

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8312 SENATE JUDICIARY

01/28/94

14:56:24.0

PERSONAL SERVICES EXPENDITURES NEW POSITION DETAIL REPORT

PAGE: 2

DEPARTMENT OF LAW

SCENARIO: 3

COMPONENT #: 6501020300 NAME: THIRD JUDICIAL DISTRICT

DRU NAME: PROSECUTION

PG#	UNAUTH PCN	JOB CLASS TITLE	T S	LOCATION NAME	R C	B U	S	R&S BUDG	MOS	SALARY	PREM PAY	BERES	PER.SERV. COSTS	G. F. AMOUNT
03/044		ATTORNEY IV	T	ANCHORAGE	A	XE	AA	24A	12	61008	0	20660	81668.60	

*** JUSTIFICATION:

SB 234

TRAVEL COSTS	7500.00	
CONTRACTUAL COSTS	13600.00	
SUPPLIES COSTS	3300.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	
TOTAL COSTS	112568.60	81668.60

*** FUNDING DETAIL:

100% GENERAL FUND RECEIPTS	81668.60	
TOTAL FUNDING	81668.60	

*** COMPONENT TOTALS:

FULL TIME NEW POSITIONS	1	TOTAL PERSONAL SERVICES	81668.60
PART TIME/SEASONAL NEW POSITIONS	0		
NON PERMANENT NEW POSITIONS	0	TOTAL COSTS INC. ASSOC COSTS	112568.60
OTHER.....	0		

NUMBER OF NEW POSITIONS IN COMPONENT: 1

FUNDING DATA: G.F. & G.F. MATCH:	81668.60
OTHER FUNDS:	0.00
TOTAL FUNDING:	81668.60

01/28/94

14:56:24.3

PERSONAL SERVICES EXPENDITURES NEW POSITION DETAIL REPORT

PAGE: 3

DEPARTMENT OF LAW

SCENARIO: 3

COMPONENT #: 6501020400 NAME: FOURTH JUDICIAL DISTRICT

BRU NAME: PROSECUTION

PCN	ORAUTH PCN	JOB CLASS TITLE	T S	LOCATION NAME	R B S C U	R&S	MOS BUDG	SALARY	PREM PAY	BENES	PER. SERV. COSTS	G. F. AMOUNT
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#010		ATTORNEY IV	F	FAIRBANKS	A XE EE 24A	12	70092	0	22353	92445.86	
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** JUSTIFICATION:
Attorney IV-Fairbanks

TRAVEL COSTS	0.00
CONTRACTUAL COSTS	0.00
SUPPLIES COSTS	0.00
EQUIPMENT COSTS	0.00
OTHER COSTS	0.00

TOTAL COSTS 92445.86 92445.86

*** FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS 92445.86

TOTAL FUNDING 92445.86

#010		ATTORNEY IV	F	FAIRBANKS	A XE EE 24A	12	70092	0	22353	92445.86	
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** JUSTIFICATION:

SB 234

TRAVEL COSTS	7500.00
CONTRACTUAL COSTS	8000.00
SUPPLIES COSTS	3300.00
EQUIPMENT COSTS	6500.00
OTHER COSTS	0.00

TOTAL COSTS 117745.86 92445.86

*** FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS 92445.86

TOTAL FUNDING 92445.86

** COMPONENT TOTALS:

FULL TIME NEW POSITIONS	2
PART TIME/SEASONAL NEW POSITIONS	0
NON PERMANENT NEW POSITIONS	0
OTHER	0

TOTAL PERSONAL SERVICES 184891.72

TOTAL COSTS INC. ASSOC COSTS 210191.72

NUMBER OF NEW POSITIONS IN COMPONENT: 2

FUNDING DATA: G.F.	184891.72
G.F. MATCH:	0.00
OTHER FUNDS:	

TOTAL FUNDING: 184891.72

01/28/94

14:56:24.9

PERSONAL SERVICES EXPENDITURES NEW POSITION DETAIL REPORT

PAGE: 11

DEPARTMENT OF LAW

SCENARIO: 3

COMPONENT #: 6501020600 NAME: CRIMINAL APPEALS & SPECIAL PROSECUTIONS BRU NAME: PROSECUTION

00	UNAUTH PCN	JOB CLASS TITLE	T S	LOCATION NAME	R B S C U	R&S MOS BUDG	SALARY	PREM PAY	BENEF	PER.SERV. COSTS	G. F. AMOUNT
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007		PARALEGAL ASST II	F	ANCHORAGE	A GG 2A 16A	12	36404	0	14558	51002.32	
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* JUSTIFICATION:

Paralegal Assistant II position will be required, during the third year of the capital felony law, to assist in the preparation of appellate documentation and research. Four new appeals are expected in the third year, bringing the total to be handled to six. These cases have an average time span of ten years. Considerable amounts of time must be spent researching the cases, examining trial records, and preparing legal arguments and briefs. A substantial amount of research effort will be required. Allocation to the Paralegal Assistant II level is therefore recommended. This position will be needed in FY 1998.

TRAVEL COSTS	0.00	
CONTRACTUAL COSTS	27900.00	
SUPPLIES COSTS	4500.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	
TOTAL COSTS	89900.32	51002.32

*** FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS	51002.32
TOTAL FUNDING	51002.32

008		LEGAL SECRETARY I	F	ANCHORAGE	A GG 2A 10A	12	25140	0	11645	36785.28	
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* JUSTIFICATION:

Legal Secretary I will be required, during the third year the capital felony law is in effect, to assist in the growing number of post-conviction appellate reviews. It is anticipated that a total of six reviews will be underway at this time, and this number will increase by four reviews, each year, thereafter. Each review takes about ten years and involves numerous courts, and many court proceedings. Substantial secretarial assistance will be needed to handle this work. Allocation to the Legal Secretary-I level is therefore recommended. This position will be needed in FY 1998.

TRAVEL COSTS	0.00	
CONTRACTUAL COSTS	6000.00	
SUPPLIES COSTS	2700.00	
EQUIPMENT COSTS	8500.00	
OTHER COSTS	0.00	
TOTAL COSTS	53985.28	36785.28

*** FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS	36785.28
TOTAL FUNDING	36785.28

006		ATTORNEY IV	F	ANCHORAGE	A XE AA 24A	12	61008	0	20660	81668.60	
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* JUSTIFICATION:

S.B. 234

TRAVEL COSTS	0.00	
CONTRACTUAL COSTS	8600.00	
SUPPLIES COSTS	3300.00	
EQUIPMENT COSTS	6500.00	
OTHER COSTS	0.00	
TOTAL COSTS	100600.00	81668.60

*** FUNDING DETAIL:

1004 GENERAL FUND RECEIPTS	81668.60
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Sponsor Statement - SB 234
Page 2

Currently 30 states have enacted or are in the process of enacting similar legislation and Congress is considering the measure at the federal level.

Allowing more rapes, murders, child molestations and other violent crimes to occur once the pattern of violence becomes clear is unjustifiable.

I encourage your support for SB 234.

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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Mail Stop 3101


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

MEMORANDUM

January 21, 1994

SUBJECT: Sectional Summary - SB 234 (Work Order No. 18-LS1366A)

TO: Senator Loren Leman
Attn: Portia

FROM: Jerry Luckhaupt 
Legislative Counsel

You have requested a sectional summary of the above-described bill, please be advised that a sectional summary is not an authoritative statement of a bill and what it does - the bill is the best statement of its contents.

Section 1 of the bill amends AS 12.55.125(c) by providing a conforming change to make it clear that the presumptive sentences provided in that subsection only apply if the defendant is not subject to sentencing as a third most serious felony offender under Section 5 of the bill.

Section 2 of the bill amends AS 12.55.125(a) by providing a conforming change to make it clear that the presumptive sentences provided in that subsection only apply if the defendant is not subject to sentencing as a third most serious felony offender under Section 5 of the bill.

Section 3 of the bill amends AS 12.55.125(e) by providing a conforming change to make it clear that the presumptive sentences provided in that subsection only apply if the defendant is not subject to sentencing as a third most serious felony offender under Section 5 of the bill.

Section 4 of the bill amends AS 12.55.125(i) by providing a conforming change to make it clear that the presumptive sentences provided in that subsection only apply if the defendant is not subject to sentencing as a third most serious felony offender under Section 5 of the bill.

Section 5 of the bill amends AS 12.55.125 by providing a new subsection (l) that requires a court to sentence a defendant convicted of a most serious felony to a mandatory 99-year term of imprisonment when the defendant has been previously

SECTIONAL
SUMMARY

convicted of at least two most serious felonies. This section also provides that the mandatory 99-year term may not be suspended or reduced.

Section 6 of the bill amends AS 12.55.145 by adding a new subsection (f) that explains what convictions are prior most serious felony offenses for purposes of sentencing under AS 12.55.125(1).

Section 7 of the bill amends AS 12.55.185 by adding a new paragraph (14) that provides a definition of what is a "most serious felony."

Section 8 of the bill amends AS 33.16.090(b) to provide that a person receiving a mandatory 99-year term under AS 12.55.125(1) is not eligible for discretionary parole during the entire 99-year term.

Section 9 of the bill amends AS 33.20.010(a) to provide that a person receiving a mandatory 99-year term under AS 12.55.125(1) may not earn good time deductions from the 99-year term.

Section 10 of the bill amends AS 33.30.101 by adding a new subsection (c) that provides that furlough regulations may not allow for the granting of a furlough to any inmate serving a mandatory 99-year term under AS 12.55.125(1) unless the prisoner is at all times in the direct custody of a correctional officer.

Section 11 of the bill amends AS 33.30.161(b) by adding a new paragraph (5) that provides that an inmate serving a mandatory 99-year term under AS 12.55.125(1) may not serve the inmate's sentence in a correctional restitution center.

Fiscal notes and position
papers have not been submitted by the
impacted departments.

Revolving door androme feeds cycle of violence

By Sam Vincent Meddis
USA TODAY

In Washington, D.C., a teenager facing charges of deadly assault goes joy-riding while free on \$1,000 bond. He fatally shoots a woman in another car because he feels like "bustin' somebody."

In Hugo, Okla., a 39-year-old with a record of assault and property crimes buys an assault weapon and kills two people, wounds three others, then kills himself.

Many blame the easy access to guns for such carnage. But similarly under fire is a justice system that, to critics, seems to do little more than recycle criminals to the streets.

That outrage has sparked calls for a crackdown on repeat criminals nationwide: Washington state voters approved stiffer sentencing last year, and California voters consider an initiative this fall.

About 30 states are weighing similar measures, most of which provide long sentences without early parole for many repeat offenders.

"People have just had it — they don't want to live with the fear anymore," says Paul McNulty of the First Freedom Coalition, a group that advocates stiff crime penalties.

Looking at the numbers, repeat crime seems to be becoming the nationwide norm:

▶ **About 60% of prison inmates have been behind bars before, according to a U.S. Bureau of Justice Statistics study; 44% were on probation or pa-**

'3 strikes, you're out' likely in California

In what could spark a new wave of citizen action nationwide, California voters are expected to approve a crackdown on career criminals in a November 1994 ballot measure.

The measure, known as "Three Strikes and You're Out," would double sentences for criminals convicted of second serious felonies — and require a minimum of 25 years to life for a third offense.

Thirty other states are considering similar measures to toughen sentences for repeat offenders.

Gov. Pete Wilson supports the concept, and supporters appear to have easily topped the 385,000 signatures needed to place it on the 1994 ballot.

The initiative has been pushed by Fresno photographer Mike Reynolds, whose 18-year-old daughter was killed by a parolee in June.

role when re-arrested.

▶ **A mere 108,000 criminals in one federal study had a staggering 1.9 million arrests between them.**

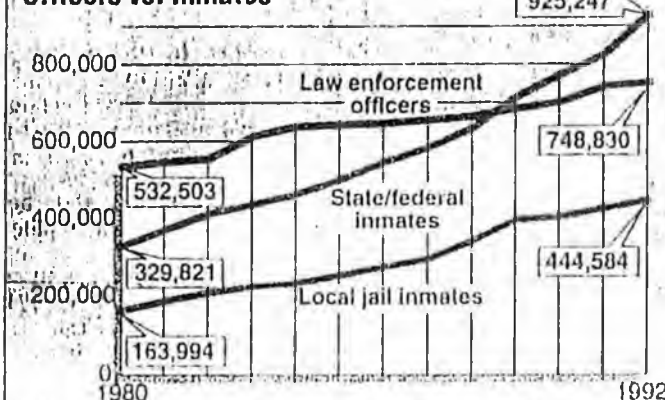
▶ **Recent U.S. and Pennsylvania studies found about 6% of criminals commit nearly 70% of violent crimes.**

Targeting those criminals sounds simple. The reality is tougher.

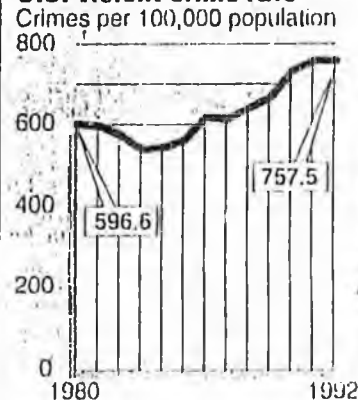
Combating guns with jail, prison

The number of criminals in prisons in the USA has increased by more than 180% since 1980, and the number in local jails has more than doubled. The number of full-time law enforcement officers has risen by 40%. Yet the violent-crime rate has risen by 27%. The war on crime:

Officers vs. inmates

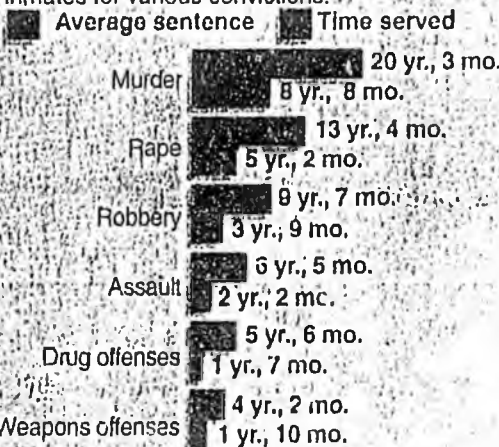


U.S. violent crime rate



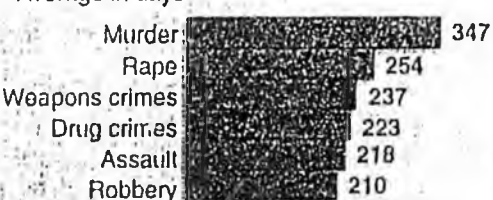
Sentences vs. time served

Average length of sentence and estimated time to actually be served by state prison inmates for various convictions:



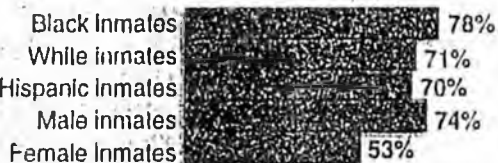
Time from arrest to sentencing

Average in days



Repeat offenders

Percentage of violent criminals in state prisons who had served time before:



Source: FBI Uniform Crime reports, Bureau of Justice Statistics reports

By Marty Baumann, USA TODAY

"Such people are the right people to put away," says Eric Sterling of Washington's Criminal Justice Policy Foundation.

But Sterling says it's hard to identify potential repeat offenders. He fears that "blunderbuss" get-tough laws more easily snag drug or burglary offenders than the violent criminals they're designed to stop.

And, he says, overcrowded and underfunded prisons may contribute to violence by making criminals more hardened than when they went in.

"Where did all these criminals come from?" Sterling asks. "Well, they came from our correctional institutions."

A 1992 study by the Sentencing Project shows the USA has the world's highest incarceration rate, about 455 per 100,000 people, compared with a rate of 311 per 100,000 in South Africa; 111 per 100,000 in China; and 42 per 100,000 in Japan.

Overall, the state and federal prison population hit a record 925,247 inmates in June, up more than 180% since 1980.

But there's no evidence that such explosive prison growth has stemmed crime.

Violent-crime reports nationwide dipped slightly in the first six months of 1993, but there still has been a 45% rise since the early 1980s.

Such numbers, though, don't reflect the public cry for punishment. It's "beyond dispute," McNulty says, that criminals can't harm the public from jail. "At least we're stopping those offenders. People will realize the price they'll pay."

USA Today
Dec. 29, 1993

3 STRIKES and YOU'RE OUT

POINT

INITIATIVE 593

COUNTERPOINT

March 19 in '93

By Ida Ballasotes
and Dave LaCourse

Laune, 31, had just left a work-training class in Kent when a stranger grabbed her from behind. He forced her into her car, holding a knife against her body and ordered her to drive. After directing her behind an abandoned building, he turned up the radio to muffle her screams. Then he forced her down onto the seat and began assaulting her. During the rape, he shoved the knife into her mouth, cutting her and threatened to plunge it down her throat.

Laune may not have known her attacker, but the police did. His long string of felony convictions dated back to 1975. His attack on Laune came less than two weeks after his probation period ended for the last conviction. He had a total of 11 separate prior convictions, including

sex offenses, assault, sexual abuse of a child, larceny (three counts), first-degree theft, resisting arrest (twice) and first-degree larceny. Among others.

His sentence for this brutal kidnapping and rape, even with such an extensive record, was only 12 years and 10 months — not counting time off for "good behavior." He'll be returning to a neighborhood near you around the end of the decade.

Unfortunately, this is not an unusual prison term. Current law recommends sentences that are far lower than most people expect. For example, the sentence for a rapist convicted on his third attack is just 14 years, two months.

For child molesters, the law is even more lenient. A third conviction for first-degree child molestation dictates a recommended sentence of only nine years, six months. And if you've been wondering why robberies are increasing, you need only look at how we punish the crime. If someone is convicted of first-degree robbery, his sentence is just five years — even if his rap sheet already contains two violent felonies.

Under initiative 593, Laune's attacker and other three-time violent criminals would receive a mandatory sentence of life without parole. Which penalty system strikes closer to your sense of justice?

Ida Ballasotes is a Republican state legislator from Mercer Island. Dave LaCourse is campaign coordinator for Initiative 593.

New weapon against crime or a costly formula for injustice?



Initiative 593 is refreshingly clear. It states that anyone convicted on a third occasion of a violent crime will receive a mandatory sentence of life in prison. No parole. No probation. No more excuses. Three strikes and you're out.

Only the "worst of the worst" could ever qualify under initiative 593. It would nail only 40 to 70 hard-core criminals per year. But these few chronic criminals are responsible for large amounts of violent crime.

A study by Marvin Wolfgang, criminologist at the University of Pennsylvania, showed that just 7 percent of the criminals committed 83 percent of the violent crime. This included 75 percent of the rapes and robberies and almost all of

the murders. Furthermore, these hard-core individuals were rarely punished. They avoided arrest for about a dozen crimes for every crime that led to an arrest. Project Triggerlock, a program of mandatory federal sentences that targets armed drug traffickers and career violent criminals, pegged the figures at 6 percent of the criminals committing 70 percent of the violent crime.

These high-rate, repeat offenders have not only shown society a pattern of violence, but also represent a real danger of returning to crime if released. The Bureau of Justice Statistics cites the odds of recidivism for three-timers at 76 percent. The actual number of criminals returning

Please see Yes, G6

By Tom Wales
and Robert Kastama

Initiative 593 is presented as requiring life in prison without parole upon a third conviction only for "the most serious" offenses. When we hear this, we think of crimes like murder and forcible rape. In fact, 593's list of "most serious" offenses is extremely long. Consider this scenario.

"Rock," a 19-year-old, gets into a very bad argument at home. His father orders him to leave the house. Rick grabs a knife from the kitchen, waves it in front of his father and says, "Just try to make me leave." Father calls the police. Rick is convicted of second-degree assault and gets a mid-range sentence of 6 months.

At age 20, he and a friend rob a convenience store. Nobody has a weapon, but Rick sticks his finger in his pocket as if he did. He's convicted of second-degree robbery and sentenced to a year and a month.

Nine years later, at age 30, Rick goes to a tavern with his friends after work. They drink several beers, and Rick has a blood alcohol level of .12. Driving home over a familiar road, he goes too fast and rear ends another car at 36 mph, causing a broken arm and collarbone to the other driver. He is convicted of vehicular assault.

Rick's sentence for vehicular assault under 593: mandatory life imprisonment, without the possibility of parole. For Rick, that's about a half century of prison. The judge may not consider Rick as an individual or even look at the specific circumstances of the offense.

These types of offenses should be punished. But the punishment should fit the crime. That can happen under the laws we have now; under 593, it won't.

The long list of crimes subject to 593, combined with the complete lack of any judicial discretion, makes 593 a formula for injustice. We should reject out of hand the notion that purse-snatchers should be indiscriminately catalogued with our worst violent predators and sentenced to life behind bars.

Sentencing laws for the worst crimes are already tough. The Leg-

Please see No, G6

Tom Wales has been a public prosecutor for 10 years. Robert Kastama is former superintendent of the Washington State Penitentiary at Walla Walla.

No

Continued from G1

lature has been more than willing to respond to citizen outrage about truly serious, violent criminal acts with laws that provide severe punishment, meted out by a judiciary that has no tolerance for violent crime.

We already can put the most serious criminals in prison for many years. Under current law those convicted of three serious, violent felonies are already getting "standard range" sentences that keep them in prison until their 60s and longer.

In addition, laws we have now allow a judge to impose a sentence far above the standard range on any crime where there are severe aggravating factors.

This power includes, in cases of sex crimes, the ability to go far above the "standard range" when there is evidence that the of-

fender cannot be treated and will be a future danger. In addition, the Community Protection Act allows indefinite commitment of especially dangerous sex offenders even after they have served their entire prison sentence. And, for those convicted of aggravated first degree murder, the sentence is either life without parole or death.

Current law already is tough on those who commit the very serious offenses. Unlike 593, however, current law also retains the important element of judicial discretion to assure fairness.

593 won't increase public safety. Proponents of 593 argue that a small group of offenders is responsible for a disproportionate amount of crime. What they don't tell you is that identifying these offenders is not as easy as we'd like to think. Social scientists who have researched this issue have found that, while some offenders are more active than others, it is very difficult to identify

this group on the basis of its record alone.

So what happens if 593 passes? People who commit three serious, violent crimes, who are already getting long sentences, will remain in prison for a few more years, into their 70s and 80s — ages when they are least likely to commit another crime.

This probably won't cause even the smallest reduction in the rate of serious, violent crimes.

At the other extreme, those convicted of crimes like second-degree assault, second-degree robbery or vehicular assault will see their sentences for a third offense increase dramatically, by as much as 40 or more years.

Their sentences will be lengthened even though we know that criminal activity drops precipitously as people enter their 40s and 50s, and even though we know we can't use conviction records to predict future criminal behavior.

593 costs too much. The propo-

sitions of 593 say we don't need to worry about money now; added costs only come later, after those convicted under the law start serving the additional time 593 would require.

But the state will need to start preparing now for the tremendous future tax burden under 593. Washington already has the fastest-growing prison population in the country. Passage of 593 would mean hundreds more old age "lifers" in our prisons and, eventually, more, expensive prison construction.

The current cost of housing a prisoner is about \$25,700 annually. This figure would be even higher for the older prisoners serving under 593 who would need expensive geriatric care. This annual amount doesn't include the price of building new prison space, at about \$100,000 per bed.

Costs also would rise dramatically at the county level, where these prosecutions would occur

With 593, we could expect fewer guilty pleas and more — and longer — trials. That would mean far higher costs for already expensive jails, prosecutors and public defenders.

In times of scarce and finite resources, we need to ask: Is keeping such offenders in prison for the rest of their lives the best way to protect public safety? Wouldn't the money be better spent on confining truly violent and dangerous offenders, and on measures that prevent crime?

Initiative 593 would cause great injustice. The alleged benefits would not be there. We already have very tough sentences for the worst crimes, especially upon a third conviction, and 593 would not increase our chance of incapacitating the "most serious" offender. Initiative 593 would cost much more than advertised. It is bad and expensive public policy and should be rejected by the voters of Washington.

Yes

Continued from G1

to crime must be even higher since most violent crimes do not lead to an arrest, conviction or incarceration.

Not surprisingly, police groups and crime victims are among the strongest supporters of Initiative 593. These groups are joined by many prosecutors, business leaders, the Washington state grange and sportsmen's organizations. Supporters gathered the fourth-highest number of signatures ever for an initiative. The 290,000 plus signatures from around the state were about 110,000 more than required for ballot placement.

Despite this widespread support, narrow interest groups have been trying to kill the initiative by misleading the public. For example, they claim that tougher sentences are not working in other states. In truth, there are no other states with a law substan-

tially similar to this proposal. However, a pilot program to get "serious habitual offenders" off the streets in Oxnard, Calif., during the early 1980s worked very well in reducing that city's violent crime. By 1983, after all of the targeted criminals were locked up, murders declined 60 percent, robberies by 40 percent, and burglaries by 29 percent.

The career criminal cares about the sentence he will face if he reoffends. Many inmates in this state have requested information on the "Three Strikes" proposal. In fact, as word of this initiative spread, inmates from as far away as Georgia and Florida have asked about this "get tough" measure.

Critics attack the initiative as being overly broad, but the facts do not support this contention. An independent "worst-case scenario" study completed by the Sentencing Guidelines Commission confirmed the narrow focus of the initiative. It found that for fiscal 1991, only an estimated 63 offenders of the 16,554 felony

sentences were covered under the initiative. A proposal that affects .4 percent of felony sentences and only 2.5 percent of violent offenders in a given year is hardly a shotgun approach.

As far as costs are concerned, they are minuscule.

The Department of Corrections worst case estimate of \$12 million over the first six years for incarcerating these people is not a budget buster. In fact, it is about one tenth of 1 percent — percent.

A national study by Dr. David Cavanagh for the National Institute of Justice and the Wisconsin study by professor John Dilulio at Princeton calculated the costs of crimes versus locking an individual up to prevent crimes. Both studies found the costs of incarceration were 1/5 (or less) the costs of turning offenders loose. A national study by Edwin Zedlewski focused calculations on more serious offenders and found that it was 17 times more expensive to release proven offenders than keep them off the streets.

Our critics claim that life without parole sentences would needlessly hold criminals long after they are a danger to society. They fail to mention that the initiative specifically retains the governor's powers for granting a pardon or clemency for an offender who is truly no longer a threat.

Undaunted, the opponents of 593 try to trivialize some of the crimes covered under the initiative. These allegations underestimate the seriousness of these crimes.

Assault in the second degree involves deadly weapons or serious bodily injuries, not your average "bar fights." Just ask the family of Matthew Parsons, who was beaten and shaken into a coma in 1991 over 10 consecutive days of abuse by his father. Matthew was sometimes tied up and was admittedly hit with his father's hands, belt, and a kitchen spoon more than 40 times. The attack was so vicious that the pupils of his eyes were blown out. The charge and conviction —

only assault in the second degree. Robbery in the second degree is not the simple theft of a purse, but a violent confrontation. Just ask Ann, a Federal Way woman beaten repeatedly on the head, neck and back in front of her young child in broad daylight in the parking lot of a local department store. Her attacker almost got away twice — first, when the system initially failed to pursue him except at her urging and, second, when he tried to plead down to a lesser crime of nonviolent theft.

Letting repeat offenders out merely because their sentence has been completed has proven to be far too expensive in additional crimes, human suffering and expensive civil lawsuits by victims.

We have the opportunity to reduce the numbers of victims caused by habitual criminals this November by voting YES on Initiative 593.

Allowing more rapes, robberies, serious assaults, child molestations and homicides after the pattern of violence becomes clear is unjustifiable.

INSIDE POLITICS

Times 10/12/93

• **Chasing Mike the business:** Publicly, Gov. Mike Lowry claims everything is hunky-dory between his administration and the business community.

Privately, it's a different story. Inviting bank and security lobbyists to his office a few weeks ago, he griped that they weren't telling their bosses about how well the industry fared during the last legislative session.

Lowry was particularly agitated because one CEO, Phyllis Campbell of US Bank, voted to recommend the Seattle Chamber of Commerce endorse Initiative 602. That's particularly galling since she is a Washington State University regent — and apparently not buying Lowry's argument that 602 will devastate higher education.

• **Trust us, we've been there:** Opponents of 602 are tugging on the provincial hearts of Washington voters pretty hard.

They harp on the evil influence of out-of-state tobacco companies that are bankrolling Initiative 602. And they keep predicting that passage will make our state vulnerable to the dire budget straits of California, brought on by the famous tax rollback Proposition 13.

They should know. Two top staffers are both recent arrivals from Sacramento. Stephanie Bradford, who took over as Committee for Washington's Future campaign manager last week, moved north about three years ago. Andy Grow, press secretary, was an aide in a county commissioner in California until moving here in the last few months.

Harsh Punishment on Washington Agenda

A state Supreme Court ruling and a proposed initiative would make a powerful package of crime protection and retribution in Washington state.

The Washington high court upheld a controversial measure that allows the state to hold some sex offenders past their release date on a civil commitment. And on Nov. 2 voters will decide on a "Three Strikes You're Out" initiative that would lock up persistent offenders for life.

There is reason to believe that a public that has hailed the state's Community Protection Act, of which the civil commitment is a part, will like Initiative 590 (the proposed Persistent Offender Accountability Act).

Under the "Three Strikes" initiative, resurrected from a House bill that did not pass, someone convicted of a third serious offense would be labeled a "persistent offender" and get a mandatory life sentence without possibility of parole.

The proposed measure is harsher than other states' habitual offender laws. All Class A felonies—generally violent crimes like murder, rape, controlled substance homicide, homicide by abuse, assault of a child, first degree arson and first degree attempted arson—would count. Manufacture, delivery or possession with intent to deliver cocaine or heroin also can be charged as a Class A felony. Other crimes listed as serious offenses in the proposal include second degree assault, second degree child molestation, second degree child assault, indecent liberties, sec-

ond degree robbery, vehicular assault, any Class B felony with a sexual motivation or any felony committed with a deadly weapon.

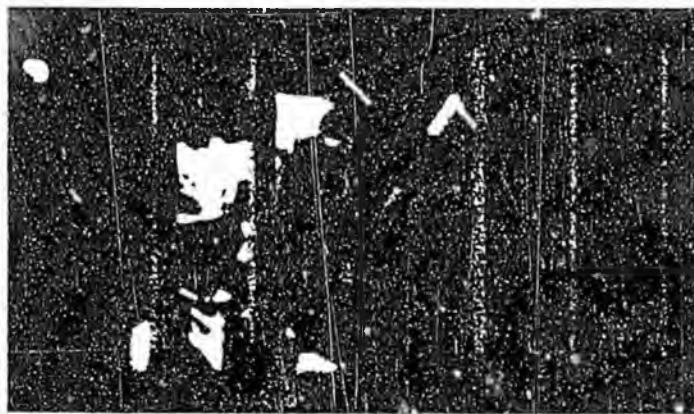


Illustration: Bruce Lukason

Some of the state's lawmakers who agree with the persistent offender concept, however, are not comfortable with the long list of crimes defined in the initiative as serious offenses that add up to life without parole. Conceivably, a third bar might get you life without parole under this initiative depending on the charges filed. An analysis by the state's Sentencing Guidelines Commission said that the measure would affect a relatively small group, increasing the prison population by about 500 beds a decade from now.

The small impact numbers were predicted mostly because third felonies are infrequent and because offenders committing the most violent of the crimes would probably get stiff sentences anyway. Roxanne Lieb, a former director of the Sentencing Commission now with the Washington State Institute for Public Policy, said that other habitual offender proposals made since guidelines were enacted usually predicted dire fiscal consequences. Still, Lieb and others who helped craft the sentencing guidelines find it disturbing that this broadly applicable, mandatory minimum law could eclipse some of what the guidelines have achieved in sentencing reform. She said mandatory sentences remove flexibility but don't necessarily ensure more certainty and fairness because of bargaining over charges and other side-stepping.

"You can adjust the guidelines if you want harshness," Lieb said, acknowledging that feelings of frustration and helplessness about violent crime give life to these grass-roots proposals. "I don't see where the opposition is going to come from." Meanwhile, the initiative has strong, deep-pocket backers like the National Rifle Association. The NRA says its efforts in Washington state represent ongoing interests in criminal justice reform and victims' rights. Groups on the other side of the gun lobby, however, say the NRA's latest tack is to divert attention from guns by imploring states to simply lock up felons forever.

Many of the serious offenses named in the "Three Strikes" proposal are sex crimes, including specific crimes against children. Despite the sweeping sexual predator legislation approved in 1990, belief that sex offenders don't get long enough sentences is helping drive this initiative.

Civil commitment of sex offenders, a unique, controversial provision of Washington's Community Protection Act, was designed to fill a perceived gap in the law that allowed release of known, dangerous criminals. The Washington Supreme Court this summer upheld the right of the state to hold some convicts past their release dates by committing them as mental patients.

The outrage of civil libertarians and the Washington State Psychiatric Association notwithstanding, the high court said the law does not violate a person's right to due process or other constitutional guarantees. The law says "any person who has been convicted of or charged with a crime of sexual violence and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in predatory acts of sexual violence" may be considered for commitment. Release from the Special Commitment Center is possible only if a court finds that the person's mental abnormality or disorder has changed in such a way that the community is safe. The unsuccessful challenge to that premise was made on behalf of some of the 21 people held under the provision.

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The New York Times

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Drive to Keep Repeat Felons In Prison Gains in California

By JANE GROSS

Special to The New York Times

FRESNO, Calif., Dec. 23 — When Mike Reynolds vowed a year and a half ago to find a way to keep repeat offenders locked up for life, it seemed just a howl of pain by a grieving father whose teen-age daughter had been shot in the head at point-blank range by a man with a long criminal record.

But Mr. Reynolds's personal crusade to tighten sentencing for career criminals has become a political juggernaut here in California, the scene in recent weeks of several high-profile crimes, including the abduction and slaying of 12-year-old Polly Klaas at the hands of a twice-convicted kidnapper.

Until Polly's body was found early this month, few outside this Central

Valley city knew anything about the 1992 slaying of Kimberly Reynolds, 18, who was leaving a restaurant with a friend when a man tried to steal her purse and instead shot her with a .357 Magnum revolver.

Aimed at Chronic Criminals

And fewer still knew that her father, a wedding photographer, had responded by writing a ballot measure that would double and triple sentences and limit parole opportunities for chronic criminals like the one who killed his daughter, who dreamed of a career in fashion and was buried in a silver lamé prom dress of her own design.

But in recent weeks Mr. Reynolds's ballot measure has become a rallying cry. Frightened by the spread of random violence in their neighborhoods and struck by how often those crimes are committed by repeat offenders, California voters are signing petitions for the Reynolds measure at the rate of 15,000 a day.

Patterned on a Washington State initiative, although stricter in many ways, the measure, known as Three Strikes and You're Out, is expected to qualify easily for next November's ballot and, if current public opinion holds, win by a landslide. And 30 other states are looking into such initiatives, which experts say could be the hot issue of next year's campaign, as term limits were for a sour electorate in 1992.

The popularity of such measures can

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to understand by skimming the major newspaper or watching the evening news. Despite statistics that show a drop in violent crime, each day offers a roster of victims who have been set upon in relatively safe places by assailants with long criminal records.

That was the case with Uwe-Wilhelm Rakebrand, a honeymooning German tourist killed in a rental car as he left the Miami airport. Or James Jordan, the father of the basketball star Michael Jordan, shot in the chest while napping in his luxury sedan beside a road in North Carolina.

It was also the case with Polly, snatched from her bedroom during a slumber party in rural Poishima while her mother slept nearby. And Kimber, who was slain not on U.S. main streets of Los Angeles, where she was studying fashion design, but during a weekend visit here to be a bridesmaid in a friend's wedding.

"What these crimes have done is show people that you can do all the right things and it doesn't matter," Mr. Reynolds said. "You can lock your door, stay in the right neighborhoods. But when you come up against one of those creeps, the rules don't matter. They're hunting you."

"When bad guys are killing bad guys, that's one thing," he added. "But when they start killing regular people, that's where you draw a line in the sand. That's what's driving people crazy."

From Trickle to Tidal Wave

That moment of collective horror came here in California with the killing of Polly Klose, a case that riveted the nation for months and turned a trickle of support for Mr. Reynolds's initiative into a tidal wave.

Until then, Mr. Reynolds's campaign was a relatively lonely one. On a shoestring budget — the money he and his wife, Sharon, were saving for a mountain cabin — a few volunteers had gathered 35,000 signatures, less than a tenth of what was needed.

Around Thanksgiving, Mr. Reynolds was invited to appear on a San Francisco talk radio show, which inspired about 40,000 people in the Bay Area to sign petitions. But still, the measure lagged far behind the 385,000 signatures needed to put it before the voters.

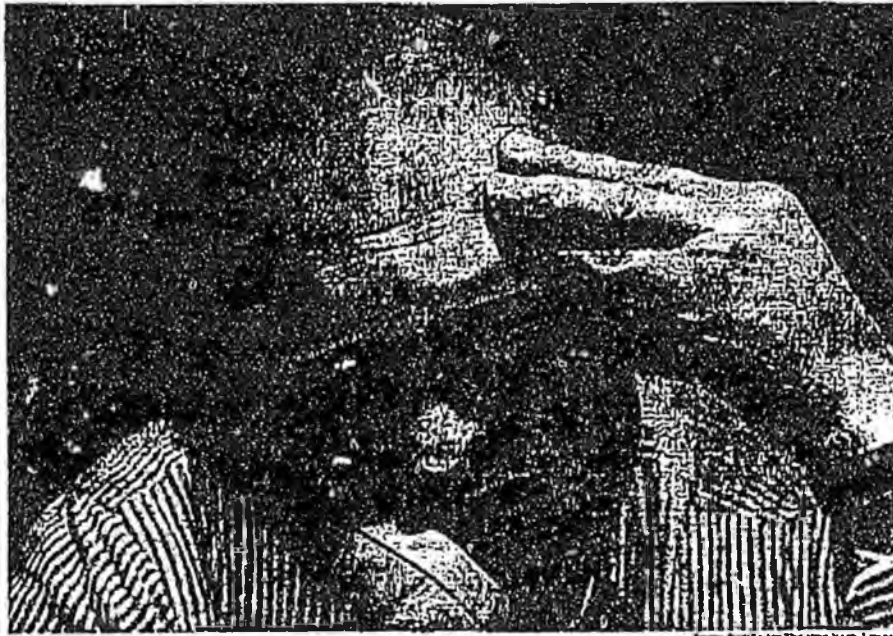
Then Polly's body was found at an abandoned lumber mill. A San Francisco radio station, KGO-AM, suggested that listeners vent their grief and frustration by calling Mr. Reynolds.

By Monday morning, the voice mail system in the Three Strikes and You're Out storefront headquarters had crashed under the onslaught of calls. Within a few weeks, more than 300,000 signatures were gathered. And these days, the letter carrier staggers into the campaign office bowed under the weight of his mail bag.

Angry Letter-Writers

The mail is angry, more punitive than the measure itself, which mandates double the usual sentence for a second serious felony and triple the usual sentence or 25 years to life, whichever is longer, for a third. By contrast, the Washington State measure, which passed last fall with 78 percent of the vote, does not enhance sentences until the third felony.

One typical letter writer was not satisfied. "What is needed is three strikes and you're dead," he said. "We



Mike Reynolds's personal crusade to tighten sentencing for career criminals has in recent weeks become a rallying cry in California, with voters frightened by the incidents of random violence in their neighborhoods.



Kimber Reynolds, Mr. Reynolds's daughter, who was shot and killed in 1992 by a man trying to steal her purse.

An initiative that could be a hot political issue next year.

But repeat felons deserve worse than that, the volunteers at the Three Strikes headquarters said, echoing the letter writers. "I'm for stricter things, like no conjugal visits and shut down the prison libraries," said Carl Lassells, a retired banker.

Supporters of Mr. Reynolds's measure, including Gov. Pete Wilson and the State Attorney General, Dan Lundgren, both Republicans, are confident that it will have a sweeping effect if it is passed. But that is impossible to judge at this point.

No Estimate of Costs

In Washington, 40 to 70 felons a year were expected to meet the criteria of that state's initiative, corrections officials projected, but none have been charged under the statute in its first month. No similar projections have been made in California, although there is widespread agreement that more people would be affected because of the stringency of the measure and the size of the criminal population here.

Nor has anyone brookaded how much the measure would cost if it went into effect, a calculation normally made after an initiative has qualified for the ballot. It is assumed that extending the sentences of so many felons would cost the state billions of dollars in increased prison costs, while saving cities and counties some money because there would be fewer repeat prosecutions.

Measures like the one in Washington and the one proposed here in California are expected to be more effective than the so-called habitual offender laws on the books in 17 states because they are broader and their application is mandatory. The 17 state laws, by contrast, generally give prosecutors and judges wide discretion about whether to charge felons as habitual offenders, and tend to be narrower about which criminals qualify for the longer sentences.

There is broad consensus among criminologists that a small percentage of repeat offenders are responsible for the vast majority of violent crime. But experts are divided about whether targeting repeat offenders for life sentences is an effective remedy.

William J. Bennett, the former Secretary of Education who is now the director of Empower America, a conservative advocacy group, said such measures are a worthy way to reduce the "frustration level of Americans who see people engaging in violent acts and not doing their time."

'Expensive Old-Age Homes'

But opponents say the measure, however satisfying to frustrated voters, is bad public policy because it would crowd the prison system with aging felons without having much impact on rates of violent crime.

"It'll stop a few guys, and that could add up to big numbers in California, but mainly it will just create the most expensive old-age homes in the world," said Peter Greenwood, the acting director of the criminal justice program at the Rand Corporation, a Southern California research center.

But stopping a few guys would be enough for Mr. Reynolds, who said his campaign for new sentencing standards is what has kept him sane since that summer evening a year and a half ago, when the youngest of his three children joined her two brothers in a softball game and then went out for coffee and cake with a friend.

At the couple left the Daily Planet restaurant at 10:40 P.M., two young men on stolen motorcycles wheeled up to the car. One of them grabbed Kimber's purse. When she struggled, the assailant stuck the barrel of his gun in her ear and pulled the trigger.

Shortly after Kimber's death, Mr. Reynolds went on the radio here, begging for a witness or an informer to help find his daughter's killer. A friend of the gunman did just that, leading the police to 25-year-old Joe Davis, a methamphetamine user who had been convicted and jailed repeatedly for armed robbery, auto theft and drug use.

Nine Years for Accomplice

Mr. Davis died in a gun battle with the police. His accomplice, Douglas Walker, 27, also a drug user with a long criminal record, pleaded guilty to murder. He was sentenced to nine years in prison. Under current law, he will serve half that time.

Mr. Reynolds said that he is haunted by feelings that he was not able to protect Kimber in the final months and minutes of her life.

Once she called him from Los Angeles because her car would not start, and he was struck by the realization that "there comes a time you can't be there for a child." He later bought her a cellular telephone so she could call for help in case of a highway emergency. "But the phone was stolen."

And those were but precursors to Mr. Reynolds's ultimate helplessness. "You never stop reliving the last moments of your child's life and wondering what you could have done to prevent it," he said. "If I was standing there with a gun I don't think I could have stopped him. But I might have shot him before he got down the street."

Taxis have new safety equipment

Bulletproof panels, metal detectors likely

By S.J. KOMARNITSKY
Daily News reporter

Many Anchorage cabs will be sporting a new feature in coming weeks: a strobe light on the roof to signal the driver is in danger.

Cab owners and company managers are also considering putting video cameras in vehicles, buying hand-held metal detectors for the drivers, and installing bulletproof panels between the back and front seats.

It's all part of an effort to prevent tragedies such as last week's shooting death of driver Raymond Maser.

Maser was the third Alaska Cab driver to be shot to death in the last year, and the killings have galvanized the city's cab drivers and owners.

"We just have to do something," said Alaska Cab owner Guy Hibbert. "Life's too precious to let these thugs run it and ruin it."

Hibbert and other cab company managers plan to meet today to discuss driver safety with Anchorage police and members of a city commission that oversees the taxi cab industry.

Yellow Cab owner Jorge Rendon also said he will hold a public meeting in his office Sunday to talk with drivers, owners and anyone interested in protecting drivers.

There will be much to discuss. According to a 1993 report by the National Institute for Occupational Safety and Health, taxi driving is the most dangerous occupation in the country, as measured by killings on the job. Even law enforcement is safer.

For the decade that ended in 1990, 15.1 workers for every 100,000 in the taxi industry were killed. The death rate in law enforcement was 9.3 workers per 100,000, the study found.

Over 75 people hold the permits for the 158 cabs allowed to operate in Anchorage. The taxis are run through four dispatch companies. Not everyone

Please see Page D-2, TAXIS

Office of the Governor

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agrees on the best way to protect drivers.

Regina Doyle, a dispatcher at Yellow Cab, said she wants to talk with drivers and learn what safety features work best in deterring crime before installing equipment. She also wants to know if the Anchorage Assembly is going to require cabs to have certain safety features.

Doyle said she would like driver training, including how to deal with robberies, to be emphasized.

"I do think drivers need to be trained to absolutely not resist," she said.

Rendon, who owns several of the vehicles driven for Yellow Cab, added that concerns for safety have to be weighed against customer concerns. Rendon said customers have complained about the bulletproof shields he installed in three of his cabs. They felt imprisoned by them, he said.

Hibbert said he wanted strobe lights installed right away because he felt something needed to be done immediately.

Similar to those used on school buses, the lights flash

when activated by a hidden switch. And, once a light is turned on, the only way to turn it off is a switch under the hood, Hibbert said.

But, he said, the strobes are effective only if people know they should call police when they see them flashing.

The lights cost about \$100. Hibbert said installing more safety features, such as bulletproof shields and metal detectors, could cost up to a \$1,000 a car. That will be paid by the vehicle's owner, not the driver, he said.

Shots fired into school

Bullets miss adults in hall

By S.J. KOMARNITSKY
Daily News reporter

Registration for community schools classes at Servier High was just starting to taper off Wednesday night when the bullets hit. Two shots from a .45-caliber gun blasted through the school's double glass doors and down a hallway where people were busy registering for classes, narrowly missing a man and a woman.

Three other shots, apparently fired from a passing vehicle, hit two vehicles in the school's parking lot, Anchorage police said Thursday. No one was in the vehicles.

Marilyn Okugiya, an assistant with the community schools program, said about 10 people were in the hallway — five applicants and five program volunteers — when the shots were fired about 8:30 p.m.

"Everybody heard it," she said. "We all jumped up and ran."

One man told police that plaster fell on his head after a bullet ricocheted off the wall and embedded itself in the ceiling above him. Another woman said a bullet came close enough to her that she heard the swoosh as it went by. Officers later recovered shell casings from a .45-caliber gun.

There was no clear motivation for the attack.

A woman walking toward the school when the shots were fired told police she saw a blue, Blazer-type vehicle driving away. But, she didn't see who was inside it. Okugiya said those responsible probably fired the shots from a service road that borders the school.

Police spokeswoman Debbie Cargill said there had been no other reported shootings at the Lower Hillside school this year.

Okugiya said the shooting shook up the applicants and volunteers, but it could have been much worse.

"If it had been an hour earlier, that hall would have been pucked," she said.

Anchorage, Alaska

the bottom of the well." "What did he say?" asked the ranger "Pancho says he's prepared to die."

Now doesn't that fellow remind you of Bill Clinton telling us that the American people are prepared to sacrifice? Anyway, you may want to join those of us who will be presenting an alternative to the Clinton plan. I can assure you that I will be one of the sponsors of the market based approach that I discussed today.

I hope you'll join us in that effort, and I wish you all the very best as you work in your respective states for all of the citizens of this great nation.



Congressman Kyl was elected in 1986 and has rapidly established a reputation as an effective legislator, a strong proponent of fiscally responsible government, and an expert on national defense and health care. Congressman Kyl is helping to shape the national health care debate by offering free market alternatives for health care reform.



Making Criminals Pay: Solving America's Violent Crime Problem

**The Honorable Edwin Meese III
Former U.S. Attorney General**

Thank you very much ladies and gentlemen. It's a great privilege to be with you, and believe me, I am happy to be here with you today.

As Representative (Jerry Lee) Alwin (N.M.) mentioned, the Heritage Foundation and ALEC are close

partners, and I've certainly enjoyed the opportunity to work with your leaders. Certainly, Sam Bruneili and his staff are an outstanding group, as you know from your own personal experiences, and I was always interested in the active role in leadership that Bill Raggio. I've known Bill for longer than he'd probably want to admit...from the days when he was a District Attorney in Nevada and I was in the District Attorney's office in Alameda County in California. We worked very closely together at that time. So it's a pleasure to be here, especially since I will have the opportunity to discuss with you the issue of violent crime in America. There is no more important challenge facing our nation today.

One of the things that I think we have to recognize is the fact that crime has been, for many years now, the top thing that people worry about when they're asked, "What is the greatest domestic problem?" Periodically it gets eclipsed by the economy when we have high unemployment or when we have economic difficulties, but year in and year out it's always in the top three or four topics that concern people.

And when we try to get the economy going, or when we try to work on the problems of the inner cities, or try to improve education, inevitably at least one of the trails of solutions leads to doing something about crime. You know from your own experience what's happened, and so I'd like to share a little bit with you from my own experience.

But first, I think it's important to recognize what's happened since World War II in terms of crime. In the 1950s, and from the period just after the war through the fifties, there was a philosophy in our country among almost all criminologists, that incarceration was a bad thing. And so almost every idea other than prison was used to take care of convicted criminals.

And so by the sixties, we found in California, when Ronald Reagan became Governor in 1967, that less than ten percent of all felons, the most serious criminals, were going to prison.

Well, over the course of the late sixties and the seventies, he was able to change that by appointing judges in California who had a different view. But throughout the country this was the prevailing sentiment.

And that's why we had during that period, from 1960 roughly, to 1980, we had the largest increase in crime in the history of the country...a 300 percent increase in

crime. As the average time served went down dramatically, crime went up.

Most people would say that kind of makes sense. Criminals can count, too. It was interesting that an organization in Texas the National Center for Policy Analysis, did an economist's computation of the cost of crime. They acted on the proposition that crimes are intentional acts and that they're freely committed by people who calculate the cost to them for committing crimes. And that in many cases the criminals, while they may not do it in a mathematical way like economists, nevertheless have a general feeling of what their chances are of getting caught. And if they do get caught, what's going to happen to them.

And so they did some calculations. They multiplied of percentage of criminals that got caught for each offense times the likelihood of conviction, times the amount of months that they would serve, and they came to a very interesting statistic. And that was that the expected time in prison for each murder is something like 2.3 years. For rape, it's 80.5 days. For robbery, it's 27 days. For aggravated assault, just a little over 13 days, and for burglary it's 5.4 days.

Now, obviously those that are caught serve much more time than that. But that's taking the average time that people serve, and then multiplying that by a factor of what their chances are of being caught. Now as I say, I don't think that criminals figure those things out exactly, but they do have a pretty general idea. And for that reason, many of them, feel that crime does pay.

The important thing is, as was mentioned earlier in the opening remarks, today we have a situation where criminals are spending actually very little time in prison. We have a revolving door situation where the same people are coming back to prison, spending a little time, then going out to commit more crimes. And then most of them are coming back to prison at one time or another.

It seems to me that there's several things that we need to do, and while I could go into the analysis even more, I think it's perhaps important that we talk about what are the changes that have to be made. Let me just say this, however: We did have a period of time during the last 30 years when crime began to go down, and that was at the beginning of the 1980s. By that time, citizens had had enough of the old lenient philosophy and by the last half of the 1970s, into the early eighties, judges

were sentencing more people to prison for serious crimes...particularly violent felonies...and they were sentencing them for longer periods of time. And so from about 1981 through 1985, crime actually went down in the United States...the first time that had happened, since World War II.

But what happened by 1985 was that the prisons were full, overcrowded...and so it was at that point, if you look at the statistics, that people started being let out much earlier and not completing their full sentence.

Indeed, today the facts are that the average sentence for a felony in the United States is four years, but the average time served is about 13 months. And that's just the average for all felonies. That's everything from car theft on one end up to murder on the other end. But the amount of time that people are actually serving is only about a quarter of that, and most of that is because of a lack of prison capacity.

The other thing that I think we have to recognize is that even though in 1990 the crime rate in the United States was lower than it was in 1980, there were two significant differences in 1990 over 1980.

One was the tremendous amount of violence, and while property crimes in general were down or plateauing, violent crimes were considerably greater. Secondly, that drugs, particularly crack, was an increasing problem in the inner city.

The drug problem is kind of interesting. Up until 1981 or '82, most of the emphasis, what emphasis there was, on a national scale, was on law enforcement. In 1982, there was a comprehensive national strategy which included prevention, education, treatment and rehabilitation, along with strong law enforcement and strong international action.

And from 1982, that period when this strategy was implemented, up until the present time, we had a 50 percent decrease in drug use in the United States. Most of the decrease in drug use was due to the preventive activities in schools and drug-free workplace programs in business and industry. And so we have approximately half as many people today using drugs as we did at the beginning of the 1980s.

The drug problem, however, is starting to turn up again, particularly in high school and junior high school aged students. The reason is because we have this problem

in the United States that when something's no longer getting a lot of attention, people start to forget about it. And so the preventive efforts in schools and businesses are perhaps not as diligent as they have been in the past. We have to be very wary that we don't get another major drug problem in our schools.

However, the thing that has happened is that among those people who commit most of the crimes in the inner cities, both small crimes and major crimes, drug use has actually intensified. Because with half the market lessened, drugs have been relatively available in the inner cities. The price has been cheap because you don't have the demand that you had before. In addition to that, you have had crack introduced, which in my opinion was a cynical economic marketing act by the drug purveyors, who could no longer sell hundred dollar lines of cocaine to relatively affluent people. So now they manufacture cocaine in crystalline form, so they could sell \$5, \$10 and \$20 rocks of cocaine to less affluent people in their communities.

So we have these things facing us today: a continuing problem with crack, an increase of drug use in the inner city, a revolving door situation as far as prisons are concerned, and a tremendous increase in violence.

There were two interesting comments that I noted yesterday in the paper. One was that there's been a 61 percent increase during the 1980s...61 percent increase...in shootings committed by Americans 15 to 19 years of age. That's junior high and high school aged kids. For example, in our nation's capital, in Washington, D.C., the children and teenagers treated for knife and gunshot wounds in the last seven years has increased 1,740 percent. In some inner cities like Washington, D.C., New York, Los Angeles and other places, we literally have a war going on. What we have is a juvenile army out there, with the latest figures indicating that 270,000 children carry guns to school each day.

Now, 270,000 children...it's hard to put that into any kind of context, but for comparison that's half the projected size of the United States Army by the year 1995. The number of kids going to school carrying weapons today, is half the size of what the Army is going to be in 1995. What do we do about it?

The first thing is we've got to be realistic about sentencing. We have got to change sentencing and recognize that only if we're able to put people in prison for

violent crimes, or for repetitive crimes, that we will start to get them off the street. Many people say that we're spending more for prisons than we do for education in our state. That may be true, but let me say this: Prisons are more effective in the job they're set up to do than the educational establishment is with the job it is charged with.

We know that while people are in prison, they're not committing crimes against citizens on the street and in their homes. And I can't say that education is equally effective in teaching people to read and write under some of the conditions in some states today.

Now, obviously we need to support both. I think one of the mistakes we often make is that people will say, well, we've got to do this instead of that, or we can't put money into prisons...because we have to give it to education. We need to do both. And I know probably all of you face these tremendous dilemmas at home in terms of trying to squeeze all the requirements into the revenues that are available. But I think it is important.

The other thing that we need to do is decide who belongs in prison, as was stated earlier by Representative Alwin. Earlier he mentioned that some people shouldn't be there. How do you know when a person belongs in prison?

Well, it's tough. It's not always possible to tell on their first time through. But you sure know when they've been to prison and gotten out and committed a new felony, and come back a second time and gotten out and committed a third felony. About the third or fourth time around, they have self-selected themselves as a candidate for a long time in prison. And I think when that happens, we ought to say this person is going to go to prison for, if not the rest of their life, at least until they get to that period where statistically we know they kind of burn out as far as crime is concerned. Maybe they can't jump the fences anymore, running ahead of the police or whatever it is, but we know statistically that by the time a person gets to about 50 years of age, they're not as likely to commit crimes anymore. I hope it isn't true that in prison they learn to read and write, so that the robber becomes a forger when he gets out about that age. But in any event we do know that if a person after the third or fourth time around is kept in prison, we know that that individual who has the capability of committing anywhere from two dozen to 150 crimes per year is going to be out of reach where he or she can no longer prey on society.



The second thing we've got to do is we've got to have society keep its promises. We have to keep our promises to the citizens of our country and also to the criminals.

One of the things we do when a person is put on probation, is that the judge very sternly lectures him or her and says, "I'm putting you on three years' probation. I'm suspending two years in prison. Now if you get caught committing a crime or violating your probation during this three-year period, you're going to go to prison." Well, actually the judge knows, and the criminal knows, that that's probably not true. When that individual does commit a new crime, a new robbery, a new burglary, they're going to come back maybe in front of the same judge, or in front of another judge who sees the record, and what that judge is going to do. If he sentences him to prison the second time at all, he's going to make it concurrent with the sentence that was suspended for the first crime. In effect, the person on probation gets a free crime.

We have got to start living up to our promises and when an individual violates their probation, they go to jail or prison for the length of the term of the first crime, and on top of that serve whatever the sentence is for the second crime, so that we don't give away crimes as a condition of probation.

Thirdly, we have to recognize that what I've been talking about...being realistic in keeping promises...has serious implications for the criminal justice system, particularly corrections. And it's important that we look at the whole criminal justice system.

Yesterday President Clinton announced federal funding to support putting up to a hundred thousand new police officers on the street. I think perhaps there's a good deal that can be done along that line. Actually, the money he talked about will barely support 60,000 officers on the street, but at least it's a start, and it's going to take time to work through this. And there were a lot of other proposals, too, many of them which are good.

But the thing that was forgotten is you can't just look at that stage of the criminal justice system. We have today, in cities and counties on the streets of our nation, just under 500,000 police officers. Now if we add, let's say, somewhere between 60 and a hundred thousand new officers, we're making a dramatic increase in the number of officers on the street. Particularly if these are added to the street patrol forces, because a good third,

at least, of those other officers are working on specialized details or administrative duties.

Now, unless we have the courts, the judges, and ultimately the correctional facilities, to accommodate the arrests made by those officers, they really will not be adding to our ability to stop crime and to be a credible deterrent to the criminal.

In a bill that was introduced last week, by Senator Dole and several other members of the Senate, is a provision that does recognize the flow-through of the criminal when you add new police officers. This bill not only provides for new police officers, but also provides for matching grants to states for prison construction, as well as the building of some regional prisons which can be used for both federal and state prisoners. Now I think this is a much more realistic approach to solving these problems, because the bill that looks at the whole system.

We also have to recognize that we have to look at more cost effective ways to build additional prisons as they are necessary, so that we can accommodate people for longer periods of time. I don't think we have to go on building prisons forever. You know, there's some people in the ACLU and elsewhere who say if you keep building prisons at the rate that we did during the 1980s, by the year 2050 every other person in the United States will be in prison.

Well, let's be realistic. I don't think any of us believes that's true. I think there will be a point at which we don't have to build any more prisons because we'll have the people who need to be in prison there.

We have, at the present time, a little over 800,000 people out of a population of 252 million who are in prison. Of the three million people total, or less than one and a half percent of the population, who are under correctional custody, only a quarter of those people, about 26 percent, are actually in prison; the rest are on parole or on probation.

So it seems to me that adding additional prison capacity for a short period of time, and making sure the people who belong there stay there, is going to be a very good investment in the long run. However, it will not be the horrendous continuation of the building boom of prisons during the eighties, which was in large part because no prisons were built between 1950 and the late 1970s, due to the move away from incarceration.

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There are other things we need to do, and I'll just
mention them very quickly:

We need drug testing at all stages of the criminal justice
process...for bail, for probation, while in prison, while
in jail, while on parole...because we know that people
commit four to six times as many crimes when they're
using drugs compared to when they are not.

We need to put the heat on the federal government to
do more on the illegal alien problem. I know the states
in the Southwest particularly are aware of that, and
that's a whole topic in itself.

We need to take another look at how our prisons are
managed, and whether they are being effectively man-
aged, and whether they are places that deter criminals.
And this means perhaps looking at whether the discipl-
ine that is necessary for these people to comport their
lives within the law is being exercised while they're in
prison.

And finally, I think citizens need to be educated to the
fact that today we're only spending three percent of our
total tax dollars on the justice system, including the
police courts, prisons, and the civil justice system as
well. If people agree with us that protecting the public
from those who would prey on them is a vital part of
defense, then just as we've been willing to make
sacrifices for our external defense, we need to make a
serious investment in our defense at home. At a time
when we are able to reduce spending on the military
because we've been successful at fighting and winning
the cold war, shouldn't we consider using part, or all of
these savings, for fighting crime at home? Just going
from three percent to four percent of our total tax
dollars would give us tremendous resources to build
prisons, add police officers and enough courts and
judges so that, once again, society would be able to tell
the criminal that when you commit an offense against
our people, you're going to pay the cost. And the cost
will be considerably greater than it is at the present
time.



*Edwin Meese III currently holds the Ronald Reagan
Chair in Public Policy at the Heritage Foundation, and
is also a Distinguished Visiting Fellow at the Hoover
Institution. Mr. Meese served as U.S. Attorney Gen-
eral from 1985-88, and as Counsellor to the President
from 1981-85.*

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SB

237

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

BY THE SENATE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): **SENATORS LEMAN, Phillips**

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the possession of firearms by minors and to offenses
2 involving weapons."

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

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

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

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

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

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

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

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

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

7 (4) knowingly possesses a firearm

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

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

16 (ii) a defensive weapon; or

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

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

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

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

25 * Sec. 4. AS 11.61.22^c amended by adding new subsections to read:

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

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

30 (2) while in attendance at a hunter safety course or firearm safety
31 course for the purpose of using the firearm in conjunction with lessons presented

1 during that course;

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

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

7 (5) while actually engaged in lawful

8 (A) hunting; or

9 (B) fishing, trapping, or other lawful outdoor activity if the
10 fishing, trapping, or other lawful outdoor activity necessarily involves the
11 carrying of a weapon for personal protection; or

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

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

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

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

29 * Sec. 5. AS 47.10.010 is amended by adding a new subsection to read:

30 (e) The procedures prescribed in AS 47.10.020 - 47.10.090 and the Alaska
31 Delinquency Rules do not apply when a minor who is at least 14 years of age at the

1 time of the alleged offense is charged with an offense, the minor is alleged to have
2 used a firearm in the commission of the offense, and the minor has been previously
3 adjudicated as a delinquent or convicted as an adult, in this or another jurisdiction, as
4 a result of an offense that, in this or another jurisdiction, involves the use of a firearm
5 in the commission of the offense. The minor shall be charged, prosecuted, and
6 sentenced in the superior court in the same manner as an adult. In this subsection,
7 "firearm" has the meaning given in AS 11.81.900.

8 * Sec. 6. AS 47.10.080(b) is amended to read:

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

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

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

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

31 (B) an additional one-year period of supervision past age 19 if

1 the continued supervision is in the best interests of the person and the person
2 consents to it;

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

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

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

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

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

28 (6) in addition to an order under (1) - (5) of this subsection, if the
29 delinquency finding is based on the minor's violation of AS 11.71.030(a)(3) or
30 11.71.040(a)(4), order the minor to perform 50 hours of community service; for
31 purposes of this paragraph, "community service" includes work

1 (A) on a project identified in AS 33.30.901; or
2 (B) that, on the recommendation of the city council or
3 traditional village council, would benefit persons within the city or village who
4 are elderly or disabled; or

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

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

11 (B) two years and, in addition, order the minor to perform
12 100 hours of community service, if the delinquency finding is based on the
13 minor's second or subsequent violation of AS 11.61.220(a)(3); for purposes
14 of this subparagraph, "community service" includes work described in
15 (6)(A) - (B) of this subsection.

16 * Sec. 7. APPLICABILITY. (a) Sections 1 - 6 of this Act apply to offenses committed
17 on or after the effective date of this Act.

18 (b) In

19 (1) AS 11.61.220(i), added by sec. 4 of this Act, reference to previous
20 convictions or adjudications of delinquency under AS 47.10.010 - 47.10.142 does not include
21 convictions or adjudications of delinquency under AS 11.61.220(a)(3) as it read before its
22 amendment by sec. 2 of this Act;

23 (2) AS 47.10.010(e), added by sec. 5 of this Act, reference to previous
24 convictions or adjudications of delinquency does not include convictions or adjudications of
25 delinquency involving the minor that occurred before the effective date of this Act;

26 (3) AS 47.10.080(b)(7), added by sec. 6 of this Act, reference to the minor's
27 second or subsequent violation of AS 11.61.220(a)(3) does not include a violation of
28 AS 11.61.220(a)(3) as it read before its amendment by sec. 2 of this Act.

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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


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

MEMORANDUM

February 9, 1994

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

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

FROM: Jack Chenoweth
Legislative Counsel 

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

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

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

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

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

...

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

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

(2) the affirmative defense ^{3/} that, at the time of sale, the minor was an emancipated minor.

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

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

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

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

^{2/} Under AS 11.81.900(b)(15),

- (15) "defense", other than an affirmative defense, means that
(A) some evidence must be admitted which places
in issue the defense; and
(B) the state then has the burden of disproving the
existence of the defense beyond a reasonable doubt;

^{3/} Under AS 11.81.900(b)(1),

- (1) "affirmative defense" means that
(A) some evidence must be admitted which places
in issue the defense; and
(B) the defendant has the burden of establishing
the defense by a preponderance of the evidence;

AMENDMENT OF THE DELINQUENCY LAWS, AS 47.10:

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

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

MATERIAL RELATING TO CONCEALED WEAPONS:

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

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

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

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

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

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

-- AS 18.65.725 authorizes permit replacements.

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

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

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

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

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

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

Senator Loren Leman
February 9, 1994
Page 4

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

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

-- AS 18.65.775 supplies definitions for key terms.

*

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

JBC:gc
94-110.glc

Enclosure



SENATOR LOREN LEMAN

Northwest Anchorage

716 W 4th Ave, Ste 540, Anchorage AK 99501 258-8189

Session: State Capitol, Juneau A.S. 99801 465-2095

SPONSOR STATEMENT SB237

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

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

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

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

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

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

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



FLORIDA DEPARTMENT OF STATE

Jim Smith

Secretary of State

DIVISION OF LICENSING

Post Office Box 6687

Tallahassee, Florida 32318-6687

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

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

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

Alaska State Legislature

Legislative Research Agency



P.O. Box Y
Juneau, AK 99811-3100
Phone: (907) 165-3991
Fax: (907) 163-3351

March 7, 1991

MEMORANDUM

TO:

FROM: Christine M. Cheff
Legislative Analyst

RE: Concealed Weapon Permits
Research Request 91.164

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

CONCEALED WEAPONS LAWS

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

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

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

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

March 7, 1991

Page 2

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

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

EFFECTS OF CONCEALED WEAPONS LAWS

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

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

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

March 7, 1991
Page 3

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

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

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

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

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

Attachments



Compiled by the NRA Institute for Legislative Action

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

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

NOTE: State constitutional provisions on firearms vary considerably. The Connecticut constitution serves as an example of the basic features contained in the constitutions of many states: "Every citizen has a right to bear arms in defense of himself and the state" (Article 1, Section 15)

STATE	PURCHASE			CARRYING				OWNERSHIP	
	APPLICATION AND WAITING PERIOD	LICENSE OR PERMIT TO PURCHASE	REGISTRATION	RECORD OF SALES SENT STATE OR LOCAL GOV	CARRYING OPENLY PROHIBITED	CARRYING CONCEALED PROHIBITED	LICENSE TO CARRY OPENLY	LICENSE TO CARRY CONCEALED	OWNER LICENSING OR ID CARDS
ALABAMA	X			X			X		X
ALASKA						X			X
ARIZONA						X			X
ARKANSAS					X ¹	X ¹			X
CALIFORNIA	X			X		X		X	X
COLORADO						X		X	X
CONNECTICUT	X			X					X
DELAWARE						X		X	X
FLORIDA	X ⁴						X	X	X
GEORGIA							X	X	X
HAWAII	X	X	X	X		X	X	X	X
IDAHO						X		X	X
ILLINOIS	X	X	X	X	X	X			X
INDIANA	X			X			X	X	X
IOWA		X		X			X	X	X
KANSAS	X ²	X ²	X ²			X			X
KENTUCKY						X		X	X
LOUISIANA						X		X	X
MAINE						X		X	X
MARYLAND	X			X		X	X	X	X
MASSACHUSETTS		X		X		X	X	X	X
MICHIGAN		X	X	X		X ³	X	X	X
MINNESOTA	X	X		X		X	X	X	X
MISSISSIPPI						X		X	X
MISSOURI		X		X		X		X	X
MONTANA						X		X	X
NEBRASKA						X		X	X
NEVADA	X ⁵		X ⁶			X ⁵		X	X
NEW HAMPSHIRE				X		X		X	X
NEW JERSEY	X	X		X		X	X	X	X
NEW MEXICO						X		X	X
NEW YORK		X	X	X		X	X	X	X
NORTH CAROLINA		X		X		X		X	X
NORTH DAKOTA				X	X ⁴	X		X	X
OHIO	X ⁷	X ⁸		X ⁹		X		X	X
OKLAHOMA					X ⁴	X		X	X
OREGON	X			X		X		X	X
PENNSYLVANIA	X					X ¹⁰	X	X	X
RHODE ISLAND	X			X		X	X	X	X
SOUTH CAROLINA				X		X		X	X
SOUTH DAKOTA	X			X		X		X	X
TENNESSEE	X			X	X ¹¹	X ¹¹		X	X
TEXAS					X ¹²	X		X	X
UTAH					X ⁴	X		X	X
VERMONT					X ¹³	X ¹³		X	X
VIRGINIA	X ¹⁴	X ¹⁵				X		X	X
WASHINGTON	X			X		X ¹⁶	X	X	X
WEST VIRGINIA						X		X	X
WISCONSIN	X					X		X	X
WYOMING						X		X	X
DISTRICT OF COLUMBIA		X ¹⁷	X ¹⁸		X ¹⁹	X		X ²⁰	X

HANDGUNS

¹ License to carry in a vehicle either openly or concealed.
² Arkansas prohibits carrying "with a purpose to employ it as a weapon against a person." Tennessee prohibits carrying "with the intent to go armed."
³ Chicago only.
⁴ Local.
⁵ Handguns must be presented to the city chief of police or county sheriff to obtain certificate of inspection.
⁶ Permission to carry concealed may be granted by county sheriff on written application.

Handguns prohibited in Evanston, Oak Park, Morton Grove, Winnetka, Wilmette, and Highland Park.
⁷ Some municipalities control the possession, sale, transfer or carrying of handguns. e.g. Cleveland and Columbus require a police permit for purchase. Toledo requires a handgun owner's ID. Cincinnati requires application for purchase. In addition, some cities regulate the possession and sale of handguns with certain magazine capacity, weight, 20 rounds or more.
⁸ Prohibits carrying a firearm "with the intent to purchase it, to injure another."
⁹ Certain cities or counties.
¹⁰ Applies only to pre-registered firearms. No new handguns can be brought into the city.
¹¹ a. b. c. d. e. f. g. h. i. j. k. l. m. n. o. p. q. r. s. t. u. v. w. x. y. z.

Alaska State Legislature

Legislative Research Agency



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February 17, 1993

MEMORANDUM

TO: Representative Peter Kott

FROM: Christine M. Cheff *CME*
Legislative Analyst

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

You asked for the following information concerning concealed weapons permits:

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

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

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

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

Florida

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

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

Georgia

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

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

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

Oregon

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

Representative Kott
February 17, 1993
Page 3

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

- Lane County (Eugene area) - 2,000,
- Multnomah County (Portland area) - 6,255, and
- Marion County (Salem area) - 2,028.²

Washington

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

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

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

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

Attachment

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

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

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

DAVE FROHNMAYER
Attorney General

DF:PSH:JEM:JMM

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

²*Sadler v. Oregon State Bar*, 275 Or 273, 550 P2d 1213 (1976).

³26 Op Atty Gen 246 (1954).

⁴Letter of advice dated June 30, 1953 to Deputy Secretary of State C. Gregory McMurdo (OP-5525); see also 1952 memorandum of law referenced to in 26 Op Atty Gen 246 (1954).

⁵Letter of advice dated June 15, 1973 to Accounting Division Administrator Neal R. Fisher (OP-4357).

⁶26 Op Atty Gen 246 (1954) rejecting statements to the contrary in 21 Op Atty Gen 46 (1942).

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

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

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

No. 8162

January 4, 1985

The Honorable Chuck Bennett:
State Representative

FIRST QUESTION PRESENTED

ORS 168.290 provides that a sheriff "may" issue a license to carry a concealed weapon if certain circumstances exist. Does the

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

ANSWER GIVEN

Yes.

SECOND QUESTION PRESENTED

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

ANSWER GIVEN

No.

THIRD QUESTION PRESENTED

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

ANSWER GIVEN

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

DISCUSSION

I. Sheriff Must Issue License Under Certain Circumstances

ORS 166.290(1) provides in part:

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

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

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

ORS 166.290 first appeared as section 5 of chapter 260, Oregon Laws 1925,¹ and remained substantially unchanged until 1973. Oregon Laws 1973, chapter 391, section 1 amended ORS 166.290 to delete authorization for other local authorities to issue concealed weapon licenses, changed the fee schedule, and added a provision for non-liability to run in favor of a sheriff issuing a license. Chapter 391 inserted the word "may" in place of "have authority to." The 1973 amendment made no substantive change in the character of the sheriff's duty to issue licenses.

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

"... True, the language . . . is couched in terms of the ordinarily permissive 'may,' but as stated in *Collins v. State*, 161 Me. 445, 213 A.2d 835 (1965), it is an accepted principle of statutory construction that, when the word 'may' is used in imposing a public duty upon public officials in the doing of something for the sake of the public good, and the public or third persons have an interest in the exercise of the power, then the word 'may' will be read 'shall,' the exercise of the power being deemed imperative by legislative intent."

See also *Iley v. Harris*, 345 So2d 336 (Fla 1977);² cf. *Salute v. Pitchess*, 61 Cal App3d 557, 132 Cal Rptr 345 (1976).⁴

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

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

II. "Good Moral Character" and "Good Cause" are not Impermissibly Vague Terms⁵

A. "Good Moral Character"

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

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

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

"There is no constitutional requirement that all delegation of legislative power must be accompanied by a statement of standards circumscribing its exercise . . ." *Warren v. Marion County*, 222 Or 307, 313, 353 P2d 257, 261 (1960)⁹; accord *Knight v. Department of Revenue*, 283 Or 227, 646 P2d 1343 (1982).

The Oregon Supreme Court has recently reaffirmed that neither state nor federal constitutional principles require the standards for civil delegations of authority to meet those required for penal laws. *Megdal v. Board of Dental Examiners*, 288 Or 292, 605 P2d 273 (1980). Although imprecise, "good moral character" and "good cause" are not devoid of content for purposes of delegating administrative authority, even if a standard were required.

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

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

" . . . That risk is real in all discretionary administration. But an attack based on this premise must show that in fact a policy unlawfully discriminating in favor of some persons against others either has been adopted or has been followed in practice." *Anderson v. Peden*, *supra*, 254 Or at 326 (1976)

Oregon Constitution Article I, section 20 long has been construed to reach forbidden inequality in the administration of laws under delegated authority as well as in legislative enactments. *State v. Clark*, 291 Or 231, 235, 630 P2d 810 (1981), citing *White v. Holman*, 44 Or 180, 74 P 933 (1904). It reaches both standardless administration in which the procedure chosen is ad hoc without striving for consistency among similar cases, as well as impermissible classifications. *State v. Freeland*, 296 Or 367, 374, 667 P2d 509 (1983).

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

Use of the broad term "good moral character" fulfills the legislature's constitutional obligation to exercise the responsibility of giving at least the general direction of public policy. However, this conclusion necessarily interrelates with questions of interpretation of the sheriff's assignment under the law. For example, we believe that a sheriff is constrained under the terminology, "good moral character," to base his or her decision upon factors which may reasonably be considered to be relevant to "fitness" to carry a firearm. When the legislature couples a particular licensing power with a "good moral character" requirement, the subject matter of the license gives a partial definition of the standard itself. For example, under a statute requiring a certificate of "good moral character" as a prerequisite to taking the state bar examination, the Virginia Supreme Court held that an applicant could not be denied admission to the bar as not being of "good moral character" because she was living with a man to whom she was not married. Such "conduct bears no rational connection to her fitness to practice law." *Card v. Gibb*, 219 Va 1019, 254 SE2d 71, 73 (1979)."

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

B. "Good Cause"

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

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

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

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

Within the above limits, a sheriff has extensive authority to determine in individual cases what constitutes "good cause." In this regard, a sheriff's function is not unlike that of the Employment Division which under ORS 657.176 is given the responsibility to determine an applicant's ineligibility for unemployment compensation if the individual voluntarily left work "without good cause." As the Oregon Supreme Court said "the phrase 'good cause' . . . calls for completing a value judgment that the legislature itself has only indicated: evaluating what are 'good' reasons for giving up one's employment and what are not." *McPherson v. Employment Division*, 285 Or 541, 550, 591 P2d 1381 (1979). ORS 166.290 and its history only shows that some range of responsibility is given sheriffs to define on a case-by-case basis "good cause." Within the firearm context of ORS 166.290 and its mandatory nature, it is left to the sheriff in the first instance to determine what reasons validly are included within the "good cause" standard. Further, given ORS 166.290's delegation to the chief law enforcement officers of Oregon's 36 counties, it is apparent that the legislature contemplated that local conditions from county to county may influence the determination of whether "good cause exist" for issuance of a concealed weapon license. Local standards need not be promulgated as rules in order to be defensible under Article I, section 20, *State v. Clark, supra*, 291 Or at 246, and each local sheriff remains free in the absence of statute to choose the standards most suitable to local circumstances and experience, *State v. Freeland, supra*, 295 Or at 373.

III. Interpretation of ORS 166.260(5)

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

"Organizations which are by law authorized to purchase or receive weapons described in ORS 166.250 from the United States, or from this state." (Emphasis added.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The ultimate question is when are club members acting as an "organization" and thus within the exemption of ORS 166.260(5). Although 32 CFR section 543.10(a), quoted earlier, refers only to property (including weapons) issued by the federal government and not to weapons which may be privately owned by club members, we believe the regulation necessarily defines the official scope of a club's activities. It provides that such property "is to be used solely for supporting the club's organized marksmanship training program." We accordingly conclude that club members will come under the exemption provided in ORS 166.260(5) only when they are using the club's weapons in the club's organized marksmanship training program. Whether the weapons are being so used will be a question of fact. However, given the language in ORS 166.260(5) and (7) the exemption of subsection (5) does not include the period of time when members are going to and from club meetings.

DAVE FROHNMAYER
Attorney General

DF:JEM:THD:SEF:JMM:WTL

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

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

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

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

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

³In *Key v. Harris*, *supra* at 236, the statute read:

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

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

⁴ In *Saluta v. Pitchess*, *supra* at 559, the statute provided:

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

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

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

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

ORS 168.290 only regulates the manner of carrying certain types of weapons (together with ORS 168.250 which prohibits possession of a concealed weapon without a permit). The Oregon Supreme Court in discussion of Article I, section 27 in *State v. Kessler*, 239 Or 359, 370, 614 P2d 94 (1980), noted that "many courts have upheld statutes prohibiting the carrying of concealed weapons." See also *State v. Blomner*, 291 Or 255, 258, 530 P2d 624 (1981). Most recently, the Supreme Court has stressed that its decisions do "not mean individuals have an unfettered right to possess or use constitutionally protected arms in any way they please. The legislature may, if it chooses to do so, regulate possession and use." *Oregon v. Delgado*, 258 Or 395, 403, 692 P2d 610 (1984).

⁹ "Good moral character" is necessary for one to be an attorney (ORS 9.220), a member of the state police (ORS 181.260), a notary public (ORS 194.010), a counselor of a juvenile department (ORS 419.604), a psychologist (ORS 275.030) or psychologist associate (ORS 675.065), a practitioner of medicine (ORS 677.100), a podiatrist (ORS 677.920), a nursing home administrator (ORS 678.730), a speech pathologist or audiologist (ORS 831.260), an optometrist (ORS 683.040), a chiropractor (ORS 684.040), a naturopath (ORS 885.070), a veterinarian (ORS 698.045), a physical therapist (ORS 688.050) or physical therapist assistant (ORS 888.055), a pharmacist (ORS 689.255), and a hearing aid dealer (ORS 694.055).

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

¹ In the case of a notary public "good moral character" is defined. ORS 194.006(2) provides that as used in ORS 194.010 "good moral character" means

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

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

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

⁴ In the case of a naturopath, the statute does specify how "good moral character" shall be established. ORS 885.070 provides that affidavits of two reputable citizens of the state attesting the good moral character of the applicant for examination shall be filed with the application for an examination for a license to practice naturopathy.

⁵ We recognize that not all Oregon sheriffs are elected; however, by far, the majority of them are.

¹⁰ The court in *Warren v. Marion County*, *supra*, did, however, go on to say that:

" . . . [T]he important consideration is not whether the statute delegating the power expresses standards, but whether the procedure established for the exercise of the power furnishes adequate safeguards to those who are affected by the administrative action." 222 Or at 314. (Emphasis in original.)

¹¹ Likewise, the Oregon Court of Appeals has held that a school's rule governing the length of hair of male students was beyond the statutory delegation of authority to schools to govern student conduct. The court interpreted the pertinent statutes to mean that such rules must "have some reasonable connection with the educational process." *Neuhaus v. Federico*, 12 Or App 314, 319, 505 P2d 939 (1973).

¹² The California statute required that an applicant for a license to carry a concealed weapon be a resident of the county. The Oregon law contains no such requirement. See *Watson v. McNamara*, 9 Or App 448, 497 P2d 682 (1972).

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

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

We note that subsection (7) of OSS 162.260 provides an exemption under certain circumstances for "members" of target range practice shooting organizations, unlike subsection (5) which only provides an exemption for "organizations" which purchase or receive weapons from the United States or this state.

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

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

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

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

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

No. 8163

January 4, 1985

Mr. Ed Zajonc
Director
Division of State Lands

FIRST AND SECOND QUESTIONS PRESENTED

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

ANSWER GIVEN

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

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FIREARMS AND VIOLENCE, 1986:

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

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

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SUMMARY:
Firearm Involvement in Crime

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Concealed Carry for Citizens

A Law Enforcement Perspective

by John Chapman,
LEAA Board Member

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

Dear Captain Crawford:

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

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

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

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

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

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

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

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

Then something happened which galvanized my belief about this issue.

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

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

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

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

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

jured patrons, employees or police officers.

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

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

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

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

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

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

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

continued on page 33

Southern States PBA Crime Control Landmark Law Enforcement Survey Shows Rare



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



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



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



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

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

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

continued from page 29

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

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

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

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

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

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

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

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

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

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

Sincerely,
John Chapman



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All The Time.**

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

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Love may be bomb

Friends say suspect had crush on wife

By NATALIE PHILLIPS
and MARILEE ENGE
Daily News reporters

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

Wheeler, 62, made his in-

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

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

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

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

Florida kids lose right to have gun

Parents face punishment if children carry firearms

By WILLIAM BOOTH
The Washington Post

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

The legislation, **BRADY BILL:** House which was passed OKs gun legislation. A-3 Tuesday night, mirrors similar measures approved in Colorado and proposed in Arizona, and is similar to a provision Congress has included in its omnibus bill.

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

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

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

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

YES, IT'S NOVE



Victor Escutia of Big Green Lawn Mowers, Anchorage. Escutia said he normally is si

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

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

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

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

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

"Boy, was that a place to visit," Hunt said. "He had so many tools. And it was really, really neat. Mike and I would marvel at it. He was such a perfectionist. It looked like he had 800 different screwdrivers, all in various lengths. It was wild. Nobody could use that many tools."

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

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

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

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

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

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

Dawson had been dead for a week.

□ Daily News reporter Peter Goodman contributed to this story.

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

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

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

All the while, Stockler raised suggestions of politi-

responsibility for only one thing that he did?" Spann asked.

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

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

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

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

trovsky erupted early this year.

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

In interviews, neither Spann nor Stockler would elaborate on the reference to an accusation against Jacko by Sarah Munson. Munson, a former Senate page, graduated in 1991 from West Anchorage High School.

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

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

Continued from Page A-1

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

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

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

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

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

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

The measures passed 38 to 0 in the Florida Senate and 112 to 0 in the House.

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

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

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

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

Voice of The Times

Bill to allow concealed weapons a good idea

By PAUL JENKINS

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

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

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

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

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

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

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

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



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

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

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

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

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

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



Jenkins

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

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

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

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

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

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

Paul Jenkins is an editor of The Anchorage Times.

Armed Citizens

continued from pg. 40

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

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

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

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

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

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

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

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

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

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

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

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

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

NRA's Program For Personal Protection

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

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

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

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

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

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

Provide practical advice on avoiding or controlling a criminal attack.

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

Florida CCW

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

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

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

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

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

Dr. R.J. Goldstein
Miami, Fla.

American Handgunner
March / April 1993

Local charged with assault

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

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

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

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

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

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

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

Chugizh/Eagle River Star

1/28/93

Concealed carry law is good idea

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

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

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

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

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

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

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

...

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

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

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

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

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

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

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

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

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

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

Beaumont
Enterprise

3/9/93

Beaumont, TX

(18)

Pistol-packing debate heats up

Some push to repeal ban on concealed weapons

BY ROB CHRISTENSEN
STAFF WRITER

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

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

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

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

Appearing on his monthly radio

Legislators consider taking away driver's licenses of students who take weapons to school. > 3A

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

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

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

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

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

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

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

Bayliss said most of the bust-

SEE GUNS, PAGE 10A

GUNS

CONTINUED FROM PAGE 1A

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

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

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

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

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

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

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

holics, diagnosed drug addicts and mental patients.

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

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

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

News & Observer
3/31/93

7

OTHER VIEWS

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

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

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

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

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

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

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

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

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

15

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Bill Would Limit Charge Bargaining in Firearms Cases

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

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

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



Key

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

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

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

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

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

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

Legal Beat



Rogers



McCormick

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

Michael Paul Kirschner, senior member of the law firm Hastie and Kirschner, has been appointed independent mediator by the United States Bankruptcy Court for the Western District of Texas, Austin Division.



Kirschner

Kirschner will be assisting in the resolution of the Chapter 11 bankruptcy proceedings filed by El Paso Electric Company. EPE serves about 250,000 customers in El Paso, Texas. Kirschner has been practicing law in Oklahoma since 1968 and concentrates in bankruptcy, commercial law, litigation, banking and appellate proceedings. . .

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2/6/93

Tulsa World 2/16/93

4 SECTION A

Concealed Weapons Bill Appears Dead in Senate

By Chuck Ervin
World Capitol Bureau

OKLAHOMA CITY — A bill authorizing private citizens to carry concealed weapons under certain conditions appeared dead Monday.

The bill by Sen. Frank Shurden, D-Henryetta, currently is in the Senate Rules Committee. Thursday is the deadline for committee action on pending measures; Shurden's bill is not scheduled for a hearing when the committee meets Wednesday.

"The bill is dead for the session," said Sen. Penny Williams, D-Tulsa, the committee chairman.

Shurden's bill would allow private citizens to be licensed by the Oklahoma State Bureau of Investigation to carry concealed weapons.

They would first have to submit to fingerprinting and a back-

ground check and would be denied a license if they have a criminal record, history of mental illness or drug and alcohol violations.

Shurden said anyone seeking a concealed weapon license also would have to pass a gun safety course.

His measure has the support of the National Rifle Association. But it is opposed by the Senate leadership.

Senate President Pro Tem Bob Cullison, D-Skiatook, recently told an NRA lobbyist he would support the bill, "if my gun adviser says it's OK."

"Who's your gun adviser?" the lobbyist asked.

"Mike Synar," Cullison said, tongue in cheek.

The NRA poured tens of thousands of dollars into the campaign against U.S. Rep. Mike Synar last year in an unsuccessful attempt to defeat the Muskogee Democrat.

Shurden could attempt to insert his proposal as an amendment to another bill during floor action.

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Paths of Texas Gun Bill Follow Myths Not Polls

By ROSS E. MILLOY

Special to The New York Times

WACO, Tex., March 31 — Far from the urban caldron that is modern-day Texas, Leo Bradshaw and his army of regulars gather in the back room of Used Guns and Other Keen Stuff, sip coffee muddier than the nearby Brazos River and swap stories about their mutual hobby — guns.

There is a retired bank president, anxious to sell 104 antiques from his inventory and a grizzled military historian who fashions First Empire Napoleon figurines. A courthouse lawyer, an off-duty police officer and an elderly sports buff wander casually in and out. They get together late most afternoons to talk, and these days there is plenty to talk about.

Two pieces of gun legislation currently before the State Legislature in Austin have become the focus of a spirited debate that stands, like many contentious matters in this state, at the crossroads of myth and fact. One bill would ban assault rifles while the other would allow people to obtain permits to carry weapons. Concealed weapons, in public, carrying guns in public has been banned since Texas passed its first gun law in 1866.

Typical Texas Surprise

Typically for Texas, it is a debate that is not going the way one might expect, considering that Federal agents and members of a religious sect are still squared off beyond rifle range, barely 90 miles from the state Capitol. The bill making it easier to carry concealed weapons was approved unanimously by a legislative committee last week, but the assault weapon measure faces "an uphill fight," in the sponsor's own estimation.

Texas, with its rural past, has long been identified with guns. From the Alamo to John Wayne movies to the assassination of John F. Kennedy, Texas and guns have always appeared in the eyes of the outside world to have a special link.

"Unless you've lived your whole life down here, you can't understand," says Mr. Bradshaw, 58, the owner of Used Guns and Other Keen Stuff. "It's not a macho thing. The openness, the vast expanse of the state, has something to do with it. Texans enjoy their guns and owning them. It's a tradition. It's a heritage. It's a way of life. It's the way people were brought up here."

In the nearly 40 years Mr. Bradshaw has been selling guns Texas has moved

from a rural to a predominately urban society and less than half of its 18 million residents were actually born here. Despite that migratory shift, studies show that 4 of every 10 Texans still own more than two guns. The Texas Rifle Association estimates that there are 68 million guns here, almost four for every man, woman, and child in the state.

Average of 4 Guns

Surrounded by mounted trophies of caribou, mule deer and elk, Mr. Bradshaw says: "That sounds just about right. Your average gun owner has four guns — a handgun, a .22, a shotgun for birds, and a rifle for hunting deer. I don't have any customers who have just one. Most have from 3 to 20 apiece."

While Mr. Bradshaw points out that farmers and ranchers need protection from wild boar, snakes, coyotes, wild dogs and an occasional mountain lion, violent crime has replaced four-footed predators as the major concern of gun-owning Texans. Waco, with its rural setting and 209 churches, would ordinarily seem worlds away from such concerns. But events like the Luby's cafeteria massacre in which 23 people died about 45 miles away in Killeen in 1991 and the shootout on Feb. 28 with Mr. Koresh's followers that killed 6 dead and wounded 17, have brought home the problems of gun ownership in Texas. Mr. Bradshaw sold three Ruger Mini-14 rifles and a .22-caliber pistol to Mr. Koresh and his followers.

Both events changed local attitudes, Mr. Bradshaw says, but again, not in the ways one would expect. The Killeen incident stimulated the sale of "purse pistols" to women, he said. The shootout at the Branch Davidian compound was 10 miles from here led to a decrease in the number of people selling used guns.

"That tells me people are afraid they won't be able to replace their guns," Mr. Bradshaw said.

Fearing Rash of Laws

What he and the regulars fear is a rash of gun laws proposed by what they consider to be misguided advocates of gun control.

"There's big money to be made in the anti-gun movement," asserts the retired bank president. "Those people aren't doing it for the good of the country. They're doing it for big mon-

ey sponsor of the bill to allow Texans to carry concealed weapons is Ron Wilson, a Democrat from one of Houston's most crime-ridden districts.

"Our heritage tells us we need a fast horse and a good gun," Mr. Wilson said. "Urban life in my district has become a jungle because of crack and gangs. It's a war zone. The new gun owners now do not come from an agrarian society. They want to protect their families."

Bill Requires Courses

Mr. Wilson's bill requires those who want a license to carry a conceal weapon to take a 15-hour course on the safe handling of weapons, dispute resolution and the legal consequences of using deadly force. According to him, 37 oth-

er states have such laws and one — Florida, with over 130,000 gun permits issued — has seen a 20 percent overall reduction in murders. "It's the best crime deterrent going next to a Doberman pinscher," Mr. Wilson said recently.

To those who would argue that allowing concealed weapons will only result in more guns on the street, Representative Bill Carter, chairman of the committee whose seven member unanimously approved the bill last Thursday, responds: "The guns are already on the street, and they're going to stay on the street. We need a licensing process, education, and safety training. It would be naive to think there are not a lot of guns in purses and automobiles."

Though both Mr. Wilson and Mr. Carter insist that the bill has wide-ranging support and will easily overcome a threatened veto by Gov. Ann Richards, a recent Mason-Dixon Poll released by the Texas Police Chiefs Association showed that 70 percent of Texans opposed the legislation.

'In an Ivory Tower'

Mr. Carter questioned the impartiality of the poll and the motives of the police chiefs who sponsored it. "They live in an ivory tower," he said. "They are not elected officials. And they are not really addressing the volatile situation we're in today."

It is assault-style weapons that Texans do not need, at least in the opinion of State Senator Royce West of Dallas.

"Texans seem to love their guns as much as their cattle," said Mr. West, a freshman Democrat who represents a high-crime area in the state's second largest city. "My colleagues tell me privately they're for the bill but that it would be political suicide for them to support it."

Mr. West contends there is no sporting purpose to assault weapons and describes them as "people-killers, plain and simple."

But at Used Guns and Other Keen Stuff, amid the rifles, shotguns and silvery antique knives, Leo Bradshaw insists "There is a very legitimate need for a semi-automatic rifle to hunt medium-to-large game." In heavily wooded areas a deer moves quickly out of vision, he says, if a hunter misses the first shot. "A lot of people like the semi-automatic because you have that second or third shot immediately available."

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Rod Aydelotte for The New York Times

"Texans enjoy their guns and owning them," said Leo Bradshaw. "It's a tradition. It's a heritage. It's a way of life." He worked on a Model 1873 Winchester at his Used Guns and Other Keen Stuff shop in Waco.

Though some of Mr. Bradshaw's regulars might oppose the assault weapons ban as more mettlesome government interference in their harmless hobby, recent poll data shows most Texans do not agree.

"Texans do have different levels of gun acceptance than residents of other states," said Candice Windel of the Texas Poll. Her figures indicate that while half of all Texans own at least one gun and 4 of 10 ten have at least two, their affections do not extend to assault rifles. "Even a majority of gun owners favor a ban on assault weapons," she says, and nearly 90 percent favor a mandatory waiting period prior to their purchase.

Despite apparent popular support and the enthusiastic backing of Governor Richards, Mr. West's bill will probably never even emerge from committee for a floor vote, he says, while the measure allowing Texans to carry concealed weapons currently has enough legislative support to overcome a threatened gubernatorial veto if it passes the Senate.

It is a situation which, with the Branch Davidian drama still stumbling toward resolution in the background, has stilled even Governor Richards's well-known wit. Bill Cryer, Ms. Richards's spokesman, had only this comment: "We're not finding anything very funny about guns around here right now."

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House panel debates concealed-gun bills

By Sylvia Moreno

Assistant Bureau of The Dallas Morning News

AUSTIN — Giving Texans the right to carry concealed weapons would promote violence and increase the use of guns, law enforcement officials said Thursday in opposition to bills legalizing pistol-packing.

"My concern is somebody settling an

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argument in a parking lot or someone who sees what looks like a life-and-death situation that isn't," said Tommy Britt, legislative director for the Houston Police Officers Association.

Law groups oppose pistol permits

"Carrying a shotgun in your car and walking through Memorial Park Mall in Houston with a pistol on your hip are two different things," Mr. Britt said.

The testimony before the House Public Safety Committee centers on bills by Reps. Ron Wilson, D-Houston, and Bill Carter, R-Port Worth. The measures were referred to a subcommittee for study.

Mr. Wilson, who has tried since 1987 to win passage of his bill, said he understands police officers' concerns. But, he said, "If they were able to be everywhere

within the one-minute response time, we wouldn't need this. People ought to have the right to protect themselves."

The proposals would allow Texans to obtain gun licenses and to carry the weapons in public after taking a test on the use of guns and deadly force and lessons on how to resolve disputes peacefully.

Those convicted of a felony and certain misdemeanors in the last five years would not be eligible for a license. Applicants would be required to pay a \$125 license fee under Mr. Wilson's proposal.

Both bills would require background criminal checks of the license applicant. The licensed weapons would be prohibited in schools, polling places, courthouses, bars, racetracks, airports, sporting events and at government meetings.

Thirty-seven states have some form of right-to-carry gun laws.

In dramatic testimony, one of the survivors of Luby's cafeteria massacre 1991 in Killeen told the committee that she felt totally helpless as George Hennard methodically killed lunchgoers, including her

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parents.

Suzanna Gratia said she had been given a .38-caliber revolver for protection but always left it in her car for fear of being arrested and losing her chiropractor's license.

"I can't tell you how much I'd rather be sitting in a jail with a felony offense and have my parents alive," said the Copperas Cove woman. "Please do something to make it legal for me."

Mr. Carter said guns already are out on the streets. He said his bill would simply allow law-abiding citizens to carry them legally.

"All we're setting up is a permitting process and training," Mr. Carter said. He also said legalized concealed weapons would help deter crime.

"There is a deterrent if somebody might be able to protect themselves," he said.

But a Dallas Police Department official said the bill presented a significant threat to police officers,

BILL HOTLINE



Information on bills in the Texas Legislature, committee schedules and lawmakers' phone numbers can be obtained by calling the Legislative Reference Center, 1-800-253-9633. Callers may ask about bills by subject or by the sponsor's name.

The Dallas Morning News

mainly because training and criminal checks would not gauge the mental stability of a person who gets a gun license.

"The emotional stability and mindset of a person who decides to use deadly force is very hard to gauge," Deputy Chief Richard Hatler said in an interview before his committee appearance.

Regarding Ms. Gratia's testimony, he said, "My heart goes out to her. I sincerely feel for her. Her appeal is very emotional. But we will have more incidents of violence if this bill goes through."

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Brady assails Texas gun bills

DALLAS MORNING NEWS 2-18-93

Rathburn calls plans giant step backward'

by Todd J. Gillman
Staff Writer of The Dallas Morning News

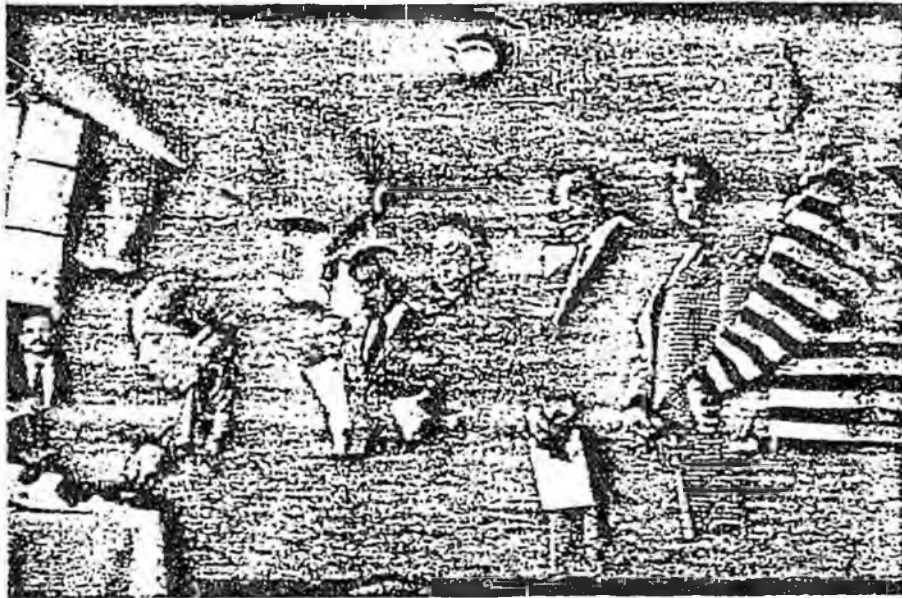
Former presidential press secretary James Brady, who barely survived an attempt on Ronald Reagan's life, joined Dallas Police Chief Bill Rathburn Wednesday in denouncing proposals to allow Texans to carry concealed handguns.

"Even though the president and I were surrounded by the most highly trained and experienced Secret Service men — who were armed with high-powered concealed handguns — we still became victims," said Mr. Brady, speaking from his wheelchair at Midway Hills Christian Church in northeast Dallas.

"I don't hear anybody arguing that not every law-abiding citizen in the crowd outside that hotel been packing a pistol that John Hinckley would have been stopped any more quickly."

On Thursday, a state House committee will hear testimony on bills by state

Please see BRADY on Page 30A.



The Dallas Morning News: Richard Michael Pratt

Former White House press secretary James Brady (seated) speaks at a Dallas news conference Wednesday against proposals to allow Texans to carry concealed handguns. Behind him (from left) are the Rev. Eric Brown of Denley Drive Christian Church, Holsey Hickman of the Greater Dallas Community of Churches, Dallas Police Chief Bill Rathburn, state Sen. Royce West, Joanne Schaefer of the National Victim Center and Mary Roberts of the Dallas Independent School District.

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Reps. Bill Carter, R-Fort Worth, and Ron Wilson, D-Houston, to ease restrictions on concealed weapons.

Mr. Brady, who suffered brain injuries in the shooting 12 years ago by Mr. Hinckley, a former Dallas-area resident, urged Texans to fight to keep concealment of guns illegal.

"Texas already has the dubious distinction of being the first state to lose more residents to gun injuries than to automobile injuries," he said, reading from a prepared text in a halting voice.

Chief Rathburn called the idea of legalizing concealed weapons "a giant step backward." Passage of any of the proposals would increase accidental shootings and crimes of passion, he said.

"The level of violence, the loss of life will increase," he said.

Mr. Wilson dismissed the arguments of Mr. Brady and Chief Rathburn as tantamount to saying "the ordinary citizen can't be trusted."

"Neither one of them lives in an inner-city, predominantly minority area" such as southeast Houston, which Mr. Wilson represents, the legislator said by phone from Austin. "They don't have to worry about the elements of crime touching their lives every day."

"We already have guns on the street in Texas," Mr. Wilson said. "You're not going to stop gang members from carrying guns. I don't care how many laws you passed. . . . Citizens ought to be able have the right to protect themselves."

Also speaking out against the concealed-gun proposal were Mary Roberts, an area director for the Dallas Independent School District, and Dr. James Carrico, chief of surgery at University of Texas Southwestern Medical Center in Dallas. The news conference was hosted by the Rev. Tom Plumbley, chairman of the pastor and police committee of the Greater Dallas Community of Churches.

Mr. Brady, a spokesman for Handgun Control Inc., the group that his wife, Sarah, founded, focused on Mr. Carter's legislation, House Bill 100.

The bill would allow anyone 21 or older who has no felony convictions and no Class A or Class B misdemeanor convictions within the previous five years to carry a concealed handgun. It would require such gun owners to pass a 15-hour course in gun safety and "dispute resolution."

Because of that training, said Roger Starkey, Mr. Carter's legisla-

tive director, accidents would be minimized and life in Texas would be safer.

Officials from two law enforcement groups — the 2,000-member Texas State Trooper Association and the 4,000-member Texas Municipal Police Association — will testify Thursday in favor of the bill, Mr. Starkey said.

Texans may legally carry rifles in public but they must keep handguns at home unless they are traveling across a county line. Thirty-seven other states now have some type of concealed weapon permits, Mr. Starkey said.

He called the arguments against the bill "very simplistic" and said Texans should be allowed a "fighting chance" when faced with an armed criminal.

One lawmaker who opposes the concealed-handgun bills, freshman state Sen. Royce West, D-Dallas, said at the news conference that instead of making it easier to carry weapons in public, the Legislature should impose criminal background checks and a waiting period on gun buyers — proposals he has submitted in Austin.

Given the level of violence on the state's streets, Mr. West said, a concealed-gun bill is "basically taking a match and throwing it on gasoline."

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Winter takes rain check

Lucinda Dunaway takes time to pet dog-team member Hazel, who doesn't seem to mind that there was not enough firm snow for the sled rides scheduled during yesterday's Winterfest events at the

University of Alaska Southeast. Events planned for today include a pancake feed from 10 a.m. to 1 p.m. at Mourant Hall, snow sculpture judging and a golf tournament.

serve account. Republicans lead the majorities in both the House and Senate.

"When you are in the majority it is up to you to come up with a budget plan," said House Minority Leader Fran Ulmer, a Juneau Democrat.

Please turn to Fix, Page A-6

s sights on weapons

Democratic applause when he lled for the ban in his State of e Union message last week, lling a joint session of Congress: "There is no sporting purpose on earth that should stop e United States Congress from inishing assault weapons that itgun police and cut down children."

The ban was approved by a 43 vote as part of a broader inate bill that was passed late st year. The Senate then issed the Brady handgun-control bill, something it had never ne before, ending a 7-year-long awl.

The assault-weapons meas- e, introduced by Sen. Dianne einstein, D-Calif., would stop e manufacture, sale and new

Please turn to Ben, Page A-8

Bill would allow concealed weapons

By IAN MADER
THE ASSOCIATED PRESS

Roger Day of North Pole says his bluff thwarted a roadside robbery attempt Christmas Eve when he slipped his hand under his jacket and told the two assailants he had a gun.

Day had no concealed weapon, but he told the House State Affairs Committee at a recent hearing that he should have the right to carry one in the future.

"People should not have to be intimidated by the very low percentage of the population that I would call lowlifes," Day told a reporter Friday.

Alaskans can carry concealed weapons only if they are law officers, or when they are hunting, hiking or in their own home or business.

But people could get licenses to carry concealed handguns in many other situations under a bill introduced recently by Rep. Jeannette James, R-North Pole.

"We need this for self defense because the police can't be everywhere," James said. "And they usually react to crimes after the fact anyway."

James said she introduced the bill mostly for the protection of women in Alaska, where fed-



REP. JEANNETTE JAMES

eral statistics show the rape rate is highest in the nation. "They need to be able to carry a concealed weapon in their purse."

The law enforcement community generally opposes expanding opportunities for the public to carry guns. C.E. Swackhammer, deputy commissioner of public safety, said police and state troopers would be in greater danger when responding to emotionally charged conflicts.

Palmer Chief of Police Ron Otte agreed. "I've seen too many incidents where people solved what would have been otherwise a fairly innocuous dispute with a handgun, just because a handgun is there."

Otte said more people would carry guns if they could conceal them. He also said such a law would allow guns to get into places where

they are prohibited, like bars and banks.

"Let's be practical, if you're carrying a gun and you walk into a building where by law you can't carry it, I don't think people are necessarily going to disarm themselves.

"There's kind of a last frontier mentality in Alaska. I think the instances of people arming themselves, just because they can, will certainly increase. That would increase instances of people needlessly being shot."

Cindy Smith of the Network on Domestic Violence said she does not buy the argument that more concealed weapons in the state would protect women from rape.

"It's been our experience that the presence of weapons is not always a benefit to the victim. Most often they're used against people."

Under House Bill 351, requirements for applicants to carry concealed weapons would include that they have completed gun-training courses and have no felony or drug-use convictions.

Current bans on carrying weapons in banks, bars and other places would apply to concealed weapons. They also would not be allowed in court rooms, state ferries, state and federal offices and airport terminals.

British marriage comes in from Cold War

War II convoy duties and based in Archangel, just south of the Arctic Circle. She was a bookkeeper.

"She and her brother had missed their last tram home and we jokingly got involved in a snowball fight," he recalled. "It was love at first sight."

She didn't speak English. He hardly spoke Russian, but it didn't matter. They went to the circus, the movie, dinner with

The day before Greenhalgh sailed for Britain, he married Alexandra Alexandrovna Rasheva, whom he calls "Shura," in a civil ceremony with no friends or relatives. They had a one-night honeymoon.

The next day, Greenhalgh stood on deck, peering through borrowed binoculars at Shura, who stood on a hill waving and smiling. They were both 19 years old and sure

In 1946, Greenhalgh received a note from her saying she still loved him. He also learned she had been sentenced to 15 years in a Siberian labor camp for staying in Moscow without permission. Until 1951, he kept pressing the Foreign Office for information, but there was no news.

"I thought, well, that's the end," he said in an interview Friday.

Even after the Soviet Union collapsed he

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ARMED CITIZENS & CRIME CONTROL

BY PAUL H. BLACKMAN, Ph.D.



ONE of the most popular features in the *American Hunter* is "The Armed Citizen" column, a listing of a tiny fraction of the incidents in which citizens use their privately owned firearms for protection. Only those incidents reported to the police, and covered in local newspapers, are highlighted in the column.

How widespread is the use of firearms by citizens for their self-defense? Data from diverse studies indicate that firearms—particularly, handguns—are used for protection in hundreds of thousands of incidents each year. Now, after years of research, a criminologist from Florida State University has published the most thorough estimates on the prevalence of defensive use of guns by Americans. The study—"Crime Control Through the Private Use of Armed Force" by Professor Gary Kleck—was published as the lead article in the February 1988 issue of *Social Problems*.

Dr. Kleck notes that although criminologists have long ignored the issue of guns for protection, they do study how "routine activities" may impact on crime and crime control. He notes that, with half of all American households and a quarter of retail businesses keeping firearms, "gun ownership must surely be considered a very routine aspect of American life and of obvious relevance to the activities of criminals." Nonetheless, Dr. Kleck adds, "victimology scholars have largely ignored victim gun ownership and use. [Yet] victim gun use may be one of the most serious risks a criminal faces."

Dr. Kleck's study focuses on: (1) the frequency and nature of private citizens' defensive uses of firearms against criminals; (2) the effectiveness versus risk of such actions; and (3) the potential deterrent impact on crime of defensive gun ownership and use.

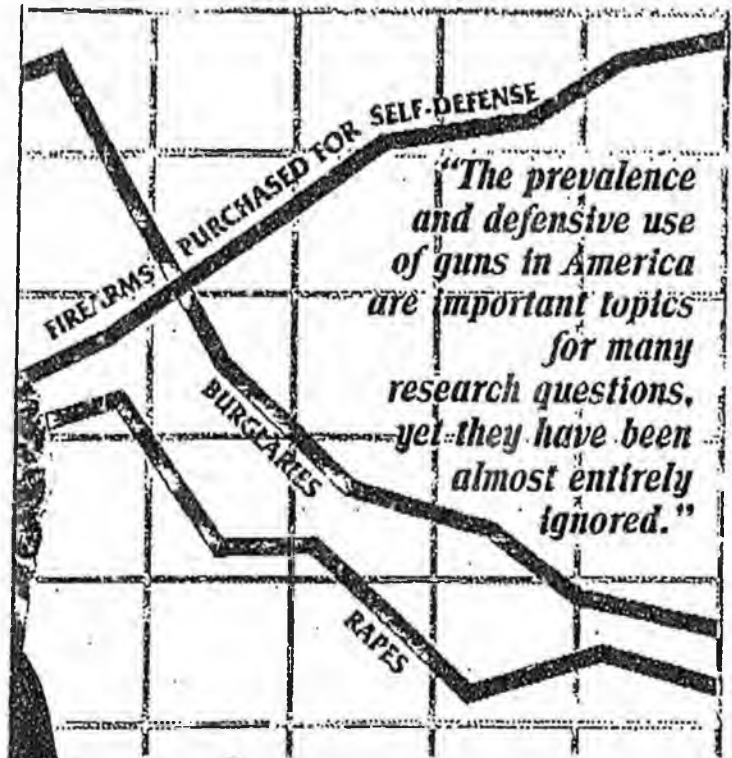
Primary sources for the study are national and state surveys on gun ownership and use, on victimization and protective measures taken, and on local studies on "jus-

tifiable" and "excusable" (self-defense) homicides. Dr. Kleck also weighs what he calls "quasi-experimental" cases of deterrence, such as the well-known example of Orlando, Florida, where women purchased firearms and attended safety classes on gun use in response to an increase in rapes. As a result, incidences of rape and burglary dropped dramatically.

Although several national surveys all suggest relatively small percentages of the nation's 60 million gun owners are using their firearms for protection, Dr. Kleck notes that the figures represent a "large number of actual uses." He estimates that "there were about 645,000 defensive uses of handguns against persons per year, excluding police or military uses." In addition, Dr. Kleck made projections on the uses of long guns, based on the numbers of households keeping long guns vs. handguns primarily for protection. Added together, Dr. Kleck estimates "that guns of all types are used for defensive purposes about one million times a year," and that "guns of all types are used substantially more often defensively than criminally." Most of these uses do not involve firing the gun, much less injuring the criminal.

"Although shootings of criminals represent a small fraction of defensive uses of guns, Americans shoot criminals with a frequency that must be regarded as remarkable by any standard," says Dr. Kleck. The criminologist notes that the FBI's so-called "justifiable homicide" data miss most killings of criminals by civilians because of technical reporting reasons. Using those data as suggestive and local studies as a means of estimating how many actually occur, Dr. Kleck estimates that annually, "gun-wielding civilians in self-defense or some other legally justified cause" kill between about 1,500 and 2,800 felons—or 2½ to seven times as many criminals as are shot dead by police.

Insofar as citizens protect themselves from criminals,



EDITOR'S NOTE

Dr. Gary Kleck is an associate professor at the Florida State University School of Criminology in Tallahassee. His research has focused on firearms for a dozen years, since he was a University of Illinois graduate student working with Professor David J. Bordua on patterns of firearms ownership, use and regulation in Illinois and on his dissertation, "Homicide, Capital Punishment, and Gun Ownership."

A specialist in research methodology, Dr. Kleck has authored or co-authored several articles on firearms and the "gun control" issue. His studies generally undermine the various assumptions of advocates of restrictive firearms laws and include a definitive academic rebuttal of the myth of the so-called "Saturday Night Special." He is currently working with Dr. Bordua on a study of private firearms ownership in the U.S.

Even though his research does not show restrictive firearms laws to be either necessary or beneficial, Dr. Kleck supports a "permissive" licensing system for all firearms on the assumption it would not interfere with private ownership. He is opposed to gun schemes directed exclusively at handguns, including licensing.

Attack, Injury and Crime Completion Rates in Robbery and Assault Incidents, by Self-Protection Method

Method of Self-Protection	Robbery				Assault		
	Percent Completed	Percent Attacked	Percent Injured	Number Times Used ^(a)	Percent Attacked	Percent Injured	Estimated Number Times Used ^(a)
Used gun	30.9%	25.2%	17.4%	89,009	23.2%	12.1%	386,083
Used knife	35.2	55.6	40.3	59,813	46.4	29.5	123,062
Used other weapon	28.9	41.5	22.0	104,700	41.4	25.1	454,570
Used physical force	50.1	75.6	50.8	1,653,880	82.8	52.1	6,638,823
Tried to get help or frighten offender	63.9	73.5	48.9	1,516,141	55.2	40.1	4,383,117
Threatened or reasoned with offender	53.7	48.1	30.7	955,398	40.0	24.7	5,743,008
Nonviolent resistance, including evasion	50.8	54.7	34.9	1,539,855	40.0	25.5	8,935,738
Other measures	48.5	47.3	26.5	284,423	36.1	20.7	1,451,103
Any self-protection	52.1	60.8	38.2	4,601,671	49.5	30.7	21,801,957
No self-protection	88.5	41.5	24.7	2,686,960	39.9	27.3	6,154,763
Total	65.4	53.7	33.2	7,290,631	47.3	29.9	27,956,719

Notes: (a) Separate frequencies in these columns do add to totals in "Any self-protection" row since a single crime incident can involve more than one self-protection method. Sources: Analysis of incident files of 1979-1985 National Crime Survey public use computer tapes (ICPSR, 1987b).

Robbery and assault victims who used firearms for protection were less likely to be attacked or injured than victims who responded in any other manner. Only 17% of those using guns to resist attempted robbery and 12% using guns to resist assault suffered any kind of injuries. 25% of robbery victims and 27% of assault victims who did not resist were injured anyway.

Dr. Kleck estimates "there were about 8,700-16,600 non-fatal, legally permissible woundings of criminals by gun-armed civilians" annually, and "the rest of the one million estimated defensive gun uses, over 98% involved neither killings nor woundings but rather warning shots fired or guns pointed or referred to."

National gun prohibitionists claim that firearms owned for protection are "generally useless and even dangerous to the victim . . ." Using victimization surveys commissioned by the U.S. Department of Justice, Dr. Kleck puts that contention to rest, finding that "for both robbery and assault, victims who used guns for protection were less likely either to be attacked or injured than victims who responded in any other way, including those who did not

resist at all. Only 12% of gun resisters in assault and 17% in robberies suffered any kind of injury. After gun resistance, the course of action least likely to be associated with injury is doing nothing at all, i.e., not resisting. However, passivity is not a completely safe course either since 25% of robbery victims and 27% of assault victims who did not resist were injured anyway."

Significantly, Dr. Kleck notes that the victimization surveys actually exaggerated the association of injury with gun-resistance since the surveys generally fail to ask whether the injury occurs after and because of resistance or whether the injury occurred first. In a supplemental questionnaire, however, it was found that most injuries to