issues concealed carry permits to non-residents, who can use the permit when traveling in Washington. Presumably, the number of nonresident permit holders is not so large as to significantly change the estimated percentage of the Washington population having a carry permit.

37. Unfortunately, the Uniform Crime Reports program only began to produce reasonably complete statewide murder statistics in 1959.

38. Andrea Sachs & Joni H. Blackman, *Stalking the Green River Killer*, TIME, July 31, 1989, at 57. Many of the Green River Killer's victims may not have been identified as his victims.

39. See generally STEPHEN G. MICHAUD & HUGH AYNESWORTH, *THE ONLY LIVING WITNESS* (1983). While Ted Bundy's bloody path of murders perpetrated with clubs and bare hands also led through Utah and Florida, the effects on murder rates in those states were less dramatic. In Utah, he did not kill as many people; in Florida, the murders were diluted in Florida's much larger population. *Id.*

Although Bundy did not use firearms in his crimes and his victims were apparently unarmed, citizen gun ownership did come into play at least once in Bundy's career. In June 1977, the Aspen, Colorado sheriff called out the *posse comitatus* (ordinary citizens with their own guns) to hunt for Bundy after he escaped from jail. *Id.*

29. *People ex rel. Darling v. Warden of City Prison*, 139 N.Y.S. 277, 285 (N.Y. App. Div. 1913).

30. WASH. REV. CODE ANN. § 9.41.070 (West 1988 & Supp. 1994).

31. *Id.*

32. *Id.* § 9.41.070(11).

33. *Id.* § 9.41.070(1).

34. *Id.* § 9.41.070(11).

The state of Washington remained an aberration for many years with its nondiscretionary permit process. Permits were relatively easy to get in many other states, and some courts were prepared to hold that a concealed weapon permit was, in some sense, a right guaranteed by state constitution.⁴⁰ Nonetheless, the language of many state statutes still allowed state officials substantial discretion to deny a permit.⁴¹ This practice started to change in 1987, when the new wave of nondiscretionary concealed handgun permit laws began to appear.

B. Florida

Florida's 1987 reform law set off the modern wave of carry reform that has now been copied in many other states.⁴² Among all the states, Florida has collected the most detailed information about the impact of the carry laws. Florida also provides a good test case for the possible negative impacts of carry reform.

A state such as Vermont, which has never required a license for open or concealed carry, might be expected to suffer few consequences from widespread handgun carrying; Vermont already has a low crime rate, is relatively homogeneous, and is mostly rural. Florida, however, has all the ingredients for concealed carry disaster: a high-crime state with heavy urbanization, a massively overcrowded prison system, and an extremely diverse (and often tense) ethnic population mix. Reform-related problems might be expected to be especially severe in Dade County (Miami), where crime and racial tensions are particularly high.

In 1987, Florida adopted a nondiscretionary concealed weapon permit law guaranteeing issuance of a concealed weapon permit to any Floridian who is (1) at least twenty-one years old, (2) "Does not suffer from a physical infirmity which prevents the safe handling of a weapon or firearm", (3) has not been convicted of a felony, (4) has not been convicted of a drug charge within the preceding three years, (5) has not been confined for alcohol problems within the preceding three years, (6) has completed any of a number of firearms safety classes, and (7) has not been committed to a

40. *Schubert v. DeBard*, 398 N.E.2d 1339, 1341 (Ind. Ct. App. 1980).

41. Mr. Cramer has been repeatedly told by New Hampshire gun owners that concealed handgun permit issuance is non-discretionary in the Granite State. However, while New Hampshire authorities may issue permits readily, there is nothing in the statutes that requires them to do so. *Conway v. King*, 718 F. Supp. 1059, 1060 n.1, 1061 (D.N.H. 1989).

A number of Connecticut residents are also under the same impression. While Connecticut's concealed weapon permit law does provide an appeal process that appears to be weighted in favor of law-abiding citizens who wish a permit, there is nothing explicit in the statute that requires a permit to be issued. *CONN. GEN. STAT. ANN. § 29-28* (West 1990 & Supp. 1994).

42. See *infra* subparts II. C. to O.

mental hospital within the preceding five years. A 1993 revision allows American citizens who are not Florida residents to obtain a permit that can be used when visiting Florida.⁴³

The Florida reform law essentially ended the power of local law enforcement to deny carry permits for arbitrary reasons. Under the old system, for example, a doctor who performed abortions and whose clinic had been bombed was denied a permit because he was not in the professional security business.⁴⁴ The only area of discretion allowed by the Florida statute is that a license could be denied if an applicant has been convicted of any misdemeanor crime of violence, or is on probation for such a crime, within the preceding three years.⁴⁵ Judges are required to take the firearms safety class, but are otherwise exempt from the remaining requirements.⁴⁶

The tenor of the national media coverage of the Florida reform was echoed internationally by the British newsweekly, *The Economist*. The magazine asserted that after taking a few hours of training, "Anyone who wants to carry a pistol may now do so."⁴⁷ According to *The Economist*, the provisions about minimum age requirements, drug abuse, and misdemeanor convictions apparently excluded no one.

How many permits were actually issued? From October 1, 1987, when the new law went into effect, to April 30, 1994, there were 233,870 applications received. A total of 1019 applications were denied (585 for criminal history, 434 for incomplete application). A total of 221,443 licenses were issued, of which 124,405 were valid as of April 30, 1994. Many licensees did not renew; several thousand applications were either in process, denied and under appeal, suspended, or withdrawn by the applicant.⁴⁸

A total of 362 licenses have been revoked. The revocations were for: clemency rule change or legislative change (66), illegible prints (10), crime prior to licensure (78, of which 4 involved a firearm), crime after licensure (193, of which 18 involved a firearm), and "other" (15). Thus, of the 221,443 licensees, approximately 1 in 10,000 (1/100th of 1%) had a license revoked for a crime involving a firearm.⁴⁹

Dade County has compiled even more detailed data. The number of permits increased dramatically from 1200 in September 1987 to 21,092 in

43. *FLA. STAT. ANN. § 790.06(2)(b) to (j)* (West 1992 & Supp. 1994).

44. Blackman, *supra* note 18, at 8-9.

45. *FLA. STAT. ANN. § 790.06(3)* (West 1992 & Supp. 1994).

46. *Id.* § 790.061.

47. *Come Armed*, *THE ECONOMIST*, Oct. 10, 1987, at 31. The article does preface its conclusion by saying, "It is now legal for anyone except convicted felons, certified psychotics and twice-convicted drunks to carry handguns." *Id.*

48. *FLORIDA DEPT OF STATE, Concealed Weapons/Firearms License Statistical Report for Period 10/01/87 - 04/30/94* 1 (1994).

49. *Id.*

August 1992. The Dade police kept records of all arrest and non-arrest incidents involving permit-holders in Dade County.⁵⁰

The following incidents of criminal misuse of a firearm leading to a conviction and a license revocation were reported: two cases of aggravated assault involving a firearm (one of which involved the gun being fired), one case of armed trespass of cultivated land, and one case of a motorist shooting at another car. In addition to the above firearms crimes, one permit-holder accidentally attempted to enter the secured area at Miami International Airport carrying a firearm in her purse, and another individual accidentally shot himself in the leg.⁵¹

The Dade police recorded the following incidents involving the defensive use of licensed carry firearms: two robbery cases in which the permit-holder produced a firearm and the robbers fled, two cases involving permit-holders who unsuccessfully attempted to stop and apprehend robbers (no one was hurt), one robbery victim whose gun was taken away by the robber, a victim who shot an attacking pit bull; two captures of burglars, three scaring off of burglars,⁵² one thwarted rape, and a bail bondsman firing two shots at a fleeing bond-jumper who was wanted for armed robbery.⁵³

The combined Florida/Dade reports thus show the following:

- A very small number of permit holders were convicted of perpetrating crimes with firearms.
- A relatively larger, but still small overall number of permit holders used their firearms to thwart or attempt to thwart crimes.
- Not a single permit-holder intervened in an incompetent or dangerous manner, as by shooting an innocent bystander by mistake.

From the enactment of the 1987 Florida carry reform until August 31, 1992, the Dade County permit incident tracking project provided the most detailed information available about actual incidents involving carry permit holders. The tracking program had been created as a result of intense fears among some police administrators about the consequences of the carry reform law. The program was abandoned in the fall of 1992 because of the

50. METRO DADE POLICE DEP'T, Aug. 31, 1992, at 1 (untitled report).

51. *Id.* at 2-7.

52. *Id.* Some of the burglaries occurred in the victim's home, a place where a concealed carry permit would not be necessary. Arguably, the greater familiarity with firearms encouraged by the carry law might have made some of the burglary victims more proficient with firearms.

53. A sample incident reported, "Victim thwarted a robbery. While at an intersection the subject approached her vehicle, produced a knife and demanded her money. The victim raised a .32 caliber handgun and stated, 'Let's see which is fastest, the bullet or the knife,' at which time the subject fled on foot." *Id.* at 6.

rarity of incidents involving carry permit holders and the subsequently diminished concern on the part of law enforcement administrators.

The very fact that negative incidents involving permit holders were so rare as to not be worth counting is evidence of the lack of negative effects of carry reform. Representative Ron Silver, the leading opponent of Florida's carry reform, graciously admitted in November 1990. "There are a lot of people, including myself, who thought things would be a lot worse as far as that particular situation [carry reform] is concerned. I'm happy to say they're not."⁵⁴ John Fuller, general counsel for the Florida Sheriffs Association, stated, "I haven't seen any instance of persons with permits causing violent crimes, and I'm constantly on the lookout."⁵⁵

Based on the reports of incidents known to the police, the Florida carry reform law appears to be a net plus for public safety. This result becomes even more lopsided if one believes that the persons who committed crimes with their licensed firearms probably would have committed the same crimes even without a license. Nonetheless, the sum of known incidents does not reveal everything that would be desirable to know. Not all crimes are reported to the police. As a result, a number of crimes perpetrated or thwarted by permit holders never come to the attention of the police. Accordingly, a look at the overall trends in Florida murder rates gives an additional insight into the effects of the reform law.

Of all the states that enacted concealed carry reform, Florida shows the most dramatic change. As graphs 3 and 4 indicate, Florida's murder rate from 1975 to 1986 was between 118 and 157% of the murder rate elsewhere in the United States. After the passage of Florida's law, the state's murder rate began declining rapidly and consistently. The decline provided dramatic contrast to the increase in murder rates experienced in the rest of the United States. By 1991, Floridians were less likely to be murdered than people elsewhere in America.

Greater safety for Florida residents and American tourists may be a factor behind the recent and sensationalized criminal attacks on foreign tourists. These tourists stood out because of the distinctive rental car license plates that Florida issued until only recently. The head of the Florida Department of Law Enforcement suggests that unlike Florida residents or

54. Michael Warren, *Concealed Weapons Owners No Trouble*, GAINESVILLE SUN, Nov. 4, 1990, at 1A, 12A.

55. *Police Say Concealed Weapons Law Has Not Brought Rise in Violence*, PALM BEACH POST, July 26, 1988, at 7 (views of executive director of Florida Chiefs of Police and an official with the Florida Sheriffs' Association). See also *Concealed Weapon Law Opponents Still Searching for Ammunition*, FLORIDA TIMES-UNION, May 9, 1988, at A1 (Florida Chiefs of Police efforts to document problems in every police department in the state results in finding none).

American tourists, foreign tourists were targeted because they would certainly be unarmed.⁵⁶

C. Virginia⁵⁷

Virginia's concealed weapon statute was modified in 1988.⁵⁸ The changes were not quite as explicit as the Washington or Florida statutes. Nevertheless, the statute's intent remains clear:

The court, after consulting the law-enforcement authorities of the county or city and receiving a report from the Central Criminal Records Exchange, shall issue such permit if the applicant is of good character, has demonstrated a need to carry such concealed weapon, which need may include but is not limited to lawful defense and security, is physically and mentally competent to carry such weapon and is not prohibited by law from receiving, possessing, or transporting such weapon.⁵⁹

Because some judges continually refused to renew permits, the law was amended in 1992 to require judges to renew permits "unless there is good cause shown for refusing to reissue a permit."⁶⁰

Virginia has no centralized data base of concealed weapon permits. One must contact each of the 123 circuit courts in Virginia in order to determine how many permits are currently issued.⁶¹

As indicated in graphs 5 and 6, Virginia witnessed a dramatic decline in murder rate percentages during the first year following reform. This decline was short lived as the murder rate percentages returned to levels typical of the period before the law. However, one explanation of this return may be the fact that Virginia borders Washington, D.C. As a result, some of the increase in rates may represent spillover of rapidly increasing crime from the District of Columbia, where handgun possession is almost

56. Doyle Jordan, head of the Florida Department of Law Enforcement, observed, "The bad guys are not stupid. They understand that a tourist from Germany is far less likely to come back here and testify against them in court, and they know that these people carry large amounts of cash, don't have weapons and are generally not that well aware of where they're going." Larry Rohter, *Miami Unnerved by a Tourist's Killing*, N.Y. TIMES, Sept. 12, 1993, at 26.

57. The story of the remaining states is essentially the same as Washington and Florida. In general, the adoption of concealed carry reform did not lead to a noticeable increase in the homicide rate. In a few cases, the homicide rate dropped, but the drop cannot be necessarily tied to the new law. Readers in a hurry may wish to proceed directly to the "analysis" section. See *infra* subpart II.O.

58. VA. CODE ANN. § 18.2-203(D) (1988 & Supp. 1994).

59. *Id.*

60. Unlike the other nondiscretionary permit laws, Virginia's statute does not specify a maximum time limit in which an application must be processed. *Id.*

61. Letter from John B. Russell, Jr., Office of the Attorney General, Commonwealth of Virginia, to author Cramer, Oct. 14, 1992.

entirely outlawed.⁶² Moreover, the Virginia Legislature has revised its statutes several times to make it clear that judges really are supposed to issue permits.⁶³ The need for repeated revision suggests that while the law required issuance of permits, many judges effectively nullified it by using unauthorized discretion.

While the law is currently applied as written in most of Virginia, in the two counties of Virginia closest to Washington, D.C., carry permit applicants must often spend thousands of dollars in legal fees to force courts to issue permits according to legislative command.⁶⁴ Thus, where permits are arguably the most needed, they are the least available.

D. Georgia

Georgia's concealed weapon permit law was somewhat ambiguous prior to 1989. One part of the concealed weapon statute states, "The judge of the probate court of each county may . . . issue a license . . ."⁶⁵ In contrast, a later portion specifies:

Not later than 60 days after the date of the application the judge of the probate court shall issue the applicant a license to carry any pistol or revolver if no facts establishing ineligibility have been reported and if the judge determines the applicant has met all the qualifications, is of good moral character, and has complied with all the requirements contained in this code section.⁶⁶

Other portions of the statute specify that licenses shall not be issued to anyone under twenty-one,⁶⁷ a fugitive from justice, or anyone awaiting court proceedings for a felony or "forcible misdemeanor."⁶⁸ Also disqualified is anyone placed under supervision by a court within the last ten years for a "forcible felony," or the last five years for a "forcible misdemeanor or a nonforcible felony,"⁶⁹ or hospitalized for alcohol or drug treatment in the

62. Handguns registered in Washington, D.C. before 1976 may lawfully be possessed under a "grandfathering" clause. However, carry permits are impossible for ordinary citizens to obtain, and even guns kept at home must be locked up, greatly reducing their defensive utility.

63. See *supra* notes 59-60 and accompanying text.

64. There are approximately 10,000 carry permits in Virginia, but in Fairfax County (next to Washington, D.C.), only three permits were issued during 1990-91. Carlos Santos, *10,000 in State Legally Carry Concealed Guns*, RICHMOND TIMES-DISPATCH, Oct. 3, 1993, at A1. Prince William County, also in northern Virginia, issued only seven permits during 1990-91. *Tidewater Dominates List for Gun Permits*, AP, Sept. 30, 1993.

65. GA. CODE ANN. § 16-11-129(a) (1992 & Supp. 1994) (emphasis added).

66. *Id.* § 16-11-129(d) (emphasis added).

67. *Id.* § 16-11-129(b)(1).

68. *Id.* § 16-11-129(b)(2).

69. *Id.* § 16-11-129(b)(3).

last five years.⁷⁰ Anyone convicted of any sort of manufacturing, distribution, or possession of a controlled substance is likewise ineligible for a license.⁷¹

Whether or not the issuance of a permit was discretionary remained a question. The use of "may" in one place suggested issuance was discretionary. Yet the language "shall issue" suggested nondiscretionary issuance. The Georgia Attorney General resolved the question in 1989 by issuing an opinion holding that a judge "has no discretion to exercise, but must issue the permit unless provided with information indicating the disqualification of applicant."⁷²

The effect of the 1989 reinterpretation of the Georgia concealed weapon permit law was inconclusive. About 11,000 people in the Atlanta area now have permits.⁷³ As indicated in graphs 7 and 8, the Georgia murder rate fell 16% during 1989-92, while the rest of the United States experienced a 1.6% increase in murder rates. This contrast might indicate that the new interpretation of the law acted in a positive way to reduce the murder rate, relative to what the rate might otherwise have been.

One must not draw this conclusion too hastily, because examination of Georgia murder rates for the years 1975-88 shows a rather dramatic and otherwise unpredictable variation in the relationship between Georgia and U.S. murder rates. Examination after a few more years may provide an opportunity to evaluate more clearly the effectiveness of the change in the Georgia law. The most cautious conclusion to be drawn is that the change at least did no harm. More optimistically, the change may have reduced murder rates.

E. Pennsylvania

Pennsylvania took action in 1989. While not as explicit as Florida's law, or as forcefully worded as Washington's, the Pennsylvania reform put some teeth into the Pennsylvania Constitution's "right to keep and bear arms" provision. The requirements include that the applicant be twenty-one or over; have no drug convictions, no convictions for crimes of violence, no prior mental hospital commitments; not be addicted to "marijuana or a stimulant, depressant or narcotic drug"; not be "a habitual drunkard," convicted of a felony, or awaiting trial for a felony; an illegal alien; and not

70. *Id.* § 16-11-129(b)(4).

71. *Id.* § 16-11-129(b)(5)(A). The maximum fee for processing is set at \$30. *Id.* § 16-11-129(c)(2).

72. Op. Att'y Gen. NO. U89-21 (Aug. 25, 1989); GA. CODE ANN. § 16-11-129 Compiler's notes.

73. As of December 1993, the permit figures for four major counties were: Cobb 2920; DeKalb 3350; Fulton 3100; and Gwinnett 2299. Mike Fish, *Atlanta Celebrities (quietly) Toting Guns*, ATLANTA JOURNAL-CONSTITUTION, Dec. 12, 1993, at A1, A14.

be dishonorably discharged from the U.S. military, or a fugitive from justice. Non-residents are eligible for a concealed weapon permit on the same basis as residents, except that the statute requires they must currently possess an equivalent permit in their home state, provided such permits exist.⁷⁴

Some discretionary authority remains, however. A sheriff can refuse a permit to "[a]n individual whose character and reputation is such that the individual would be likely to act in a manner dangerous to public safety."⁷⁵ While the emphasized phrase is not defined anywhere in the statute, the law does state:

A license to carry a firearm shall be for the purpose of carrying a firearm concealed on or about one's person or in a vehicle and shall be issued if, after an investigation not to exceed 45 days, it appears that the applicant is an individual concerning whom no good cause exists to deny the license.⁷⁶

Accordingly, the burden of proof seems to fall on the sheriff to show good cause for refusing a permit.

One unique feature of the Pennsylvania law is that in a city of "the first class"—i.e., Philadelphia⁷⁷—the chief of police retains the authority to deny a permit unless "the applicant has good reason to fear an injury to the applicant's person or property or has any other proper reason for carrying a firearm and that the applicant is a suitable individual to be licensed."⁷⁸ In practice, "suitable individual to be licensed" could mean a politician or other person with political influence. Nonetheless, permits issued elsewhere in Pennsylvania are statutorily valid in Philadelphia.⁷⁹

As of January 1992, 362,142 carry licenses were issued in the state. In other words, about three percent of Pennsylvanians had a permit.⁸⁰

The Pennsylvania results are primarily interesting because even though Philadelphia is expressly exempted from nondiscretionary issuance of permits, permits issued elsewhere in the state are good in Philadelphia. Graph 9 shows no significant difference in Pennsylvania murder rate percentages after adoption of the new permit law. The murder rate

74. PA. CONS. STAT. ANN. § 6109(e) (West 1983 & Supp. 1994).

75. *Id.* § 6109(e) (emphasis added).

76. *Id.*

77. PA. STAT. ANN. § 101 (West 1974 & Supp. 1994) defines the classes of cities based on population. Only Philadelphia currently qualifies as a city of "the first class" by having a population above one million; the next closest city, Pittsburgh, is declining in population.

78. PA. CONS. STAT. ANN. § 6109(e)(2) (West 1983 & Supp. 1994).

79. *Id.* § 6109(n).

80. As with the state of Washington, the number of non-residents issued permits is presumed not large enough to significantly change the estimated percentage of the Pennsylvania population which has obtained a permit.

percentage rose slightly during 1989-90. In 1991, the murder rate percentage declined, but then returned in 1992 to near the 1989-90 level.

As graph 10 indicates, however, when we plot the murder rates for Philadelphia by itself or for the rest of the state (excluding Philadelphia), the results are puzzling. Philadelphia experienced a small rise in murder rates in 1990, followed by declines during 1991-92 to below the 1989 level. In contrast, the murder rates for the rest of the state declined slightly in 1989, increased slightly in 1990-91 and leveled off in 1992. This result roughly paralleled what happened to murder rates in the rest of the United States. Because murder rates in most of the rest of Pennsylvania are very low, and the need to carry a concealed weapon may therefore be rare, the concealed weapon permit law may not have made much practical difference in those areas.

Nonetheless, the 1991-92 decline in Philadelphia, if it continues, may suggest some benefit from the increased number of permits being issued elsewhere in the state. Does the knowledge that people walking the streets of Philadelphia might be from other Pennsylvania cities, where permits are readily issued, act as some sort of restraint on Philadelphia criminals? Has there been a dramatic increase in the number of Philadelphia residents who have taken up residence elsewhere (at least from a legal standpoint) in order to obtain permits? Or, is this decline just another random variation? Only time will tell. At a minimum, the easy availability of permits does not seem to have made Pennsylvania a more dangerous state.

F. Oregon

In 1989, Oregon adopted its nondiscretionary policy for issuance of handgun permits. The requirements are similar, though not identical to those already discussed. The applicant must (1) be over twenty-one, (2) have a principal residence in the county where the application is made, (3) have no outstanding arrest warrants, (4) be "not free on any form of pretrial release," (5) have demonstrated competence through any of a number of firearm safety classes, (6) have no felony convictions, (7) have no misdemeanor convictions or mental hospital commitments in the preceding four years, and (8) not be prohibited by a court from owning a firearm for mental illness.⁸¹

The Oregon statute contains an escape clause similar to Pennsylvania's that allows a sheriff to deny a permit:

[I]f the sheriff has reasonable grounds to believe that the applicant has been or is reasonably likely to be a danger to self or others, or to the community at large, as a result of the applicant's mental or psychological

state, as demonstrated by past pattern of behavior or participation in incidents involving unlawful violence or threats of unlawful violence.⁸²

The escape clause handles a situation such as an applicant who has a history of wandering the streets shouting threats at Martians or pink elephants, or getting into bar fights, but has so far managed to avoid criminal conviction or commitment to a mental hospital. Yet, the language is narrowly drawn so that a sheriff would need a "pattern" of behavior to refuse a permit. If the sheriff simply refused an applicant based on a single such incident, that refusal would lead to an appeal to the courts. If the applicant were to win the appeal, the sheriff would be liable for the filing fee.⁸³

A unique provision requires the Oregon State Police to determine if any other states have substantially comparable requirements for issuance of a permit. If any such comparable state laws are found, permits from that state are to be recognized as valid in Oregon.⁸⁴ To date, however, the Oregon State Police have refused to recognize any other state's concealed handgun law as substantially comparable.

As graphs 11 and 12 indicate, murder rates were already on the decline in Oregon when the new law was passed, both relative to the U.S. rate, and compared to the 1986 state peak. As a result, it would be unrealistic to give the new law all the credit for the continuing sharp decline of murder rates in 1990. In addition, while murder rate percentages in 1991 and 1992 rebounded, examination of the murder rates chart shows this is more a result of the sharp decline in the U.S. murder rate in 1992, rather than because of a dramatic increase in the Oregon murder rate. Indeed, the Oregon murder rate in 1992 was on a par with the rate in 1989 when the new law was passed—well below the rate for the three years before the new law.

In Oregon, over 37,000 citizens—about 2% of the adult population—now have a carry permit. Women are applying for permits in increasing numbers.⁸⁵ Of the 37,390 Oregonians who have been issued permits, 194 (about one-half of one percent) have had their licenses revoked; revocations have been based on offenses such as shoplifting or assault. No license holder has been convicted of a crime involving a gun. Captain F. Sherwood Stillman, coordinator of the statewide licensing program, observed, "The people who get these concealed handgun licenses are not people we should be concerned about having firearms; these are law-abiding citizens."⁸⁶

82. *Id.* § 166.293(2).

83. *Id.* § 166.274(8).

84. *Id.* § 166.292(4)(a).

85. MacKenzie, *supra* note 35, at A1. For example, in Multnomah County, police estimated that 25% of the 1993 permits would be issued to women. *Id.*

86. *Id.* at A16.

81. OR. REV. STAT. § 166.291 (1993).