

Right-to-Carry 2008

There are 40 Right-to-Carry states. Thirty-six have “shall issue” laws, requiring that carry permits be issued to applicants who meet uniform standards established by the state legislature. Three have fairly-administered discretionary-issue carry permit systems. One, Vermont, respects the right to carry without a permit. Alaska, one of the “shall issue” states, has its permit system for the purpose of permit-reciprocity with other states, and also adopted a no-permit-required law in 2003.

• **There are 10 non-RTC states.** Eight have restrictively-administered discretionary-issue systems. Only two—Illinois and Wisconsin—have no permit system and prohibit carrying.

• **The newest RTC states:** In 2006, Nebraska’s RTC law was signed by Gov. Dave Heineman (R); Kansas’ Senate and House overrode Gov. Kathleen Sebelius’ (D) veto of an RTC bill by votes of 30-10 and 91-33, respectively; and the Ohio Senate and House overrode then-Gov. Bob Taft’s (R) veto of a bill that improves the state’s 2004 RTC law, by votes of 21-12 and 71-21, respectively.



• **Other recent RTC initiatives:** In January 2006, Wisconsin’s Senate voted 23-10 to override Gov. Jim Doyle’s (D) veto of RTC; the Assembly fell two votes short, voting 64-34. In January 2004, Ohio then-Gov. Bob Taft (R) signed RTC into law and New Mexico’s Supreme Court upheld a 2003 RTC law. Colorado, Minnesota and Missouri adopted RTC in 2003, the latter by overriding Gov. Bob Holden’s (D) veto.

• **The right to self-defense is a fundamental right.** The U.S. constitution, the constitutions of 44 states, common law, and the laws of all 50 states recognize the right to use arms in self-defense. RTC laws respect the right to self-defense by allowing individuals to carry firearms for protection.

• **More RTC, less crime:** Violent crime rates since 2003 have been lower than anytime since the mid-1970s.¹ Since 1991, 23 states have adopted RTC, the number of privately-owned guns has risen by nearly 70 million,² and violent crime is down 38%. In 2006, the most recent year for which complete data are available, RTC states had lower violent crime rates, on average, compared to the rest of the country (total violent crime by 26%; murder, 31%; robbery, 50%; and aggravated assault, 15%).³

• **RTC and crime trends:** Studying crime trends in every county in the U.S., John Lott and David Mustard found, “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....[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.”⁴

• **RTC a success in every state:** Former Colorado Asst. Atty. Gen. David Kopel has written, “Whenever a state legislature first considers a concealed carry bill, opponents typically warn of horrible consequences....But within a year of passage, the issue usually drops off the news media’s radar screen, while gun-control advocates in the legislature conclude that the law wasn’t so bad after all.”⁵ A article on Michigan’s RTC law noted, “Concerns that permit holders would lose their tempers in traffic accidents have been unfounded. Worries about risks to police officers have also proved unfounded....National surveys of police show they support concealed handgun laws by a 3-1 margin....There is also not a single academic study that claims Right to Carry laws have increased state crime rates. The debate among academics has been over how large the benefits have been.”⁶

• **RTC permit-holders are more law-abiding than the rest of the public.** For example, Florida, which has issued more carry permits than any state has issued 1.36 million permits, but revoked only 165 (0.01%) due to gun crimes by permit-holders.⁷

Background: Before 1987, there were 10 RTC states. Indiana, Maine, New Hampshire, North Dakota, South Dakota and Washington had “shall issue” permit laws. Alabama and Connecticut had fairly-administered discretionary-issue systems. Georgia’s “shall issue” law was interpreted as discretionary in some jurisdictions. Vermont allowed carrying without a permit. Other states had restrictively-administered discretionary-issue carry permit systems or prohibited carrying.

In 1987, Florida enacted a “shall issue” law that has become the model for other states. Anti-gun groups, politicians and news media people predicted vigilante justice and “Wild West” shootouts on every corner. But through 1992, Florida’s murder rate decreased 23%, while the U.S. rate rose 9%; thereafter, murder decreased both nationally and in Florida.⁸ Then-Florida Licensing Division Director, John Russi, noted, “Florida’s concealed weapon law has been very successful. All major law enforcement groups supported the original legislation....[S]ome of the opponents of concealed weapon legislation in 1987 now admit the program has not created the problems many predicted.”⁹ In a 1995 letter to state officials, Dept. of Law Enforcement Commissioner James T. Moore wrote, “From a law enforcement perspective, the licensing process has not resulted in problems.”

• **29 states have adopted RTC since 1987.** Of these, 21 previously prohibited carrying and had no carry permit system; nine (indicated with an asterisk, below) had restrictively-administered discretionary-issue systems. 1989: Oregon, Penna. (Phila. included in 1995), and West Virginia (in Georgia a judicial ruling enforced “shall issue” statewide); 1990: Idaho and Mississippi; 1991: Montana; 1994: Alaska, Arizona, Tennessee and Wyoming; 1995: Arkansas, Nevada*, North Carolina, Oklahoma, Texas, Utah* and Virginia*; 1996: Kentucky, Louisiana* and South Carolina*; 2001: Michigan*; 2003: Colorado*; Iowa*

(by fairly administering its discretionary-issue system), New Mexico, Minnesota* and Missouri; 2004: Ohio; 2006: Kansas, Nebraska.

Citizens can defend themselves. Analyzing National Crime Victimization Survey data, criminologist Gary Kleck found, “robbery and assault victims who used a gun to resist were less likely to be attacked or to suffer an injury than those who used any other methods of self-protection or those who did not resist at all.”¹⁰ In the 1990s, Kleck and Marc Gertz found that guns were used for self-protection about 2.5 million times annually.¹¹ The late Marvin E. Wolfgang, self-described as “as strong a gun-control advocate as can be found among the criminologists in this country,” who wanted to “eliminate all guns from the civilian population and maybe even from the police,” said, “The methodological soundness of the current Kleck and Gertz study is clear. I cannot further debate it. . . . I cannot fault their methodology.”¹² A study for the Dept. of Justice found that 34% of felons had been “scared off, shot at, wounded or captured by an armed victim,” and 40% of felons have not committed crimes, fearing potential victims were armed.¹³

The right to self-defense has been recognized for centuries. Cicero said 2,000 years ago, “If our lives are endangered by plots or violence or armed robbers or enemies, any and every method of protecting ourselves is morally right;” English jurist Sir William Blackstone observed that the English Bill of Rights recognized “the right of having and using arms for self-preservation and defense” as intended “to protect and maintain inviolate the three great and primary rights,” the first of which is “personal security.”¹⁴ Sir Michael Foster, judge of the Court of King’s Bench, wrote in the 18th century, “The right of self-defense. . . is founded in the law of nature, and is not, nor can be, superseded by any law of society.”¹⁵

The Supreme Court, in *U.S. v. Cruikshank* (1876), recognized that the right to arms is an individual right, stating that it “is not a right granted by the Constitution. Neither is it in any manner dependent upon that instrument for its existence.” In *Beard v. U.S.* (1895), the court approved the common-law rule that a person “may repel force by force” in self-defense, and concluded that when attacked a person “was entitled to stand his ground and meet any attack made upon him with a deadly weapon, in such a way and with such force” as needed to prevent “great bodily injury or death.” The laws of all states and the constitutions of 44 states recognize the right to armed self-defense. In the Gun Control Act (1968) and Firearms Owners’ Protection Act (1986), Congress stated that it did not intend to “place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to . . . personal protection, or any other lawful activity.”

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

National RTC reciprocity: H.R. 226, by Rep. Cliff Stearns (R-Fla.), proposes a federal law, that any person with a valid state-issued carry permit may carry in any other state, as follows: In a state that issues carry permits, its laws would apply. In states that don’t issue permits, a federal standard would permit carrying in places other than police stations; courthouses; public polling places; meetings of state, county, or municipal governing bodies; schools; passenger areas of airports; etc.

Nonsense from Brady Campaign (formerly Handgun Control, Inc.): Sarah Brady: “the only reason for guns in civilian hands is for sporting purposes;” former HCI Chair, the late Pete Shields: “put up no defense - give them what they want;” Brady Center’s Dennis Henigan: self-defense is “not a federally guaranteed constitutional right.”¹⁶ In Jan. 1999, HCI claimed that between 1992-1997 violent crime declined less in RTC states than in other states.¹⁷ (HCI previously claimed RTC caused crime to rise.) HCI erred in categorizing 31 states as having RTC during the period, since only 17 of the 31 had RTC in 1992. HCI calculated crime trends from 1992 to under-represent the impact of RTC laws; by 1992 many states had RTC for many years and already experienced decreases in crime. HCI misclassified Alabama and Connecticut as “restrictive” states, doing so because crime had decreased in both. HCI credited restrictive

laws for crime decreasing in some states, but states that have restrictive carry laws have had them for many years, and crime did not begin declining in those states until the 1990s, and did so due to factors unrelated to guns.

Nonsense from Violence Policy Center: In 1995, VPC claimed Florida's RTC law "puts guns into the hands of criminals."¹⁸ The claim was false, since the law permits a person to carry, not acquire, a firearm. VPC claimed "criminals do apply for concealed carry licenses," without noting that such applications are rejected. Contradicting itself, VPC noted that criminals had requested that their rejected applications be reconsidered. "To set the record straight," Florida Secy. of State, Sandra B. Mortham, said, "As of November 30, 1995, the Department had denied 723 applications due to criminal history. The fact that these 723 individuals did not receive a license clearly indicates that the process is working." She added, "the majority of concealed weapon or firearm licensees are honest, law-abiding citizens exercising their right to be armed for the purpose of lawful self-defense."¹⁹ In 2001, VPC claimed there are more women murdered with handguns than criminals killed by in self-defense.²⁰ The value of handguns for self-defense is not measured by how many criminals are killed, however. More important is how often people use handguns to prevent crimes and how often criminals do not attack for fear the potential victim is armed. Also, VPC undercounted the number of criminals killed in self-defense by counting only those noted in police reports, thus excluding defensive homicides later determined to have been appropriate.

McDowell math: In March 1995, anti-gun researcher David McDowell claimed that gun homicide rates increased in Miami, Jacksonville and Tampa after Florida's 1987 RTC law.²¹ But homicide rates fell 10%, 18% and 20%, respectively, in those metro areas from 1987 until 1993, the most recent data at the time.²² To show an increase, McDowell calculated Jacksonville and Tampa trends from the early 1970s, when rates were lower than in 1993, but calculated Miami's from 1983, since rates before 1983 were higher and their inclusion would show that the rate had decreased. None of McDowell's homicides was committed by a carry permit holder, and he did not indicate which homicides had occurred in situations where a permit would have been required to carry a gun. McDowell has also claimed that D.C.'s murder rate decreased after its 1977 handgun ban. In fact, the rate tripled after the ban.²³

The 43:1 claim: Based upon a small study of King's County (Seattle), Washington, gun control supporters claim a gun in the home is "43 times more likely" to be used to kill a family member than a criminal.²⁴ To reach that ratio, self-defense firearms uses are grossly undercounted by counting only cases in which criminals were killed. Most often, when guns are used to defend against criminals, the criminals are only scared off, captured or wounded. Kleck has called the 43:1 ratio and its variants "the most nonsensical statistic in the gun control debate."²⁵

1. BJS (<http://bjsdata.ojp.usdoj.gov/dataonline/>) and FBI (www.fbi.gov/ucr/05cius/offenses/violent_crime/index.html).

2. BATF, "Firearms Commerce in the United States 2001/2002" (<http://www.atf.gov/pub/index.htm> - Firearms).

3. Note 1, FBI.

4. Lott, "Crime, Deterrence, and Right To Carry Concealed Handguns," 1996.

5. David Kopel, "The Untold Triumph of Concealed-Carry Permits," *Policy Review*, July-Aug. 1996, p. 9.

6. "Should Michigan keep new concealed weapon law? Don't believe gun foe scare tactics," *Detroit News*, 1/14/01.

7. Florida Division of Licensing, Monthly Statistical Report (http://licgweb.doacs.state.fl.us/stats/cw_monthly.html).

8. Note 1, BJS.

9. Testimony before the Michigan House of Representatives Judiciary Committee, 12/5/95
10. *Targeting Guns*, Aldine de Gruyter, 1997, p. 171.
11. "Armed Resistance to Crime: The Prevalence and Nature of Self-Defense With a Gun," *Journal of Criminal Law and Criminology*, Fall 1995, pp. 150-187.
12. "A Tribute to a View That I Have Opposed," *Journal of Criminal Law and Criminology*, Fall 1995, pp. 188-192.
13. J. Wright and P. Rossi, *Armed and Considered Dangerous: A Survey of Felons and Their Firearms*, 1986, p. 155.
14. Stephen P. Halbrook, *That Every Man Be Armed*, The Independent Institute, 1994, pp. 17, 54.
15. Dowlut, Knoop, "State Constitutions and The Right to Keep and Bear Arms," *Okla. City Univ. Law Review*, 1982, p. 183.
16. Brady: Tom Jackson, "Keeping the battle alive," *Tampa Tribune*, 10/21/93; Shields, *Guns Don't Die - People Do*, N.Y.: Arbor House, 1981; Henigan: *USA Today*, 11/20/91.
17. Handgun Control, Inc., "Concealed Truth." (www.bradycampaign.org/facts/research/?page=conctruth&menu=gvr).
18. "Concealed Carry: The Criminal's Companion."
19. *St. Petersburg Times*, 1/11/96.
20. "A Deadly Myth: Women, Handguns, and Self-Defense."
21. "Easing Concealed Firearm Laws: Effects on Homicide in Three States."
22. Note 1, BJS, and FBI, annual *Crime in the United States* reports.
23. *Ibid.*
24. A. L. Kellermann, "Protection or Peril?: An Analysis of Firearm-Related Deaths in the Home," *New England Journal of Medicine*, 1986.
25. Note 11, pp. 177-178.

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