

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9737 SENATE STATE AFFAIRS

LEGAL SERVICES

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

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

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

MEMORANDUM

March 24, 1997

RECEIVED
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SUBJECT: Persons Prohibited from Possessing Firearms under Federal and State Law (SB 141)

TO: Senator Lyda Green
Attn: Tuckerman Babcock

FROM: Gerald P. Luckhaupt *JPL*
Legislative Counsel

You have asked who is prohibited under state or federal law from possessing a firearm?

Under Federal Law

18 U.S.C. § 922(g) provides:

- (g) It shall be unlawful for any person--
- (1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;
 - (2) who is a fugitive from justice;
 - (3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));
 - (4) who has been adjudicated as a mental defective or who has been committed to a mental institution;
 - (5) who, being an alien, is illegally or unlawfully in the United States;
 - (6) who has been discharged from the Armed Forces under dishonorable conditions;
 - (7) who, having been a citizen of the United States, has renounced his citizenship; or
 - (8) who is subject to a court order that--
 - (A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;
 - (B) restrains such person from harassing, stalking, or threatening an intimate partner or such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

Senator Lyda Green

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(C)(i) includes a finding that such person represents a creditable threat to the physical safety of such intimate partner or child; or

(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

(9) who has been convicted in any court of a misdemeanor crime of domestic violence;

to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.¹

Under State Law

AS 11.61.200(a)(1) provides that it is unlawful for a person to knowingly possess

¹ Under the federal law "misdemeanor crime of domestic violence" means a crime that:

(i) is a misdemeanor under Federal or State law; and

(ii) has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.

(B)(i) A person shall not be considered to have been convicted of such an offense for purposes of this chapter, unless--

(I) the person was represented by counsel in the case, or knowingly and intelligently waived the right to counsel in the case; and

(II) in the case of a prosecution for an offense described in this paragraph for which a person was entitled to a jury trial in the jurisdiction in which the case was tried, either

(aa) the case was tried by a jury, or

(bb) the person knowingly and intelligently waived the right to have the case tried by a jury, by guilty plea or otherwise.

(ii) A person shall not be considered to have been convicted of such an offense for purposes of this chapter if the conviction has been expunged or set aside, or is an offense for which the person has been pardoned or has had civil rights restored (if the law of the applicable jurisdiction provides for the loss of civil rights under such an offense) unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

a firearm capable of being concealed on one's person after having been convicted of a felony or adjudicated a delinquent minor for conduct that would constitute a felony if committed by an adult by a court of this state, a court of the United States, or a court of another state or territory.²

There is no general ban in Alaska on the possession of long rifles or shotguns for persons convicted of felonies. Absent a special condition of probation or parole a felon could possess these long weapons without violating state law. Absent the conviction of a felony, persons may be prohibited from possessing firearms as a condition of release before trial for a crime (whether felony or misdemeanor) or through a domestic violence protective order.

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²AS 11.61.200(b)(1) provides an affirmative defense to a person accused of violating AS 11.61.200(a)(1) if

- (A) the person convicted of the prior offense on which the action is based received a pardon for that conviction;
- (B) the underlying conviction upon which the action is based has been set aside under AS 12.55.085 or as a result of post-conviction proceedings; or
- (C) a period of 10 years or more has elapsed between the date of the person's unconditional discharge on the prior offense or adjudication of juvenile delinquency and the date of the violation of (a)(1) of this section, and the prior conviction or adjudication of juvenile delinquency did not result from a violation of AS 11.41 or of a similar law of the United States or of another state or territory;



Fact Sheet

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National Rifle Association of America • Institute for Legislative Action • Research & Information Division
11750 Waples Mill Road • Fairfax, VA 22030 • 703-267-1170 • <http://www.nra.org>

1/27/97

The Right To Carry

ASK most Americans today, and they'll tell you that they, not government, are the best guarantors of their lives, liberty and happiness. In back-to-back elections in 1994 and 1996, a majority of voters cast ballots for candidates who support restoring the full range of individual citizens' traditional rights, and returning government to the limited role prescribed for it by the Constitution. It has been some time coming, but the day has arrived, much to the dismay of those who believe that big government should only get bigger, wielding more and more control over every American's personal affairs, and commandeering a greater share of every American's rights and responsibilities.

Where the right to keep and bear arms is concerned, nothing so clearly represents the will of the American people as the right-to-carry movement sweeping the nation during the last decade. From just a few states only a short time ago, nearly two-thirds of the states now have laws respecting the right of individual citizens to exercise their fundamental right of self-defense by carrying concealed firearms for protection against criminals. Nothing so clearly represents America's new wave of freedom, and nothing so thoroughly disillusioning those whose *control*-oriented philosophy is being left behind.¹

- 31 states have right-to-carry laws—127 million Americans — nearly half the U.S. population, including 60% of handgun owners — live in right-to-carry states. During the last decade, 22 states have adopted "shall issue" right-to-carry laws. During 1995-1996 alone, 16 states adopted or improved their right-to-carry laws.²

- States with right-to-carry laws have lower overall violent crime rates, compared to states without right-to-carry laws — total violent crime is 18% lower, homicide is 21% lower, robbery is 32% lower, and aggravated assault is 11% lower. (FBI)

- In their ground breaking study, Professor John R. Lott, Jr., and David B. Mustard, of the University of Chicago, found that "allowing citizens to carry concealed weapons deters violent crimes and it appears to produce no increase in accidental deaths. If those states which did not have right-to-carry concealed gun provisions had adopted them in 1992, approximately 1,570 murders; 4,177 rapes; and over 60,000 aggravated assaults would have been avoided yearly. . . . [T]he estimated annual gain from allowing concealed handguns is at least \$6.214 billion. . . . [W]hen state concealed handgun laws went into effect in a county, murders fell by 8.5 percent, and rapes and aggravated assaults fell by 5 and 7 percent."³

- In Florida, the homicide, firearm homicide, and handgun homicide rates have decreased 36%, 37%, and 41%, respectively, since its 1987 carry law. During the same period, the national homicide rate decreased 0.4% while the national firearm and handgun homicide rates increased 15% and 24%, respectively. (FBI) Florida carry license holders are more law-abiding than the general public. Only 0.019% of licenses issued through Nov. 30, 1996 (72 out of 383,452) have been revoked because licensees committed firearm crimes.⁴ In an official correspondence to the governor and other state officials, Florida Dept. of Law Enforcement Commissioner James T. Moore stated that "From a law enforcement perspective, the licensing process has not resulted in problems in the community from people arming themselves with concealed weapons."⁵

Florida's homicide and total violent crime trends since right-to-carry adopted

As noted, Florida's homicide, firearm-homicide, and handgun-homicide rates have decreased dramatically since the state's right-to-carry law took effect. "Gun control" supporters claim that Florida's 3-day waiting period is responsible for the state's homicide rate decrease, but historically waiting periods have not caused reductions in homicide. Despite having the nation's longest waiting period (15 days), California's homicide rate has risen, and is now 43% higher than the rate for the rest of the country; California's total violent crime rate is more than 50% higher. States subject to the Brady Act's 5-day waiting period have experienced worse violent crime trends than states exempt from that law. (FBI) Anti-gun researcher David McDowell has observed that "waiting periods have no influence on either gun homicides or gun suicides."⁸

"Gun control" supporters contend that Florida's high total violent crime rate "proves" that right-to-carry doesn't work. The fact is, though, that Florida's violent crime rate trend is better than the trend for the country on the whole — since 1987, Florida's rate is up 4.5%; the U.S. rate is up 12.3%. Also, in Florida and nationwide, only 30% of "violent crimes" involve firearms. More than 93% of violent crimes are aggravated assaults and robberies, and firearms are used in only 22% of aggravated assaults in Florida (23% nationwide), and in 39% of robberies in Florida (41% nationwide). (FBI)

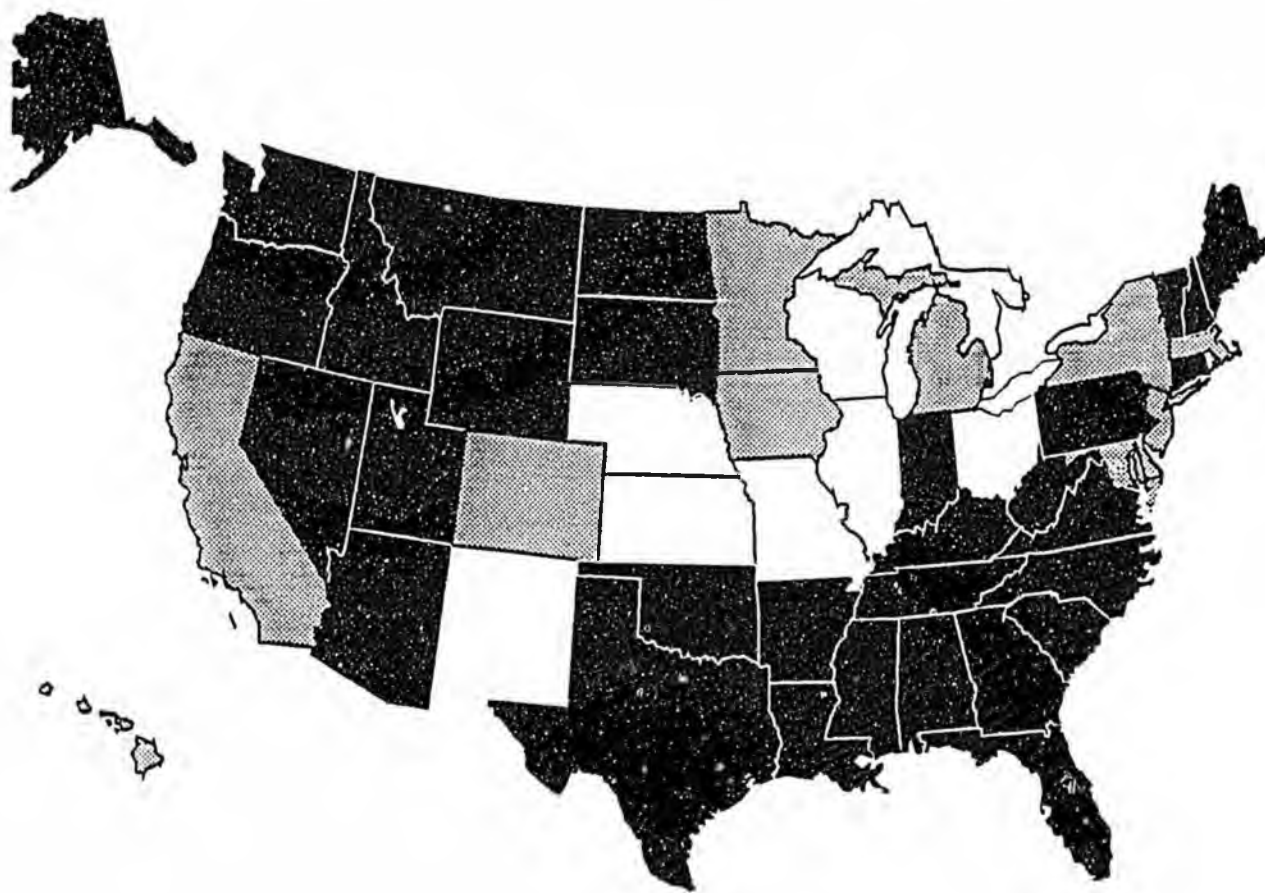
The University of Maryland "study" -- using your money to fund anti-gun "research"

In March 1995, David McDowell and some colleagues released a "study"⁹ paid for with *taxpayers' money* by the federal Centers for Disease Control and Prevention (CDC), which regularly uses tax dollars to fund anti-gun "research." (Legislation to stop the CDC's misuse of funds has been proposed in Congress.) The "study" claimed gun homicide rates increased in Miami, Jacksonville and Tampa after Florida's carry law took effect. Florida Dept. of Law Enforcement Commissioner James T. Moore has said that he doubts the researchers' figures.¹⁰ For good reason: total homicide rates declined 10%, 18% and 20%, respectively, in those metropolitan areas, from 1987 until 1993, the latest available data when the study was released. (FBI)

Through 1995, the Florida city trends are as follows: Two-thirds of Florida cities of 10,000 or more population have experienced decreases in their homicide rates since Florida's carry law took effect, 1 out of 3 experiencing a 100% reduction in homicide, having had no homicides in 1995 (improved from 1-in-4 during 1994). Approximately 20% of cities have experienced increases. Eight of Florida's ten largest cities have experienced homicide rate decreases since 1987: Jacksonville - down 46%, Miami - down 13%, Tampa - down 24%, St. Petersburg - up 12%, Orlando - down 41%, Ft. Lauderdale - down 53%, Tallahassee - up 36%. Hollywood - down 30%, Clearwater - down 21% and Miami Beach - down 93%. (FBI)

McDowell, et al., came up with their figures by calculating Jacksonville and Tampa homicide trends from the early 1970s, when homicide rates were lower than today, to create the false impression that Florida's 1987 carry law caused homicide to rise. Then they calculated Miami's trend from 1983 forward, since homicide rates before 1983 were higher, and their inclusion in the comparison would have shown that the city's homicide rate decreased. None of the homicides they studied were committed by license holders, and no distinction was made between homicides that occurred in situations where a license would be required to carry a firearm, and other homicides. McDowell's brand of math comes as no surprise. In a previous study, he claimed Washington, D.C.'s homicide rate decreased after its handgun ban, which took effect in 1977. In reality, D.C.'s homicide rate tripled after the ban. (FBI)

Right-to-Carry Map of the U.S. January 1997



- Right-to-Carry States
- ▒ States w. restrictive permit systems
- States with no permit, and restrictive carrying laws

The police are not obligated to protect citizens

Courts have held that the police are under no obligation to provide protection to individual citizens. In *Warren v. District of Columbia*,²⁸ the District of Columbia Court of Appeals ruled that "official police personnel and the government employing them are not generally liable to victims of criminal acts for failure to provide adequate police protection . . . this uniformly accepted rule rests upon the fundamental principle that a government and its agents are under no general duty to provide public services, such as police protection, to any particular citizen . . . a publicly maintained police force constitutes a basic governmental service provided to benefit the community at large by promoting public peace, safety and good order." In *Bowers v. DeVito*,²⁹ the Court of Appeals for the Seventh Circuit ruled that "[T]here is no constitutional right to be protected by the state against being murdered by criminals or madmen."

Handgun Control, Inc's., and other gun-control supporters' views on self-defense

Gun control activists have claimed that women shouldn't resist attackers. Then-Handgun Control, Inc., Chair, the late Pete Shields, advised that, if attacked, people should "put up no defense - give them what they want."³⁰ According to Dennis Henigan, the director of Handgun Control, Inc.'s Center to Prevent Handgun Violence Legal Action Project, self-defense is "not a federally guaranteed constitutional right."³¹ According to anti-gun researchers George D. Newton and Franklin E. Zimring, "women generally are less capable of self-defense and less knowledgeable about firearms."³²

Gun control supporters cite a small study of King's County (Seattle), Washington, claiming a gun in the home is "43 times more likely" to be used to kill a family member than to kill in self-defense.³³ To reach that ratio, suicides were counted as family member killings, increasing their number more than 500%. Self-defense firearms uses were grossly undercounted by counting only cases in which criminals were killed. In most protective firearms uses, criminals are scared off, captured or non-fatally wounded. The claim that women use handguns to kill few criminals, but are more often killed by criminals with handguns, is misleading for the same reason: criminals are rarely killed in self-defense. Also, the claim is based upon police reports only, excluding fatal shootings ruled self-defense or justifiable by the courts.

Rep. Stearns introduces national right-to-carry reciprocity bill

In January 1997, Rep. Cliff Stearns (R-Fla.) introduced H.R. 339, the Right to Safety and Personal Protection Act, a bill to allow any person with a valid concealed firearm carrying permit or license, issued by a state, to carry a concealed firearm in any other state, as follows: In states that issue concealed firearm permits, each state's laws governing where concealed firearms may be carried would apply within its own borders. In states that do not issue carry permits, a federal "bright-line" standard would permit carrying in places other than police stations; courthouses; public polling places; meetings of state, county, or municipal governing bodies; schools; passenger areas of airports; and certain other locations. H.R. 339 would also apply to the District of Columbia, Puerto Rico and U.S. territories, though D.C. residents, are prohibited from purchasing handguns.

In announcing his bill, Rep. Stearns noted that the Lott/Mustard study showed that right-to-carry laws deter crime. Stearns says that H.R. 339 is needed "to greatly expand the security individuals enjoy in their own states when they travel or simply cross state lines." Under H.R. 339, people who have carry permits issued by their home states would be able to carry lawfully in any other state, under either the laws of the state they are carrying in (if the state issues permits) or under the federal standard (if the state does not issue permits). People who live in states that do not issue permits would be allowed to carry in any state, provided they possess a carry permit issued by any state, under either the state or federal law, as noted.

Crime

Morgan Reynolds is director of the Criminal Justice Center at the National Center for Policy Analysis.

Concealed Gun Permits Deter Violence

Available on PolicyFax

The Untold Triumph of
Concealed Carry Permits
by David Kopel

Evidence appears to indicate that concealed carry laws have not increased violent crime. (Policy Review, July-August 1996, 3 pp.)

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Hopeful that permitting citizens to carry concealed weapons will reduce crime, states across the country have implemented new "shall issue" concealed carry laws. Do such laws make us safer?

Texas is a good case study. Before its concealed carry law was passed in 1995, proponents claimed that public safety would improve. Opponents said the Lone Star State would quickly degenerate into a Wild West shooting gallery.

"If you introduce a gun into a violent encounter," Duke University criminologist Philip Cook has said, "it increases the chance that someone will die." Since January 1, 1996, when Texas's new concealed carry law went into effect, 100,000 citizens have acquired licenses—far more than projected—while only 700 applications have been denied.

So far, the crime data from Texas support the claims of gun enthusiasts. Through the first eight months of 1996, Houston murder rates were down 18 percent from the previous year. Dallas murder rates fell 25 percent from the previous year. The evidence is mixed with regard to other violent crimes. Property crimes reported to the police, meanwhile, rose 3 to 4 percent in both cities (at this writing, statewide figures for 1996 were unavailable).

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At a minimum, the data suggest that the alarmists were wrong about the impact of concealed carry on reckless homicide. The decline in gun deaths, admittedly, might have little to do with concealed carry permits. A five-year prison-building boom in Texas, for example, has raised capacity from 50,000 to 150,000 beds and probably accounts for the lion's share of the crime decline. The willingness of the state to seek and successfully employ the death penalty is a relevant factor too. The Texas crime rate has fallen by nearly 40 percent during the 1990s, to its lowest level since 1970.

But an impressive study from the University of Chicago concludes that concealed carry permits are indeed responsible for a significant national decrease in violent crime and no significant increase in fatal firearms accidents. Economist John Lott and his graduate assistant David Mustard are the

first social scientists to scientifically study the impact of concealed carry permits. The crimes most likely to be deterred by concealed handgun laws, conclude Lott and Mustard, involve direct contact between the victim and criminal rather than nonconfrontational crimes like auto theft and burglary.

Contrary to the findings of a widely quoted study by University of Maryland researchers who picked only three cities in Florida and one city each in Mississippi and Oregon, Lott and Mustard used data from all

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three thousand counties in the United States between 1977 and 1992. Concealed handgun laws, it turns out, reduce murder by 8.5 percent, rape by 5 percent, and severe assault by 7 percent. The Lott-Mustard statistical models are sophisticated and account for many differences among counties, including arrest rates.

According to Lott and Mustard, there would have been 1600 fewer murders, 4200 hundred fewer rapes, and 60,000 fewer severe assaults if the same state laws to license law-abiding handgun carriers had prevailed throughout the country in 1992. The deterrent effect of concealed handgun laws turns out to be highest in counties with high crime rates. Despite a relatively small number of women with concealed handgun permits, the deterrent impact on rape is comparable to that of other violent crimes.

The Chicago economists figure that the national reduction in violent crime is worth \$6.6 billion, while the modest rise in property crimes costs about \$400 million—for a net social gain of \$6.2 billion.

The Lott-Mustard study has set the disarmament movement back a good ten years, reducing it to emoting and personal smears. The study, which appeared in the University of Chicago's peer-reviewed *Journal of Legal Studies* in January 1997, examines the data in every conceivable way and finds the deterrent effect of armed, law-abiding citizens to be undeniable.

Today, 31 states—representing 49 percent of the population—have "right to carry" laws on their books. Many legislators in those states took a lot of heat for their belief in the benign effects of gun ownership and concealed carry. Now they have solid proof that they were right.

National Rifle Association 1996 Firearms Fact Card



Second Amendment To The U.S. Constitution

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

Like all rights protected by the Bill of Rights, the right to keep and bear arms is possessed by each American individually. Gun prohibitionists' 20th-century "collective right" Second Amendment interpretation is a fraud. The Framers understood that all people are individually "endowed by their Creator" with rights and that states only possess such "powers" as the people allow.

The Supreme Court has ruled in few cases addressing Second Amendment-related issues. The Court recognized that the right to arms is an individual right in *U.S. v. Cruikshank (1876)*, *Presser v. Illinois (1886)*, *Miller v. Texas (1894)*, *U.S. v. Miller (1939)* and *U.S. v. Verdugo-Urquidez (1990)*. Lower federal court decisions have been divided on the rights question, though those finding against the individual right are contrary to the *Verdugo-Urquidez* decision, in which the Court observed that the term "the people" has the same meaning in the Second Amendment as it does in the First, Fourth, Ninth and Tenth. "The people," the Court said, refers to all persons in our national community. These decisions support the generations-old understanding of the right to bear arms as one of our most important individual liberties.

Second Amendment revisionists claim the National Guard, rather than the general citizenry, is the Militia referred to in the Constitution. For more than 400 years, however, the term "well regulated militia" has meant the people, with privately owned weapons, led by officers chosen by themselves. The Militia of the U.S. is defined under federal law to include all able-bodied males of age and some other males and females (10 U.S.C., §311; 32 U.S.C., §313), with the Guard established as only its "organized" element. The Guard, however, is subject to absolute federal control (Supreme Court, *Perpich v. Dept. of Defense*, 1990) and thus is not the militia envisioned by the Framers.

Right-To-Carry

States with right-to-carry laws have lower overall violent crime rates than other states. The homicide rate is 28% lower and the firearm homicide rate is 33% lower and the handgun homicide rate is 38% lower. Since 1987, when Florida enacted right-to-carry, its homicide rate has dropped 27%, its firearm homicide rate has dropped 34% and its handgun homicide rate has dropped 38% while the U.S. rates rose 8%, 28% and 43%, respectively. (FBI) Only .017% of Florida carry licenses have been revoked because of firearm crimes after licensure. (*Florida Dept. of State*)

Survey research by criminologist Gary Kleck indicates at least 2.5 million protective uses of firearms each year in the U.S., more than four times the reported number of violent crimes committed with firearms. Most protective uses do not involve discharge of a firearm. In only 0.1% of protective gun uses are criminals killed, and in only 1% are criminals wounded. A survey for the Dept. of Justice found that 40% of felons had chosen not to commit at least some crimes for fear their victims were armed, and 34% admitted being scared off or shot at by armed victims. (J. Wright, P. Rossi, *Armed and Considered Dangerous*, 1987)

U.S. Dept. of Justice victimization surveys show that the protective use of a firearm lessens the chance that a rape, robbery or assault attempt will be successfully completed and also reduces the

chance of injury to the intended victim.

Clinton Gun Ban

More than 85% of the firearms banned as "assault weapons" by the Clinton crime bill are rifles. However, rifles are the type of firearm least often used in crime. Rifle use in homicide has dropped 36% since 1980. In 1994 rifles of *any type* were used in only 3% of homicides, far less than knives (13%), bare hands (5%) and clubs (4%).

Since the first days of the "assault weapon" issue, reports from state and local law enforcement agencies have consistently shown that military-looking semi-automatic rifles and similarly-styled handguns and shotguns have been used in only a small percentage of violent crimes, a fact begrudgingly admitted by the Senate author of the "assault weapons" law, Dianne Feinstein (D-Calif.) and the anti-gun *Washington Post*.

Gun-ban supporters ignore police reports, basing their claim that "assault weapons" are used in crime on BATF firearms tracing data. BATF reports, however, that it "does not always know if a firearm being traced has been used in a crime." The Congressional Research Service reports that the BATF tracing system "was not designed to collect statistics. . . . Firearms selected for tracing do not constitute a random sample. . . . data from the tracing system may not be appropriate for drawing inferences such as which makes or models of firearms are used for illicit purposes. . . . A law enforcement officer may initiate a trace request for any reason. No crime need be involved. No screening policy ensures or requires that only guns known or suspected to have been used in crimes are traced. . . . It is possible that traces may be requested for a variety of reasons not necessarily related to criminal instances."

"Gun control" lobbyists deliberately blur the differences between semi-automatic and fully-automatic firearms, one boasting that "anything that looks like a machinegun is presumed to be a machinegun" by a misinformed public. The fact is, so-called "assault weapons" function precisely like all other semi-automatic firearms, firing only one shot at a time. Because "assault weapons" use commonplace calibers of ammunition, they are well-suited for target shooting, hunting and/or defensive use. Semi-automatic firearms were invented more than 100 years ago, and constitute 15% of privately owned firearms in America.

Contrary to President Clinton's claims, the greatest threat to police officers comes not from "assault weapons," but from criminals and the justice system that fails to punish them -- 73% of law enforcement officers' killers have prior arrests, 56% have prior convictions, and 23% are on probation or parole when they take officers' lives. According to the FBI's "Law Enforcement Officers Killed and Assaulted" reports, of firearms used to murder police officers during the past decade only 2-3% were "assault weapons."

Clinton Ammo Ban

President Clinton claims new kinds of ammunition are being used to defeat bullet resistant vests and kill law enforcement officers, requiring an expansion of the federal "armor piercing ammunition" statute. No new armor piercing ammunition exists, however, and legislation introduced in Congress at the president's urging would outlaw most calibers of rifle ammunition, and many calibers of handgun ammunition, none of which is designed to defeat protective vests. According to the FBI, of officers fatally shot during the last decade, 70% were not wearing vests. Of those who wore vests, 95% were shot in unprotected areas. No law enforcement officer has ever been killed because an armor piercing bullet defeated a protective vest.

Brady Act Failures

"Gun control" supporters claim the federal 5-day waiting period prevents thousands of felons from buying handguns. In fact, most of these supposed "felons" are honest citizens whose applications are temporarily non-approved because background checks initially reveal incomplete or erroneous information. Most of these people are later approved. Brady should not be praised because it delays

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Contrary to President Clinton's claims, the greatest threat to police officers comes not from "assault weapons," but from criminals and the justice system that fails to punish them -- 73% of law enforcement officers' killers have prior arrests, 56% have prior convictions, and 23% are on probation or parole when they take officers' lives. According to the FBI's "Law Enforcement Officers Killed and Assaulted" reports, of firearms used to murder police officers during the past decade only 2-3% were "assault weapons."

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Brady Act Failures

"Gun control" supporters claim the federal 5-day waiting period prevents thousands of felons from buying handguns. In fact, most of these supposed "felons" are honest citizens whose applications are temporarily non-approved because background checks initially reveal incomplete or erroneous information. Most of these people are later approved. Brady should not be praised because it delays

honest citizens' handgun purchases.

Instead, Brady should be judged for its failure to impact on crime. Waiting periods do not stop felons from obtaining guns illegally. Since 1968 it has been illegal under federal law for felons to possess firearms (and violent crime has more than doubled). Furthermore, 93% of career armed criminals get their guns from sources other than gun stores (where waiting periods apply), mostly by theft or black market deals. (*J. Wright, P. Rossi, Armed and Considered Dangerous, 1987*)
BATF, "Protecting America," 1992)

"Gun control" advocates speciously claim that violent crime has decreased in America because of the Brady Act. In fact, crime has decreased more in Brady-free states, such as those having an instant check system.

Firearm Safety

Many television and newspaper reporters would have the public believe that fatal firearms accidents are an "epidemic," though such accidents are at an all-time low.

Education, rather than restrictions on gun owners, has helped reduce the fatal firearms accident rate to 0.6 per 100,000 citizens, down 82% since the all-time high recorded in 1904. The fatal firearms accident rate pales in comparison to rates for motor vehicle accidents (16.5), home accidents (10.2), other public accidents (7.6), and work-related accidents (1.9). (*Natl. Safety Council*)

Annual fatal firearms accident numbers are down 56% since the all-time high in 1930. This decline occurred as the population doubled, and the number of firearms owned quadrupled, proving that responsible gun ownership poses no inherent threat to safety. (*Natl. Center for Health Statistics, Natl. Safety Council, Census Bureau, BATF*)

To promote more restrictive gun laws, some claim that car registration and driver licensing laws caused fatal motor vehicle accidents to decline 1968-1991, and assume that similar laws against guns and gun owners would reduce gun accidents. However, those car laws were imposed (most before WWII) for reasons other than safety, and the fatal motor vehicle accident rate did not begin to decrease until 30 years later. Moreover, the fatal firearm accident rate dropped 50% 1968-1991, the greatest decline among major accident types. By comparison, the motor vehicle rate dropped the least, 37%. (*Natl. Safety Council*)

Gun Law Failures

In 1976, Washington, D.C., enacted a virtual ban on handguns. By 1991, D.C.'s homicide rate had tripled, while the U.S. rate rose 12%. New York City, Chicago, Los Angeles and D.C. -- with very restrictive gun laws -- make up only 5% of the U.S. population, yet account for 16% of U.S. murders.

California imposed a 15-day waiting period on handgun sales in 1975, and banned "assault weapons" in 1989 -- yet its homicide rate today is 38% higher than the rest of the country's. In 1975, South Carolina limited handgun sales to individuals to one per month. Since then, South Carolina's violent crime rate has risen more than 100%.

Some have claimed D.C.'s homicide rate declined due to Virginia's 1993 law limiting handgun purchases to one per month. That belief is based on the illogical notion that D.C. murderers would obey a Virginia state law while violating a multitude of much harsher federal and D.C. gun laws.

The Real Causes Of Crime And real Solutions

From 1960-1980, the number of prison inmates per 1,000 violent crimes dropped from 738 to 227, and the crime rate tripled. Each year more than 60,000 felons convicted are not sent to prison. Only 29% of convicts are in prison: 71% are on parole or probation, free on the streets.

Imprisoned criminals serve only one third of their sentences, on average: for murder, 7.7 years; rape, 4.6 years; robbery 3.3 years; and aggravated assault, 1.9 years. Every day in America there are 14 murders, 48 rapes and 578 robberies by convicted criminals on parole or early release from prison. The average career criminal commits more than 180 crimes a year (*Rand Corp.*), contributing significantly to the 14 million violent and property crimes last year. (*FBI*) The answer to this problem is expanded prison capacity and truth-in-sentencing laws which require prisoners to serve at least 85% of their sentences.

Juvenile arrests for violent crime increased more than 30% from 1990 to 1993. Arrests for murder alone increased 28.5%. Gang related homicide, just 0.8% of all homicides in 1980, accounted for 3.6% of all such crimes by 1992. The addition of more than 500,000 men in the crime-active age 14-17 male population by the year 2000 will send juvenile crime skyrocketing, according to experts. Violent juvenile criminals who do "adult crime" should serve "adult time."

Crime victims or their survivors are often unfairly barred from participating in the criminal justice process in any way, a problem that can be corrected by victims' rights legislation.

For more information, contact CrimeStrike at 1-800-TOUGH-11.

Firearms Facts

Guns in the U.S.:	230 million, including 75-80 million handguns (BATF)
Gun owners in U.S.:	60-65 million, of whom, 30-35 million own handguns
Owners who have used guns for self-defense:	11% of firearms owners 13% of handgun owners
Annual criminal gun use:	Less than 0.2% of firearms, Less than 0.4% of handguns

About 99.8% of firearms and more than 99.4% of handguns will not be used to commit violent crimes in any given year.



NL00890
Rev. 1/96 25M

NRA Institute for Legislative Action
11250 Waples Mill Road
Fairfax, Virginia 22030

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GUN-FREE SCHOOL ZONES ACT OF 1996

• The Gun-Free School Zones Act was initially signed into law as part of the Crime Control Act of 1990 (Pub. L. 101-647), taking effect on January 29, 1991. On April 26, 1995, the Supreme Court handed down a 5-4 decision striking down the law as unconstitutional. The Court's opinion stated that Congress had overstepped its constitutional powers to regulate interstate commerce when it passed a law banning gun possession within 1,000 feet of a school (*United States v. Lopez*). The decision turned on whether Congress had the authority to pass the law based on the Commerce Clause of the Constitution which specifically grants Congress the power to regulate interstate commerce.

• In September of 1996, Senator Herb Kohl (D-WI) offered a slightly modified version of the original Gun-Free School Zones Act in the form of an amendment to the Treasury, Postal Appropriations bill. The Kohl Amendment passed and was included in the Omnibus Appropriations bill for fiscal year 1997 (FY97). In an attempt to satisfy the Court's concerns, the Kohl Amendment specified that the law would apply only to those firearms that have "moved in or that otherwise affects interstate or foreign commerce". Virtually all firearms have crossed state lines and would thereby be covered by the new language, however it is still unclear whether or not this new element would allow the law to pass constitutional muster should the Court consider the issue again.

• In 1990, NRA-ILA urged the Congress to include exceptions in the Gun-Free School Zones Act to ensure that certain generally recognized lawful activities would not cause otherwise law-abiding gun owners to be unwittingly covered by the Act, thereby leaving them open to a possible federal felony charge. These exceptions remain in the Kohl Amendment as enacted as part of the Omnibus Appropriations bill for FY97, and are as follows:

• "School" means a school which provides elementary or secondary education, and "school zone" means the grounds of a public, parochial, or private school, or within a distance of 1,000 feet from such grounds.

• The prohibition would not apply to:

- Firearms on private property (this would include a situation where a private home is used for purposes of "home schooling");
- Firearms which are unloaded and are in a locked container or locked firearms rack on a motor vehicle;
- Unloaded firearms possessed by an individual traversing school grounds for the purpose of gaining access to lands open for hunting if the entry is authorized by the school;
- Persons licensed by state or local authorities, individuals using a firearm in a school program, or law enforcement officers acting in their official capacity.

* The prohibition would also apply to the discharge of a firearm within the school zone, but would not apply to:

- ** The discharge of a firearm on private property;
- ** Discharging a firearm as part of a school program;
- ** Discharge of a firearm by an individual in accordance with a contract between the school and the individual;
- ** Discharge of a firearm by a law enforcement official acting in his or her official capacity.

* The law specifies that the Federal government, upon enactment of the Gun-Free School Zones Act, does not intend to occupy this field of law. Therefore, individual states and localities may enact their own Gun-Free School Zones Acts which are equally or more severe than the federal law. As of June of 1995, only six states did not already have their own Gun Free School Zones Act: Hawaii, Kentucky, Massachusetts, Nebraska, New Hampshire and Wyoming.



THE NATION

Study: Weapons laws deter crime

Fewer rapes, killings found where concealed guns legal

By Dennis Cauchon
USA TODAY

In a comprehensive study that may reshape the gun control debate, researchers have found that letting people carry concealed guns appears to sharply reduce killings, rapes and other violent crimes.

The nationwide study found that violent crime fell after states made it legal to carry concealed handguns.

- ▶ Homicide, down 8.5%.
- ▶ Rape, down 5%.
- ▶ Aggravated assault, down 7%.

The University of Chicago study, obtained by USA TODAY, is set to be released next Thursday. But its impending release has already sent shock waves through the gun-control debate because of the effect it may have on one of the most controversial areas of gun law. Since 1938, the number of

states making it legal to carry concealed weapons has grown from nine to 31.

The National Rifle Association has led this fight in state legislatures, arguing that concealed weapons deter crime.

Gun control supporters counter that these laws cost lives by increasing accidental deaths and impulsive killings.

The study analyzed FBI crime statistics in the nation's 3,054 counties from 1977 to 1992 to see if the introduction of concealed-weapon laws had any effect on crime.

The results overwhelmingly supported the idea that these laws deter violent crime.

The drop isn't primarily caused by people defending themselves with guns, says John Lott, the study's author. Rather, criminals seem to alter their behavior to avoid coming into contact with a person who might have a gun.

Concealed-weapon laws have drawbacks, too, the study found. Auto theft and larceny increased. Criminals shifted to property offenses, in which contact with a victim is rare, says Lott.

"The policy implications are undeniable: If you're interested in reducing murder and rape, then letting law-abiding, mentally competent citizens

carry concealed weapons has a positive impact," says Lott.

Gun control backer Josh Sugarmann of the Violence Policy Center blasted the study: "Anyone who argues that these laws reduce crime either doesn't understand the nature of crime or has a preset agenda."

Lott, who spent two years on the study, says he sent his research to scholars who might disagree with him and made changes to satisfy the critics.

David Kopel, a gun control scholar who did a smaller study on the same issue, says, "Lott's study is so far ahead of all previous studies that it makes them all worthless."

ADJ 7/22/96

FORUM / LETTERS

Concealed-gun laws appear to cut crime rates

By DAVID KOPEL

A quiet revolution in gun policy is spreading throughout America. Ten years ago, only a half-dozen states routinely issued permits for trained citizens to carry concealed handguns for personal protection. Today, however, 31 states comprising more than half the nation's population grant concealed-carry permits to law-abiding citizens. In the long run, this movement will prove far more significant than either the Brady Bill waiting period or the ban on certain semiautomatics.

In 1987, Florida Gov. Bob Martinez signed a bill entitling any citizen who clears a fingerprint-based background check and passes gun-safety classes to receive a permit to carry a concealed handgun for protection. Since then, a steady progression of states has adopted concealed-carry laws modeled on Florida's. Has this movement made America safer or more dangerous?

In research conducted for an article in the Tennessee Law Review, historian Clayton Cramer and I found that in Florida, following adoption of its concealed-carry law, the murder rate started an immediate, steady decline. Before the law, Floridians were about 36 percent more likely to be murdered than other Americans; after a few years, the Florida rate was equal to or slightly less than the national

rate. As for other violent crimes, Florida was the worst state in the nation both before and after the new law. Florida's overall violent-crime rate, however, rose much more slowly after 1987 than did the national violent-crime rate.

When we examined violent-crime data in California, where permit policies vary widely by county, we found that counties that issue concealed-carry permits liberally had lower violent-crime rates than counties with restrictive policies; restrictive counties had lower rates than counties with prohibitive policies.

A comprehensive study by University of Chicago law professor John Lott and graduate student David Mustard examining crime data for 3,054 counties found that while concealed-carry reform had little effect in rural counties, in urban counties it was followed by a substantial reduction in homicide and other violent crimes such as robbery. At the same time, there was a statistically significant rise in non-confrontational property crimes, such as larceny and car theft. Apparently many criminals concluded that the risks of encountering a victim who could fight back had become too high.

Lott and Mustard estimate that if all states that did not have concealed-carry laws in 1992 adopted such laws, there would

Lott and Mustard estimate that if all states that did not have concealed-carry laws in 1992 adopted such laws, there would be approximately 1,800 fewer murders and 3,000 fewer rapes annually. Thus the adoption or improvement of concealed-carry laws in more than a dozen states since 1992 may be one reason for the current decline in murder rates.

be approximately 1,800 fewer murders and 3,000 fewer rapes annually. Thus the adoption or improvement of concealed-carry laws in more than a dozen states since 1992 may be one reason for the current decline in murder rates.

In some respects, the concealed-carry movement has become a women's issue. In fact, about a quarter of those who apply for and receive concealed-carry permits are women. When Alaska Gov. Walter Hickel signed concealed-carry legislation in 1993, he explained that the constituents he found most compelling were "the women who called and said they worked late and had to cross dark parking lots, and asked why

couldn't they carry a concealed gun?" Leading advocates for concealed-carry laws include female victims of crime such as Suzana Gratia Hupp, whose parents were murdered five years ago in a mass killing in Killeen, Texas; Rebecca John Wyatt, the founder of Safety for Women and Responsible Motherhood; and Marion Hammer, the new president of the National Rifle Association and an activist in the Florida concealed-carry debate. Hammer once brandished her handgun to ward off a gang of would-be robbers.

Typically, when state legislatures first consider concealed-carry bills, opponents warn of horrible consequences: Permit holders will slaughter each other in traf-

fic disputes, while would-be Rambos shoot bystanders in incompetent attempts to thwart crime. But within a year of passage, the issue usually drops off the media radar screen, while pro-gun-control lawmakers conclude that the law wasn't so bad after all.

Why? Because everyone is a potential beneficiary of concealed-carry reform. Since criminals don't know which of their potential victims may be armed, even persons without concealed-carry permits would enjoy increased safety from any deterrent effect. Moreover, a Psychology Today study of "good Samaritans" who came to the aid of violent-crime victims found that 81 percent were gun owners, and many of them carried guns in their cars or on their persons.

Concealed-carry permits are no panacea for high crime rates. But they will be an important component of an anti-crime strategy based on the right and duty of good citizens to take responsibility for public safety.

□ David Kopel is research director of the Independence Institute, Golden, Colo. This piece is adapted from his article in the July/August issue of the Heritage Foundation's magazine, *Policy Review: The Journal of American Citizenship*. Readers may write to him in care of The Heritage Foundation, 214 Massachusetts Ave. NE, Washington, D.C. 20002.



Alaska State Legislature

Session:
State Capitol
Juneau AK 99801-1182

Senate State Affairs

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

Crunch these gun numbers

While Bill Clinton runs the railroad, the engine that pulls the guns-as-public-health-menace train is the Federal Centers for Disease Control and Prevention. Their goal is to "revolutionize" society's view of guns until they are considered "dirty," deadly — and banned.

People in our community and the article "NRA aims to kill gun research," (July 11), would have you believe that by the year 2001, gun injuries are expected to surpass motor vehicle injuries as the nation's leading cause of fatal injuries.

So let's look at this information from "Statistical Abstract of the United State 1995," by the Bureau of the Census.

In 1980, firearms accounted for 33,780 deaths; in 1985, 31,566 deaths; in 1990, 37,155 deaths; in 1991, 38,317 deaths; and in 1992, 37,776 deaths.

In 1970, motor vehicle accidents caused 108,126 deaths; in 1980, 106,102 deaths; in 1990, 92,641 deaths; in 1991, 86,157 deaths; and in 1992, 80,967 deaths.

Major cardiovascular disease accounted for one million deaths in 1970. That number dropped to 988,000 in 1980; 916,000 in 1990; 915,000 in 1992, and rose again in 1993 to 944,000 deaths.

The number of deaths from influenza and pneumonia was 62,000 in 1970; 54,000 in 1980; 79,000 in 1990; 76,000 in 1992 and 81,000 in 1993.

Gee, by the year 2001, I'll have a better chance of dying from a heart attack, pneumonia or a motor vehicle accident than from a firearm.

— Mickey Sexton
Anchorage

ADN 7/18/96

Personal rights gun bill takes hit from Knowles

Revisions to Alaska's Concealed Handgun Permit Program contained in Senate Bill 177 would not have granted new or increased rights. Rather, the revisions would have protected our civil right to keep and bear arms — a right and freedom guaranteed in our state and federal constitutions.

In passing legislation to enact Alaska's Concealed Handgun Program (CHP) in 1994, and SB 177 revising the program this year, the Legislature upheld and worked to restore Alaskan's civil rights. By vetoing this legislation, the governor once again chose to exert governmental control over individual choice.

I sponsored SB 177 after many Alaskan permit holders, non-permit holders, firearms instructors and gun rights advocacy groups told me that the concealed handgun program is too expensive and too restrictive. CHP permit holders have taken the personal responsibility for self-protection and protection of their loved ones. To inhibit their ability to do so through over burdensome regulation is not right.

To receive a CHP permit, an applicant must meet rigorous program criteria. Applicants are required to provide fingerprints, submit to background checks, receive professional training on the use of firearms, the laws relating to firearms and the use of deadly force, and qualify with their handgun. CHP permit holders are among our most responsible and law abiding citizens.

Provisions of SB 177 would reduce the permit fee, provide for reciprocity with other states and remove some restrictions on where a permit holder is allowed to carry.

These provisions were thoroughly discussed throughout the committee process, examined by the Legislature, and passed by both houses with bipartisan support.

In numerous committee meetings, the administration's spokesperson stated, "In a chocolate-covered world, we would leave the program as is."

Consistent with his policy of

SPECTRUM

Sen. Lyda Green

destroying confiscated weapons and his veto of SB 274 (protecting the operation of sport shooting ranges), the governor's veto rhetoric for Senate Bill 177 relies on fear and distortion to lend validity to his liberal ideology — promoting a paternalistic government and repressing individual freedoms.

While the governor cited the provisions expanding where a permit holder can carry as dangerous, he overlooked the legitimate concerns of the license holder. He said carrying concealed in banks would create a dangerous situation. Protection while carrying deposits to the bank is one of the primary reasons that business owners get a permit.

No one else is providing protection for them on the way to and from the bank. Is it right to force them to leave their handgun unattended in their car? Is it safer there than in the possession and direct supervision of a trained, licensed, law-abiding citizen?

This bill does not advocate the mixing of guns and alcohol. It is illegal to use or possess any weapon, concealed or not, while impaired by alcohol, and rightfully so.

SB 177 would have allowed permittees to carry concealed weapons into places that have beverage dispensary licenses providing the permittee consume no alcohol. At no time in the process did anyone argue for the right to use a firearm, in any circumstance, while drinking.

In his veto message the governor chose to ignore certain provisions of this bill: one would have allowed a private property owner the right to deny firearms by posting a sign and another that would provide the tool for excluding carry on public property by statute.

These important provisions protect private property rights

and ensure adequate review of public property policy decisions that could infringe on second amendment rights.

As a legislator, I take the responsibility of defending the constitutional rights of my constituents very seriously and I am deeply concerned with the continuing anti-firearms policy of this administration.

With over 5,000 permits issued and not one case of weapon misconduct, Alaska's Concealed Handgun Permit program has proven to be a good program.

I, and the majority of my colleagues, believe that the revisions contained in Senate Bill 177 make it better. I join the many Alaska gun owners in disappointment over the governor's veto. It's not a "chocolate-covered world" out there and no qualified citizen should be denied the opportunity for personal protection.

Sen. Lyda Green, a Republican, lives in Wasilla.

ADN 7/1/96

Armed society is polite society

Well, I see that "Slick Willie's" agenda on personal liberties and Second Amendment rights took another hit in Juneau when Gov. Tony Knowles vetoed the concealed carry amendments bill recently.

A few facts.

A person with a carry permit cannot carry a weapon concealed in any area that a non-permittee can carry one openly.

If I am with my wife in an unsafe area frequented by gangs or other lowlife and decide to go into a pizza place or a food establishment that serves beer/wine, even if we don't drink, I am in violation of the law.

If I go to the bank to cash a check or draw out money for a "cash only" purchase and have my weapon, I am in violation.

I know several law enforcement people who are very much in favor of all aspects of personal protection weapons — very unlike the staged TV presentation with our governor and some of our officials.

The amendment proposal only makes the concealed carry law more workable and realistic and gives us "good guys" an even playing field with the bad guys.

Remember, an armed society is a polite society.

If all you worried people carrying a weapon illegally to protect yourself would take the time to get a legal carry permit, join the NRA and vote, we would not be in danger of having our Constitutional rights trampled by "Big Brother."

Remember Waco and Ruby Ridge — it can happen to you too.

— John C. Woolery
Girdwood

9

TONY KNOWLES
GOVERNOR



P.O. Box 110001
Juneau, Alaska 99811-0001
(907) 465-3500
Fax (907) 465-3532

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

June 19, 1996

The Honorable Drue Pearce
President of the Senate
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

96-05-21A00:20 2070

Dear President Pearce:

Under the authority of Art. II, sec. 15 of the Alaska Constitution, I have vetoed the following bill:

House CS for CSSB 177(FIN) am H

"An Act relating to permits to carry concealed handguns;
and relating to possession of firearms on state ferries."

I believe this bill would seriously undermine the safeguards in Alaska's concealed weapons law and would jeopardize the public and law enforcement officials. The bill would remove many of the places where concealed weapons are prohibited under current law and would permit the carrying of concealed weapons by out-of-state persons who may not meet Alaska's statutory requirements.

The current concealed handgun program has been in place for only 18 months. The experience to date has not demonstrated that the law is "broken," or that the types of amendments contained in this bill are warranted or necessary.

A specific objection to this bill comes from a basic premise, founded on hundreds of years of experience, that guns and alcohol don't mix. This bill would allow concealed handguns in bars. This scenario invites tragedy.


Post-It® Fax Note	7671	Date	6/20	# of pages	2
To	Senator, Juneau	From	Senate Secretary		
Co/Dept		Co.			
Phone #	376-3157	Phone #			
Fax #		Fax #			

I also question the wisdom of allowing concealed guns in banks and government offices as proposed in this bill. There is good reason for these locations to be protected. We should not jeopardize their security by allowing concealed handguns on the premises.

Finally, the manner in which this bill would offer reciprocity for concealed handgun permit holders from other states is especially troubling. Reciprocity would be offered to any out-of-state permittee regardless of the requirements to obtain a permit in another state, even if those requirements are less stringent than in Alaska. Moreover, an out-of-state permit holder would not be subject to the same restrictions that apply to Alaska permit holders. While this may not have been the intent of the legislature, it is unacceptable to allow activities by out-of-state residents which are prohibited by Alaska residents under our laws.

Many municipalities and law enforcement organizations have voiced strong opposition to this legislation including the Alaska Peace Officers Association, the Alaska Association of Chiefs of Police, the Public Safety Employees Association, the Municipality of Anchorage, and the Cities of Palmer and Wasilla. I acknowledge their experience and professionalism in this area and find a veto of this legislation necessary in the interest of public safety.

Sincerely,


Tony Knowles
Governor

TONY KNOWLES
GOVERNOR



10
P.O. Box 110001
Juneau, Alaska 99811-0001
(907) 465-3500
Fax (907) 465-3532

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

July 22, 1996

RECEIVED
JUL 29 1996
Ans'd
Ans'd

Robert H. Parkerson, Ph.D.
HC 02, Box 7630-A1
Palmer, AK 99645

Dear Dr. Parkerson:

Thank you for your letter expressing interest in Senate Bill 177, which would have expanded Alaska's concealed handgun law by permitting concealed weapons in bars, government offices, and banks, and allow out-of-state permit holders to carry concealed guns in Alaska.

On June 19, I vetoed this bill. I believe it would have seriously undermined the safeguards in Alaska's current concealed weapons law and would have jeopardized both the public and law enforcement officials. The current concealed handgun program has been in place for only 18 months. The experience to date has not demonstrated the law is "broken," or the types of amendments contained in this bill are warranted or necessary. The existing program was the result of a carefully crafted compromise struck two years ago and passed with the support of law enforcement, so I believe we should give it more time to work.

Also, the idea of allowing guns in bars defies common sense. Hundreds of years of experience has shown guns and alcohol don't mix. Allowing guns in bars simply invites tragedy, a major concern of Alaska's police officers who lined up strongly against this bill.

Finally, the bill offered reciprocity for concealed handgun permit holders from other states--meaning people who have permits from other states, regardless of the restrictions on those permits, would be allowed to carry concealed guns in Alaska. That would remove the control of concealed weapons permits from our hands, which is unacceptable.

Robert H. Parkerson, Ph.D.

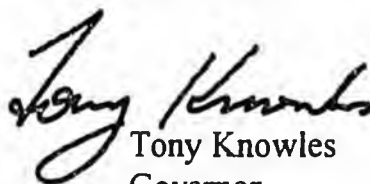
July 22, 1996

Page 2

I realize this issue is one that strikes to the heart of many people who believe their basic right to bear arms is being violated under current restrictions on concealed guns. But it is my responsibility, and the responsibility of our law enforcement officers, to protect the safety of all Alaskans. I don't believe this bill served that purpose and, in fact, had the potential of doing just the opposite.

Again, thanks for taking time to consider this legislation and contact me with your views.

Sincerely,

A handwritten signature in cursive script that reads "Tony Knowles". The signature is written in black ink and is positioned above the printed name and title.

Tony Knowles
Governor

LEGAL SERVICES

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

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

RECEIVED

JUL 29 1996

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

COPY

MEMORANDUM

July 29, 1996

SUBJECT: Possession of concealed weapons illegal in buildings housing state offices: extension to other venues (Work Order No. 20-LS0026A)

TO: Senator Lyda Green
ATTN: Brett Huber

FROM: Jack Chenoweth
Legislative Counsel

Your inquiry about the soundness of the guidance provided in the July 19 memo of Deputy Director Stan Ridgeway to employees of the Division of Vocational Rehabilitation has been directed to me for preparation of a response.

On the basis of my understanding of the applicable statutes, I would have hesitated to provide the guidance reported by Mr. Ridgeway.

AS 18.65.755(a)(4) and (5) provide the statutory authority supporting the conclusion that possession of a concealed handgun within a building housing state offices (or in an office of a state agency) is illegal. However, extension of the proscription to cover "parking lots and visits to clients either at . . . home or in a mutual meeting place" stretches that statute beyond legislative reasoning and the interpretation of the statute by the Department of Public Safety, the agency that is directed to implement the concealed handgun permit program.

To the suggestion that the proscription applies to "parking lots" serving buildings that house state offices, I would contend, first, that nowhere in the concealed handgun permit provisions, AS 18.65.700 - 18.65.790, is it stated or reasonably implied that proscriptions to possession of concealed handguns necessarily extend outside the confines of the specific premises identified. Where the legislature wanted to make clear that possession of concealed weapons was prohibited on grounds adjacent to a particular structure, it specifically said so, as, for example, with respect to its handling of "school grounds." Second, in implementing AS 18.65.700 - 18.65.790, the Department of Public Safety's regulations, 13 AAC 30, considered the terms and phrases of the statute and the contingencies in which they would apply and determined that, in some circumstances, the statute should be interpreted to include adjacent grounds, as, for example, in 13 AAC 30.900(b)(9), added to clarify ambiguity in the reference to "passenger loading or unloading area of an airline terminal," wherein the term was defined to include "any . . . airport area that is immediately adjacent

Senator Lyda Green

July 29, 1996

Page 2

to [an airline terminal] building that is used for ground transportation or pedestrian traffic" In summary, the statutory authorization for concealed handgun permits and the regulations interpreting those statutes do not give the proscriptive language an expansive reading so as to cover "parking lots" and similar grounds in conjunction with state office facilities. The interpretation reportedly provided by the attorney general's office seems to me to be at variance with the direction of the legislation and the interpretation that is supplied by the agency regulations implementing the program.

To the suggestion that the proscription should apply also "to clients . . . at their home," I would respond by noting that the concealed handgun permit provisions explicitly give the authority as to whether a concealed weapon may be brought into private premises occupied as a residence to the resident, AS 18.65.755(a)(9). The interpretation reported by Mr. Ridgeway is at variance in that it presumes to tell the division representative that he or she may not carry a concealed weapon into a private residence even when the resident or person having the possession of the premises has not interposed objection to having concealed handguns on premises in the manner permitted by law.

To the suggestion that the proscription should apply also "to clients . . . [meeting with division personnel] in a mutual meeting place," I suggest that, to the extent that the mutual meeting place is not a building or premises described in AS 18.65.755(a)(4) and (5), the concealed handgun permit provisions explicitly give the final authority as to whether a concealed weapon may be brought into a business meeting to the participants who are involved at the specific meeting. AS 18.65.755(a)(10); see, especially, 13 AAC 30.900(b)(8), extending the coverage of the phrase "meeting of a business, charitable, or other organization or entity" to discussions that include at least one representative of a government entity. Again, the reported interpretation presumes to tell the division representative that he or she may not carry a concealed weapon into a meeting. That is a decision that, under the statute and the regulation as framed by the Department of Public Safety, is left to each government employee who participates in the meeting to decide as to whether or not to interpose objection to having concealed handguns at the meeting.

I trust this is responsive to your inquiry.

JBC:lmb
96-121.lmb

LEGAL SERVICES

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

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

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AUG 01 1996
Ans'd.....

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

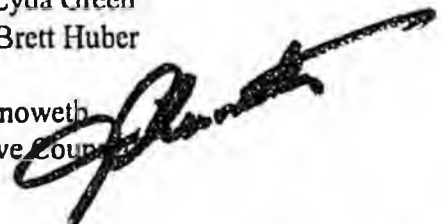
MEMORANDUM

August 1, 1996

SUBJECT: Possession of concealed handguns: Assistant Attorney General Tom Dahl's July 26 memo (Work Order 20-LS0026\A)

TO: Senator Lyda Green
ATTN: Brett Huber

FROM: Jack Chenoweth
Legislative Council



The subject at hand concerns the authority of the state, as an employer, to set limitations or regulations on the activities of its employees incidental to the employment relationship.

You have asked me to respond to the central point of Assistant Attorney General Tom Dahl's July 26 memo. That point, made in the last part of the third paragraph of his memo, asserts that

... the state or any management entity has the authority to set conditions of employment that may prohibit employees from doing things that are otherwise legal Such activities could subject the state to liability or otherwise detract from the mission of the agency or the image that the agency wishes to project when dealing with the public or with clients.

From that, Mr. Dahl concludes that a state agency, acting by departmental policy, could prohibit employees from carrying concealed firearms while on state business outside of state buildings.

The state may establish reasonable rules and regulations for its employees.

An employer may make reasonable rules and regulations for the conduct of the employer's business, and an employee has a legal duty to comply with those rules, orders and policies. Central Alaska Broadcasting v. Bracale, 637 P.2d 711, 713 (Alaska 1981). That general authority applies to state employees covered by collective bargaining agreements. Nothing in the collective bargaining agreements now in place sets aside the state's prerogative to exercise authority in this area. See, for example, article IV, "Management Rights," General Government Unit Employment Bargaining Agreement, affirming management's right to manage its affairs. As an employer, the state retains the right to define conduct on the part of its employees that has a reasonable relationship to the employer's interests.

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The feature of the general authority of a state agency to make reasonable rules and regulations in this instance is the question of whether the agency may prohibit its employees from taking actions that are otherwise legal, i.e., possessing a concealed handgun, under a valid permit, while the permittee is in the residence of a client who has not given notice that possession of a concealed handgun is prohibited.

I am prepared to concede that state authorities may do so.

The right to possess a concealed handgun is not a "fundamental" constitutional right:

Bear in mind that what the agency contemplates--issuing a departmental or divisional policy statement barring possession of concealed handguns in the course of the performance of employment duties--amounts to state action. When state action impairs a fundamental constitutional right, that action will be sustained only if the government can demonstrate that the intrusion is reasonably necessary for the achievement of a compelling government function and that the objective cannot be achieved by more reasonable means. Breese v. Smith, 501 P.2d 159, 171 (Alaska 1972); Ravin v. State, 537 P.2d 494, 497 (Alaska 1975).

A permittee's possession of a concealed handgun would almost certainly not be treated or regarded as a fundamental right.

First, under the state constitution, the right of an individual to keep and bear arms may be fundamental--there are simply no Alaska court cases construing the provision.^{1/} But that is not the central question. What is at issue in this inquiry is the regulation of a handgun that is concealed. Even in jurisdictions that have constitutional provisions on the right to keep and bear arms that are comparable to Alaska's, the right of authorities to regulate concealed weapons has generally been sustained.^{2/}

Consequently, it seems to me that there is little likelihood that a court would conclude that constraints on possession of a concealed handgun amounted to impairment of a "fundamental right" and is unlikely to apply "strict scrutiny" or "heightened scrutiny" analysis in any form. Rather, if called upon to do so, the court would simply ascertain or verify that the decision involved reasonable exercise of the agency's discretion under a "rational basis" analysis, requiring only that the state demonstrate that the limitation of handgun-in-possession be supportable by a legitimate state interest.

^{1/} However, the weight of case law authority is to the contrary. See, for example, Robertson v. City and Cty. of Denver, 874 P.2d 325, 340 - 341 (Colo. 1994).

^{2/} The refusal to grant a license to carry a concealed weapon did not infringe on the constitutional right to keep and bear arms. Gardner v. Jenkins, 541 A.2d 406, 409 (Pa. Commonwealth 1988), app. den. 554 A.2d 511 (Pa. 1988).

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Second, I would not foresee an argument based on intrusion on the employees' "right of privacy" as being successful. "Right of privacy" arguments turn, in part, on the nature of the privacy interest involved. Matter of A.B., 791 P.2d 615, 621 (Alaska 1990). Despite a statute, AS 18.65.770, making concealed handgun "[a]pplications, permits, and renewals" confidential by determining these documents are not to be treated as public records, concealed weapon permittees probably only have, at best, a reduced privacy expectation, diminished due to the investigation undertaken by state law enforcement officials in conjunction with issuance of the concealed handgun permit.²

In the absence of state action intruding on a fundamental constitutional right, the court would almost certainly sustain the agency's decision to bar employees from having possession of a concealed handgun during working hours as reasonable in that it is one rationally related to furthering the work of the vocational rehabilitation program toward its clients.

Mr. Dahl's memo concludes that proscribing division employees from exercising authority under the permits to carry concealed handguns while visiting or dealing with clients may "otherwise detract from the mission of the agency or the image that the agency wishes to project when dealing with the public or with clients." I think that his expression of purpose

² Arguably, it is not the disposition of the records of the investigation but the fact that an investigation is authorized that is a determining factor. A detailed investigation involved with processing a concealed handgun permit application or renewal may constitute an intrusion sufficient to reduce or eliminate privacy expectations by the person whose life is made the subject of inquiry. See, for example, AFGE, Local 1533 v. Cheney, 944 F.2d 503 (9th Cir. 1991) where, speaking to "the diminished privacy expectations of TSA clearance holders," the court indicated:

... To obtain and maintain TSA [top secret with access] clearances, these individuals [i.e. civilian employees engaged in work for the armed forces] are subjected to detailed investigations into their private lives which occur both as a condition for obtaining TSA clearances and periodically thereafter. ... Individuals who accept jobs that subject them to such close review of their personal lives cannot legitimately claim to have a high-expectation of job-related privacy.

AFGE, Local 1533 v. Cheney, at 507. More generally, in the context of Fourth Amendment search and seizure claims, the United States Supreme Court has observed that "background investigations, medical examinations, or other intrusions ... may be expected to diminish ... expectations of privacy" Nat'l. Treasury Employees Union v. Von Raab, 489 U.S. 656, 677 - 678, 109 S.Ct. 1384, 1397, 103 L.Ed.2d 685, 709 - 710 (1989).

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probably would be found sufficient to support the argument that the division's proscription serves an interest that is at least "important," that it relates to the employer's interests, and that it is, by definition, "reasonable." ^{4/}

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^{4/} Though that is not necessarily so. See Texas State Employees Union v. Texas Department of Mental Health & Mental Retardation, 746 S.W.2d 203 (Texas 1987), where, in concluding that a department policy of requiring certain employees to take a mandatory polygraph test violated privacy rights protected by the state constitution, the court sustained a trial court's determination that the agency's interests, while "important," were not "compelling":

As justification for its polygraph policy, the Department asserts its interest in maintaining a safe environment for Department patients. This interest is in many respects compelling. The Department is not concerned solely with the smooth operation of its agency. It has been charged by the legislature with a unique responsibility towards its patients. It must provide them with "a humane environment that afford reasonable protection from harm" without undue limitation on their "rights, benefits, responsibilities and privileges guaranteed by the constitution and laws." In its efforts to achieve these goals, the Department must minimize incidents of employee misconduct. The polygraph testing was initiated to assist administrators in investigations of four types of situations: patient abuse or neglect; conduct endangering the health or safety of patients or other employees; theft or other criminal activity; use of drugs or alcohol.

These goals are admittedly important. . . .

After comparing the policy in question to a similar requirement imposed on public safety employees, the court concluded:

The trial court found, however, that the unique circumstances that may justify requiring police and fire personnel to take polygraph examinations do not exist with respect to [Department of Mental Health] employees. We agree. **The Department's objectives, important as they are, are not adequately compelling to warrant an intrusion into the privacy rights of the employees.**

746 S.W.2d at 205 - 206 (citations omitted; emphasis added).

ALASKA State Firearms Laws

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ALASKA
(As of May 1995)

PLEASE NOTE: In addition to state laws, the purchase, sale and (in certain circumstances) the possession and interstate transportation of firearms is regulated by the Gun Control Act of 1968 as amended by the Firearms Owners' Protection Act. Also, cities and localities may have their own firearms ordinances in addition to federal and state laws. Details may be obtained by contacting local law enforcement authorities, and by consulting the State Laws and Published Ordinances--Firearms, available from the U. S. Government Printing Office, Washington, D.C. 20402.

QUICK REFERENCE CHART

	Rifles and Shotguns	Handguns
Permit to Purchase	NO	NO
Registration of Firearms	NO	NO
Licensing of Owners	NO	NO
Permit to Carry	NO	YES

STATE CONSTITUTIONAL PROVISION

"A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed. The individual right to keep and bear arms shall not be denied or infringed by the state or political subdivision of the State." Article 1, Section 19.

POSSESSION

No state permit is required to possess a rifle, shotgun or handgun.

It is unlawful for a person convicted of a felony or adjudicated a delinquent minor for conduct that would constitute a felony if committed by an adult to possess a "firearm capable of being concealed on his person" unless a period of 10 years or more has elapsed between the date of the person's unconditional discharge on the prior offense or adjudication of juvenile delinquency.

It is unlawful to knowingly possess a firearm on which the manufacturer's serial number has been removed, covered, altered or destroyed with the intent of rendering the firearm untraceable. A person may not possess a firearm while his physical or mental condition is "substantially impaired" as a result of an intoxicating liquor or drug.

Loaded firearms may not be possessed in any place where intoxicating liquor is sold for consumption on the premises. Exempt from this prohibition is the owner or lessee or an employee in the course of his employment for the owner or lessee while on the business premise. A firearm is loaded if the firing chamber, magazine, clip or cylinder of the

firearm contains a cartridge.

An unemancipated minor under 16 years of age may not possess a firearm without the consent of his parent or guardian.

PURCHASE

No state permit is required to purchase a rifle, shotgun or handgun.

It is unlawful to sell or transfer a firearm capable of being concealed on one's person to anyone who has been convicted of a felony. It is an affirmative defense that 10 years or more has elapsed since the unconditional discharge on the prior offense.

It is unlawful to knowingly sell or transfer a firearm to a person whose physical or mental condition is "substantially impaired" as a result of an intoxicating liquor or drug.

CARRYING

A person can obtain a permit to carry a concealed handgun if the person (1) is 21 years of age or older; (2) is eligible to own or possess a firearm (SEE POSSESSION); (3) is not currently charged with a felony; (4) has not been convicted within 5 years and is not currently charged with a misdemeanor offense such as: assault, battery, reckless endangerment, or stalking; (5) has not suffered within 5 years and is not currently suffering from a mental illness; (6) dishonorably discharged from the armed forces; (7) is not an illegal alien; (8) not currently or has not within 3 years been ordered by a court to complete an alcohol treatment or substance abuse program; (9) is not under a restraining order unless the injunction has been dissolved or has expired (10) has not been convicted of two or more class A misdemeanors within the preceding 5 years; (11) is not an unlawful user of, or addicted to, a controlled substance; (12) has demonstrated competence with handguns.

It is unlawful to possess a handgun concealed on the person. A handgun is concealed if it is "covered or enclosed in any manner so that an observer cannot determine that it is a weapon without removing it from that which covers or encloses it or without opening, lifting or removing that which covers or encloses it." Carrying a handgun in a glove compartment is not considered carrying concealed.

It is a defense to a charge under that paragraph that the person at the time of his possession was: 1) in his dwelling or on property appurtenant to his dwelling or 2) actually engaged in lawful hunting, fishing, trapping, or other lawful outdoor activity that necessarily involves the carrying of a weapon for personal protection 3) the holder of a valid permit to carry a concealed handgun and the possession did not occur in a municipality or established village in which the possession of concealed handguns is prohibited by popular vote.

The Department of Public Safety shall issue a permit to carry a concealed handgun to a person who applies in person

at an office of the Alaska State Troopers and is not prohibited from possessing a handgun. A completed application must be submitted under oath; two complete sets of fingerprints; provide two frontal view color photographs that include the head and shoulders of the person taking within 30 days prior to submitting application. Applicant must be a resident of the state for one year; does not suffer a physical infirmity that prevents the safe handling of a handgun and pay the nonrefundable application fee which cannot exceed \$125.00 and the renewal fee or replacement of a permit may not exceed \$60.00.

The Department shall either approve or reject an application within 15 days of receipt of permit eligibility information from the F.B.I. or other agency necessary to make a determination concerning the application. The department shall notify the applicant in writing of the reason for the rejection. A person whose application is rejected may appeal to the commissioner. If commissioner rejects the application a person may seek judicial review. A permit is valid for 5 years from the date of issue. The permit must specify the action types and maximum calibers of handgun.

A person shall apply in person for renewal of a permit to carry within 90 days before the expiration of the permit and shall present a complete renewal form under oath. A permit to carry shall be immediately revoked if the permittee becomes disqualified to receive and hold a permit. A person whose permit is revoked may appeal to the commissioner, if commissioner upholds the revocation a person may seek judicial review. If permit is revoked such person cannot apply for a permit until at least 5 years after the revocation.

A permittee shall carry the permit at all times when carrying a concealed handgun. The license and other proper identification must be shown when asked by a peace officer. A permittee may not carry a concealed handgun into (1) a law enforcement or correctional facility; (2) on school grounds or a school bus; (3) a courthouse or courtroom of this state, unless such person has been authorized by a judge or is a judge; (4) an office or building housing only state or federal government, or a political subdivision; (5) an oral statement or where a notice is displayed prohibiting carrying a concealed handgun; (6) a municipality or established village that has prohibited the possession of concealed handguns; (7) financial institution; (8) air terminal area for loading and unloading passengers, (9) Alaska Marine highway system vessel, (10) domestic violence or sexual assault services facility; (11) any other place where a deadly weapon is prohibited by law.

It is unlawful to carry a loaded rifle or shotgun in a vehicle.

MACHINE GUNS

A machine gun is defined as a firearm that is capable of shooting more than one shot automatically, without manual reloading, by a single function of the trigger. It is unlawful to manufacture, possess, transport or sell a machine gun unless in accordance with registration under the National Firearms Act.

ANTIQUES AND REPLICAS

Alaska statutes are silent on antique and replica firearms. They are treated as ordinary firearms for possession and carrying purposes.

MISCELLANEOUS

It is unlawful to remove, alter, cover, or destroy the manufacturer's serial number on a firearm with the intent to render the firearm untraceable. It is unlawful to discharge a firearm with reckless disregard of damage to property or risk of physical injury to persons.

It is unlawful to discharge a firearm from a vehicle while the vehicle is being operated.

CAUTION: State firearms laws are subject to frequent change. The above summary is not to be considered as legal advice or a restatement of law. To determine the applicability of these laws to specific situations which you may encounter, you are strongly urged to consult a local attorney.

Compiled by:
NRA Institute for Legislative Action
11250 Waples Mill Road
Fairfax, Virginia 22030

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ILA Research & Information Division
Fact Sheet



America's Founding Fathers On the Individual Right to Keep and Bear Arms

Thomas Jefferson, of Virginia:

"No free man shall ever be debarred the use of arms." -- Proposed Virginia Constitution, 1776

"Laws that forbid the carrying of arms. . . disarm only those who are neither inclined nor determined to commit crimes. . . Such laws make things worse for the assaulted and better for the assailants; they serve rather to encourage than to prevent homicides, for an unarmed man may be attacked with greater confidence than an armed man." -- Jefferson's "Commonplace Book," 1774-1776, quoting from *On Crimes and Punishment*, by criminologist Cesare Beccaria, 1764

George Mason, of Virginia:

"[W]hen the resolution of enslaving America was formed in Great Britain, the British Parliament was advised by an artful man, who was governor of Pennsylvania, to disarm the people; that it was the best and most effectual way to enslave them; but that they should not do it openly, but weaken them, and let them sink gradually." . . . I ask, who are the militia? They consist now of the whole people, except a few public officers." -- Virginia's U.S. Constitution ratification convention, 1788

"That the People have a right to keep and bear Arms; that a well regulated Militia, composed of the Body of the People, trained to arms, is the proper, natural, and safe Defence of a free state." -- Within Mason's declaration of "the essential and unalienable Rights of the People," -- later adopted by the Virginia ratification convention, 1788

Samuel Adams, of Massachusetts:

"The said Constitution [shall] be never construed to authorize Congress to infringe the just liberty of the press, or the rights of conscience; or to prevent the people of the United States, who are peaceable citizens, from keeping their own arms." -- Massachusetts' U.S. Constitution ratification convention, 1788

William Grayson, of Virginia:

"[A] string of amendments were presented to the lower House; these altogether respected personal liberty." -- Letter to Patrick Henry, June 12, 1789, referring to the introduction of what became the Bill of Rights

Richard Henry Lee, of Virginia:

"A militia when properly formed are in fact the people themselves . . . and include all men capable of bearing arms. . . To preserve liberty it is essential that the whole body of people always possess arms... The mind that aims at a select militia, must be influenced by a truly anti-republican principle." -- Additional Letters From The

Federal Farmer, 1788

James Madison, of Virginia:

The Constitution preserves "the advantage of being armed which Americans possess over the people of almost every other nation. . . (where) the governments are afraid to trust the people with arms." -- The Federalist, No. 46

Tench Coxe, of Pennsylvania:

"The militia, who are in fact the effective part of the people at large, will render many troops quite unnecessary. They will form a powerful check upon the regular troops, and will generally be sufficient to over-awe them." -- An American Citizen, Oct. 21, 1787

"Who are the militia? Are they not ourselves? Congress have no power to disarm the militia. Their swords and every other terrible implement of the soldier, are the birthright of an American . . . The unlimited power of the sword is not in the hands of either the federal or state governments, but, where I trust in God it will ever remain, in the hands of the people." -- The Pennsylvania Gazette, Feb. 20, 1788

"As the military forces which must occasionally be raised to defend our country, might pervert their power to the injury of their fellow citizens, the people are confirmed by the next article (of amendment) in their right to keep and bear their private arms." -- Federal Gazette, June 18, 1789

Noah Webster, of Pennsylvania:

"Before a standing army can rule, the people must be disarmed; as they are in almost every kingdom in Europe. The supreme power in America cannot enforce unjust laws by the sword; because the whole body of the people are armed, and constitute a force superior to any band of regular troops that can be, on any pretence, raised in the United States. A military force, at the command of Congress, can execute no laws, but such as the people perceive to be just and constitutional; for they will possess the power." -- An Examination of The Leading Principles of the Federal Constitution, Philadelphia, 1787

Alexander Hamilton, of New York:

"[I]f circumstances should at any time oblige the government to form an army of any magnitude, that army can never be formidable to the liberties of the people while there is a large body of citizens, little if at all inferior to them in discipline and the use of arms, who stand ready to defend their rights and those of their fellow citizens." -- The Federalist, No. 29

Thomas Paine, of Pennsylvania:

"[A]rms discourage and keep the invader and plunderer in awe, and preserve order in the world as well as property. . . Horrid mischief would ensue were the law-abiding deprived of the use of them." -- Thoughts On Defensive War, 1775

Fisher Ames, of Massachusetts:

"The rights of conscience, of bearing arms, of changing the government, are declared to be inherent in the people." -- Letter to F.R. Minoe, June 12, 1789

Elbridge Gerry, of Massachusetts:

"What, sir, is the use of militia? It is to prevent the establishment of a standing army, the bane of liberty. . . Whenever Government means to invade the rights and

liberties of the people, they always attempt to destroy the militia, in order to raise a standing army upon its ruins." -- Debate, U.S. House of Representatives, August 17, 1789

Patrick Henry, of Virginia:

"Guard with jealous attention the public liberty. Suspect everyone who approaches that jewel." -- Virginia's U.S. Constitution ratification convention

For more information, see Halbrook, Stephen P., "The Right of the People or the Power of the State: Bearing Arms, Arming Militias, and the Second Amendment," Valparaiso Univ. Law Review, Vol. 26, No. 1, Fall, 1991; and "That Every Man Be Armed: The Evolution of a Constitutional Right," Univ. of N.M. Press, 1984

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ARMED CITIZENS AND POLICE OFFICERS:

It was way back in 1932 that the *American Rifleman*, official journal of the National Rifle Association of America, began publishing abridged newspaper accounts of law-abiding citizens who had used firearms to defend themselves and others and to protect property. The accounts were condensed from clippings sent in by NRA members and, of course, the magazine could cite only a tiny fraction of the "armed citizen" cases that occur each year in America. Indeed, award-winning criminologist Gary Kleck in his survey research places the number as high as 2.5 million.

There is an important--but sometimes overlooked--subset of these cases. Namely, those incidents in which civilians with firearms have come to the aid of law enforcement officers attempting to perform their often dangerous duties. As the following accounts from the *American Rifleman* illustrate, the armed citizen is the law officer's best friend.



Things had turned ugly for Oklahoma Highway Patrol Officer Rick Wallace. He had found marijuana on a speeder, but was overpowered by the man before he could cuff him. Passerby Adolph Krejsek witnessed the altercation and came to the rescue, using his own firearm to help the trooper control the suspect. After helping subdue the assailant, Krejsek used the injured trooper's radio to call for help.

(The Review Courier, Alva, OK, 1/8/95) (AR 6/95)

"It's more than fighting fires. If somebody is in trouble, we're going to show up," said Sipey Valley volunteer firefighter James "Buddy" O'Hanlon. O'Hanlon was one of about 30 armed volunteer firefighters who responded within minutes to an emergency call from their chief, L.A. Marlowe, who had just been robbed and shot at outside of his Buhl, Ala., store. One suspect was spotted before he made it 100 yds. and was cornered in the woods by the army of firefighters, who apprehended him. Sheriff's deputies quickly arrested another robber who had been identified by the firefighters. A third suspect was later apprehended.

(The News, Tuscaloosa, AL, 1/12/95) (AR 4/95)

In the finest tradition of armed citizens who take on crime in their communities, Texan Travis Neel helped save a wounded Harris County deputy sheriff's life. Witnessing the shooting by one of a trio of Houston gang members after a traffic stop just west of Houston, Neel--who was on his way to his pistol range--pulled his gun and fired, driving the officer's assailants away. An off-duty sheriff's deputy also came on the scene and joined Neel in covering the deputy, whose life was saved by his body armor. The trio was captured after a manhunt.

(The Post, Houston, TX, 1/22/94) (AR 4/94)

While the situation ended without incident, armed citizen Michael Acree stood ready to lend a hand when a police officer stopped a carload of unruly teenagers outside his Salem, Connecticut, home. Noticing the youths scuffling with the officer, Acree retrieved his pistol and went out onto his lawn. When the youths saw Acree and his handgun, they calmed down and the situation ended peaceably. Acree earned the appreciation both of town officials and the officer.

(The Bulletin, Norwich, CT, 5/22/93) (AR 9/93)

Vincent McCarthy wasn't afraid to lend a hand when he noticed a police officer struggling with a man and woman at the side of the road. He tried to help subdue the man who was kicking the officer in the face. Despite McCarthy's warnings, the man pressed his assault, and the tour boat captain shot him once in the leg with a pistol he is licensed to carry and stopped the attack. Neither the officer nor McCarthy were seriously injured.

(The Daily Commercial, Leesburg, FL, 4/10/92) (AR 6/92)

Citizens of Ivor, Va., turned out in force when two men robbed the local bank. After their car crashed while fleeing from police, the duo fled into a wooded area. Local residents immediately armed themselves and, along with police, surrounded the woods. The pair surrendered to a volunteer and an officer the next morning. Said one local resident, "Here, the feeling is 'Hey, you've got my money.'"

(The Virginian-Pilot, Norfolk, VA, 10/20/91)(AR 3/92)

A North Myrtle Beach, N.C., citizen was credited by the city's public safety director with possibly saving the life of Police Officer Richard Jernick. Jernick had pulled over a suspected bank robber's car after a chase, when the suspect charged the cruiser and pointed a gun at the officer, who was still behind the wheel. At that point authorities said, the robbery suspect saw that James Beach, a semi-retired electrician who had joined the pursuit, had a pistol pointed at him. Startled, the robber ran for his car, and Officer Jernick was able to shoot and wound him.

(The Observer, Charlotte, NC, 7/4/91) (AR 9/91)

When Eric Stewart of Oxford, Iowa, heard that an Iowa state trooper had been killed in a plane crash while participating in the manhunt for a robbery suspect, he got his revolver, jumped in his car and joined the search. He passed a man on foot he thought might be the suspect. Stewart stopped at a local farm, and while he was talking to the owners, the man attempted to force his way into the home. Stewart captured and held him at gunpoint until police arrived.

(The Press-Citizen, Iowa City, IA, 10/15/90) (AR 1/91)

During a drug arrest in Webster Parish, La., a sheriff's deputy and a state trooper found themselves struggling with their two suspects. But four citizens observed the battle and, armed with shotguns, they came to the officers' aid, enabling them to make the arrests.

(The Press-Herald, Minden, LA, 5/23/89) (AR 11/89)

Dave Storton, a San Jose, Calif., police officer, was doing off-duty security work at an apartment complex when two burglars knocked him down and attempted to grab his revolver. During the struggle, one of the assailants bit off part of Storton's ear, but the two attackers were run off by an apartment resident who came to the rescue, armed with a shotgun.

(The Chronicle, San Francisco, CA, 5/12/88) (AR 10/88)

Miami, Okla., motel owner Oba Edwards witnessed two policemen struggling with a man they were attempting to arrest and saw the man wrest away one officer's revolver, shoot and kill him. Edwards armed himself and fired a shot that allowed the remaining officer to recover his partner's revolver and fatally wound the attacker. The dead man was on probation for assault of a Texas police officer.

(The Daily Oklahoman, Oklahoma City, OK, 6/7/88) (AR 9/88)

After a string of burglaries, a group of four Beaumont, Tex., neighbors, armed with shotguns, handguns and bats, pursued a burglary suspect to an overgrown field. Police and residents then joined forces to capture the suspect, who had set some dry grass on fire to elude pursuit. A police detective later commented, "In the rush, we didn't have time to get their names, but we really appreciated it."

(The Enterprise, Beaumont, TX, 11/12/87) (AR 3/88)

The robber made a clean getaway and had pulled into the Pelham, Ala., service station. He found the service rather rude, however, as manager Ed Milstead used a 12-ga. shotgun to hold him for police. Milstead had learned of the robbery from a police scanner.

(The News, Birmingham, AL, 2/1/86) (AR 5/86)

A teller in a bank in Indianapolis, Ind., called out to Joseph Ernst when a man claiming to have a pistol and a bomb was about to get away with a bagful of stolen money. Ernst, a uniformed sheriff's deputy, tackled the man. As they grappled on the floor, the robber tried to get to Ernst's sidearm. But Samuel Hatcher, who'd worked with the deputy years before, halted the struggle by drawing a licensed handgun and holding it to the robber's head.

(The Star, Indianapolis, IN) (AR 1/83)

A sheriff's deputy pursued an armed robbery suspect to a Salem, Oreg., supermarket and fired on the man after nearly being run down in the parking lot. From his adjacent residence, James Hicks was alerted to the disturbance and armed himself. When the fleeing suspect forced his way into the home, Hicks ordered him to drop his gun. Instead, he pointed it at the homeowner, but was shot and killed when Hicks fired first.

(The Statesman Journal, Salem, OR, 1/11/83) (AR 5/83)

Police officer Chris Haldeman entered a Chambersburg, Pa., gold and silver exchange to arrest a suspect in a stolen property case, but the man resisted and a struggle ensued. The 220-lb. suspect had Haldeman pinned to the ground and was choking him when storekeeper Ken Cummings pulled his pistol and shot the officer's attacker in the leg. The man, a known felon, managed to escape, and Det. Haldeman was treated at a local hospital and released.

(The Morning Herald, Hagerstown, MD, 10/27/83) (AR 1/84)

When a pair of youthful armed robbers hit a convenience store in tiny Carlotta, Calif., the residents formed a posse and gave chase. They called ahead to another nearby town, Swain's Flat, and asked for help. The Swain's Flat citizens called another town, Bridgeville, and alerted Loretta Scott and Gloria Falor. Scott and Falor raised a posse which waited at their end of Bridgeville Bridge. When the robbers' getaway car was halfway across the span, the Bridgeville citizens blocked their end with cars and trucks. Meanwhile, the pursuing Carlotta contingent blocked the other end. Several citizens armed themselves, but no gunfire was needed. Sheriff's deputies appeared and arrested the stranded criminals.

(The Times-Standard, Eureka, CA, 4/15/82) (AR 7/82)

Joseph Dean of Winchester, Calif., and Wendell Knighton of McGill, Nev., were stopped at a rest area near Jackpot, Nev., when they saw a man shoot a sheriff's deputy. As the criminal advanced on his car, Dean grabbed a pistol, rolled under the vehicle and exchanged shots with him. Knighton, sitting in his own car, opened up, too. In the fusillade, the criminal was killed with no injury to bystanders. Meanwhile, Knighton's wife and sister-in-law gave first aid to the fallen deputy, probably saving his life.

(The Daily Free Press, Elko, NV, 7/30/82) (AR 9/82)

When James Hill saw police and helicopters searching the area around his Norco, Calif., home, he suspected that there might have been an escape from the nearby California Rehabilitation Center. So he reached for a .357 Mag. revolver and a 12-ga. shotgun, summoned his dog and began to search his own property. His vigilance was soon rewarded as the dog located an escapee in a tack room behind the Hill home. Hill held the prisoner for sheriff's deputies.

(The Press-Enterprise, Riverside, CA, 3/13/82) (AR 8/82)

A stolen car bearing three escaped convicts was stopped on a Kansas highway by a state trooper. When the officer ordered the men from the vehicle, they sped away. With the trooper in pursuit, the escapees crashed in the town of Gorham; two were captured as they crawled free of the wreckage. The third convict attempted to flee on foot, only to be collared by several onlookers who had secured rifles from their pickups at the trooper's call for assistance.

(The Morning News, Dallas, TX, 12/5/82) (AR 3/83)

Four young hoodlums were beating off-duty Chicago policeman Russell Ryan in a parking lot when his wife, Carol, came to the rescue. Retrieving her husband's revolver from her purse, she fired warning shots which scattered the assailants.

(The Sun-Times, Chicago, IL, 1/26/81) (AR 4/81)

George Rayburn and his son were listening to a police scanner radio in their River Rouge, Mich., home when they heard that officers were chasing a trio of muggers toward their address. Rayburn grabbed a .357 Mag. revolver and leveled it at one of the lawbreakers, who was attempting to scale a wall into the Rayburn backyard. Only after police arrived and arrested the mugger, did Rayburn, a Marine combat veteran, reveal that he is almost blind.

(The News, Detroit, MI, 1/6/81) (AR 3/81)

Corbin, Ky., motel operator Ray Miracle came upon state trooper James Phelps attempting

to subdue two drunken occupants of a stopped auto and, carrying his revolver, went to the officer's aid. At that point, another car stopped and one of two men inside leveled a gun on Trooper Phelps. Seeing Miracle's drawn gun, however, they hastily drove off. Kentucky State Police rewarded Miracle with their highest civilian honor.

(The Times-Tribune, Corbin, KY) (AR 10/80)

When trooper Bill Brashears stopped a motorist for a traffic violation near Altus, Ark., the man pulled a gun and shot him in the jaw. Before falling, Brashears returned fire, wounding the gunman in the arm, but the assailant then jumped on Brashears and began choking him. A passing female motorist saw the struggle, stopped, and held the assailant at gunpoint until others arrived to summon police. She then rushed Brashears to a local hospital.

(The Arkansas Gazette, Little Rock, AR, 1/2/80) (AR 3/80)

DeKalb, Ga., policeman Tom Whittington was investigating a car accident when two men jumped him and began beating him. Several neighbors were unsuccessful in stopping the bloody assault until a man emerged from the crowd, fired several rifle shots over the heads of the attackers, and then shot one in the leg. Police arrived shortly and arrested the assailants.

(The Journal, Atlanta, GA, 10/12/80) (AR 12/80)

Bus driver Robert McCort was driving from Miami to Detroit when he saw two men and a woman holding a gun on a state trooper near Jacksonville, Fla. McCort stopped his bus and started running toward the scene. Several tractor-trailer trucks had stopped, too, and a woman in one of them handed McCort a .38 cal. revolver as he ran past. Fired upon, McCort, a member of the Jacksonville Police Reserve, responded with a volley of shots which drove the gun-wielding criminal away. The trooper was freed unharmed and the two accomplices arrested.

(The Florida Times-Union, Jacksonville, FL, 12/15/80) (AR 4/81)

Timothy Willard, a 22-year-old policeman in South Paris, Maine, was shot to death by a man inside a car parked in the lot of O.D.V. Inc. After gunning down the rookie policeman, the man fired wildly at company president, Robert Carroll. Carroll, an NRA Life member, drew his own gun and killed the man.

*(The Sunday Telegram, Portland, ME) (AR 3/79)**

Hearing the description of a robber's getaway car on the Houston, Tex., police radio, several wrecker drivers chased down the culprit and surrounded him in a service station. Driver Jim Penry leaped from his wrecker with a loaded shotgun in hand and held the bandit at gun point until the police arrived.

(The Reporter News, Abilene, TX) (AR 10/78)

An unidentified NRA member became famous throughout Texas as "The Hunter" when he and his son heard a distress call on their CB radio. Two college coeds saw a Waco man shoot Sammy Long, a Texas Department of Public Safety officer, and called for help. The hunter arrived on the scene too late to save Long's life, but killed the thug with a 6mm rifle. Upton County District Atty. Aubrey Edwards said the coeds and the hunter requested their names not be made public and said the hunter "deserved a medal" for his action.

(The Times, San Angelo, TX)(AR 2/77)

Ralph Festavan watched as a heroin peddler attacked a Shreveport, La., policeman and grabbed the officer's gun. Festavan ran to the patrol car parked nearby and got a shotgun with which he shot and killed the pusher.

(The Post, Houston, TX) (AR 11/77)

Cecil Collier, 15, was working with his father in a Wildwood, Fla., vegetable field when a state trooper rushed up and asked them to join a posse searching for three Ohio criminals. The trio had broken through a tollgate and evaded a roadblock formed by CB radio operators. Collier was given a 20-ga. shotgun, and he headed into a nearby thicket. There he found the hoodlums, ordered them to drop their guns, and held them for the rest of the posse.

(The Tribune, Tampa, FL) (AR 9/77)

Dennis Koch was putting storm windows on his fiancee's house when he observed a youth run

into nearby woods. He passed the information on to a police officer who stopped by minutes later and told Koch he was searching for a burglary suspect. He gave Koch permission to assist him. Carrying his pistol, for which he has a permit, Koch found the youth hiding and held him in custody until the officer could place him under arrest.

(The Times-Union, Rochester, NY) (AR 1/76)

A Missouri state trooper had been shot three times by two armed robbery suspects when armed citizen Robert Riley of Tiptonville, Tenn., rushed to his aid. Riley fired a small caliber pistol at the assailants until they surrendered. The law officer was then rushed to a hospital.

(The Memphis Press-Scimitar, Memphis, TN) (AR 11/75)

Driving into Huntsville, Tex., after sighting-in a deer rifle in the country, Tony Taylor and Jack Dwenger saw a police car swerve into a ditch. They parked and ran over to the vehicle where they subdued a man who was being transported to prison by a deputy sheriff. The deputy, who had been stabbed twice, credited the pair with saving his life.

(The Huntsville Item, Huntsville, TX) (AR 6/75)

Seeing a state trooper shot to death while checking occupants of a car near Crystal City, Fla., hunters Ralph Morris and Richard Starling jumped from their pickup truck with guns in hand and ordered the two occupants of the car to "freeze." Instead, one opened fire with a .22 handgun while the other stepped on the gas. Starling with a shotgun blast flattened a tire on the car. When one suspect ran, Morris with his semi-automatic rifle hit him in both feet. Starling then covered the men while Morris summoned police. Both men were charged with first-degree murder.

(The Tampa Tribune, Tampa, FL) (AR 5/74)

Wounded in a gun battle with a robber, a Texas policeman lay in the street attempting to reload his revolver. As the robber prepared to fire at him again, L.B. Jackson, Oak Cliff, Tex., covered the robber with a shotgun and forced him to surrender.

(The Dallas Morning News, Dallas, TX) (AR 2/72)

Ronald Royce, a pharmacist in Elgin, Ill., called police when he recognized in his store a man who previously had used a forged prescription to obtain drugs. When a policeman came, the suspect drew a gun and pointed it at the officer's head. Grabbing a gun from behind the counter, Royce fired and wounded the gunman. As the man ran, the policeman wounded him again and arrested him.

(The Daily Courier-News, Elgin, IL) (AR 1/72)

When Frank Carter, a Carnegie, Okla., farmer, saw three men beating a town marshal who had stopped them for drunk driving, he grabbed a rifle from his truck and ordered them to back off. The thugs fled, but were later captured in a state-patrol roadblock.

(The Daily Oklahoman, Oklahoma City, OK) (AR 7/71)

Hearing noises in his store, grocer Lyle Smith of Orillia, Iowa, called police and his son-in-law, Larry Adkins. Both Adkins and police arrived about the same time. Adkins, armed with a shotgun, stopped two intruders attempting to flee from the officers.

(The Tribune, Des Moines, IA) (AR 7/70)

Three men from Montrose, Colo., were on their way home from a hunting trip when they surprised four youths beating a state patrolman with rocks. The patrolman had stopped the youths for a traffic violation, and the four boys had jumped him. The hunters stopped the scuffle and held three of the youths at gunpoint: the other young man and a juvenile girl who was in the car escaped but were captured shortly afterward.

(The Post, Denver, CO) (AR 4/70)

A prisoner who escaped from the Federal Reformatory at Chillicothe, Ohio, while serving a stolen car sentence, was recaptured without firing a shot because, Deputy Sheriff Dwight Beery reports, farmer Wendell Bryant, who lives near Frankfort, Ohio, got his shotgun out and backed up the lone deputy who answered Bryant's call and helped to trace the prisoner. Deputy Earl Kuhn reported to Deputy Sheriff Dwight Beery, that the prisoner appeared ready to make a break at one point but did not do so "because of Mr. Bryant standing in an advantageous position. I couldn't

have asked for better assistance." The Ross County Law Enforcement Officers Ass'n honored Bryant at a special meeting.

(The Gazette, Chillicothe, OH) (AR 3/67)

As Fred Boulter approached a Malden, Mass., A&P store, he noticed a police cruiser pulled up and two policemen entering the store. Boulter drew abreast of the store window and saw one policeman lying on the floor and another staggering out of the front door. When three gunmen rushed out of the front door and fired shot after shot at the staggering policeman, Boulter pulled out a cal. .32 automatic and fired at the three men who were trying to get in a car parked across the street. One of the thugs took a bullet in the leg from Boulter's gun and fled with another bandit as Boulter crossed the street and kept a bead on the remaining man until police arrived.

(The Globe, Boston, MA) (AR 2/64)

In Indianapolis, Gerald Watson, 17, stood near a policeman who questioned a robbery suspect when the suspect's accomplice appeared on the scene and shot the officer down. Watson, who had taught marksmanship at the YMCA, grabbed the fallen policeman's service revolver and shot the felon dead.

(Associated Press) (AR 5/61)

In Saraland, Ala., the berserk husband of a woman charged with possession of illegal whisky killed one police officer and wounded another but, as he tried to make his escape, was shot dead by Carlos McDonald, the proprietor of a nearby shop.

(United Press Int'l) (AR 2/60)

A gas station bandit fired five shots at a pursuing motorcycle officer in a wild chase through Tampa streets, ran his getaway car in a ditch, and fled on foot. J.R. Vause, working on his house, saw the shooting and the motorcycle as it sped past. He ran inside for his shotgun, and set off in pursuit of the bandit. When the officer returned, the gunman, peppered with Vause's shotgun pellets, meekly surrendered.

(The Tribune, Tampa, FL.) (AR 9/59)

Two gunmen kidnapped an Eclectic, Ala., town policeman and used him to get enter the home of banker Carl Ray Barker late at night. One gunman took Barker into town to open the bank's vault, while the other held Baker's wife, child and the policeman hostage. When the time-vault resisted opening, the gunman returned Barker to his house to await a second crack at the vault. While they waited, Barker put water on the stove to make coffee. Barker threw the scalding water into one gunman's face, subdue him, then was able to get a shotgun, fire and kill the other would-be bank robber.

(United Press Int'l) (AR 11/59)

* *The American Rifleman* did not begin listing date of original publication until the June 1979 issue.

Survey research indicates that firearms are used in the United States as frequently as 2.5 million times a year for personal protection, and that the presence of a firearm, without a shot being fired, prevents crime in many instances. Shooting usually can be justified only where crime constitutes an immediate, imminent threat to life, limb, or in some cases, property.

This is the electronic version of the "Armed Citizens and Police Officers: Partners in Fighting Crime" brochure distributed by NRA-ILA. To order additional copies of this brochure, please contact NRA Grassroots at 800/392-8683.

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cc:Mail for: Brett Huber

Subject: gun stuff
From: Jeff Logan 4/23/96 11:14 AM
To: Brett Huber
To: Walter Wilcox

I pulled this off the net, thought you might find it interesting, or maybe there's some stats you could use...

From: "Mark E. Howerter" <otherside@misslink.net>
Date: Sun, 14 Apr 1996 17:27:55 -0600
Subject: C-NEWS: Gun Control Article

"GUN CONTROL ISN'T ABOUT GUNS, IT'S ABOUT CONTROL"

My reasons for being against gun control are based on the statements of our Founding Fathers and what has happened historically once a government has been able to disarm the citizenry.

Start disarming the citizenry the least bit and you have let the camel get his nose under the tent. Soon you will have a tent full of camel. Adolf Hitler said, "The first thing you have to do is disarm the people. A disarmed public can't fight back"

Mahatma Gandhi was no fan of gun control. "Among the many misdeeds of the British rule in India, history will look upon the act of depriving a whole nation of arms as the blackest."

History has proven that every nation which has disarmed its citizenry has ended up with a dictator and a police state with countless and horrible atrocities. It is so true that we either learn from history or history will repeat itself.

What good does making laws banning guns do to prevent crime anyway? Criminals don't obey laws. Only law abiding citizens do. All you end up doing is disarming people who wouldn't use guns to commit crimes anyway. The bad guys already have tons of weapons and they aren't going to hand them in no matter what the law says.

Bad guys don't give a rat's rear end about gun control laws for themselves. Actually, they are just hoping more laws like that will pass so they don't have to worry as much about getting shot while they ply their criminal trade.

Guns in the hands of criminals facilitate crime, but in the hands of innocent victims, prevent it. A couple of cases in point are used by Stephen Chapman in a column in the Thursday, January 26, 1995, Chicago Tribune titled, "Make My Day." Chapman says, "Whoever killed Nicole Brown Simpson didn't need a gun: He was (or they were) strong enough to dispatch two healthy adults with only a knife. But if she had been carrying one, she might be alive today. Texas has an example that is less hypothetical: a woman who left her pistol in the car when she went into Luby's Cafeteria in Killeen, and then had to watch as an armed man killed 22 patrons, including her parents."

If just one person standing around waiting for the Long Island Rail Road Commuter Train that December day when Colin Ferguson shot all of those people would have had a concealed weapon, Ferguson might have shot two or three. He would not have been able to unload a full clip into people, reload, and do it all again, while the unarmed New Yorkers just cowered and hoped he'd run out of bullets.

Thomas Jefferson had strong feelings on the subject. "Laws that

forbid the carrying of arms...disarm only those who are neither inclined nor determined to commit crimes. Such laws make things worse for the assaulted and better for the assailants, they serve rather to encourage than to prevent homicides, for an unarmed man may be attacked with greater confidence than an armed man."

Some statistics are in order here:

"Since Florida has enacted their concealed carry law, the Florida murder rate has dropped by 29%. Nationwide, the murder rate rose 11% over the same period..."--1994 FBI crime data from ABC News 3/12/95.

"Justice Department studies show that armed citizens are much less likely to suffer losses or personal injury from thieves"--Washington Post 1/7/92

Guns in the hands of law abiding citizens clearly prevent crime.

In Florida, where they have the most lenient conceal-and-carry law in existence, native criminals don't very often pick on motorists with Florida license plates. They know that any car they come upon with Florida plates might be driven by a fellow Floridian with a legally concealed weapon.

Criminals in Florida choose to pick on motorists driving rental cars away from airports. The reason is that they know the driver isn't carrying a concealed weapon. Guns can't be carried on airplanes and so out-of-towners leaving airports in rental cars are easy targets. (If you're planning on a trip to Florida, you might want to drive.)

The Clintons, Kennedys, and Bradys of this world really believe that

gun control laws are the answer to crime, but nothing could be further from the truth. Rep. Bill Brewster, D-Oklahoma, quoted in the January 31, 1995, "USA Today" article, "Gun Laws are No Answer" states the Washington DC statistic that since guns were banned there in 1976 the murder rate has risen 200%. And according to a CBS poll, 64% of Americans rightfully understand and don't believe gun control laws reduce crime anyway.

In the same article Brewster points out that, "More than 2 million times a year, citizens use lawfully owned firearms, including semiautomatic firearms, to defend themselves and their families from criminal attack, according to Florida State criminologist Gary Kleck."

George Washington certainly felt that guns prevented crime in his day. "The very atmosphere of firearms anywhere and everywhere restrains evil interference--they deserve a place of honor with all that's good"

Thomas Jefferson explained the greatest need for an armed citizenry was to insure freedom. "The strongest reason for the people to retain the right to keep and bear arms is, as a last resort, to protect themselves against tyranny in government."

Jefferson was actually quite prolific when it came to his feeling that common citizens needed to be armed. "When the government fears the People, that is Liberty. When the People fear the Government, that is tyranny." And, "The beauty of the second amendment is that it will not be needed until they try to take it." And, "The price of liberty is eternal vigilance...No free man shall ever be debarred the use of arms."

Jefferson certainly wasn't alone in believing such things either.

opinion on the net:<http://www.cris.com/~dhathaw/otherside/>

Originating from the rural cornfields of Monmouth, Illinois

TEN MYTHS ABOUT GUN CONTROL

- * MYTH 1 -- Public opinion polls
 - * MYTH 2 -- The purpose of a handgun
 - * MYTH 3 -- Armed citizens don't deter crime
 - * MYTH 4 -- Licensing and registration
 - * MYTH 5 -- Foreign gun control works
 - * MYTH 6 -- Crimes of passion and guns
 - * MYTH 7 -- Semi-autos should be banned
 - * MYTH 8 -- No 'right' to own a gun
 - * MYTH 9 -- Concealed carry laws are dangerous
 - * MYTH 10 -- Gun control reduces crime
- * Facts we can all live with.

Ten Myths About "Gun Control"

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Based on his extensive independent survey research, Kleck estimates that

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

2 Rushforth, et al., "Accidental Firearm Fatalities in a Metropolitan County, " 100 American Journal of Epidemiology 499 (1975).

3 Rushforth, et al., "Violent Death in a Metropolitan County," 297 New England Journal of Medicine 531, 533 (1977).

4 Kellermann, et al., "Gun Ownership as a Risk Factor for Homicide in the Home," New England Journal of Medicine 467 (1993).

5 Polsby, "The False Promise of Gun Control," The Atlantic Monthly, March 1994.

6 Wright and Rossi, Armed and Considered Dangerous: A Survey of Felons and Their Firearms (N.Y.: Aldine de Gruyter, 1986).

7 Gary Kleck and Mark Gertz, "Armed Resistance to Crime: The Prevalence and Nature of Self-Defense with a Handgun," The Journal of Criminal Law and Criminology, 86 (1995): 150.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Second Amendment reads: "A well-regulated Militia, being necessary to the security of a free State, the right of the People to keep and bear Arms, shall not be infringed." In contrast to other portions of the Constitution, this Amendment contains no qualifiers, no "buts" or "excepts." It is a straightforward statement affirming the people's right to possess firearms.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

allow little or no concealed carry.

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

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

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

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

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

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

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

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

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

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

MYTH 10: "Gun control reduces crime."

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

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

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

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

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

national rate hovers around 9-10.

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

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

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

FACTS WE CAN ALL LIVE WITH

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"A well-regulated Militia, being necessary to the security of a free State, the right of the People to keep and bear Arms, shall not be infringed."--Amendment II, Constitution of the United States

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FBI NATIONAL PRESS OFFICE

For Release January 5, 1997

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

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

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

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

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

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



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Bureau of Justice Statistics

Statistics About Crime and Victims

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

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

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

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

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

BJS Crime and Victims Publications
BJS Criminal Victimization Statistical Programs
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- Criminal Victimization, general
 - Victims
 - Characteristics of crime
 - Redesign of the National Crime Victimization Survey
-

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Criminal Victimization, general

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

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

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

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

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

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

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

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

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

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

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

Victims

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

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

domestic violence offenses. NCJ 161405

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

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

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

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

Characteristics of crime

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

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

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

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

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

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

Redesign of the National Crime Victimization Survey

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

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

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

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

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

BJS Criminal Victimization Statistical Programs

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

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

Codebooks and Datasets

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

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NCIC 2000



Linking It All Together

February 15, 1996
Volume 1, Number 1

What is NCIC 2000?

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

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

Implementation Schedule and Necessary Equipment

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

New Faces

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

Progress, Plans and Problems

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

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

APB Meeting Update

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

STATE YOUR OPINION

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

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

This first article was submitted by the Illinois State Police.

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

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

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

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

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

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



Milbank Memorial Fund

Preventing Violence Against Women and Children

Ronald B. Taylor

INTRODUCTION

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

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

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

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

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

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

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

VIOLENCE AGAINST WOMEN AND CHILDREN:
IMPACTS AND REACTIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Prosecution and the Courts

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

Prosecutors and judges are not always well

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

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

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

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

The code does the following:

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

visitation rights.

5. Suggests prevention and treatment modalities.

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

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

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

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

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

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

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

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

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

For years the courts refused to hear a

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

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



Community-Based Services and Advocacy

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

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

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

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

State Coalitions

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

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

JUNEAU EMPIRE

Legislation would ease gun permit rules

By MARK SABBATINI

THE JUNEAU EMPIRE

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

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

provide a locked strongbox for weapons.

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

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

Please see Guns, Page 8

MONDAY
MARCH 17, 1997

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

Senate Minority Leader Jim Duncan

Guns . . .

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

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

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

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

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

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

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

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

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

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

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Senator resubmits gun bill

The Associated Press

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

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

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

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

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

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

important," Green said Monday.

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

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

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Ans'd.....

Testimony concerning SB-141

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

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

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

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

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

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

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

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

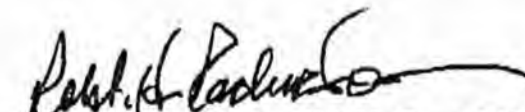
1. A candidate for an emergency permit should demonstrate (a) safe handgun handling, (b) proficiency in firing a handgun, and the (c) key provisions of the the Alaska Statute as it addresses the use of deadly force. Additionally, the candidate should be advised where concealed carry is not permitted,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

or

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

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

Submitted by:



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