

Approved: 3-7-95
Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Garry Boston at 1:30 p.m. on February 20, 1995 in Room 313-S of the Capitol.

All members were present except:

Committee staff present: Mary Galligan, Legislative Research Department
Lynne Holt, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes
June Evans, Committee Secretary

Conferees appearing before the committee: Representative Gary K. Hayzlett
Eric A. Voth, M.D.
Joseph T. Gimar, Fraternal Order of Police
Representative Andrew Howell
Sheriff Dave Meneley, Shawnee County Sheriff
Al Heger, Olathe
Scott Hattrup, Lawrence, Kansas
Phillip B. Journey, Wichita, Kansas
George R. Pisani, Lawrence
Owen L. Sully, Kansas City
Bill Kamm, Bonner Springs, Kansas
Sharon Marvin
Jean Wilson
Albert B. Thompson
Grace Dester Petron
Clare T. Wuellner, Lawrence, Kansas
Carissa McKenzie, Alta Vista, Kansas
Joseph G. Herold, Topeka, Kansas

The Chairperson opened the hearing on **HB 2420** for proponents of the bill.

HB 2420 - Providing for licensure to carry certain concealed weapons; prohibiting certain acts and prescribing penalties for violation.

Representative Gary K. Hayzlett testified the Florida State Legislature considered the bill that led to its Rights to Carry law, firearms ownership opponents predicted that catastrophe would follow if average people were allowed to have handguns in public. Florida's Right to Carry bill was endorsed by the Florida Department of Law Enforcement, Florida Sheriff's Assn, Florida Police Chief's Assn and other law enforcement group, and the BATF's Chief agent in the state acknowledged that permits to carry firearms were not a crime problem.

Florida's homicide rate has dropped 22% since 1987, while the national homicide rate has risen 15% testament to the irrationality of the anti-gunners' claims. Of 258,193 carry permits issued in Florida through Nov 30, 1994, only 18 -- less than 0.007% -- have been revoked because permit holders committed crimes (not necessarily violent) in which guns were present (not necessarily used). (See Attachment #1)

Eric A. Voth, M.D. testified in support of **HB 2420**, stating owners of guns and those who desire to carry concealed weapons for self defense are law-abiding citizens desiring the opportunity to provide ourselves an extra layer of self defense in these violent times. This bill, which would allow gun owners the opportunity to carry concealed weapons under strict guidelines, will provide that layer of defense to citizens, and not criminals. It is criminals who commit crimes with guns, not law-abiding gun owners. Most gun owners are respectable citizens who use their guns for sport, hunting, or self-defense. (See Attachment #2)

Joseph T. Gimar, representing the Fraternal Order of Police, Hutchinson, testified in support of **HB 2420** with some exceptions. (See Attachment #3)

Representative Andrew Howell testified in support of **HB 2420**, stating this would allow responsible citizens

to carry concealed weapons for self-defense purposes. The public is frustrated with the current law which does not adequately allow them to protect themselves and remain within the confines of Kansas statutes. (See [Attachment #4](#))

David Meneley, Shawnee County Sheriff, testified in support of [HB 2420](#), stating for years the criminal element has held the majority of our citizens hostage through fear and the inability of the law abiding citizens to protect themselves. Laws should not be written for the exceptions because there will always be a few, but should be written for the rule. The only fear police officers have of a person carrying a weapon is that it is not legal or if concealed it surprises them. It is felt the license should be revoked for life if the person is caught carrying a gun when driving under the influence, intoxicated by alcohol, legal, or illegal drugs. There are two concerns with this bill. The first is the cost of the license which may restrict the ability of the poor to participate which may be discriminatory. Since it will require administration on the county level, it will be necessary to assess an additional fee to the required costs. The second concern is being concealed, the weapon might create a danger to the bearer. An intense educational program to both the public and law enforcement is a necessity. (See [Attachment #5](#))

Al Heger, Olathe, a proponent for [HB 2420](#) strongly supports the right of the private citizen to protect his own life, and that of his immediately family. Mr. Heger further stated there isn't a question in his mind that today many Kansas residents not wishing to be robbed, raped or murdered already carry concealed handguns in their cars and purses, as well as on their persons. A permit to carry law would provide a safe, civilized, sane, and above all a legal manner for a Kansas resident to do so. It could also produce a revenue for the State of Kansas. (See [Attachment #6](#))

Scott Hatstrup, Lawrence, testified in support of [HB 2420](#), stating Home Rule has its limitations. If a city in Kansas cannot prohibit all transportation of handguns, it certainly cannot prohibit their ownership. Determining whether Kansans can legally carry concealed weapons is certainly within the permissible boundaries of the legislature's law-making ability. (See [Attachment #7](#))

Phillip B. Journey, Haysville, testified as a proponent for [HB 2420](#), stating the bill offers an opportunity for the citizens of the state to lawfully resist crime. Currently the laws of all 50 states acknowledge the right of self defense. When necessary, deadly force may be used in defense of self or others. One third of the states have licensing systems similar to the one proposed in [HB 2420](#). Vermont simply has no prohibition to carrying a firearm on ones person. At this juncture in Kansas the ability to self defensive use of a firearm without possible legal repercussions ends at your property line.

Philosophically here as in many other states currently considering this issue has always been one of trust. The citizens trust their representatives with the power of government and in turn the representative should trust the people to exercise their judgment in defense of themselves and others. (See [Attachment #8](#))

George R. Pisani, Lawrence, testified in support of [HB 2420](#) which provides a formal mechanism for law-abiding Kansans to be issued a permit to carry a concealed firearm for personal protection. The April 1994 U.S. Department of Justice [Crime Data Brief](#) points out that nationwide between 1987-92, an annual average of 82,500 (or, roughly 12%) of the victims of crime defended themselves successfully with a firearm. In 63% of these defenses, the victim merely produced the firearm, without discharging it. The [Brief](#) further states that in this time period, about 35% of these victims faced an armed aggressor, and that about 75% of these victims defended themselves during what is defined as a crime of violence. A 1989 study showed that armed civilians mistakenly shot an innocent person thought to be a criminal 2% of the time, but the error rate for police was 11%. This statistic is not presented to vilify police, as it doubtless is a consequence of their continual exposure to danger and the need to react quickly in order to survive. The 1993 Los Angeles Police Dept. Firearms Discharge Report lists "bad communication" as the most common reason cited by LAPD officers for "errors in shooting." (See [Attachment #9](#))

Owen L. Sully, Former Wyandotte County Sheriff and former policeman with the Kansas City, Kansas Police Department, supported [HB 2420](#) stated he had observed through a 32-year law enforcement career and the criminal's perception of the victim's inability to deter his attack regardless of his choice of weapons. (See [Attachment #10](#)).

Bill Kamm, Bonner Springs, testified as a proponent for [HB 2420](#), stating Kansas was the 15th most dangerous state according to facts compiled by the Morgan Quitno Corporation in their book. Nationally, 87% of violent crime takes place outside of the home. Criminals also take great pains to commit crimes away from police presence.

The protection offered to those with a license to carry would extend to others as criminals will not know if their victim is armed and would be concerned that someone nearby might be. (See [Attachment #11](#))

Sharon Marvin, testified as a proponent for [HB 2420](#), stating a gun is merely a pipe that launches a projectile, it is not magic, it is not a demon, and it certainly has no mind of its own. A gun is no more a life taker than automobiles, electricity or medicine.

As of 1995 4,600,000 Americans have used a handgun in protecting themselves. An FBI research survey reports that less than 5% of these cases resulted in injury or death. States that have recently changed their laws have experienced reductions in homicide rates. Since Florida enacted a favorable concealed carry weapon law in 1987, their homicide rates dropped 22%, when the national rate rose 15%.

Working varied shifts as a nurse and commuting to different towns, I would feel safer having protection of a firearm. (See Attachment #12)

Jean Wilson, testified as a proponent for **HB 2420**, as she has had a bad experience with an abuser and they will soon be released from prison and she would feel much safer if she were able to carry a concealed weapon. (No Attachment)

Albert T. Thompson, testified as a proponent for **HB 2420**, stating this would allow responsible men and women of Kansas the opportunity to obtain a statewide license for the carry of certain concealed weapons. This would allow the state to exercise reasonable control over licensing by conducting full background checks and requiring evidence that applicants have adequate training and demonstrated proficiency. This bill is modeled on the existing uniform carry law that was so successfully implemented in Florida in 1987, that it has now been adopted by Georgia, Pennsylvania, Idaho, Mississippi, Montana, Arizona, Tennessee, Wyoming and Oregon and is now pending in Texas and several other states. (See Attachment #13)

Grace Dester Petron, testified in support on **HB 2420**, stating that while the number of victims increases it is evident that the number of arrests and convictions of perpetrators fails to diminish occurrences. **HB 2420** allows law abiding citizens a means of self defense. The concept of having to fire a weapon in self-defense or in the defense of another is not appealing; however, the idea of being made a victim of statistic appeals even less. Being responsible for ones own action is of the utmost importance. It provides a legal means of defense to be available should such a means be chosen by an individual. The firearms and personal protection training stipulated as a prerequisite in the bill is quite appropriate. The criminal element will be forced to the realization that a prospective victim could be in the minority by not possessing a weapon and the training to take necessary action. While believing in the right to keep and bear arms, would also like to note the following: the cost of licensing must be kept affordable for the average citizen of the state of Kansas and some provision should be made through the language of the bill to deny such licenses to individuals with a history of domestic violence or who are currently under a restraining order due to past violent behavior. (See Attachment #14)

Clare T. Wuellner, Lawrence, Kansas, testified as a proponent for **HB 2420**, stating that though police do attempt to protect the public to the extent that the law and their resources allow, they cannot and in a free society should not be omnipresent. Various court decisions, including the U. S. Supreme Court (*DeShaney v. Winnebago County Dept. of Social Services*, 489 U.S. 189 (1989)), have affirmed that the individual is responsible for his or her own defense, and that government (through police) is responsible only for protecting society as a whole, and not any specific person during any specific incident. (See Attachment #15)

Carissa McKenzie, Alta Vista, testified as a proponent for **HB 2420**, stated that as a rural resident, she has to frequently travel remote and subsidiary roads, often in hours of darkness and wants the legal right to possess and carry a weapon in order to defend her life against uninvited assault when and if such aggression should occur.

Criminals, by their very nature, do not obey laws, and thus pose a threat to the security of our nation and our people. As Kansas law stands, weapons can be lawfully carried in vehicles, be in my home and on my property. While in vehicles, firearms can be exhibited visibly or stored unloaded and secured out of view. When visible and at hand, the firearm can be used defensively in dire need. When unloaded or inaccessible, a firearm is of no use to ward off lethal threats. Therefore, when traveling, my firearm is left visible and loaded on the seat. (See Attachment #16)

The following testimony was distributed: Robberies in Florida Statistics (Attachment #17); Joseph G. Herold (Attachment #18); Dale Williams, Williams Investigations & Security (Attachment #19); Roger T. LaRue, Detective Sergeant, Olathe Police Department (Attachment #20); Sharon Hagen, (Attachment #21)

After discussion the Chairperson closed the hearing on **HB 2140**.

The meeting adjourned at 3:15 p.m. The next meeting will be February 21, 1995.

HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE
GUEST LIST

DATE: February 20, 1995

NAME	REPRESENTING
<i>Eric [unclear]</i>	<i>self</i>
<i>Deven Sully</i>	<i>SELF</i>
<i>George [unclear]</i>	<i>self</i>
<i>Samuel [unclear]</i>	<i>Self</i>
STEVE KEAGNEY	STATE LODGE FOP
JOSEPH T. GIMAR	STATE LODGE FOP
<i>Scott Hattup</i>	<i>SELF</i>
<i>JOE B Lopez</i>	<i>Self</i>
<i>C. Craig Rutherford</i>	<i>Self</i>
<i>John F. Bradley</i>	<i>Self</i>
<i>Donny L Clifton</i>	<i>Self</i>
ALBERT G. HEGGER	<i>Self</i>
<i>Nut Cheney</i>	<i>Self</i>
<i>Sharon W Jarvin</i>	<i>Family & self</i>
<i>[unclear]</i>	<i>SELF</i>
<i>Robert Coraway</i>	<i>SELF</i>
<i>Walt Whitaker</i>	<i>Self</i>
<i>[unclear]</i>	<i>Self</i>
KEVIN JOHNSON	<i>SELF</i>

HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE
GUEST LIST

DATE: February 20, 1995

NAME	REPRESENTING
Steve DeGruce	SELF
PAUL DEGENER	SELF
John Elz	Self.
Chuck E. Jordan	Self
Patricia K. Kelle	Self
Clifton Peterson	KSC KS
CHRISTOPHER HOOVER	SELF
JEAN ANN WILSON	SELF
Joseph G. Herald	self
Jay Livingston	SELF
Carissa McKenzie	Self
MARTIN L. MILLER	SELF
Bishop	Self
Brian Farley	self
Bill Calvert	self
Harry Harrington	League of KS Municipalities



COMMITTEE ASSIGNMENTS
VICE-CHAIR: TAXATION
MEMBER: EDUCATION
LOCAL GOVERNMENT
INTERSTATE COOPERATION

GARY K. HAYZLETT
REPRESENTATIVE, 122ND DISTRICT
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SCOTT, & PARTS OF
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STATE HOUSE—ROOM 171-W
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Assistant Majority Leader

February 20, 1995

Federal and State Affairs Committee
RE: HB 2420

Mr. Chairman and Members of the Committee:

Thank you for allowing this bill a hearing and letting me offer a few comments before hearing the other Proponents.

The testimony presented Thursday by the Opponents was good and stated their views and there were some good questions. I have heard this same testimony from some of the same people before, and am always just as amazed at some of the feeble logic and lack of common sense.

Mr. McCullum - spoke for the Governor, but certainly didn't speak to the Governor before his testimony.

I guess I have always had a little problem with law enforcement testifying that they are the only ones capable and competent enough to handle firearms safely. Mr. McCullum stated he worries about carrying his sidearm and never does out of uniform. I resent the fact that he is paid by my tax dollars to protect and serve and chooses not to be able to do so at some critical point. Maybe he chose the wrong profession!

Off-duty law officers--do they carry--

Organizations - 3600 members, 35 members. Board

Alldritt Question: What are we talking about?

I guess all I can say is we are talking about allowing citizens a choice to be able to protect themselves. Your comments about reason should prevail. I agree and it should be reason and common sense. I also never think about people carrying guns unless I take my grandchildren into a McDonald's or eat at Luby's on Wanamaker or ride a train!

Also pleased to hear the Sheriff of Geary Co. say the Brady Bill was a farce. The Brady Bill and other restrictive gun issues are a criminal's dream. They just penalize the honest and please the law breakers.

Fv SA
2-20-95
Atch #1

As the Florida State Legislature considered the bill that led to its Right to Carry law, firearms ownership opponents predicted that catastrophe would follow if average people were allowed to have handguns in public, Florida would become the "GUNshine State," politicians warned. Media reports forecast vigilante justice and Wild West shootouts on every streetcorner. "[A] pistol-packing citizenry will mean itchier trigger fingers . . . South Florida's climate of smoldering fear would flash like napalm when every stranger totes a piece, and every mental snap in traffic could lead to the crack of gunfire," one newspaper hypothesized.

Florida's Right to Carry bill was endorsed by the Florida Dept. of Law Enforcement, Florida Sheriff's Assn, Florida Police Chiefs Assn and other law enforcement groups, and the BATF's Chief agent in the state acknowledged that permits to carry firearms were not a crime problem.

Florida's homicide rate has dropped 22% since 1987, while the national homicide rate has risen 15% testament to the irrationality of the anti-gunners' claims. State Rep. Ron Silver, who opposed the Right to Carry bill, admitted in 1994, "I am pleasantly surprised to find that I think it's working pretty well. . . We have found very few instances whereby (permit holders) have actually gone out and committed a crime afterwards." Of 258,193 carry permits issued in Florida through Nov. 30, 1994, only 18 -- less than 0.007% -- have been revoked because permit holders committed crimes (not necessarily violent) in which guns were present (not necessarily used).

Representative Gary K. Hayzlett

Eric A. Voth, M.D.,FACP
Internal Medicine and Addiction Medicine
901 Garfield
Topeka, Kansas 66606
913-354-9591

Mr. Boston, members of the House:

I am speaking in support of House Bill 2420. I will be brief because I realize that others wish to share their concerns.

Owners of guns and those who desire to carry concealed weapons for self defense are law-abiding citizens desiring the opportunity to provide ourselves an extra layer of self defense in these violent times. This bill, which will allow gun owners the opportunity to carry concealed weapons under strict guidelines, will provide that layer of defense to citizens, and not criminals. It is criminals who commit crimes with guns, not law-abiding gun owners. Most gun owners are respectable citizens who use their guns for sport, hunting, or self-defense. We are as a group not wide-eyed crazed ultra-right wingers. In fact, I have feared being labeled as a pro-gun extremist as a result of testifying for this bill, but my fundamental belief in the right to self-protection has forced me to step forward.

I am a physician here in Topeka, and I grew up here. I have seen a pleasant city turn into a violent city. I also have been deeply involved in combating the problems of drug abuse throughout the United States. As a result, I have testified in several criminal trials for the prosecution against drug dealers, have provided drug policy recommendations to the Whitehouse, DEA, Congress, and several foreign countries.

As a result of my involvement with the drug world, I have been the target of an individual who placed a contract on my life, experienced several death threats, and had several hundred harassing phone calls. Two armed robberies have occurred within my place of business. I have often felt the need to be able to protect my self if necessary.

A second vignette may help the committee understand my support for gun ownership. When I was in medical training in Kansas City, we lived in a violent and dangerous area. My wife

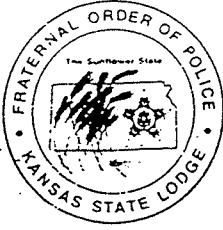
*Fv SA
2-20-95
Atch#2*

as quite anti-gun, but did not begrudge my own guns. One night we awoke to the desperate screams of our neighbor who was being raped. I awakened fully alert, grabbed a handgun, and ran out the front door chasing the rapist through our backyard. The neighbor, who was by the way previously quite anti-gun, screamed "shoot him, kill him." Because I was well trained and disciplined, I did not shoot at the rapist and risk hitting innocent people or hitting the rapist in the back. The policeman later on the scene said that it was too bad that I didn't get a clear shot at him. He was caught and was implicated in rapes all over that area of town. Subsequently my wife asked to learn about guns, learn to shoot, and own her own.

Despite my solid support of law enforcement agencies, I do not feel that there exists any way that they can provide me, my family, and other citizens adequate protection from violence. They can only pick up the pieces by arresting individuals who cause tragedy.

I agree that law-abiding gun owners who desire to carry concealed weapons should be required to pass rigorous training and certification as presented in the proposed legislation. I am willing to go through such training, although I have already taken it upon myself to be well-versed and highly skilled in firearms use for self-defense.

I suggest that the legislature keep in mind that the current bill supports law-abiding citizens. It is criminals that we should fear, not citizens who seek to find legal means to protect themselves.



Fraternal Order of Police

Kansas State Lodge

Chairman Boston and members of the Federal and House State Affairs committee;

I am Joseph T. Gimar from Hutchinson, Kansas representing the Kansas Fraternal Order of Police.

On behalf of the Kansas Fraternal Order of Police in support of H.B. 2420 with the following changes.

1. Waiver or exemption for retired police officers.
2. Increased severity level and penalties for carry concealed violations.
3. Provisions for a "good character clause". (This means if the chief law enforcement officer in that jurisdiction has intelligence information that is contrary to that person's good character, this could be grounds for denial).
4. Provide adequate funding for the KBI to implement and conduct timely and accurate records checks.

Respectfully submitted,


Joseph T. Gimar

F & SA
2-20-95
Atch #3

ANDREW HOWELL

REPRESENTATIVE, FOURTH DISTRICT

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TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
AGRICULTURE
HEALTH AND HUMAN SERVICES
JUDICIARY

TESTIMONY ON HB 2420
BEFORE FEDERAL & STATE AFFAIRS COMMITTEE
FEBRUARY 20, 1995

Thank you, Chairman Boston, and committee members for the opportunity to testify.

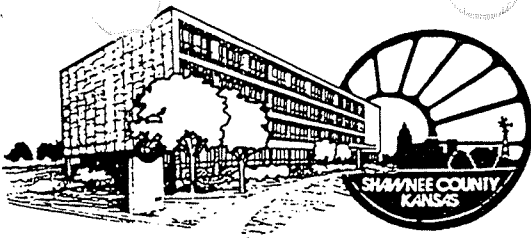
I support HB 2420 which would allow responsible citizens to carry concealed weapons for self-defense purposes. Having been employed as a police officer, I have seen the public's frustration with current law, which does not adequately allow them to protect themselves and remain within the confines of Kansas statutes.

Since when is it government's purpose to defeat the law-abiding citizen's freedom to react and respond adequately when threatened by the criminal element? Do we really believe that criminals will obey laws that forbid them to carry weapons? By their very definition, criminals do not obey legislation.

Therefore I urge you to support the law-abiding public of this state and make it clear that Kansas is predominately interested in allowing crime victims and the responsible public to defend themselves from that element.

I urge your support for HB 2420. I will stand for questions.

FvSA
2-20-95
Atch #4



Shawnee County
Sheriff's Department
Sheriff Dave Meneley

COURTHOUSE
200 EAST 7TH STREET
TOPEKA, KANSAS 66603-3932
ROOM B-16
913-233-8200 EXT. 4044

FEBRUARY 20, 1995

H B 2420

Mr. Chairman and Members of the Committee:

I am Sheriff Dave Meneley, Shawnee County, and have come today in support of H B 2420.

I have read and heard just about every opposition to a concealed weapons law, but as of yet I am not convinced this law is bad.

In my career in law enforcement, I know that at the current time criminals, and many citizens, carry concealed weapons. All police officers and sheriff deputies across the state are aware of this fact. It has been brought to your attention in previous testimony that police officers have been shot and/or killed by concealed weapons. It has been brought to your attention that out of 23,271 murders in 1993, 70 of those were law enforcement officers. Passage of this bill will not decrease those numbers nor decrease the risk to our law enforcement officers. These officers were shot and/or killed by persons breaking the law.

For years the criminal element has held the majority of our citizens hostage through fear and the inability of the law abiding citizens to protect themselves. Why, I ask, should 5% of our population (the criminal element) rule the majority (the law abiding citizens). I believe it should be the right of any citizen to protect his/herself, his/her family, and his/her property.

I have read numerous articles which show a declination in violent crimes against persons after concealed weapons laws have been inacted. As a police officer, I have nothing to fear from a law abiding citizen if he or she is carrying a weapon legally, but the criminal who is about to attack him or her should. A criminal may think twice about robbing, raping, or accosting a citizen if they think that person can protect themselves.

Many people and organizations who oppose this bill talk about all of the things that might happen. Laws should not be written for the exceptions because there will always be a few, but should be written for the rule. The only fear police officers have of a person carrying a weapon is that it is not legal or if concealed it surprises them.

FUSA
2-20-95
Atch #5

Public safety is my number one concern. My jurisdiction encompasses 540 square miles with many remote locations which at times is dangerous for my officers as well as the citizens they protect. Many of our citizens have been caught with guns in their vehicles or homes. Violent crime in my county has not decreased with passage of the Brady Bill or banning the assault weapons.

Many jurisdictions are currently providing services and training needed for the licensing of private security officers. I feel the training requirements adopted or sanctioned by the K.B.I. should be comparable so that law enforcement is comfortable the person carrying the weapon is competent in its use. Not all citizens will want to carry a gun when it is explained what training and fees are required.

It should be brought to your attention that many of the security officers employed throughout the state, which are citizens, have not received law enforcement training, yet our citizens are quite comfortable with them carrying a gun.

I also feel the license should be revoked for life if the person is caught carrying a gun when driving under the influence, intoxicated by alcohol, legal, or illegal drugs.

I have two concerns with this bill. The first is the cost of the license which may restrict the ability of the poor to participate which may be discriminatory. Since it will require administration on the county level, it will be necessary to assess an additional fee to the required costs.

My second concern was stated earlier, being concealed, the weapon might create a danger to the bearer. An intense educational program to both the public and law enforcement is a necessity.

Thank you for allowing me to address this body.

My name is Al Heger. I live in the city of Olathe, and have been a Johnson County resident for over 10 years. I wish to voice my support for a new carry concealed bill to become law in the State of Kansas. I do not advocate a return to the supposed Wild West, or persons with carry permits interfering in police matters. However, I strongly support the right of the private citizen to protect his own life, and that of his immediate family.

There isn't a question in my mind that today many Kansas residents not wishing to be robbed, raped or murdered already carry concealed handguns in their cars and purses, as well as on their persons. A permit to carry law would provide a safe, civilized, sane, and above all a legal manner for a Kansas resident to do so. It could also produce revenue for the State of Kansas!

When I lived in Maryland I had a permit to carry. A card very much like a driver's license was issued to me, which I had to have with me at all times when carrying a concealed handgun. I received the permit because I had been the victim of crime many times. Not long after my first wife died I came home with my two young daughters at about 11 PM to find a robbery in progress at my home. At that time I did not have a permit to carry. My loaded handgun was in my home, not were I needed it with me and my daughters! After a physical confrontation, I held one of the individuals for the police. Later, I testified as a State's witness in the case. The man was given 5 years for burglary, and 18 months for theft. After risking my life, he was released on 5 years supervised probation after serving only about three months! About 5 or 6 months after the man I had caught was sentenced, about 4 or 5 shots were fired in my direction while I was in my own back yard. I remember hearing one or two bullets passing overhead. I don't know who did it or for what reasons, but I do remember a State Police officer putting his pen in the bullet hole next to my door!

I find it simply outrageous that at this time a law-abiding Kansas resident does not have the legal right to protect himself as he moves about the State! What if an average citizen witnessed a murder in Kansas today? What if his life and his family's safety was threatened if he testified for the State?

Presently a large number of States allow their residents permits to carry concealed. The State of Florida became one of them in 1987. It is my understanding that 258,193 of their residents have permits. As of the time of my last information only 18 permit volitions had occurred. Florida's murder rate has dropped 22% since 1987!

Remember the much publicized tourist murders in Florida? I understand the rental cars no longer identify the drivers as tourists. After all, why attack someone who is a resident of Florida, who may be armed to protect himself? In at least one case I understand an attacker even admitted to this reasoning.

Today in America there are plenty of laws against those who wrongfully use guns, and with little effect! Now is the time for a new law allowing honest Kansas residents the right to protect themselves.

Hopefully, you will consider a permit to carry law for the State of Kansas similar to the one in the State of Florida. Thank you for your time.

FJ SA
2-20-95
Atch #6



FACT SHEET

INSTITUTE FOR LEGISLATIVE ACTION

RESEARCH & INFORMATION

The Right To Carry Firearms

In 1987, Florida enacted a law requiring law enforcement officials to issue permits, for the carrying of firearms non-openly, to citizens meeting fixed, reasonable statewide standards. Alabama, Connecticut, Indiana, Maine, New Hampshire, North Dakota, South Dakota, Utah and Washington already had similar firearms carry permit laws. Longstanding Vermont law recognizes the right to carry a firearm without a permit.

As the Florida State Legislature considered the bill that led to its Right to Carry law, firearms ownership opponents predicted that catastrophe would follow if average people were allowed to have handguns in public. Florida would become the "GUNshine State," politicians warned. Media reports forecast vigilante justice and Wild West shootouts on every streetcorner. "[A] pistol-packing citizenry will mean itchier trigger fingers. . . . South Florida's climate of smoldering fear would flash like napalm when every stranger totes a piece, and every mental snap in traffic could lead to the crack of gunfire," one newspaper hypothesized.

Florida's Right to Carry bill was endorsed by the Florida Dept. of Law Enforcement, Florida Sheriff's Ass'n, Florida Police Chiefs Ass'n and other law enforcement groups, and the BATF's chief agent in the state acknowledged that permits to carry firearms were not a crime problem. Yet one police chief opposed to the Right to Carry bill was reported to have told the state governor that if the carrying bill became law, he would "take appropriate steps . . . he would arm his officers with machine guns."

Florida's homicide rate has dropped 22% since 1987, while the national homicide rate has risen 15%, testament to the irrationality of the anti-gunners' claims. State Rep. Ron Silver, who opposed the Right to Carry bill, admitted in 1994, "I am pleasantly surprised to find that I think it's working pretty well. . . . We have found very few instances whereby (permit holders) have actually gone out and committed a crime afterwards." Of 258,193 carry permits issued in Florida through Nov. 30, 1994, only 18 -- less than 0.007% -- have been revoked because permit holders committed crimes (not necessarily violent) in which guns were present (not necessarily used).

"Right to carry" detractors incorrectly claim that even though Florida's homicide rate declined since 1987, total violent crime (including aggravated assault, robbery and rape, as well as homicide) went up -- a claim that tells more about anti-gunners' credibility than about the results of Florida's Right to Carry law. The Florida Department of Law Enforcement has warned that comparisons of aggravated assault, robbery, and rape before and after 1988 cannot be legitimately made, since Florida changed its method of compiling violent crime data in that year.

Furthermore, in Florida, as in the U.S., 70% of violent crimes do not involve guns. Violent crime rates, therefore, don't always reflect violent *firearm-related* crime trends. According to the most recent FBI Uniform Crime Reports (1993), firearms were used in the four categories of violent crime as follows: Aggravated Assault (59% of all violent crimes) -- firearms used in 25%; Robbery (34% of violent crimes) -- firearms used in 42%; Rapes (5% of violent crimes) -- firearms used in an estimated 5%-10% (survey data); and Homicides (1.3% of violent crimes) -- firearms used in 70%.

Despite declining firearm accident trends at a time when reliance upon firearms for self-defense is on the rise, those who oppose Americans' right to carry claim that citizens cannot be trusted to handle their guns safely and responsibly. And despite award-winning criminologist Gary Kleck's findings that firearms are used for self-protection more than 2.1 million times annually, and the Dept. of Justice's findings that 34% of felons have been "scared off, shot at, wounded, or captured by an armed victim," anti-gun activists claim that attempting to use a firearm in self-defense is likely to result in the firearm being used against its owner. (The Justice Dept. study, published as Armed and Considered Dangerous: A Survey of Felons and Their Firearms, by Professors James D. Wright and Peter H. Rossi, Aldine de Gruyter, 1991, also found that 40% of felons have not committed one or more particular crimes for fear their potential victims were armed.)

Anti-gun groups' spokesmen have even claimed that women should not resist attackers, and that the Constitution does not protect the right of self-defense. They attempt to discourage women, in particular, from including firearms as part of their overall crime-prevention planning by claiming that a very small number of strangers who criminally attack women are ever fatally shot by them. The deceit in the claim is, of course, obvious: Approximately 99.9% of defensive gun uses are not fatal shootings -- criminals are usually frightened off, held at bay, or non-fatally wounded. Additionally, not all criminals who attack women are complete strangers to them.

Florida's landmark law is now considered the model for similar proposals that have since been enacted or considered in other states. Since 1987, nine states, through the adoption of new laws, or amendments to existing statutes, have enacted Right to Carry provisions similar to Florida's: Georgia (1989), Oregon (1989), Pennsylvania (1989), Idaho (1991), Mississippi (1990), Montana (1991), Arizona (1994), Tennessee (1994) and Wyoming (1994). Three other states -- Alaska, Virginia and West Virginia -- have adopted laws correcting some deficiencies in existing statutes, and carry permit legislation is under consideration in several other states.

With gun laws restricting honest gun owners' rights having no effect on crime, and violent crime rates lower overall in states that best recognize the Right to Carry firearms for protection, the grassroots movement supporting Right to Carry laws is likely to be a fixture on the political scene for years to come.

For additional information, see Clayton E. Cramer & David B. Kopel, "Shall Issue": The New Wave of Concealed Handgun Permit Laws, revised edition, Independence Institute, Golden, Colorado, October 17, 1994; Wayne LaPierre, Guns, Crime and Freedom, Regnery Publishing, Washington, D.C., 1994; Gary Kleck, Point Blank: Guns and Violence in America, Aldine de Gruyter, 1991; "A Question of Self-Defense," NRA Institute for Legislative Action, 1991, rev. April 1992.

1/10/95

States & D.C.	Violent Crime Rate	Firearm V.C. Rate	Homicide Rate	Firearm Hom. Rate	Handgun Hom. Rate	Robb. Rate	Firearm Rob. Rate	Ag. Aslt. Rate	Firearm A.A. Rate	Rate
U.S.	746.1	224.0	9.5	6.6	5.4	255.8	108.4	440.1	108.9	40.6
Alabama	780.4	117.7	11.6	6.9	5.7	159.5	43.0	574.3	64.3	35.1
Connecticut	456.2	115.9	6.3	4.2	3.6	196.7	76.8	228.7	32.5	24.4
Florida	1206.0	352.7	8.9	5.5	3.6	357.6	142.8	785.7	199.0	53.8
Georgia	723.1	271.8	11.4	7.7	6.6	248.0	132.8	428.3	127.7	35.4
Idaho	281.8	81.2	2.9	1.6	1.3	16.9	5.4	226.7	70.7	35.3
Indiana	489.1	127.0	7.5	5.5	4.7	119.8	55.9	322.6	61.7	39.1
Maine	125.7	13.0	1.6	1.2	0.9	21.3	5.3	76.3	3.9	26.6
Mississippi	433.9	182.9	13.5	10.0	8.7	139.3	70.0	238.4	98.6	42.6
Montana	177.5		3.0			32.4	16.2	114.2	44.4	27.9
New Hampshire	137.8	17.2	2.0	1.0	0.5	27.3	4.3	64.1	7.4	44.4
North Dakota	82.2	8.0	1.7	0.8	0.5	8.3	1.0	48.7	3.9	23.5
Oregon	503.1	123.6	4.6	2.5	1.8	129.6	41.2	317.6	74.9	51.3
Pa. - Phila.	292.9		3.7			95.6		170.6		23.0
South Dakota	208.4	39.3	3.4	1.9	1.5	15.0	3.9	145.6	29.1	44.5
Utah	301.0	61.1	3.1	1.2	0.9	58.6	18.8	194.7	36.6	44.6
Vermont	114.2	22.9	3.6	2.4	1.5	9.0	0.8	61.8	15.7	39.8
Washington	514.6	138.3	5.2	3.0	2.5	137.1	44.9	307.9	84.0	64.4
Favorable Group Total	617.9	174.8	7.1	4.5	3.5	178.9	73.7	391.2	92.5	40.7
% vs. Restrictive Group	-21.6%	-28.9%	-30.9%	-37.9%	-41.1%	-36.3%	-38.4%	-14.2%	-19.4%	0.2%
Alaska	760.8	185.9	9.0	4.5	3.3	122.4	45.7	545.6	127.3	83.8
Arizona	715.0	267.2	8.6	6.0	4.4	162.9	67.4	505.7	190.0	37.8
Arkansas	593.3	202.7	10.2	7.3	5.2	124.9	60.4	415.8	130.7	42.4
California	1077.8	323.8	13.1	9.6	8.4	405.1	166.4	621.8	143.9	37.7
Colorado	567.3	167.1	5.8	3.7	3.1	116.7	41.0	399.0	117.8	45.8
Delaware	685.9	130.9	5.0	3.0	2.5	186.7	41.1	417.1	79.1	77.0
Hawaii	261.2	30.9	3.8	1.4	1.1	103.6	11.2	120.1	14.9	33.6
Illinois	959.7		11.4			381.2		532.6		34.6
Iowa	325.5	48.6	2.3	0.9	0.5	53.9	11.2	244.8	34.1	24.4
Kansas	496.4		6.4			123.6		326.3		40.1
Kentucky	462.7	121.3	6.6	4.5	3.2	90.4	34.9	331.4	78.6	34.3
Louisiana	1061.7	470.5	20.3	16.5	14.7	283.6	180.8	715.4	268.9	42.3
Maryland	997.8	383.0	12.7	9.2	8.6	434.7	244.2	506.4	125.1	44.0
Massachusetts	804.9	99.6	3.9	2.0	1.1	175.7	43.3	592.0	51.0	33.4
Michigan	791.5	281.6	9.8	7.3	4.0	238.5	128.9	472.1	138.3	71.1
Minnesota	327.2	79.5	3.4	1.8	1.3	112.7	28.1	175.8	46.1	35.2
Missouri	744.4	310.8	11.3	8.5	6.7	241.8	120.7	455.2	178.0	36.2
Nebraska	339.1	36.3	3.9	1.8	1.0	55.4	11.9	252.0	19.8	27.8
Nevada	875.2	283.3	10.4	6.8	6.3	340.1	173.2	463.9	97.3	60.9
New Jersey	626.9	159.5	5.3	2.7	2.3	296.0	102.7	297.5	51.3	28.1
New Mexico	929.7	269.6	8.0	4.1	3.3	138.4	63.1	731.1	197.2	52.1
New York	1073.5	314.3	13.3	9.6	8.8	561.2	208.2	471.5	93.8	27.5
North Carolina	679.3	235.6	11.3	7.2	5.4	192.4	85.2	441.3	139.8	34.3
Ohio	504.1	160.8	6.0	4.3	3.8	192.7	81.1	256.3	70.5	49.1
Oklahoma	634.8	184.2	8.4	5.3	4.1	121.8	49.8	455.3	124.2	49.3
Rhode Island	401.7	65.8	3.9	2.1	1.6	101.1	25.0	268.1	35.9	28.6
South Carolina	1023.4	279.1	10.3	7.3	5.9	187.3	70.1	773.4	196.5	52.3
Tennessee	765.8	263.0	10.2	7.3	6.2	220.1	117.1	485.5	133.6	49.9
Texas	762.1	259.0	11.9	8.5	6.2	224.4	107.0	470.8	138.0	55.0
Virginia	372.2	115.2	8.3	6.1	5.0	142.0	68.2	189.8	37.7	32.1
West Virginia	208.4	45.8	6.9	4.7	2.9	43.0	15.6	138.5	23.5	20.1
Wisconsin	264.4	92.7	4.4	2.3	1.7	113.4	60.1	121.4	27.8	25.2
Wyoming	286.2	45.5	3.4	2.1	1.3	17.2	7.6	231.3	32.4	34.3
D.C.	2921.8	986.9	78.5	65.9	65.9	1229.6	540.0	1557.6	375.4	56.1
Philadelphia	1255.2		28.1			739.4		437.4		50.3
Restrictive Group Total	787.8	245.7	10.3	7.3	6.0	280.8	119.6	456.0	114.7	40.6
% vs. Favorable Group	27.5%	40.6%	44.7%	61.1%	69.7%	57.0%	62.4%	16.6%	24.1%	-0.2%

6-4



FLORIDA DEPARTMENT OF STATE
Jim Smith
Secretary of State

DIVISION OF LICENSING
Post Office Box 6687
Tallahassee, Florida 32314-6687

CONCEALED WEAPONS/FIREARMS LICENSE
STATISTICAL REPORT FOR
PERIOD 10/01/87 - 11/30/94

		TOTAL
o Applications Received:		266,607
New	185,330	
Renewal	81,277	
o Licenses Issued:		258,193
New	177,189	
Renewal	81,004	
o Licenses Valid		145,750
o Applications Denied:		1,124
Criminal History	642	
Incomplete Application	482	
o License Revoked:		431
Clemency Rule Change or Legislative Change	66	
Illegible Prints With No Response	10	
Crime Prior To Licensure	113	
- Firearm Utilized --	4	
Crime After Licensure	226	
- Firearm Utilized --	18	
Other	16	
Reinstated		69*

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

65

Testimony before the House Federal & State Affairs Committee
February 20, 1995

Members of the Committee, my name is Scott Hattrup. I am currently a third-year law student at the University of Kansas. I am a life-long resident of Kansas and speak solely for myself as a citizen and voter. I am here to speak in favor of House Bill 2420 and hope this Committee will recommend it favorably.

I. Kansas State Law: The Right to Keep and Bear Arms

I would first like to clear up some misstatements from Mr. Kaup's testimony on Thursday. Mr. Kaup stated that, under Home Rule, cities in Kansas could enact more stringent ordinances regarding weapons control than the state had enacted. As support, Mr. Kaup cites City of Salina v. Blaksley, 72 Kan. 230 (1905), and City of Junction City v. Lee, 216 Kan. 495 (1975), for the proposition that Section 4 of the Kansas Bill of Rights applies to the people as a collective body. In Blaksley, Mr. Blaksley was charged with carrying a revolver while intoxicated after starting a bar fight and shooting it out with the local sheriff. In Lee, Mr. Lee was charged with carrying deadly weapons after a local police officer found him skulking around a used car lot at night carrying a revolver, a nine and one-half inch knife, and a lug wrench. Mr. Kaup's collective rights interpretation of these cases is correct because the Kansas Supreme Court has specifically stated this view. However, these cases were constitutional challenges after the fact to what were admittedly valid criminal charges. Neither challenge went in the defendant's favor. Mr. Kaup fails to note that the Kansas Supreme Court has ruled on another gun case since Junction City v. Lee.

In City of Junction City v. Mevis, 226 Kan. 526 (1979), the Court was called upon to determine the constitutionality of a local ordinance that "made it a crime for anyone within the city limits to carry any firearm on his person or in any vehicle except when on his land or in his abode or fixed place of business. No exception was made for the transportation of a firearm from a place of purchase or repair or between a person's place of business and his home." 226 Kan. 526 (Court Syllabus ¶ 2). Mr. Mevis was prosecuted under this ordinance after a city police officer found a pistol under Mr. Mevis's front seat during a routine traffic stop. The Court held in a prosecution for a violation of the city ordinance, *inter alia*, that the city ordinance was unconstitutional as "unreasonable and oppressive" legislation. 226 Kan. 526, 535. The Court noted that Junction City had instituted a handgun registration system and issued permits for their purchase, yet failed to provide a legal means to transport them within the city. 226 Kan. 526, 531-33.

Thus, even Home Rule has its limitations. If a city in Kansas cannot prohibit all transportation of handguns, it certainly cannot prohibit their ownership. Determining whether Kansans can legally carry concealed weapons is certainly within the permissible boundaries of the legislature's law-making ability.

II. Federal Law: The Second Amendment

Mr. Kaup cites Presser v. Illinois, 116 U.S. 252 (1886), as supporting a collective right to keep and bear arms. Presser concerned an early labor union that had begun parading

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through the streets of Chicago with weapons. In upholding the right of local law enforcement to shut down this unruly mob, the Supreme Court stated:

It is undoubtedly true that all citizens capable of bearing arms constitute the reserved military force or reserve militia of the United States as well as of the states, and, in view of this prerogative of the general government, as well as of its general powers, the states cannot, even laying the constitutional provision in question out of view, prohibit the people from keeping and bearing arms, so as to deprive the United States of their rightful resource for maintaining the public security, and disable the people from performing their duty to the general government. But, as already stated, we think it clear that the sections under consideration do not have this effect. 116 U.S. 252, 265-66.

Noted constitutional law scholar Sanford Levinson examined this case in his article "The Embarrassing Second Amendment," 99 Yale Law Journal 637 (1989). The reason Professor Levinson found the Second Amendment "embarrassing" was that he admittedly went into his research as a liberal non-gun owner looking to disprove the individual rights claim. Professor Levinson was forced to admit that, based on his research into Presser and other historical material, the Second Amendment does support an individual right to keep and bear arms.

Mr. Kaup also cites United States v. Miller, 307 U.S. 174 (1939), as supporting a collective right. Jack Miller and Frank Layton were charged with transporting a sawed-off shotgun from Oklahoma to Arkansas without registration and a tax stamp required by the National Firearms Act of 1934. The Federal District Court dismissed the indictment by taking judicial notice that a sawed-off shotgun was a militia weapon.

Only the U.S. Attorney appealed this decision. Miller and Layton did not appear in any way in the Supreme Court case. Even considering this opportunity for a one-sided interpretation of law, the Supreme Court held: (1) it was improper for the District Court to take judicial notice that a sawed-off shotgun was a militia weapon, 307 U.S. 174, 178, and, (2) the militia includes every able-bodied adult male, 307 U.S. 174, 179. The rest of the opinion is comprised of historical details which help define the concept of militia.

Professor Levinson was convinced, based upon a careful reading of the historical and case law material on this issue, including Presser and Miller, that the Second Amendment protects an individual right to keep and bear arms. In fact, of the 41 law review articles published since 1980 which discuss the Second Amendment in any substantial way, only four take a collective rights approach. Three of those four articles were written by employees of anti-gun lobbying groups. The fourth was written by a politician. Of the 37 articles favoring an individual rights approach, many have appeared in major law reviews and been written by generally liberal, non-gun owning law professors. Those authors include William Van Alstyne of Duke University, a former member of the ACLU national board (author of: "The Second Amendment and the Personal Right to Arms," 43 Duke Law Journal 1236 (1994)), Akhil Amar of Yale University, a noted constitutional and jurisprudential law scholar (author of: "The Bill of Rights and the Fourteenth Amendment," 101 Yale Law Journal 1193 (1992), and "The Bill of Rights as a Constitution," 100 Yale Law Journal 1131 (1990)), and Joyce

Lee Malcolm, professor of history at Bentley College (author of: Review Essay, 54 George Washington U. Law Review 582 (1986), and TO KEEP AND BEAR ARMS Harvard University Press 1994)), as well as the forementioned Sanford Levinson.

These articles are noted and briefly summarized in an *amicus* brief filed with the Supreme Court in United States v. Lopez, a case currently under consideration to determine the constitutionality of the Gun Free School Zones Act of 1990 under the Interstate Commerce Clause. The two main points made in the brief are as follows:

- I. The Second Amendment Guarantees Law-Abiding, Responsible Adults a Personal Right to Possess Arms, and
- II. Although the Right Encompasses Responsible Adults, Neither Children, Felons Nor the Mentally Unbalanced Have Any Right to Arms Under the Second Amendment.

That *amicus* brief was signed by five groups: (1) Academics for the Second Amendment, (2) the Congress of Racial Equality, (3) the Second Amendment Foundation, (4) the National Association of Chiefs of Police, and (5) the American Federation of Police. The various law enforcement officials who testified here last Thursday might be surprised at the last two groups since none of those officials expressed any confidence in the ability of the citizens of Kansas to keep and bear their own arms for personal protection.

Regardless of the opinions being debated, THE SUPREME COURT HAS NOT DETERMINED WHETHER THE SECOND AMENDMENT GUARANTEES AN INDIVIDUAL RIGHT TO KEEP AND BEAR ARMS. Thus, the issue remains open for debate in the national and state legislatures.

III. Law Enforcement is NOT a Complete Substitute for Self-Defense

When the law enforcement officers testified here on Thursday, they made arguments against House Bill 2420 which fall into three general categories: (1) civilians do not need any self-protective devices, because they will never or will infrequently confront criminals, (2) civilians can rely on the police for protection, and (3) civilians are not able to use guns effectively, regardless of need. I will answer these questions in order.

(1) Civilians Do Confront Criminals and Require Self-Protection

I have included with my testimony a copy of Chapter 4 of a book by Gary Kleck entitled Point Blank: Guns and Violence in America (Walter de Gruyter, Inc., 1991). Professor Kleck is a criminologist at Florida State University. The book is a serious attempt to explain the root causes of crime in our society and to address potential solutions. Chapter 4 is entitled "Guns and Self-Defense."

Rather than read to you from this excerpted material, I will just hit a few highlights. Table 4.3 at the back of the material indicates that for 1980, the number of justifiable homicides using a gun reported to the FBI from law enforcement agencies was 368. For the

same year, the number of justifiable homicides by civilians using a gun was 379. Table 4.4 indicates the method used by crime victims and survivors to defend themselves from attack. That table shows that in the six year period from 1979 to 1985, guns were used an estimated 386,000 times in successful self-defense. That same table indicates that crime victims using a gun for self-defense had much lower rates of successfully completed crimes against them than did any other group using a weapon, resisting without a weapon, running away, or offering no resistance at all. That last point is interesting because law enforcement officers often advise against resisting once it becomes apparent you are about to become the victim of a crime. The statistics prove them wrong.

Sheriff Deppish testified Thursday that over 65% of the women who attempt to use mace for self-protection have it taken away from them. Professor Kleck's statistics seem to back that up. However, the mace offered for commercial sale is so diluted it is practically useless. Also, training with mace is almost impossible. Most canisters are good for one shot only, if even that. Most individuals using mace for self protection will be firing a canister for the first time. On Thursday Representative Packer proposed a reasonable solution for the training problem as it pertained to handguns. That solution was turned down.

(2) Civilians cannot rely on the police for protection

The right to police protection, which is usually advanced as a substitute for personal firearms ownership, is strictly a collective right.

In Robertson v. City of Topeka, 231 Kan. 358 (1984), Mr. Robertson did exactly what he had been taught to do when confronted with a trespasser on his property. He called the police. The only problem in this situation was that Mr. Robertson was escorted off his property by the police, who left the trespasser behind. Fifteen minutes after the police had taken Mr. Robertson away, the trespasser started a fire which destroyed Mr. Robertson's home. The Kansas Supreme Court held that "the duty of a law enforcement officer to preserve the peace is a duty owed to the public at large, not to a particular individual." 231 Kan. 358, 363. This was certainly not the highest point in Kansas law enforcement.

A story ran in the Kansas City Star just over one week ago. Please refer to Appendix A for the full story and a follow-up. I would like to read you some highlights. Saturday, February 11th, page C1. "Fairway Chief Charged." "The Fairway police chief has been charged with aggravated assault after allegedly pointing a handgun at a man in a December traffic altercation. An arrest warrant for Roy Miller, 54, was issued Tuesday, but he was out of town. . . . District Attorney Paul Morrison said Miller and another man allegedly got involved in an altercation while they were driving about 7:40 p.m. December 16. Morrison said the vehicles pulled into a parking lot in the 8800 block of Grant Street in Overland Park. The other driver, a 20-year-old Overland Park man, told police that Miller got out of his car and pointed a handgun at him. The driver of a third vehicle apparently pulled into the parking lot at that time . . . [and] corroborated the first driver's story for police. . . . Miller's law enforcement career spans 36 years He has been Fairway's chief of police for about six years."

Why was the point of that story? The behavior described is certainly not typical of

7-4

the many fine law enforcement officers who serve this state. However, the behavior that the law enforcement officers charged to gun owners on Thursday is equally atypical. Just because otherwise law-abiding Kansas citizens desire a means of carrying weapons for self protection does not mean that the majority will shoot police chiefs in the head at point-blank range with a .45 caliber pistol, fire shots in the air, draw down on the police in Overland Park, or be inclined to shoot their way out of a traffic ticket. Five of the individuals who testified here on Thursday mentioned the perceived extra risk law enforcement would face if concealed weapons permits become legal. Only three of those individuals mentioned the safety of the citizens they are sworn to protect. This imbalance is best corrected by letting the citizens of Kansas protect themselves.

As one of the representatives on this committee mentioned on Thursday, we seem to be creating an elitist society when law enforcement is able to bear arms for its protection, but denies civilians the same right.

(3) Civilians ARE able to use guns for self protection

An individual who has purchased a gun for the protection of self, spouse, or home has already made the first step towards successful self defense. When one agrees to submit to the rigorous background check required of applicants by House Bill 2420, one has made a second step. The statistics in Tables 4.3 and 4.4 of Professor Kleck's book back up this claim.

As additional support, please examine the material at the end of my remarks from a book entitled *Armed and Considered Dangerous: A Survey of Felons and Their Firearms* by James D. Wright & Peter H. Rossi, both noted sociologists. This book was completed on the basis of interviews with 2,000 convicted felons in ten different states. The book is part of a larger body of work done by these same authors on a National Institute for Justice Grant. The research started as a Department of Justice-financed attempt to prove that the Gun Control Act of 1968 was effective at getting guns out of the hands of criminals. The authors concluded that the Act was not effective, and have since published two different books to that same effect. I have included Chapter 7 of the book entitled "Confronting the Armed Victim." Please look carefully at Table 7.1 on page 46. This Table indicates that many criminals are dissuaded from committing crimes by the presence of an armed victim. Table 7.5 on page 55 indicates that 37% of the criminals surveyed had encountered a victim with a gun, 34% had been prevented in some way from committing a crime by an armed victim, 40% had avoided committing at least one crime because of an armed victim, and a whopping 69% of criminals surveyed knew of another criminal who had avoided committing at least one crime because of an armed victim.

There you have it. Professor Kleck's surveys of average citizens and Professor Wright & Professor Rossi's survey of incarcerated felons both agree that armed citizens can deter or prevent crime.

I urge the Committee to favorably recommend House Bill 2420 for passage. I will be available following the other testimony for questions if needed. Thank you.

Fairway chief charged

KC Star
Jo. Co./metro ed.
Feb. 17, 1995
Cf

Roy Miller free on bond; traffic incident led to assault charge.

By CHRISTINE VENDEL
Staff Writer

The Fairway police chief has been charged with aggravated assault after allegedly pointing a handgun at a man in a December traffic altercation.

An arrest warrant for Roy Miller, 54, was issued Tuesday, but he was out of town. When Miller returned, he arranged to turn himself in to authorities Friday.

Miller was booked in the Johnson County Jail and later released on a \$2,500 bond.

Mayor Ed Peterson said Sgt. Glen Weber will be the acting police chief while the charge against Miller is pending.

Overland Park police investigated the case.

District Attorney Paul Morrison said Miller and another man allegedly got involved in an altercation while they were driving about 7:40 p.m. Dec. 16.

Morrison said the vehicles pulled into a parking lot in the 8800 block of Grant Street in Overland Park. The other driver, a 20-year-old Overland Park man, told police that Miller got out of his car and pointed a handgun at him.

The driver of a third vehicle apparently pulled into the parking lot at that time, Morrison said. The driver, a 45-year-old Kansas City man, corroborated the first driver's story for police.

Miller declined to comment Friday on the advice of his attorney.

Miller's law enforcement career spans 36 years, starting at the Roeland Park Police Department in the late 1950s. He has been Fairway's chief for about six years.

Jo. Co./metro ca

AROUND K

FAIRWAY KC Star, Feb. 16, 1995

Police chief appears in court

■ Fairway Police Chief Roy Miller made his first court appearance Wednesday on a felony assault charge.

Miller allegedly pointed a handgun at a motorist after a traffic altercation in Overland Park in December.

He is charged in Johnson County District Court with aggravated assault. He turned himself in last week and was released from custody after posting a \$2,500 bond.

Miller is suspended with pay while the case is pending, according to his attorney, Dennis Moore.

Miller, 54, did not speak during Wednesday's brief hearing. Moore said he intends to "vigorously contest the charges."

District Judge William Cleaver granted a request by Moore that the \$2,500 cash bond be modified to personal recognizance.

Miller's next court appearance was scheduled for Feb. 23.

SOCIAL INSTITUTIONS AND SOCIAL CHANGE

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POINT BLANK

Guns and Violence in America

Gary Kleck



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About the Author

Gary Kleck is Professor, School of Criminology and Criminal Justice, Florida State University. His research centers on violence and crime control with special focus on capital punishment, crime deterrence, gun ownership, gun control, and the impact of economic conditions on violent behavior. Results of his research have appeared in major sociology journals. Dr. Kleck received his Ph.D. in Sociology from the University of Illinois, Urbana-Champaign.

*To my wife Diane and my children Matthew and Tessa
To my parents, William and Joyce Kleck
and to my mentor, David Bordua*

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CHAPTER

4

Guns and Self-Defense

Chapter 5 will address the effects of aggressors' possession of guns on their violent behavior. However, first this chapter addresses the effects of guns in the hands of potential victims of crime. Chapter 2 showed that millions of Americans own guns for defensive reasons. Now it is time to consider what the effects of that mass phenomenon might be. This chapter addresses the use of armed private violence for protection and the control of predatory criminal behavior, particularly violent crime and residential burglary. Extended attention will be given to the defensive utility of guns and whether predatory crime is deterred by armed self-help.

The ownership and use of guns for defensive purposes should have been of considerable interest to scholars in many areas, but has largely been ignored. For example, the prevalence of guns in America holds great significance for the "routine activities" approach to crime, which conceptualizes criminal incidents as the convergence in time and space of "likely offenders and suitable targets in the absence of capable guardians" (Cohen and Felson, 1979, p. 590). This approach has been important in expanding the interests of criminologists beyond their traditional emphasis on the supply of "likely offenders." The aspect of the routine activities perspective of interest here is what makes a guardian capable of preventing violations. The primary, ultimate source of "capability" is the appearance of being able and willing to use force, or to mobilize the forceful capabilities of others. At some times, crimes can be deterred or disrupted merely by the presence (or apparent possibility of presence) of an individual who is awake and able to telephone the police to dispatch officers armed and ready to use force. When the police are too remote or otherwise not able to respond quickly enough, the ability, real or apparent, of a prospective guardian to use force can be a critical contributor to how "capable" the guardian is. Whether a person is armed with a dead-

ly weapon is therefore an important element of capable guardianship. Further, given the fact that at least half of all U.S. households and a quarter of retail businesses keep firearms (Crocker 1982; U.S. Small Business Administration 1969), gun ownership must surely be considered a very routine aspect of American life and one of obvious relevance to the activities of criminals.

The paucity of scholarly attention to civilian use of guns for defense may be partially due to the very limited visibility of such acts. Criminology texts do not report estimates of the frequency of defensive uses of guns. Published police-based crime statistics such as those found in the Uniform Crime Reports do not cover the subject and such incidents are rarely reported in the national news media. It is also possible that scholars feel shooting or threatening to shoot another person, even in self-defense, is so morally repugnant and utterly barbaric that it is preferable not to address the subject at all (Goode 1972; see also Tonso 1984 re. scholars' attitudes toward firearms). It could even be argued that to study the matter seriously might imply some endorsement and encourage the indiscriminant spread of the behavior.

Ignoring this issue might have serious costs. For example, a rational assessment of the impact of the more restrictive types of gun control laws requires an understanding of the consequences of disarming large segments of the civilian population. If civilian gun possession deters crime, reductions in general civilian gun ownership would amount to a reduction in a source of crime control as well as reduction of a possible cause of crime. Very different sorts of gun control would be called for under these circumstances than would be the case if one could assume that gun ownership has no desirable impact on crime rates.

These may have been ignored up until recently because students of violence thought they already knew everything they needed to know about whether guns can be effectively used by victims for self-defense. As far back as 1932, one noted homicide scholar stated that "the possession of firearms gives a false sense of security and encourages recklessness and arrogance. Those most experienced in such matters generally agree that it is almost suicidal for the average householder to attempt to use a firearm against a professional burglar or robber" (Brearley 1932, p. 76). These views have been echoed almost without modification in subsequent decades by scholars and gun control advocates (Shields 1981, pp. 48-53, 125; Newton and Zimring 1969, pp. 66-8; Yeager et al. 1976).

The Nature of Defensive Gun Use

Gun ownership for self-protection, and defensive gun use, must be distinguished from other forms of forceful activity directed at criminals, such as vigilantism, or activities of the criminal justice system (CJS) such as police making arrests. All of these can be coercive and all may be done by armed persons. However, vigilantism and CJS activity share a purpose that self-defensive actions do not—retribution. Whereas the CJS and the vigilante both seek to punish wrong-doers, the first lawfully, the second unlawfully, the defensive gun user seeks to protect the bodily safety and property of himself and others. Elements of vengeance may be mixed with the concern for self-preservation, but retribution is not an essential or even necessarily a common part of self-defense. Both the defensive gun user and the vigilante act independently of crime control professionals, but whereas the vigilante's actions are unlawful, a given self-defensive action may or may not be lawful—this is not one of its defining attributes. Both the vigilante and the defensive gun user act partly in response to a perceived lack of effectiveness of the CJS in preventing crime, but the former acts collectively, in concert with like-minded individuals, whereas the latter ordinarily acts alone (Brown 1969). It therefore is an oxymoron to refer to a defensive gun user as a "lone vigilante." Both the goals and actions of defensive gun users are more individualistic and less social than those of vigilantes.

Similarly, gun ownership for protection can be contrasted with other forms of private self-protection. Gun ownership, like defensive gun use, is individualistic and requires little preexisting social organization, unlike either vigilantism or legal collective activities such as neighborhood watch or patrol activities. This means that gun ownership can flourish in socially disorganized areas in which collective crime control strategies would flounder. Further, gun ownership is largely passive self-protection—once a gun is acquired, the owner rarely does anything with it. Only a minority of defensive owners actually use their guns for self-protection; the rest just keep the gun in a bureau drawer or similar location, where it is available for use should the need arise. This contrasts sharply with neighborhood crime control strategies, which may require considerable investment of time and effort from each participant.

Gun ownership is low-visibility protection. Unlike the activities of either police officers in marked patrol cars or of neighborhood patrol members, gun ownership of any one prospective crime victim is generally invisible to criminals. Although the occasional home or business

might bear a sign saying "These premises protected by Smith and Wesson," with the image of a gun displayed, most armed premises would be externally indistinguishable from unarmed premises. This has two important implications. First, gun owners ordinarily should not enjoy any more benefit from whatever deterrent effects mass gun ownership may exert than nonowners. Whereas owners bear the costs of gun ownership, their unarmed neighbors share in any deterrent benefits. On the other hand, only gun owners will be able to actually use a gun to disrupt a criminal attempt made against them. Second, criminals usually cannot avoid the risk of running into an armed occupant merely by carefully choosing which home or store to victimize. They are forced to treat this risk as a real possibility for *any* occupied premises. This sets defensive gun ownership apart from other, more visible, self-protective measures because it makes displacement of criminals from armed to unarmed targets less likely. Criminals can shift from heavily patrolled neighborhoods to less heavily patrolled ones, but they cannot so easily shift to occupied homes or stores which they can be confident contain no armed occupants.

Gun ownership costs more money than simple measures such as locking doors, having neighbors watch one's house, or avoidance behaviors such as not going out at night, but it costs less than buying and maintaining a dog, paying a security guard, or buying a burglar alarm system. Consequently, it is a self-protection measure available to many low-income people who cannot afford more expensive alternatives. Gun ownership is not a replacement or substitute for these other measures, but rather is more accurately thought of as complement to them—an additional measure that might prove useful, for at least some crime victims, some of the time.

The Frequency of Defensive Gun Use: Survey Data

In any one year the fraction of the population that is the victim of serious violent crime or burglary is fortunately rather low, despite public fears about the ubiquity of crime. For example, even if minor violent crimes, such as assaults without injuries, are considered together with serious ones, only an estimated 3% of the U.S. population was the victim of a violent crime in 1982 (U.S. Bureau of Justice Statistics 1985b, p. 3). Consequently the fraction of the population that has any reason to use a gun against a criminal in any one year is correspondingly low. Further, most crimes occur away from the victim's home or place of

employment and thus in places in which even gun-owning victims are not likely to have access to their weapons.

At least eight national or state-wide surveys have asked probability samples of the general adult population about defensive gun use. The results and other noteworthy features of these surveys are summarized in Table 4.1. The surveys differ in many important respects. Some asked about uses of all types of guns, whereas others were confined to handguns. Some covered a specific time period, asking if the respondent (R) used a gun in, e.g., the past 5 years, whereas others asked whether the R had ever used a gun defensively at any time in the past. Given the widely varying ages of Rs and differing spans of time guns were owned, the former method of asking the question is clearly more informative. Some of the survey questions asked about "self-defense," a term that may narrowly suggest defense of one's own bodily safety to some Rs, whereas others asked more broadly about "protection," which could include protection of other people and of property. Some questions asked only about the R's personal experiences, whereas others asked about defensive uses by anyone in the R's household. Most surveys asked the defensive uses questions of all Rs, but three of these "pre-screened" Rs through question funneling, asking the question only of those who reported currently having a handgun or gun in the household. Most surveys specifically excluded guns used while in the military or as part of police duties, but some did not. Perhaps most important of all, only some of the surveys distinguished defensive uses against animals from uses against human threats. The 1978 DMIa survey indicated that 44% of the Rs who reported a gun use for protection had used guns only against animals (DMI 1979, p. 48).

The most informative of the surveys were the 1981 Hart poll and the 1990 Mauser survey. These were the only surveys to cover a national population, ask about defensive uses during a specific limited time period, ask the question of all respondents, distinguish civilian use from other uses, and distinguish uses against humans from uses against animals. The results of the Hart survey as reported here were first published in Kleck (1988); they were obtained privately from Hart Research Associates, Inc. (Garin 1986). In this survey, 6% of the adults interviewed replied "yes" to the question: "Within the past five years, have you yourself or another member of your household used a handgun, even if it was not fired, for self-protection or for the protection of property at home, work, or elsewhere, excluding military service or police work?" Those who replied "yes" were then asked "Was this to protect against an animal or a person?" Of the total sample, 2% replied "ani-

mal," 3% "person," and 1% "both." Therefore, 4% of the sample reported gun use against a person by someone in their household. The Mauser survey was basically the same as the Hart survey except that it asked about defensive use of all guns, not just handguns. Its results indicated that 3.8% of U.S. households had used a gun for protection in the previous 5 years.

These and most of the rest of the percentages reported in Table 4.1 are percentages who reported defensive use, out of the entire sample. If the figures are calculated as a percentage of gun owners, they are much higher. For example, in the Cambridge Reports survey, 17% of the total sample reported personally owning a handgun for protection or self-defense. Only these persons were asked about defensive use of handguns. The original source indicates that 3% of the total sample reported personally using a handgun for defensive purposes at some time in the past. Thus, about 18% (3/17) of protective handgun owners had actually used their guns at least once for defensive purposes. Among all handgun owners, irrespective of reasons for ownership, the fraction is somewhat smaller. In the Hart survey, among Rs reporting an operable handgun in their household, 10% reported a household member using a handgun defensively against a person in the previous 5 years.

Like crime victimization prevalence figures, the defensive gun use percentages are small. However, when translated into absolute numbers, as crime figures are commonly reported, the percentages imply large numbers of defensive uses. In 1980 there were 80,622,000 U.S. households (U.S. Bureau of the Census 1982). Applying the 4% figure from the Hart survey yields in an estimate of 3,224,880 households with at least one person who used a handgun defensively at least once during the period 1976-1981. Conservatively assuming only one use per household over the entire period, there were about 644,976 defensive uses of handguns against persons per year, excluding police or military uses. There is considerable room for sampling error associated with the point estimates. The 95% confidence interval estimate of the proportion of household handguns used defensively against person over the past 5-year period is .029-.051, implying from 468,000 to 822,000 uses per year.

The Hart survey asked only about handgun use, ignoring defensive uses of the far more numerous long guns (rifles and shotguns). And the DMI surveys, which did ask about all gun types, did not ask about a specific limited time period. An all-guns estimate can be based on an extrapolation of the Hart survey handgun results. In 1985 the ratio of all gun crimes over handgun crimes was 1.214 (Table 2.11). If it is assumed that crime victims' gun choices resemble those of criminals, this ratio can

be applied to the 645,000 defensive handgun uses to get a rough estimate of about 783,000 defensive uses of guns of all types. Applying the same ratio to the 4% handgun prevalence figure yields an estimate of 4.856% for all guns, with a 95% confidence interval estimate of 3.756-5.956%, implying 606,000-960,000 defensive uses of all guns.

The Hart-based estimates were confirmed by the more recent Mauser (1990) national survey. Mauser found that 3.79% reported a defensive use of a gun of any kind, a figure within the all-guns 95% interval estimate derived from the Hart survey conducted 9 years earlier. The difference between the 3.79% Mauser result and the Hart-based 4.856% therefore could be due to random sampling error, but it could also reflect genuinely declining defensive uses guns from 1976-1981 to 1985-1990, paralleling the decline in criminal uses of guns. The Mauser estimates imply an average of 691,000 defensive gun uses per year over 1985-1990.

The magnitude of these figures can be judged by comparison with an estimate of the total number of crimes in which guns were used, based on the Uniform Crime Reports (UCR) count of homicides and National Crime Survey (NCS) victimization survey estimates of assaults, robberies, and rapes. Including minor assaults in which the gun was not fired, and including both crimes reported to the police and unreported crimes, the total for handguns in 1980 was about 580,000; the corresponding figure for all gun types was about 740,000. For 1985, there were about 540,000 handgun crimes and 660,000 gun crimes (Chapter 2). Thus the best available evidence indicates that guns are used about as often for defensive purposes as for criminal purposes.

Confidence in the estimates derived from the Hart survey is increased by the consistency of these results with those of the other surveys summarized in Table 4.1.¹ Appendix 4 develops alternative estimates of the number of defensive uses, based on three other surveys (two national and one state) not as satisfactory as the Hart and Mauser polls. All three of these surveys yield estimates of defensive gun uses even larger than the estimates based on the Hart and Mauser surveys. Therefore one cannot attribute the large estimates of defensive gun uses to technical peculiarities of the Hart and Mauser surveys, and it would be wrong to claim that they depend on just one or two surveys.

Another way of comparing the frequency of offensive uses of handguns with defensive uses is to compare direct survey estimates of the prevalence of household experience for each type of event. The Hart survey indicated that 4% of all households had used a handgun defensively at least once in the 5-year period preceding the survey. Assuming the uses were evenly distributed throughout the period, at least 0.8% of

households used a handgun defensively in any one year, 1976–1981. The NCS survey for 1980 indicated that about 5.5% of U.S. households had experienced a violent crime in 1980 (from figure 6, U.S. Bureau of Justice Statistics 1981, p. 3) and that about 10.3% of violent crimes involved guns (U.S. Bureau of Justice Statistics 1982a, pp. 57–9). Generously assuming that 90% of these gun crimes involved handguns, about 0.5% ($0.055 \times 0.103 \times 0.90 \times 100\%$) of U.S. households in 1980 experienced a handgun crime. The 90% confidence interval estimate for household handgun victimization is 0.44–0.56% (computed from procedures in U.S. Bureau of Justice Statistics 1982a, p. 95), whereas the interval estimate for defensive handgun use was 3.2–4.8% over the 5-year period, or 0.64–0.96% over a 1-year period. Based on household prevalence figures, then, civilian experience with defensive use of handguns appears to be more common than experience of handgun victimization.²

Problems with the Surveys

It should be emphasized that these surveys do not permit an assessment of the legal or moral character of the defensive gun uses reported, and one necessarily relies on the honesty of Rs as to the defensive character of the acts referred to. This is important because of the character of much violence. Many homicides and assaults are episodes of mutual combat involving two people fighting back and forth rather than one clear aggressor who is morally at fault and one totally guiltless victim (Luckenbill 1977). Wright and Rossi (1985, pp. 27, 29) have also pointed out that predatory criminals frequently victimize other criminals much like themselves. In any given incident, who one concludes was doing the “defending” may depend on which party one asks. Thus the gun use surveys may count some incidents as defensive gun uses that in legal terms were criminal assaults by the R; still others may have been acts of criminal vengeance.

The opposite problem applies to the victim surveys used to estimate the total number of crimes committed with guns. Strictly speaking, victim surveys do not even attempt to determine who is the victim and who the aggressor in an assault. The relevant survey questions simply ask whether the R was “knifed, shot at, or attacked” in the previous 6 months (Gove et al. 1985, p. 458; U.S. Bureau of Justice Statistics 1982a, p. 82). The R is labeled a “victim” partly by virtue of being the party to the assault who was selected to be interviewed. This creates some problems. For example, if an R had criminally attacked or tried to rob (with-

out a gun) someone who defended himself with a gun, the R could honestly report that he had been shot at or threatened with a gun. He would therefore be counted as a victim of a gun assault, even though neither he nor his attacker was the victim of any gun crime.

In short, the incidents described as defensive uses in gun user surveys and as gun crimes in victim surveys overlap. Even if just one party uses a gun, the same incident may be describable as either a gun assault or a defensive use of a gun, depending on which party to the event happens to be questioned. Many instances of mutual combat could accurately be regarded as involving both aggressive and defensive uses of guns. Incidents can be misreported in either direction in both kinds of surveys. It therefore is not clear how, or even whether, these problems affect comparisons between the number of gun crimes and the number of defensive gun uses.

There is a problem, however, affecting all surveys that could consistently contribute to a net undercount of both defensive and criminal gun uses. It has often been recognized that criminals will be among the persons least likely to be interviewed in general population surveys, because of their low income, high mobility, time spent incarcerated, and possible reluctance to be interviewed even if successfully contacted (e.g., Cook 1985). Since it is criminals who are in most frequent contact with other criminals, it is they who are both most likely to be victimized and most likely to have reason to use guns defensively. Relative to their share of the population, criminals should claim a disproportionate share of both defensive gun uses and gun crime victimizations. Therefore, victimization and gun use surveys share a sampling bias that contributes to underestimating both criminal and defensive gun uses.

As to the comparison between numbers of defensive gun uses and criminal gun uses, it is possible there are biases that lead to more undercounting of defensive uses than criminal uses. The results of both victimization and gun use surveys, like all survey results, can be affected by recall failure and telescoping. Despite the highly dramatic nature of crime incidents, victims nevertheless frequently fail to recall them in survey interviews, even when questioned as little as 6 months after the events (U.S. LEAA 1972). The main difference between the two survey types is that the recall period is only 6 months for the national victim surveys, whereas it was 5 years in the Hart and Mauser gun use surveys, and was the R's lifetime in most of the rest of the surveys.

This suggests there is more recall failure in the gun use surveys. Consistent with this idea, the Field survey found that 1.4% of Rs recalled a defensive handgun use just in the past year, yet only 8.6% recalled

such a use over the span of their entire lives. A December 1989 national survey found that gun owners had personally owned guns for a mean of 23.4 years. Assuming the "past year" experience of the Field sample was representative of earlier years of handgun ownership, and assuming little repeat usage of guns for defense, the lifetime prevalence of handgun defensive use could have been as high as 23.4 times as high as the 1.4% past year prevalence, or about 33%, instead of the 8.6% lifetime figure reported. Given the large number of owners with extremely long histories of handgun ownership, and thus the skewed distribution of ownership spans, one might expect the cumulative percentages of owners experiencing defensive uses to be even higher than this. In any case, there seems to be considerable recall failure in the gun use surveys, which would contribute to underestimation of defensive gun uses. Unless telescoping is also far greater for the Hart and Mauser gun use surveys than for the victim surveys, to at least the same degree as recall error, this implies that the estimate of defensive gun uses is less complete than the estimate of gun crimes based on victim surveys.

One survey that almost certainly is not adequate for estimating the total number of defensive gun uses is the National Crime Survey. Respondents in that survey are not asked about defensive actions unless they first give an affirmative answer to screener questions asking about victimization experiences in general. If respondents underreport the kinds of incidents in which guns are most commonly used defensively, then defensive gun uses will also be underestimated. As will be seen later (Table 4.5), about 40% of defensive gun uses are connected with assaults in the home, most of these presumably being instances of family violence. Perhaps another 10% or so are linked with commercial robberies. The latter type of incident is not covered at all in the NCS, and the former is severely undercounted. The true count of spouse assaults may be 12 times higher than the NCS estimate, and the true count of rapes may be 33 times as high as the NCS estimate (Loftin and MacKenzie 1990, pp. 22-3).

Police, security guards, armed forces personnel, and, to a lesser extent, correctional officers are especially likely to use weapons for defensive purposes, due to the violence-related nature of their occupations and the fact that they are commonly armed with a gun during the work hours. Since such people are eligible for inclusion in the victim and gun use surveys, one would expect them to account for a disproportionate share of the defensive gun uses. Recall that the Hart and Mauser surveys excluded police and military uses of guns (but not, however, off-duty uses of guns by police officers and military personnel). The size of the

share of defensive uses attributable to these sorts of users is relevant to assessing NCS information used later to evaluate the effectiveness of defensive gun uses, since that information is derived from questions that did not exclude any uses by persons with these violence-related occupations. Although the gun use surveys did not obtain sufficiently detailed occupational detail to assess this, the NCS did. In the 1979-1985 sample, members of these occupations accounted for 15.4% of self-protection gun uses. They do therefore account for a disproportionate share of the NCS-counted gun uses, but still a relatively small fraction. And again it should be stressed that on-duty uses by such persons were explicitly excluded from the surveys used to estimate the number of defensive gun uses.

Shooting in Self-Defense

Most uses of guns for either criminal or defensive purposes are probably much less dramatic or consequential than one might think. Only a tiny fraction of criminal gun assaults involves anyone actually being wounded, even nonfatally, and one would expect the same to be true of defensive gun uses. More commonly, guns are merely pointed at another person, or perhaps only referred to ("I've got a gun") or displayed, and this is sufficient to accomplish the ends of the user, whether criminal or noncriminal. Nevertheless, most gun owners questioned in surveys assert that they would be willing to shoot criminals under the right circumstances. The 1989 Time/CNN survey found that 80% of gun owners thought they would get their guns if they thought someone was breaking into their home, and 78% said they would shoot a burglar if they felt threatened by that person (Quinley 1990, p. 9).

Despite this stated willingness of gun owners to shoot under certain circumstances, most defensive uses of guns do not in fact involve shooting anyone. Although the surveys listed in Table 4.1 did not delve into much detail about the circumstances in which guns were used defensively, or the manner in which they were used, most did ask whether the gun was fired. Results generally indicate the gun was fired in less than half of the defensive uses; the rest of the times the gun was merely displayed or referred to, in order to threaten or frighten away a criminal.

Self-Defense Killings

The rarest, but most serious form of self-defense with a gun is a defensive killing. Although shootings of criminals represent a small frac-

tion of defensive uses of guns, Americans nevertheless shoot criminals with a frequency that must be regarded as remarkable by any standard. Although the FBI does not publish statistics on self-defense killings, it does compile unpublished counts of civilian justifiable homicides (CJH) gathered through their Supplementary Homicides Reports (SHR) program. For a variety of reasons the FBI SHR totals for CJHs represent only a minority of all civilian legal defensive homicides (CLDHs). First, some cases that even local police label as CJHs are not reported as such to the FBI. Wilbanks (1984, p. 3) reports that police in Dade County were unwilling to spend much time properly recording homicides where prosecution of the killer was not to be pursued. Second, many homicides ultimately ruled noncriminal by prosecutors or judges are reported to the FBI as criminal homicides because that is how the initial police investigation treated them. Homicides are classified, for FBI Uniform Crime Reporting purposes, solely on the basis of the initial police investigation.

Third, and most significantly, in jurisdictions that follow legal distinctions between justifiable and excusable homicides fairly closely, most CLDHs will be recorded as excusable rather than justifiable, and thus are not eligible to be counted by the FBI. The magnitude of this last problem is suggested by findings concerning Detroit homicides. Over the period from 1969 to 1980, while 344 cases of civilian homicides were labeled justifiable, another 741 were labeled excusable (Dietz 1983, p. 203). Excusable homicides can include some accidental deaths, but accidental vehicular homicides were excluded from these excusable totals and it is known that there were only 123 accidental deaths from guns in Detroit over this period.³ About half of fatal gun accidents are self-inflicted (Chapter 7), so only about 62 of the accidental gun deaths were accidental homicides (i.e., one person killing another), and many of these would be labeled negligent manslaughters rather than excusable homicides. Thus, few of the 741 excusable homicides were accidental deaths. Likewise, homicides by police officers are almost invariably labeled justifiable (Wolfgang 1958; Wilbanks 1984), so they are unlikely to claim any significant share of the excusable homicides. Instead, most of these excusable homicides appear to be CLDHs, and thus are not counted by the FBI as CJHs. (See Appendix 5 for explanation of the various categories of noncriminal homicides and the FBI classification scheme.)

Because no national data exist distinguishing between the different types of CLDHs, data from single legal jurisdictions like cities and counties must be relied on to judge the relative frequency of each homicide type. Table 4.2 summarizes information from six unusually detailed local

homicide studies. Although the character of homicide may differ somewhat from city to city, the results nevertheless suggest that there are sharp differences from place to place in the way authorities classify homicides as noncriminal. Row 12 of the table indicates that the fraction of intentional civilian homicides labeled as CLDHs varied from 1.6 to 19.5% over the six jurisdictions.

The Detroit and Dade County results yielded middle-range values on this fraction, came from two regionally distinct parts of the country, and are also the most recent. Thus they seem to be most likely to be representative of the contemporary United States as a whole. Therefore these results will be used, in combination with the national SHR counts of civilian justifiable homicides, to roughly estimate national totals for CLDHs. One way to do this (Estimation Method I) is to assume that self-defense homicides grow out of criminal threats to life, as indexed by murders and nonnegligent manslaughters reported to the FBI, and that the ratio of the former to the latter will be roughly the same for the United States as a whole as it is for Detroit and Dade County. The combined totals for these two local areas were 1062 killings counted by the FBI as murders and nonnegligent manslaughters (U.S. FBI 1981, pp. 74, 107) and 145 killings known to be CLDHs (Table 4.2), giving a ratio of the latter to the former of 0.1365. Multiplying this number by the national total of 23,044 murders and nonnegligent manslaughters (which includes some misclassified CLDHs) (U.S. FBI 1981, p. 41) yields an estimate of 3146 CLDHs for the United States in 1980.

Alternatively, the national counts of civilian justifiable homicide reported to the FBI could be used as a starting point, with an adjustment for its incomplete coverage of CLDHs (Estimation Method II). In 1980 there were 145 CLDHs in the two sample jurisdictions, of which only 36 were reported to the FBI as CJHs (tabulations from 1980 SHR dataset, ICPSR 1984), yielding a ratio 4.167 CLDHs to every CJH counted in the SHR program. Multiplying this times the 1980 national SHR total of 423 CJHs yields an estimate of 1704 CLDHs. Of the 423 CJHs, 379, or 89.6% involved guns, so it is estimated that about 1527 ($.896 \times 1704$) CLDHs involved guns, based on the lower estimate, or 2819 ($.896 \times 3146$) based on the higher estimate. In sum, about 1500–2800 felons were killed by gun-wielding civilians in self-defense or some other legally justified cause in 1980.

The degree to which these estimates are meaningful for the nation as a whole is heavily dependent on the representativeness of the two local jurisdictions chosen as regards the critical ratios used in the estimates. However, the evidence indicates that the relative prevalence of CLDHs

among homicides is not unusually high in these two areas. Row 14 of Table 4.2 indicates that the ratio of CLDHs to murders and nonnegligent manslaughters was 0.242 in the Bensing and Schroeder study of the Cleveland area, much higher than in Detroit and Dade County. Likewise, Kellermann and Reay (1986) found that in King County (Seattle) Washington during 1978–1983 there were 9 legal self-protection homicides and 41 criminal homicides with a gun kept in the home. Because vehicular and other accidental homicides were excluded from the criminal homicide total, it does not include negligent or involuntary manslaughters and thus is roughly equivalent to a count of murders and nonnegligent manslaughters. Therefore, the ratio of CLDHs to murders and nonnegligent manslaughters was 0.220, far higher than the one used to estimate national CLDH totals in the present study. Since the ratio was lower in the Wolfgang and Rushforth et al. studies and somewhat indeterminate in the Lundsgaarde study, it seems justifiable to regard the ratio based on Detroit and Dade County as a middle-range value. In any case, it is not claimed that the resulting numbers are anything more than rough estimates intended to support the very general claim that civilians use guns to legally kill a large number of felons each year.

The various estimates are summarized in Table 4.3. The police homicide estimates are simple totals for deaths by legal intervention as compiled by the vital statistics system (Estimation Method I) (U.S. NCHS 1983, pp. 35–6), which were then doubled (Estimation Method II) to adjust for the fact that only about half of police killings get reported as such to the national vital statistics system (Sherman and Langworthy 1979, p. 552). FBI/SHR counts of police justifiable homicides are also reported here. Regardless of which counts of homicides by police are used, the results indicate that civilians legally kill far more felons than police officers do. The figures imply that, of 23,967 civilian (not by police) homicide deaths in the United States in 1980 (U.S. NCHS 1985b), about 1700–3100, or 7.1–12.9% were legal civilian defensive homicides.

Even if one had complete national counts of all homicides eventually declared lawful by the legal system, they would very likely understate certain categories of defensive homicide. Gillespie (1989, pp. xii–xiii) reviewed five local studies of homicides in which women killed their husbands or men with whom they lived intimately and concluded that the majority were self-defense killings. She estimated that there were as many as 500 such killings each year, but then described case after case of women killing (usually with a gun) abusive husbands or boyfriends that resulted in the women being convicted for criminal homicide, even in

incidents in which the circumstances seemed to clearly justify such a claim.

The following examples, adapted from brief case narratives in Wilbanks (1984, pp. 193–374), help give the flavor of typical defensive gun killings (V = victim, i.e., the aggressor who was shot, O = “offender” who used gun defensively to kill aggressor).

Case 566

V (Latin male) and O were both roomers in a “fleabag” hotel. O was a black male and did not speak or understand Spanish. V provoked O, pulled a knife on him and backed him into a corner (other Latins present tried to calm the V to no avail). O (a soft-spoken and quiet man) pulled out a gun and fired a warning shot. When the V kept coming the O fired again and killed the V (p. 373).

Case 228

Black male V entered black female O’s bedroom and told O not to be afraid as he just wanted to have sex. O got out her shotgun (by her bed) and advised V to leave. When V put his right leg on the bed, he was shot by the O. O keeps a loaded shotgun by her bed as she has been burglarized several times. V had a knife in his possession when he advanced on the O. O stated that she had never seen the V before (p. 270).

Case 288

Two victims entered a pawn shop and attempted to pawn a bad stereo that the store employee refused to accept. One V then jumped over the counter, armed with a revolver, and both victims were shot by the co-owner of the store (p. 278).

Case 566 is a clear case of excusable homicide, involving simple self-defense against an attacker, whereas cases 228 and 288 would probably be classified under FBI guidelines as justifiable homicides, involving defense against rape and robbery, respectively. A few homicides, though treated by authorities as noncriminal, are of a more dubious moral and legal character than these examples. The following incident is illustrative.

Case 159

V and another person were burglarizing a residence when they were surprised by the owner of the house. Both V and accomplice ran from

the house as owner fired shots and struck the V (p. 159). Although the victim was clearly committing a felony against the shooter, the latter was apparently no longer in danger when he fired his gun at the fleeing burglars. Only four or five of the 72 civilian justifiable homicides in this dataset were similarly questionable, but Case 159 does illustrate that homicides can be legally classified as noncriminal even though they seem to be criminal (or might be under some legal doctrines). Likewise, cases that appear to be legitimate cases of self-defense can be wrongly classified as criminal homicides. It is not known what the relative balance of these two types of errors are in general samples of homicides, so one cannot be sure whether they contribute to an overcount or an undercount of CLDHs, though the Gillespie book strongly suggests that there is a net undercount of defensive killings among female-against-male homicides.

Defensive Woundings

Nonfatal gun woundings are far more frequent than fatal shootings. Cook (1985) reviewed data that indicate that only about 15% of gunshot wounds known to the police are fatal, implying a ratio of about 5.67 (85/15) nonfatal gun woundings to each fatal one. Assuming the same applies to legal civilian defensive shootings, there were between 8700 and 16,600 nonfatal, legally permissible woundings of criminals by gun-armed civilians in 1980. Combining the defensive killings and nonfatal woundings, there are about 10,000–20,000 legal shootings of criminals a year, which would be less than 2% of all defensive gun uses. The rest of defensive gun uses, then, involve neither killings nor woundings but rather misses, warning shots fired, or guns pointed or referred to.

That defensive gun uses, with or without a wounding, are so common is not surprising in view of how many Americans own guns for defensive reasons and keep them ready for defensive use. A 1989 national survey found that 27% of gun owners have a gun *mainly* for protection, and 62% said that protection from crime was at least *one* of the reasons they owned guns (Quinley 1990). This translates into about 14 million people who had guns mainly for protection, and about 32 million who had them at least partly for protection (using data on number of individual gun owners from Table 2.4). Thus, even a million defensive gun uses of some kind per year would involve only about 3% of defensive gun users, hardly an implausibly high fraction.

Further, many gun owners, and almost certainly a majority of those who own guns primarily for protection, keep a household gun loaded.

The 1989 survey found that 24% of gun owners always keep a gun loaded, and another 7% had a gun loaded at the time of the interview although they did not do so all the time, for a total of 31%. Guns were most commonly kept in the bedroom, where they would be ready for nighttime use (Quinley 1990, pp. 4–6, 9).

Apparently nearly all of the guns kept loaded are handguns. Although the national survey did not address this issue, a 1977 telephone survey of Illinois adults found that 35.4% of households that owned only handguns, and 31.9% of households that owned both handguns and long guns, kept a gun loaded, compared to only 1.6% of households that owned only long guns. Black gun owners were four times as likely as white owners to keep a gun loaded, Chicago residents were twice as likely to do so as other Illinois residents, and households with no adult male were twice as likely as other households to have a loaded gun (Bordua 1982). In short, keeping a gun loaded was most common in households in which vulnerability to victimization was highest.

Carrying Guns for Protection

Carrying firearms for protection is one of the most active forms of gun use for both defensive and criminal purposes. Persons who wish to have guns available for defensive purposes in public spaces must necessarily carry guns, legally or illegally, to do so. Unlawful carrying of guns probably accounts for the majority of arrests for weapons violations (Bordua et al. 1985), and virtually all gun crime committed in public places necessarily involves carrying of firearms. Millions of Americans carry guns every year. A February 1985 national Roper survey indicated that 17% of U.S. adults regularly carried with them some device for self-defense, and 30% of these, or 5% of all U.S. adults, regularly carried guns (DI-ALOG 1990). This would have been about 9 million people. At most, 1.5 million gun carriers could be police, security guards, and the like (U.S. Bureau of the Census 1988, p. 389), leaving at least 7.5 million regular civilian defensive gun carriers. Given that handguns are involved in about 600,000 crimes, with only some of these involving carrying, one implication of these numbers is that over 90% of gun carriers carry without any intention of committing a crime. Note that some of the carrying involved keeping a gun in the owner's car or truck, rather than carrying on the person. Also, some of the guns may be carried in rural areas for protection against animals rather than criminals.

Carrying guns implies carrying deadly weapons in public spaces.

What makes spaces public is that almost anyone may freely move through them without invitation. Unlike home spaces, they are places where unplanned encounters between strangers routinely occur. Such encounters are inherently more dangerous than encounters between family members, friends, and others who interact in private spaces, because the actors share no previously established understandings, commitments, emotional bonds, or sets of obligations to restrain the open expression of hostility. Most people recognize this special character of public contacts with strangers, and exercise caution accordingly. Gun carrying could have a number of effects in this setting. Carrying a gun might make people foolhardy, encouraging them to take unnecessary risks, and perhaps even seek out risks. Or, by giving its possessor the quiet confidence of knowing he has a power advantage, a gun might prevent a potentially conflictual situation from progressing to the point where hostility was openly expressed, thereby making the resort to weapons unnecessary. Alternatively, display of the weapon could deter the unarmed party from further escalation of hostilities. On the other hand, once the situation did escalate to open hostilities, use of the gun might make it more likely conflict could lead to a death.

Although gun laws regulating the carrying of firearms have been studied, especially the Massachusetts Bartley-Fox law (Pierce and Bowers 1981), and carrying by felons has recently been examined (Wright and Rossi 1986), research on carrying by the general public is virtually nonexistent (Blackman 1985). A major review of research on guns and violence did not review a single study on the subject (Wright et al. 1983). And the handful of relevant studies are flawed and of limited generalizability. A 1962 study was descriptive in nature and limited to urban black arrestees, finding that 70% of 50 St. Louis blacks convicted of carrying concealed weapons did so because they anticipated attack (Schultz 1962). The findings also suggested that, among lower class blacks, the people who carry guns for self-protection and the people who use them in violence are to a great extent the same people, i.e., the two groups heavily overlap. Thus carrying can be a prelude to both legitimate defensive uses of guns by noncriminals and to criminal assaults by the carriers.

Hassinger (1985) conducted a mail survey of Jefferson County (Birmingham) Alabama residents who had a legal permit to carry firearms. In this county, 10% of the adult population was licensed to carry a handgun. The most frequently endorsed reason for carrying a pistol was the belief that "the police cannot be everywhere; the pistol is a prudent precaution" and the second most common reason was worry about

being a victim of crime (p. 115). The main sources of information that lead to these concerns about crime were "actual prior incidents," "news reports about crime," and "common knowledge (word of mouth) about crime" (p. 117). Unfortunately this survey had a return rate of only 21%, raising questions about generalizability.

Bankston et al. (1986) conducted a mail survey of Louisiana driver's license holders, which included an item that read: "Please indicate how often you do the following to protect yourself and your property . . . Carry a firearm when you leave home." The possible responses were never, occasionally, frequently, and always (p. 7). The authors' regression analysis indicated that gun carrying was more likely, other things being equal, among persons with a crime victimization experience, people fearful of crime, younger people, males, and residents of Northern Louisiana, the area with the more traditionally Southern, non-Cajun, culture. Unfortunately there is strong indication that the sample surveyed was seriously biased. This survey indicated that 56.5% of white Louisiana households owned handguns, although only 37% of white households in the West South Central region (Louisiana, Texas, Oklahoma, and Arkansas) in the 1984 General Social Surveys reported a handgun (analysis of ICPSR 1985). Handgun owners appear to have been substantially more likely to return questionnaires. A return rate of less than 50% and the lack of follow-up mailings presumably contributed to this problem.

Psychological Effects of Keeping Guns for Protection

Before addressing the objective outcomes of actual defensive uses of guns, a more subjective issue should be addressed. If some people get guns in response to crime or the prospect of being victimized in the future, as indicated in Chapter 2, does gun ownership have any reassuring effects? Once a gun is acquired, does it make its owner feel safer? Reducing fear would be an intangible benefit distinct from any objective utility a gun might have when it is actually used for defensive purposes.

A December, 1989 national survey of 605 U.S. gun owners asked the following question: "Does having a gun in your house make you feel more safe from crime, less safe, or doesn't it make any difference?" Of the gun owners 42% felt more safe, only 2% felt less safe, and the rest said it made no difference (Quinley 1990). Since only 27% of the owners had a gun mainly for protection from crime, and only 62% had a gun even partially for protection from crime, it is not surprising that some

owners felt having a gun made no difference in their feelings of safety—it presumably was not supposed to make any difference, since their guns were owned for recreational reasons. Assuming that those who felt safer fell largely among those 62% (or 27%) of owners who had guns for protection, one can infer that a majority of defensive gun owners do feel safer from crime, or at least claim to feel that way. When asked "Overall, do you feel comfortable with a gun in your house or are you sometimes afraid of it?" 92% of gun owners said they were comfortable, 6% were sometimes afraid, and 2% were not sure (p. 10).

A 1990 national survey indicated that nearly all defensive gun owners feel safer because they have a gun. Among persons whose primary reason for owning a gun was self-defense, 89% replied "yes" to the question: "Do you feel safer because you have a gun at home?" Among gun owners who did not feel safer, 96% were persons whose primary reason for owning was something other than defense (Mauser 1990).

These surveys confirmed what previous surveys had indicated. For example, in a national survey conducted in January 1981, Rs were asked: "How do you feel about having a gun in your house? Do you think it makes things safer or do you think it makes things more dangerous?" This question wording differed from that of the CNN/Time poll in that it focused on perception of actual dangers, a matter that is partly objective and partly subjective, rather than how the gun made Rs feel. Among Rs in gun owning households giving nonmissing responses, 58% felt having a gun in their house "makes things safer," 30% felt things were about the same, and 11% felt it made things more dangerous (tabulation of data in Los Angeles Times 1981). In sum, most gun owners, including many who do not even have a gun for defensive reasons, feel comfortable with guns, feel safer from crime because of them, and believe their guns actually do make them safer from crime.

Effectiveness and Risks of Armed Resistance to Criminals

Of course, gun owners may be deceiving themselves. Their feelings of greater security, however real in emotional terms, may lack a factual foundation. Regardless, the belief that guns provide effective self-protection for at least some people some of the time is nearly universal. Even proponents of stringent gun control who assert the guns are not effective defensive devices for civilians nearly always make exceptions for police officers and the like. The rationale for police having guns is based at least partly on the idea that police need and can effectively use

guns for defending themselves and others. Doubts about the defensive utility of guns, then, appear to rest on any of three beliefs: (1) civilians do not need any self-protective devices, because they will never confront criminals, or at least will never do so while they have access to a gun, or (2) they can rely on the police for protection, or (3) they are not able to use guns effectively, regardless of need.

There is certainly some merit to the first belief. Most Americans rarely face a threat of serious physical assault, and some will never do so. Nevertheless, National Crime Survey (NCS) estimates indicate that 83% of Americans will, sometime over the span of their lives, be a victim of a violent crime, all of which by definition involve direct confrontation with a criminal (U.S. Bureau of Justice Statistics 1987c, p. 3). Further, the most common location for such a confrontation is in or near the victim's home, i.e., the place where victims would be most likely to have access to a gun if they owned one (Curtis 1974, p. 176). Although it cannot be stated what share of these incidents will transpire in a way that would allow the victim to actually use a gun, it is clear that a large share of the population will experience such an incident.

The second idea, that citizens can depend on police for effective protection, is simply untrue. It implies that police can serve the same function as a gun in disrupting a crime in progress, before the victim is hurt or loses property. Police cannot do this, and indeed do not themselves even claim to be able to do so. Instead, police primarily respond reactively to crimes *after* they have occurred, questioning the victim and other witnesses in the hope that they can apprehend the criminals, make them available for prosecution and punishment, and thereby deter other criminals from attempting crimes. Police officers rarely disrupt violent crimes or burglaries in progress; even the most professional and efficient urban police forces rarely can reach the scene of a crime soon enough to catch the criminal "in the act" (Walker 1989, pp. 134–5). More generally, the idea that modern police are so effective in controlling crime that they have rendered citizen self-protection obsolete is widely at variance with a large body of evidence that police activities have, at best, only very modest effects on crime (Walker 1989, Chapter 7).

The third idea, that civilians are not generally able to use guns effectively, requires more extended consideration. Gun control proponents sometimes argue that only police have the special training, skills, and emotional control needed to wield guns effectively in self-defense. They hint that would-be gun users are ineffectual, panic-prone hysterics, as likely to accidentally shoot a family member as a burglar (e.g., Alviani and Drake 1975, pp. 6–8; Yeager et al. 1976, pp. 3–7). Incidents in which

householders shoot family members mistaken for burglars and other criminals do indeed occur, but they are extremely rare. Studies reviewed in Chapter 7 indicate that fewer than 2% of fatal gun accidents (FGAs) involve a person accidentally shooting someone mistaken for an intruder. With about 1400 FGAs in 1987, this implies that there are fewer than 28 incidents of this sort annually. Compared with about three quarters of a million defensive uses of guns, this translates into about a 1-in-26,000 chance of a defensive gun use resulting in this kind of accident.

It has been claimed that many people who attempt to use guns for self-protection have the gun taken from them by the criminal and used against them (e.g., Shields 1981, pp. 49, 53; McNamara 1986, p. 989). Although this type of incident is not totally unknown, it is extremely rare. In the 1979–1985 NCS sample, it was possible to identify crime incidents in which the victim used a gun for self-protection and lost a gun to the offender(s). At most, 1% of defensive gun uses resulted in the offender taking a gun away from the victim (author's analysis of NCS data). Even these few cases did not necessarily involve the offender snatching a gun out of the victim's hands. Instead a burglar might, for example, have been leaving a home with one of the household's guns when a resident attempted to stop him, using another household gun. Thus, the 1% figure represents an upper limit estimate of the relative frequency of these events.

It is important to distinguish at this point two discrete issues: (1) the effectiveness of individual instances of civilian gun use against criminals in preventing injury and the completion of the crimes involved, and (2) whether such actions deter criminal attempts from being made in the first place. Actual defensive use of guns by victims in specific criminal attempts could *disrupt* the attempt, preventing the criminal from injuring the victim or obtaining property. On the other hand, the general fact of widespread civilian gun ownership, or ownership by specific individuals or identifiable groups, could *deter* some criminals from making the criminal attempts in the first place. It is even hypothetically possible that defensive actions could often be effective in preventing completion of crimes, yet fail to exert any general deterrent effect on the criminal population; the opposite could also be true. Nevertheless, one would expect, a priori, that gun ownership would be more likely to deter if defensive gun uses were effective in disrupting those individual crimes in which victims used guns.

Preventing Completion of the Crime

It has been argued that resistance by crime victims, especially forceful resistance, is generally useless and even dangerous to the victim (Block

1977; Yeager et al. 1976). Although evidence supports this position as it applies to some forms of resistance, it does not support the claim as it applies to resistance with a gun. Yeager and his colleagues (1976) examined data from victim surveys in eight large U.S. cities, which included information on the fraction of robberies and assaults that was completed against the victim and on victim use of self-protection measures. They did not report results separately for victims resisting with a gun but analyzed a category including victims using any weapon to resist. For robbery, the completion rate was 37% in crimes where the victim resisted with a weapon, a rate lower than that of any other form of self-protection and far lower than among those who did not resist in any way (p. 13). Because guns are regarded as more intimidating and deadly weapons than knives and other lesser weapons, one would expect gun-armed resisters to experience lower completion rates than victims resisting with other weapons. Therefore, had gun resisters been separately analyzed by Yeager et al., the results should have indicated even greater effectiveness of gun resistance relative to other forms of self-protection.

This is confirmed by the national data reported in Table 4.4, which break out gun-armed resistance from other armed resistance. The figures are derived from analysis of the 1979–1985 incident-level files of the NCS public use computer tapes (ICPSR 1987). This dataset contains information on over 180,000 sample crime incidents reported by nationally representative samples of noninstitutionalized persons aged 12 and over. Respondents were asked if they had been a victim of crime in the previous 6 months, if they used any form of self-protection, if they were attacked, if they suffered injury, and if the crimes were completed. For assaults, "completion" means injury was inflicted; thus completion and injury rates are the same for assaults. For robbery, "completion" means the robber took property from the victim. The figures in Table 4.4 indicate that robbery victims who resisted with a gun or with a weapon other than a gun or knife were less likely to lose their property than victims using any other form of self-protection or who did not resist at all.

The remarkably successful outcomes of defensive gun uses might seem surprising if one imagines the incidents to involve shootouts between criminal and victim. This, however, does not describe most gun uses. Among the 1979–1985 violent incidents reported in the NCS, 70.4% of defensive gun uses were against offenders who did not even have a gun (or at least none visible to the victim). Even in the remaining cases it is unlikely that many involved the victim and offender shooting at one another, since less than a quarter of gun assaults involve a gun actually being fired (U.S. Bureau of Justice Statistics 1986b) and under

7-20 7-2

40% of defensive gun uses involve the defender shooting. More commonly, gun-armed defenders face a criminal without a gun, thus have a strong power advantage, and successfully prevent the completion of the crime without shooting.

Avoiding Injury

Data on attack and injury rates in robberies and assaults, by victim protection method, for the entire nation are also shown in Table 4.4. 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. Only 17.4% of gun resisters in robberies, and 12.1% in assaults, were injured. The misleading consequences of lumping gun resistance in with other forms of forceful resistance (ala Yeager et al. 1976; Cook 1986) are made clear by these data, since other forms of forceful self-protection are far more risky than resisting with a gun. After gun resistance, the victim course of action least likely to be associated with injury is doing nothing at all, i.e., not resisting. However, this strategy is also the worst at preventing completion of the crime. Further, passivity is not a completely safe course either, since a quarter of victims who did not resist were injured anyway. This may be because some robbers use violence preemptively, as a way of deterring or heading off victim resistance before it occurs. Thus they may use violence instrumentally to ensure victim compliance, against those victims for whom this seems to be a safe course of action (Conklin 1972, Chapter 6). Other robbers may simply enjoy assaulting victims for its own sake, using violence expressively (Cook and Nagin 1979, pp. 36-7).

Some analysts of robbery data have uncritically assumed that where crimes involve victims who resisted and were also injured, resistance must somehow have led to the injury (e.g., Yeager et al. 1976). Although it is tempting to assume that resistance to a robber provokes attack, the reverse may also be true. That is, victims otherwise reluctant to resist may do so out of desperation or anger after being attacked by the robber—injury may provoke victim resistance. The regular NCS surveys before 1986 did not establish the sequence of offender attack and victim self-protection actions. Consequently it is not certain if any of the 17.4% of robberies with an injured, gun resisting victim involved an attack provoked by the victim's resistance. Nevertheless, even after acknowledging that their police record data did not allow them to confidently establish the sequence of events, Zimring and Zuehl (1986, p. 19) as-

serted that active victim resistance escalates victim risk of death and recommended that victims refrain from resisting.

Based on work of a former Zimring collaborator, it is evident that such a conclusion is questionable. In a study of robberies reported to the Chicago police in 1975, Block (1977) examined offense reports to determine which came first, victim resistance or robber use of force. In robberies in which the victim resisted with force (including the use of weapons), victim resistance came *after* the offender's initial use of force in 68% of the cases (1977, pp. 81-2). Presumably 32% involved resistance first, then offender use of force. If this applied nationally to the 17.4% of robbery gun resisters who were injured, it would mean that only about 6% ($.32 \times .174 = .058$) were injured after they used their guns to resist. And since some of these injuries surely would have occurred even without resistance, it means that fewer than 6% of these victims provoked the injury by their use of a gun. In any case, even if all gun resister injuries had been directly caused by the resistance, a dubious assumption, it is still clear that a robbery victim's resistance with a gun rarely provokes a robber into injuring him. Based on the present findings and those of Block, the chances of this happening are probably less than 1 in 20.

In contrast, Block noted that among victims who resisted nonforcefully, by fleeing or yelling for help, it was resistance that came first in 70% of the cases. The evidence is thus compatible with the hypothesis that active physical resistance without a gun often provokes offender attack, whereas resistance with a gun deters attack.

These conclusions are supported by special NCS data. Questions about the sequence of resistance and injury were asked in a limited one-month-only Victim Risk Supplement (VRS) administered to 14,258 households as part of the NCS in February 1984. In assaults that involved both *forceful* self-protection actions and attack on the victim, the victim actions preceded attack in only 9.8% of the incidents. For assaults involving *nonforceful* resistance, only 5.7% of victim actions preceded attack. For robbery incidents with both attack on the victim and self-protection actions, *forceful* self-protective actions never preceded attack, whereas in only 22% of similar incidents involving *nonforceful* victim actions did the victim actions precede the attack (author's analysis of VRS data). Thus, even in those few incidents in which forceful resistance was accompanied by attacks on the victim, the sequencing was rarely compatible with the contention that the victim's resistance provoked the attack. The national NCS data, then, even more strongly indicate that forceful victim resistance rarely provokes attack. The best available evi-

dence indicates that gun-armed victim resistance to robbery or assault almost never provokes the offender to injure the victim.

Rape and Resistance

The previous discussion addressed gun resistance only in robberies and assaults. Rape, the third major violent crime covered in NCS data, had to be excluded because there are so few relevant sample cases to analyze. Less than 1% of NCS rape victims report resistance with a gun (e.g., U.S. Bureau of Justice Statistics 1985c). However, one may gain some strong hints about the results of gun resistance by examining all instances of armed resistance by rape victims. Grouping together all instances of resistance with guns, knives, or other weapons, Kleck and Sayles (1990) found, in a multivariate probit analysis of national victim survey data, that rape victims using armed resistance were less likely to have the rape attempt completed against them than victims using any other mode of resistance. These results confirmed those of Lizotte (1986) using city victim surveys. Further, there was no significant effect of armed resistance on the rapist inflicting additional injury beyond the rape itself. In view of the robbery and assault findings indicating that gun resistance is generally more effective than armed resistance using other weapons, it would seem to be a reasonable inference that the same would be true for rape. Indeed, this would seem especially likely with rapes, given that rape victims are nearly all women, and guns are the weapon type whose effectiveness is least dependent on the physical strength of its user.

The Police Chief's Fallacy

Some police officers advise people to refrain from armed resistance should they be confronted by a criminal. For example, Joseph McNamara, Chief of the San Jose Police Department, testified before a Congressional committee considering gun legislation: "We urge citizens not to resist armed robbery, but in these sad cases I described, the victims ended up dead because they produced their own handguns and escalated the violence. Very rarely have I seen cases in which the handgun was used to ward off a criminal" (McNamara 1986, p. 989). Why do some police give such advice? While some, like Chief McNamara, a strong gun control advocate, may be motivated by political considera-

tions, it is doubtful if this is true for most officers. Instead, police advice may well logically follow from the resistance experiences of victims with whom officers have had contact. The problem with relying on this sample of resistance cases is that it is substantially unrepresentative of the experiences of crime victims in general—the cases McNamara and other police officers have seen are not like those they have not seen, and the latter outnumber the former by a wide margin.

Most crimes are not reported to the police, and the crimes most likely to go unreported are the ones that involve neither injury nor property loss, i.e., those that had successful outcomes from the victim's viewpoint. For example, among robberies reported to the NCS, only 24% of those with no injury or property loss were reported to police, whereas 72% of those with both were reported. Likewise, assaults without injury are less likely to be reported than those with injury (U.S. Bureau of Justice Statistics 1985d, p. 3). By definition, all successful defensive gun uses fall within the no-injury, no-property-loss category, and thus are largely invisible to the police. Consequently, police never hear about the bulk of successful defensive gun uses, instead hearing mostly about an unrepresentative minority of them dominated by failures. To conclude that armed resistance is ineffective or dangerous, based on the experiences of this sort of unrepresentative sample of victims, can be called, in honor of Chief McNamara, "the police chief's fallacy." At present, advising victims to not use guns to resist criminal attempts seems imprudent at best, dangerous at worst. As Ziegenhagen and Brosnan (1985, p. 693) have commented: "victims can and do play an active part in the control of crime outcomes regardless of well-intentioned but ill-conceived efforts to encourage victims to limit the range of responses open to them. Victims can, and do, exercise a range of optional responses to robbery far beyond those conceived of by criminal justice professionals."

An Exercise in Ingenious Speciousness

When gun control advocates and public health scholars consider whether keeping a gun for defensive purposes is sensible, they frequently bring up one of the oddest statistics in the gun control debate. In 1975 four physicians published an article based on data derived from medical examiner files in Cuyahoga (Cleveland) County, Ohio. They noted that during the period 1958–1973, there were 148 fatal gun accidents (77% of them in the home) and 23 "burglars, robbers or intruders who were not relatives or acquaintances" killed by people using guns to defend their homes. They stated that there were six times as many home

fatal gun accidents as burglars killed. (This appears to have been a mis-computation—the authors counted all 148 accidental deaths in the numerator, instead of just the 115 occurring in the home. Although the value of the number does not matter much, the correct ratio was five rather than six.) On the basis of these facts, the authors concluded that “guns in the home are more dangerous than useful to the homeowner and his family who keep them to protect their persons and property” and that “the possession of firearms by civilians appears to be a dangerous and ineffective means of self-protection” (Rushforth et al. 1975, pp. 504–5).

These conclusions were a breath-taking non sequitur. The first thing to note about whether guns are “ineffective” means of self-protection is that the authors presented no evidence of any kind having any bearing on the issue—no counts of defensive uses, no estimates of the fraction of defensive uses that prevented completion of crimes or resulted in injury—nothing. As to how dangerous keeping a gun for protection is, the authors could only cite accidental gun deaths. Yet they did not establish that any of the accidents occurred in connection with defensive uses or even that the guns involved were owned for defensive reasons. The connection between the accidents and defensive gun ownership was simply assumed, rather than demonstrated.

The main flaw, however, in the authors’ reasoning was in treating the 6–1 ratio as if it were somehow a cost–benefit ratio, a comparison that could say something about the relative benefits and risks of defensive gun ownership. The ratio cannot serve such a purpose. The numerator is not a meaningful measure of risk for the average gun-owning household, and the denominator has no bearing at all on the defensive benefits of keeping a gun. As will be shown in Chapter 7, gun accidents are largely concentrated in a very small, high-risk subset of the population—for everyone else, the risks of a fatal gun accident are negligible. Therefore the population-wide accident rate is an exaggeration of the risk born by the typical defensive gun-owning household. And the number of burglars killed does not in any way serve as a measure of the defensive benefit of keeping a gun. As Barry Bruce-Briggs, commenting on this article, wryly noted, “The measure of the effectiveness of self-defense is not in the number of bodies piled up on doorsteps, but in the property that is protected” (1976, p. 39). To assess defensive benefits might entail estimating the number of burglars captured, frightened off, deterred from attempting burglaries, or displaced to unoccupied premises where they could not injure any victims. The authors measured none of these things. As previously noted, well under 1% of defensive gun uses involve a criminal being killed. And the one protec-

tion-related item the authors did count is not even itself a benefit. Defensive gun owners do not have guns for the purpose of getting a chance to “bag a burglar.” Being forced to kill another human being, burglar or not, is a nightmare to be suffered through for years.

Even this number was artificially reduced by excluding killings of intruders who were relatives or acquaintances; the authors apparently felt that killings by, e.g., a wife defending herself against a homicidally abusive husband, or a woman defending herself against an estranged husband or ex-boyfriend trying to kill or rape her, were not legitimate defensive homicides suitable to be counted along with shootings of burglars (see Kates 1990, pp. 24–32 for an extended discussion of this exclusion).

The benefit of defensive gun ownership that would be parallel to innocent lives *lost* to guns would be innocent lives *saved* by guns. However, it is impossible to count the latter, so it will never be possible to form a meaningful ratio of genuinely comparable quantities.

Bruce-Briggs described this sort of study as “ingeniously specious” (1976, p. 39) and briefly dismissed it. Most serious gun scholars ignore this particular study (e.g., the massive review by Wright et al. does not mention it at all), but it is a favorite of procontrol propagandists (e.g., Yeager et al. 1976, p. 4; Alviani and Drake 1975, p. 8). It was even unwittingly replicated 11 years later by two other physicians (Kellermann and Reay 1986) who apparently were unaware of the Rushforth et al. study (or at least did not cite it) or of the harsh criticism to which it had been subjected. This later analysis had all the same problems as its predecessor, used the same specious reasoning, and, inevitably, arrived at essentially the same non sequitur conclusion: “The advisability of keeping firearms in the home for protection must be questioned.”

Crimes Involving Defensive Gun Use

What crimes are defensive gun users defending against? Evidence from NCS surveys is unreliable on this point. In addition to the reasons previously discussed, the doubts victims may have about the legality of their gun uses may further contribute to an underreporting of defensive uses. Also, since crimes involving victim gun use usually involve neither property loss nor victim injury, victims are especially likely to forget or otherwise fail to report them to interviewers, just as they fail to report them to police.

Two very different sources of information suggest that assaults at home are the most common crimes involving victim gun use, followed

7-23

by burglaries and retail store robberies. Table 4.5 displays the results of the 1976 Field poll of California (Field Institute 1976) and data from medical examiner records concerning civilian justifiable homicides committed in Dade County in 1980 (compiled from Wilbanks 1984, pp. 190-374). The Field poll addressed only handgun use and indicated locations of gun uses, while the medical data covered all gun types but did not usually indicate the location of homicides. Nevertheless, the results are compatible concerning the crimes with which defensive gun uses are associated.

The California survey data indicate that 62% of uses are connected to assault or rape. The medical examiner data indicate a figure of 65% for these offenses, while also showing that nearly all of these uses are connected to assault other than rape. "Theft at home" in the California survey apparently included burglary, and the justifiable homicide data suggest that burglary accounts for most of the cases in this category. "Theft elsewhere" in the California survey would include retail store robberies, and the robbery category among justifiable homicides may consist largely of uses linked to such crimes. This interpretation is supported by information on the locations of civilian justifiable homicides in California in 1982, 86% of which involved guns. Police records showed that 32% occurred in the killer's residence, 23% in a business location (especially in robbery-prone businesses such as liquor stores and bars), 14% on the street or sidewalk, and 30% elsewhere (California 1983, p. 67). This set of California homicides excluded pure self-defense homicides (i.e., killings not involving any other felonies besides an assault on the defender) and thus is not strictly comparable with the Dade County defensive homicides, most of which were pure self-defense killings. This at least partially accounts for the smaller share of California homicides occurring in the home, since it means that cases such as those involving women defending themselves against abusive husbands or boyfriends would ordinarily be excluded. Therefore the California data do not undercut the conclusion that most defensive gun uses occur in the home and involve defense against assaults. Home defenses against burglars and retail store defenses against robbers each accounts for substantial minorities of the uses.

Deterrence

Gun Deterrable Crimes

To deter a crime means to cause a criminal to refrain from even attempting the crime, due to fear of some negative consequence. If there is

a deterrent effect of defensive gun ownership and use, it should be facilitated by a criminal being able to realistically anticipate a potential victim using a gun to disrupt the crime. The types of crimes most likely to be influenced by this possibility are crimes occurring in homes—where victims are most likely to have access to a gun—and in the kinds of business establishments where proprietors keep guns. In line with the preceding information about where defensive uses commonly occur, crimes such as assault in the home, residential burglary, and retail store robbery would seem to be the most likely candidates to be deterred. About one in eight residential burglaries occurs while a household member is present (U.S. Bureau of Justice Statistics 1985a, p. 4), and, by definition, all robberies, rapes, assaults, and homicides involve direct contact between a victim and an offender. To be sure, in many of these incidents the offender has the initiative, often taking the victim by surprise, and the situations often develop too quickly for victims to get to their guns. On the other hand, the most common single location for violent crimes, especially homicides and assaults between intimates, is in or near the home of the victim or the home of both victim and offender, where access to a gun would be easier (U.S. Bureau of Justice Statistics 1980, p. 22; Curtis 1974, p. 176).

Strategic attributes of some crime types make them better-than-average candidates for disruption by armed victims. For example, violent acts between intimates are typically part of a persistent, ongoing pattern of violence (Wilt et al. 1977). Prospective victims of such violence may not ordinarily be able to predict the exact time of the next violent episode, but they often are able to recognize the usual precursors of repetitive violence. Wives and girlfriends of violent men, for example, may understand well the significance of their husband or boyfriend getting drunk and verbally abusive (Gillespie 1989). This implies a distinct tactical difference between violence among intimates and other crimes. Victims of intimate violence can take advantage of behavioral cues that serve as advance warning signs and can ready themselves accordingly. In the most threatening situations, advance preparations could include securing a weapon.

Plausibility of Deterrent Effects

Demonstrating deterrent effects of criminal justice system punishment has proven difficult (e.g., Blumstein et al. 1978) and the same must certainly be true for the private use of force, which is even less well measured than the risk-generating activities of the criminal justice sys-

tem. Therefore, the following evidence should be regarded only as suggestive.

Results from deterrence research have been highly mixed and often negative. Why should one expect deterrence from the armed citizenry when the legal system appears to have so little impact? The deterrence doctrine states that punishment deters more as its certainty, severity, and celerity (promptness) increase (Gibbs 1975). One obvious difference between the risk for the criminal from criminal justice activity and that from civilian gun use is that the maximum potential severity of citizen self help is far greater than legal system responses to crime. The maximum legal penalty a burglar, robber, or even a murderer is likely to face is a few years in prison: only 20 persons were legally executed, all for murders, between mid-1967 and mid-1984 (U.S. Bureau of Justice Statistics 1984b). In contrast, thousands of criminals are killed by gun-wielding private citizens every year.

The frequency of defensive gun uses roughly equals the total number of U.S. arrests for violent crime and burglary, which numbered about 988,000 in 1980 (U.S. FBI 1981, p. 190). Being threatened or shot at by a gun-wielding victim is about as probable as arrest and substantially more probable than conviction or incarceration. This is not surprising since there are only about 600,000 police officers in the United States, fewer than a quarter of whom are on duty at any one time (U.S. Bureau of the Census 1982, p. 184). There are, on the other hand, tens of millions of civilians who have immediate access to firearms and are well motivated to disrupt crimes directed at themselves, their families, or their property.

Finally, victims who use guns defensively almost always do so within minutes of the attempted crime. In contrast, when an arrest occurs, it can follow the crime by days or even weeks. At the very soonest, it comes after the several minutes it takes a patrol car to respond to a citizen's call. In any case, the average swiftness of even arrest is much lower than for victim gun use, whereas the celerity of conviction and punishment is lower still. If the possibility of deterrence due to CJS activities is taken seriously, then so should the possibility of deterrence due to private gun ownership and defensive use.

Evidence from Surveys of Criminals

There is direct, albeit not conclusive, evidence on the deterrent effects of victim gun use from surveys of imprisoned criminals. Wright and Rossi (1986) interviewed 1874 felons in prisons in 10 states and asked

about their encounters with armed victims and their attitudes toward the risks of such encounters. Among felons who reported ever committing a violent crime or a burglary, 42% said they had run into a victim who was armed with a gun, 38% reported they had been scared off, shot at, wounded, or captured by an armed victim (these were combined in the original survey question), and 43% said they had at some time in their lives decided not to commit a crime because they knew or believed the victim was carrying a gun (my tabulations from ICPSR 1986).

Concerning the felons' attitudes toward armed victims, 56% agreed with the statement that "most criminals are more worried about meeting an armed victim than they are about running into the police, 58% agreed that "a store owner who is known to keep a gun on the premises is not going to get robbed very often," and 52% agreed that "a criminal is not going to mess around with a victim he knows is armed with a gun." Only 27% agreed that committing a crime against an armed victim is an exciting challenge" (my tabulations from ICPSR 1986). Further, 45% of those who had encountered an armed victim reported that they thought regularly or often about the possibility of getting shot by their victims. Even among those without such an encounter the figure was 28% (Wright and Rossi 1986, p. 149). These results agree with earlier findings from less sophisticated surveys of prisoners (Firman 1975; Link 1982).

Many objections to prison survey research on deterrence concern flaws whose correction would tend to strengthen conclusions that there are deterrent effects. For example, Zimring and Hawkins (1973, pp. 31-32) discussed the "Warden's Survey fallacy" whereby prison wardens concluded that the death penalty could not deter murder since all the killers on death row to whom they spoke said the penalty had not deterred them. Clearly, prisoners are biased samples of criminals and prospective criminals, since their presence in prison itself indicates that deterrence was not completely effective with them. In view of this bias, prison survey results supporting a deterrence hypothesis are all the more impressive. Such doubts about the validity of prisoners' responses to surveys are discussed throughout the Wright and Rossi book (1986, but especially pp. 32-38). Being "scared off by a victim" is not the sort of thing a violent criminal is likely to want to admit, especially in prison, where maintaining a fearless image can be essential to survival. Therefore, incidents of this nature may well have been underreported. Even more significantly, the most deterrable prospective criminals and those deterred from crime altogether will not be included in prison samples. These results, therefore, may reflect a minimal baseline picture of the deterrent potential of victim gun use.

Quasiexperimental Evidence

Increases in actual gun ownership are ordinarily fairly gradual, making interrupted time series analyses of such increases inappropriate. However, highly publicized programs to train citizens in gun use amount to "gun awareness" programs that could conceivably produce sharp changes in prospective criminals' awareness of gun ownership among potential victims. The impact of these programs can be assessed because they have specific times of onset and specific spans of operation that make it easier to say when they might be most likely to affect crime.

From October 1966 to March 1967 the Orlando Police Department trained more than 2500 women to use guns (Krug 1968). Organized in response to demands from citizens worried about a sharp increase in rape, this was an unusually large and highly publicized program. It received several front page stories in the local daily newspaper, the *Orlando Sentinel*, a co-sponsor of the program. An interrupted time series analysis of Orlando crime trends showed that the rape rate decreased by 88% in 1967, compared to 1966, a decrease far larger than in any previous 1-year period. The rape rate remained constant in the rest of Florida and in the United States. Interestingly, the only other crime to show a substantial drop was burglary. Thus, the crime targeted decreased, and the offense most likely to occur where victims have access to guns, burglary, also decreased (Kleck and Bordua 1983, pp. 282-8).

Green (1987, p. 75) interpreted the results of the Orlando study as indicating a partial "spillover" or displacement of rape from the city to nearby areas, i.e., a mixture of absolute deterrence of some rapes and a shift in location of others. Unfortunately, the possibility of displacement can never be eliminated when considering any location-specific crime control effort, be it a local job training program, an increase in police manpower or patrol frequency, or a gun training program.

Green also suggested that the apparent rape decrease might have been due to allegedly irregular crime recording practices of the Orlando city police department, without, however, presenting any evidence of police reporting changes over this period, beyond the sharp changes in the rape rates themselves.

A much smaller training program was conducted with only 138 people from September through November 1967 by the Kansas City (Missouri) police, in response to retail businessmen's concerns about store robberies (U.S. Small Business Administration 1969, pp. 253-6). The city had a population of 507,000 (U.S. Bureau of the Census 1982, p. 23), so the participation rate was less than 1/90 of that achieved in Orlando. Nevertheless, results from the Kansas City program are con-

sistent with the hypothesis that the program caused crime levels to be lower than they otherwise would have been. Table 4.6 displays crime trends in Kansas City and its metropolitan area, as well as robbery trends in the rest of Missouri, the region of which Kansas City is a part, and in the United States. Whereas the frequency of robbery increased sharply from 1967 to 1968 by 35% in the rest of Missouri, 20% in the region, and 30% in the United States, it essentially levelled off in Kansas City and declined by 13% in surrounding areas, even though robberies had been increasing in the 5 years prior to the training program and continued to increase again in 1968. Thus, the upward trend showed a distinct interruption in the year immediately following the program. This cannot be attributed to some general improvement in conditions generating robbery rates elsewhere in the nation, since robbery rates were increasing elsewhere. Nor can it be attributed to improvements in conditions producing violent crime in general in Kansas City, since robbery was the only violent crime to level off—a pattern not generally evident elsewhere. Something occurred in the Kansas City area in the 1967-1968 period that caused an upward trend in robberies to level off, something that was not occurring in other places and that was specifically related to robbery. Interestingly, Kansas City also experienced a leveling off in its sharply upward trend in burglary, suggesting a possible "by-product" deterrent effect such as that suggested by the Orlando data.

These two gun training episodes are not unique. They resemble instances of crime drops following gun training programs elsewhere, including decreases in grocery robberies in Detroit after a grocer's organization began gun clinics, and decreases in retail store robberies in Highland Park, Michigan, attributed to "gun-toting merchants" (Krug 1968, p. H571).

Awareness of the risks of confronting an armed victim may also be increased by highly publicized instances of defensive gun use. After Bernhard Goetz used a handgun to wound four robbers on a New York City subway train on December 22, 1984, subway robberies decreased by 43% in the next week, compared to the 2 weeks prior to the incident and decreased in the following 2 months by 19% compared to the same period in the previous year, even though nonrobbery subway crime increased and subway robberies had been increasing prior to the shootings (*Tallahassee Democrat* 1985; *New York Times* 1985a,b). However, because New York City transit police also increased manpower on the subway trains immediately after the shootings, any impact uniquely attributable to the Goetz gun use was confounded with potential effects of the manpower increase.

Finally, the hypothesis of deterrent effects of civilian gun ownership is supported by the experience of Kennesaw, Georgia, a suburb of Atlanta with a 1980 population of 5095 (U.S. Bureau of the Census 1983c, p. 832). As a way of demonstrating their disapproval of a ban on handgun ownership passed in Morton Grove, Illinois, the Kennesaw city council passed a city ordinance requiring heads of household to keep at least one firearm in their homes. Only a token fine of \$50 was provided as a penalty, citizens could exempt themselves simply by stating that they conscientiously objected to gun possession, and there was no active attempt to enforce the law by inspecting homes. It is doubtful that the law substantially increased household gun ownership; the mayor of Kennesaw guessed that "about 85% of Kennesaw households already possessed firearms before the ordinance was passed" (Schneidman 1982). Nevertheless, in the 7 months immediately following passage of the ordinance (March 15, 1982 to October 31, 1982), there were only five residential burglaries reported to police, compared to 45 in the same period in the previous year, an 89% decrease (Benenson 1982). This drop was far in excess of the modest 10.4% decrease in the burglary rate experienced by Georgia as a whole from 1981 to 1982, the 6.8% decrease for South Atlantic states, the 9.6% decrease for the nation, and the 7.1% decrease for cities under 10,000 population (U.S. FBI 1983, pp. 45-7, 143).

This decrease, however, is not conclusive evidence of a deterrent effect, since small towns have small numbers of crimes and trends can be very erratic. It is not clear that any deterrent effect, no matter how large, would be detectable in an area with monthly crime trends as erratic as those found in small towns. For example, an ARIMA analysis of monthly burglary data found no evidence of a statistically significant drop in burglary in Kennesaw (McDowall et al. 1989). This study, however, was both flawed and largely irrelevant to the deterrence hypothesis. The Kennesaw ordinance pertained solely to household gun ownership, and thus its deterrent effects, if any, would be evident with *residential* burglaries. This study blurred any such effects by using a data source that lumped all burglaries together (see their footnote 1). The difference between the two numbers apparently can be very large—the authors report 32 total burglaries for 1985, whereas a *New York Times* article, which the authors cited, reported only 11 "house burglaries" for that year (Schmidt 1987). The authors also used raw numbers of burglaries rather than rates. Kennesaw experienced a 70% increase in population from 1980 to 1987. Burglary increases due to sheer city growth would obscure any crime-reducing effects of the

ordinance. The effects of these two errors can be very large, as indicated below:

Raw Number or Rate?	Total Burglaries or Just Residential	% Change	
		1981-82	1981-86
Raw	Total	-35	-41
Rate ^a	Total	-40	-56
Raw	Residential ^b	-53	-80
Rate ^a	Residential ^b	-57	-85

^a Based on linear interpolation of 1980 and 1987 population figures reported in Schmidt (1987).

^b Based on counts of "house burglaries" reported in Schmidt (1987).

Thus the authors' methods apparently obscured much of the decrease in the residential burglary rate. Also, their use of total burglary data ignores the implications of an extended discussion in Kleck (1988, pp. 15-16, immediately following the Kennesaw discussion cited by the authors), in which it was argued that a major effect of residential gun ownership may be to displace burglars from occupied homes to less dangerous targets (see also next section). As nonresidential targets (especially stores and other businesses left unoccupied at night) would fit into the latter category, one would expect a displacement from residential burglaries to nonresidential burglaries, as well as a shift from occupied residences to unoccupied ones. Thus, the hypothesized deterrent effect on occupied residential burglary could easily occur with no impact at all on total burglaries. Consequently, the exercise by McDowall and his colleagues has no clear relevance to the hypothesis stated in Kleck (1988).

Even as a test of the impact on total burglary, this study was affected by two other related flaws. The authors specified an intervention model that assumed an abrupt and *permanent* change in crime. However, a deterrence model stresses the critical importance of increases in offenders' perceptions of risk. Any such subjective shift is almost certainly temporary, fading along with memories of the passage of the ordinance. A temporary-change model would be theoretically preferable, regardless of issues of fit to the data. The authors report that a model assuming a temporary effect did not fit the data as well as the one they preferred, but that may be due to a related problem. Although the intervention occurred in March of 1982, the authors extended their times series all the

way to the end of 1986. Although more time points are desirable from a narrow statistical viewpoint, a longer postintervention period will also tend to obscure any effects that were temporary and followed by rising crime rates. This suspicion is supported by the authors' footnote 3 and Figure 1, which indicate that, beginning about 3 years after the intervention, total burglaries increased substantially (probably at least partly due to the large population increases and related changes). When the authors excluded 1986 time points, the parameter measuring impact of the intervention reversed sign, going from small positive to small negative. This raises the possibility that if the time series had been limited just to time points closer to the intervention (say, within 3 years), this alteration alone might have made the impact parameter negative and significant, supporting the deterrence thesis.

It needs to be stressed that the results of the natural quasiexperiments are not cited for the narrow purpose of demonstrating the short-term deterrent effects of gun training programs or victim gun use. There is no reason to believe that citizens used the training in any significant number of real-life defensive situations, nor any solid evidence that gun ownership increased in the affected areas. Rather, the results are cited to support the argument that routine gun ownership and defensive use by civilians may have a pervasive, *ongoing* impact on crime, with or without such programs or incidents. This impact is intensified and made more salient at times when criminals' awareness of potential victims' gun possession is dramatically increased, thereby offering an opportunity to detect an effect that is ordinarily invisible. A few diverse examples of how this awareness might come to be increased have been described. Other examples would be general stories in the news media about gun ownership, increases in gun sales, and so on.

Guns and the Displacement of Burglars from Occupied Homes

Residential burglars devote considerable thought, time, and effort to locating homes that are unoccupied. In interviews with burglars in a Pennsylvania prison, Rengert and Wasilchick (1985) found that nearly all the 2 hours spent on the average suburban burglary was devoted to locating an appropriate target, casing the house, and making sure no one was home. There are at least two reasons why burglars make this considerable investment of time and effort: to avoid arrest and to avoid getting shot. Several burglars in this study reported that they avoided late night burglaries because it was too difficult to tell if anyone was

home, explaining "That's the way to get shot" (Rengert and Wasilchick 1985, p. 30). Burglars also stated that they avoided neighborhoods occupied largely by persons of a different race because "You'll get shot if you're caught there" (p. 62). Giving weight to these opinions, one of the 31 burglars admitted to having been shot on the job (p. 98). In the Wright-Rossi survey, 73% of felons who had committed a burglary or violent crime agreed that "one reason burglars avoid houses when people are at home is that they fear being shot" (unpublished tabulations from ICPSR 1986).

The nonconfrontational nature of most burglaries is a major reason why associated deaths and injuries are so rare—an absent victim cannot be injured. Don Kates (1983a, p. 269) argued that victim gun ownership is a major reason for the nonconfrontational nature of burglary and is therefore to be credited with reducing deaths and injuries by its deterrent effects. This possible benefit is enjoyed by all potential burglary victims, not just those who own guns, because burglars seeking to avoid confrontations usually cannot know exactly which homes have guns, and therefore must attempt to avoid all occupied premises.

Under hypothetical no-guns circumstances, the worst a burglar would ordinarily have to fear would be breaking off a burglary attempt if faced with an occupant who called the police. A typical strong, young burglar would have little reason to fear attack or apprehension by unarmed victims, especially if the victim confronted was a woman or an elderly person. Further, there would be positive advantages to burglary of occupied premises since this would give the burglar a much better chance to get the cash in victims' purses or wallets.

To be sure, even under no-guns conditions, many burglars would continue to avoid occupied residences simply because contact with a victim would increase their chances of apprehension by the police. Others may have chosen to do burglaries rather than robberies because they were emotionally unable or unwilling to confront their victims and thus would avoid occupied premises for this reason. However, this does not seem to be true of most incarcerated burglars. Prison surveys indicate that few criminals specialize in one crime type, and most imprisoned burglars report having also committed robberies. In the Wright and Rossi survey, of those who reported ever committing a burglary, 62% also reported committing robberies (my secondary analysis of ICPSR 1986). Thus, most of these burglars were temperamentally capable of confronting victims, even though they presumably preferred to avoid them when committing a burglary.

Results from victim surveys in three foreign nations indicate that in

7-28

countries with lower rates of gun ownership than the United States, residential burglars are much more likely to enter occupied homes. A 1977 survey in the Netherlands found an occupancy rate of 48% for all burglaries, compared to 9% in the United States the previous year (Block 1984, p. 26). In the 1982 British Crime Survey, 59% of attempted burglaries and 26% of completed burglaries were committed with someone at home (Mayhew 1987). And Waller and Okihiro (1978, p. 31) reported that 44% of burglarized Toronto residences were occupied during the burglaries, with 21% of the burglaries resulting in confrontations between victim and offender. The differences between the United States and Great Britain and Canada cannot be explained by more serious legal threats in this country, since the probability of arrest and imprisonment and the severity of sentences served for common crimes are at least as high in the latter nations as in the United States (Wilson 1976, pp. 18-19; U.S. Bureau of Justice Statistics 1987b).

If widespread civilian gun ownership helps deter burglars from entering occupied premises, what might this imply regarding the level of burglary-linked violence? NCS data indicate that when a residential burglary is committed with a household member present, it results in a threat or attack on the victim 30.2% of the time (U.S. Bureau of Justice Statistics 1985a, p. 4). Although only 12.7% of U.S. residential burglaries are against occupied homes, the occupancy rate in three low gun-ownership nations averaged about 45%. What would happen if U.S. burglars were equally likely to enter occupied premises? In 1985 the NCS counted 5,594,420 household burglaries, with about 214,568 resulting in assaults on a victim ($5,594,420 \times .127 \times .302$). Now assume a 45% occupancy rate and assume that 30.2% of the occupied premise burglaries resulted in assaults on a victim, the same as now. This would imply about 760,282 assaults on burglary victims, 545,713 more than now. This change alone would have represented a 9.4% increase in all NCS-counted violent crime in 1985. If high home gun ownership rates in the United States really do account for the difference in burglary occupancy rates between the United States and other nations, these figures indicate that burglary displacement effects of widespread gun ownership could have a significant impact on violence rates.

To briefly summarize, gun use by private citizens against violent criminals and burglars is common and about as frequent as legal actions like arrests, is a more prompt negative consequence of crime than legal punishment, and is more severe, at its most serious, than legal system punishments. On the other hand, only a small percentage of criminal victimizations transpire in a way that results in defensive gun use; guns

certainly are not usable in all crime situations. Victim gun use is associated with lower rates of assault or robbery victim injury and lower rates of robbery completion than any other defensive action or doing nothing to resist. Serious predatory criminals perceive a risk from victim gun use that is roughly comparable to that of criminal justice system actions, and this perception may influence their criminal behavior in socially desirable ways. Nevertheless, a deterrent effect of widespread gun ownership and defensive use has not been conclusively established, any more than it has been for activities of the legal system. Given the nature of deterrent effects, it may never be convincingly established.

The most parsimonious way of linking these previously unconnected and unknown or obscure facts is to tentatively conclude that civilian ownership and defensive use of guns deters violent crime and reduces burglar-linked injuries. Although one cannot precisely calculate the social control impact of gun use and ownership any more than one can for the operations of the legal system, the available evidence is compatible with the hypothesis that gun ownership may exert as much effect on violent crime and burglary as do CJS activities.

It should be stressed that even if the deterrent effects of civilian gun ownership and use are comparable to those due to the operations of the CJS, they are not necessarily huge. The impact of the legal system on crime rates does not appear to be very large (Walker 1989). Therefore, although there are clearly benefits to an armed citizenry, the possibility that its crime-reducing effects are as large as those of the CJS is not in itself necessarily very impressive.

Conclusions

Does the widespread use of guns for defensive purposes constitute vigilantism? Certainly there are some parallels. Vigilantism, in the true sense of collective private force used for social control purposes, flourished where legal controls were weakest, such as frontier areas. And research on today's world indicates that private citizen crime prevention activities in general are more common where police are less numerous (Krahn and Kennedy 1985). It is commonplace to draw an analogy between conditions in the Western U.S. of the nineteenth century and high crime neighborhoods in today's cities. The analogy is especially close regarding the limited effectiveness of urban law enforcement agencies in controlling crime. However, it is also true that contemporary private efforts to collectively control crime, such as neighborhood crime

watch organizations, are least effective and enduring in precisely those areas that most need them—disorganized high crime areas occupied largely by transient populations of socially isolated strangers (Greenberg et al. 1984). The social disorganization and lack of cultural consensus that encourage criminal behavior also hinder any kind of effective collective action to control crime. Under the anomic conditions characterizing large U.S. cities, it is no more possible to form lynch mobs than it is for ghetto residents to maintain stable neighborhood watch or patrol organizations or for the police to control crime. Instead, more individualistic efforts, whether violent or not, prevail. The late twentieth century substitute for vigilantism is individualistic resistance to criminals by those directly victimized.

It is a tragic fact of life that economic injustice, a history of racism, and other factors have created dangerous conditions in many places in America. Police cannot realistically be expected to provide personal protection for every American, and indeed are not even legally obliged to do so (Kates 1990). Although gun ownership is no more an all-situations, magical source of protection than the police, it can be a useful source of safety in addition to police protection, burglary alarms, guard dogs, and all the other resources people exploit to improve their security. These sources are not substitutes for one another. Rather, they are complements, each useful in different situations. Possession of a gun gives its owner an additional option for dealing with danger. If other sources of security are adequate, the gun does not have to be used; but where other sources fail, it can preserve bodily safety and property in at least some situations.

One can dream of a day when governments can eliminate violence and provide total protection to all citizens. In reality, the American legal system has never even approximated this state of affairs, and is unlikely to do so in the foreseeable future. The "fiscal crisis of the state" limits the resources available for public services such as criminal justice (O'Connor 1973) and democratic values continue to slow the advance of totalitarian state alternatives to private social control. If predatory crime can be reduced, hopefully without sacrificing democratic values, the private resort to violence for social control should decline. In the meanwhile, the widespread legal use of guns against criminals will persist as long as Americans believe crime is a serious threat and that they cannot rely completely on the police as effective guardians. Until then, scholars interested in gun control, crime deterrence, victimology, the routine activities approach to crime, and in social control in general need to consider more carefully the significance of millions of potential crime victims armed with deadly weapons.

Implications for Crime Control Policy

Much of social order in America may depend on the fact that millions of people are armed and dangerous to each other. The availability of deadly weapons to the violence-prone may well contribute to violence by increasing the probability of a fatal outcome of combat (but see Chapter 5 and Wright et al. 1983, pp. 189–212). However, it may also be that this very fact raises the stakes in disputes to the point where only the most incensed or intoxicated disputants resort to physical conflict, with the risks of armed retaliation deterring attack and coercing minimal courtesy among otherwise hostile parties. Likewise, rates of commercial robbery, residential burglary injury, and rape might be still higher than their already high levels were it not for the dangerousness of the prospective victim population. Gun ownership among prospective victims may well have as large a crime-inhibiting effect as the crime-generating effects of gun possession among prospective criminals. This could account for the failure of researchers to find a significant net relationship between rates of crime such as homicide and robbery, and measures of gun ownership that do not distinguish between gun availability among criminals and availability in the largely noncriminal general public (e.g., Cook 1979; Kleck 1984a)—the two effects may roughly cancel each other out (see also Bordua 1986).

Guns are potentially lethal weapons whether wielded by criminals or victims. They are frightening and intimidating to those they are pointed at, whether these be predators or the preyed upon. Guns thereby empower both those who would use them to victimize and those who would use them to prevent their victimization. Consequently, they are a source of both social order and disorder, depending on who uses them, just as is true of the use of force in general. The failure to fully acknowledge this reality can lead to grave errors in devising public policy to minimize violence through gun control.

Some gun laws are intended to reduce gun possession only among relatively limited "high-risk" groups such as convicted felons, through such measures as laws licensing gun owners or requiring permits to purchase guns. However, other laws are aimed at reducing gun possession in all segments of the civilian population, both criminal and non-criminal. Examples would be the aforementioned Morton Grove handgun possession ban, near approximations of such bans (as in New York City), prohibitions of handgun sales (such as that in Chicago), and restrictive variants of laws regulating the carrying of concealed weapons. By definition, laws are most likely to be obeyed by the law-abiding, and gun laws are no different. Therefore, measures applying equally to crim-

inals and noncriminals are almost certain to reduce gun possession more among the latter than the former. Because very little serious violent crime is committed by persons without previous records of serious violence (Chapter 5), there are at best only modest direct crime control benefits to be gained by reductions in gun possession among non-criminals, although even marginal reductions in gun possession among criminals might have crime-inhibiting effects. Consequently, one has to take seriously the possibility that "across-the-board" gun control measures could decrease the crime-control effects of noncriminal gun ownership more than they would decrease the crime-causing effects of criminal gun ownership. For this reason, more narrowly targeted gun control measures such as gun owner licensing and permit-to-purchase systems seem preferable.

People skeptical about the value of gun control sometimes argue that although a world in which there were no guns would be desirable, it is also unachievable. The evidence presented in this chapter raises a more radical possibility—that a world in which no one had guns would actually be *less* safe than one in which nonaggressors had guns and aggressors somehow did not. As a practical matter, the latter world is no more achievable than the former, but the point is worth raising as a way of clarifying what the goals of rational gun control policy should be. If gun possession among prospective victims tends to reduce violence, then reducing such gun possession is not, in and of itself, a social good. Instead, the best policy goal to pursue may be to shift the distribution of gun possession as far as practical in the direction of likely aggressors being disarmed and likely nonaggressors being armed. To disarm non-criminals in the hope this might indirectly help reduce access to guns among criminals is not a cost-free policy.

These categories are, of course, simplifications—some people are both serious aggressors and victims of serious aggression, and most people are at least occasionally aggressors in some very minor way. However, although it is clear these two groups overlap to some extent, it is equally clear that they can and are routinely distinguished in law, e.g., in statutes that forbid gun possession among persons with a criminal conviction and allow it among others. Further, although a great deal of violence is committed by persons without criminal convictions, it is also true that convicted felons are far more likely to be violent aggressors in the future than nonfelons. The idea that a significant share of serious violence is accounted for by previously nonviolent "average Joes," as in the "crime-of-passion" domestic homicide, is largely a myth (Kleck and Bordua 1983).

Consequently, a rational goal of gun control policy could be to tip the balance of power further in prospective victims' favor, by reducing aggressor gun possession while doing little or nothing to reduce nonaggressor gun possession. This would contrast sharply with across-the-board restrictions that apply uniformly to aggressors and nonaggressors alike. In view of this chapter's evidence, this sort of "blunderbuss" policy would facilitate victimization because legal restrictions would almost certainly be evaded more by aggressors than nonaggressors, causing a shift in gun distribution that favored the former over the latter. The general public already seems to be aware of these issues. In an April 1989 CBS News/*New York Times* national survey, 67% of U.S. adults answered "Yes" to the question "Do you think prohibiting the public from having guns would give criminals an added advantage?" (DIALOG 1990).

The following remarks, although over two centuries old, are still pertinent to consideration of across-the-board gun controls. They were written by Cesare Beccaria:

False is the idea of utility that sacrifices a thousand real advantages for one imaginary or trifling inconvenience; that would take fire from men because it burns, and water because one may drown in it; that has no remedy for evils, except destruction. The laws that forbid the carrying of arms are of such a nature. They disarm those only 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. (1963 [1764], pp. 87–8)

Table 4.1. Percent of the Adult Population That Has Used Guns for Protection

Survey:	Field	Cambridge Reports	DMLa	DMLb	Hart	Ohio	Time/CNN	Mauser
Area	California	U.S.	U.S.	U.S.	U.S.	Ohio	U.S.	U.S.
Year of interviews	1976	1978	1978	1978	1981	1982	1989	1990
Population covered	Noninstitutionalized adults	Noninstitutionalized adults	Registered voters	Registered voters	Registered voters	"Residents"	"Firearm owners"	Residents
Gun type covered	Handguns	Handguns	All guns	All guns	Handguns	Handguns	All guns	All guns
Time span of use	Ever/1,2 years	Ever	Ever	Ever	5 years	Ever	Ever	5 years
Distinguished uses against persons?	No	No	No	Yes	Yes	No	No	Yes
Excluded military, police uses?	Yes	No	Yes	Yes	Yes	No	Yes	Yes
"Self-defense" or "protection"?	Protection	Protection or self-defense	Protection	Protection	Protection	Self-defense	Self-protection	Protection
Defensive question asked of:	All Rs	Protection handgun owners	All Rs	All Rs	All Rs	Handgun owners	Gun owners	All Rs
Defensive question referred to:	Respondent	Respondent	Household	Household	Household	Respondent	Respondent	Household
Used gun (%)	8.6 ^a	3	15	12/7 ^b	4 ^c	6.5	n.a.	3.8
Fired gun (%)	2.9	2	6	n.a.	n.a.	2.6	9-16 ^d	n.a.

^a 8.6% ever, 3% in past 2 years, 1.4% in past year.

^b Defensive uses against persons or animals, 12%. Use against persons only, 7%.

^c Refers to respondent or any member of household.

^d 9% used for self-protection, 7% used "to scare someone." Some of the latter could be nonoverlapping defensive uses.

Sources: Field Institute (1976), Cambridge Reports (1978), DMI (1979), Garin (1986), Ohio (1982), Quinley (1990), and Mauser (1990).

Table 4.2. Civilian Legal Defensive Homicides in Six Local Studies^a

Row	Bensing and Schroeder (1960) Cuyahoga County (Cleveland) 1947-1953	Wolfgang (1958) Philadelphia 1948-1952	Rushforth, et al. (1977) Cuyahoga County (Cleveland) 1958-1974	Lundsgaarde (1977) Houston 1969	Dietz (1983) Detroit 1980	Wilbanks (1984) Dade County (Miami) 1980
Total sample homicides	(1) 662	625	3371	~312	583	569
Criminal homicides	(2) 505	588	?	282	493	478
Murders, nonnegligent manslaughter	(3) 505	Est. 502 ^b	?	281	487	478
Estimated unintentional excusable homicides	(4) ?	23	?	Up to 12	~4	5
Involuntary/negligent manslaughter	(5) ?	Est. 86 ^b	?	1	6	0
Justifiable police homicides	(6) 35	14	~110	10	13	14
Estimated intentional civilian homicides	(7) 627	502	~3261	~289	560	550
Justifiable civilian homicides (CJH)	(8) 122	8	~329	19	16	72
CJH reported on SHRs	(9) n.a.	n.a.	n.a.	n.a.	12	24
Other civilian legal defensive homicides	(10) 0	n.a.	?	At least 1	57	0
Total civilian legal defensive homicides (CLDH)	(11) 122	8	~329	At least 20	73	72
Ratio, (11)/(7)	(12) .195	.016	.101	At least .069	.130	.131
Ratio, (11)/(1)	(13) .184	.013	.098	At least .064	.125	.127
Ratio, (11)/(3)	(14) .242	.024	?	At least .071	.150	.151

^a (7) = (1) - (4) - (5) - (6) and (11) = (8) + (10). Homicides were classified according to their final legal classifications as reported in the study, whether police, coroner, or court-determined. See Appendix 5 for explanation of different types of homicides.

^b 14.7% of criminal homicide offenders prosecuted were charged with involuntary manslaughter. $.147 \times 588 = 86$. $588 - 86 = 502$.

Sources: Bensing and Schroeder (1960, pp. 5, 59, 80), Wolfgang (1958, pp. 24, 228, 301, 303), Rushforth et al. (1977, pp. 531-533), Lundsgaarde (1977, pp. 68-69, 162, 219, 236, 237), Dietz (1983, pp. 203), and Wilbanks (1984, pp. 29-30, 57, 70-72, 154).

7-32

Table 4.3. Estimated U.S. Totals, Police and Civilian Legal Defensive Homicides (LDHs), 1980^a

Homicide Type	Justifiable Homicides Reported to FBI/SHR	Estimated Total LDHs	
		Estimation Method I	Estimation Method II
Police, gun	368	303	606
Police, nongun	14	8	16
Police, total	382	311	622
Civilian, gun	379	2819	1527
Civilian, nongun	44	327	177
Civilian, total	423	3146	1704

^a SHR, Supplementary Homicide Reports. Estimation methods—see text.

Sources: Analysis of 1980 U.S. Supplementary Homicide Reports computer tape; U.S. NCHS (1983, pp. 35-6).

Table 4.4. Attack, Injury, and Crime Completion Rates in Robbery and Assault Incidents, by Self-Protection Method, U.S., 1979-1985^a

Method of Self-Protection	Robbery				Assault			
	(1) Percent Completed	(2) Percent Attacked	(3) Percent Injured	(4) ^b Number Times Used	(5) Percent Attacked	(6) Percent Injured	(7) ^b Estimated Number Times Used	
Used gun	30.9	25.2	17.4	89,009	23.2	12.1	386,083	
Used knife	35.2	55.6	40.3	59,813	46.4	29.5	123,062	
Used other weapon	28.9	41.5	22.0	104,700	41.4	25.1	454,570	
Used physical force	50.1	75.6	50.8	1,653,880	82.8	52.1	6,638,823	
Tried to get help or frighten offender	63.9	73.5	48.9	1,516,141	55.2	40.1	4,383,117	
Threatened or reasoned with offender	53.7	48.1	30.7	955,398	40.0	24.7	5,743,008	
Nonviolent resistance, including evasion	50.8	54.7	34.9	1,539,895	40.0	25.5	8,935,738	
Other measures	48.5	47.3	26.5	284,423	36.1	20.7	1,451,103	
Any self-protection	52.1	60.8	38.2	4,603,671	49.5	30.7	21,801,957	
No self-protection	88.5	41.5	24.7	2,686,960	39.9	27.3	6,154,763	
Total	65.4	53.7	33.2	7,290,631	47.3	29.9	27,956,719	

^a See U.S. Bureau of Justice Statistics (1982) for exact question wordings, definitions, and other details of the surveys.

^b Separate frequencies in columns (4) and (7) do not add to totals in "Any self-protection" row since a single crime incident can involve more than one self-protection method.

Source: Analysis of incident files of 1979-1985 National Crime Survey public use computer tapes (ICFISR, 1987). Series incidents and those occurring outside the U.S. were excluded.

Table 4.5. Crimes Associated with Defensive Uses of Guns

1976 Survey of Californians (Handgun Uses Only)			1980 Dade County (Miami) Civilian Justifiable Homicides		
Crime	Frequency	%	Crime	Frequency	%
Assault or rape at home	40	41	Assault	46	64
Assault elsewhere	20	21	Rape	1	1
Theft at home	19	20	Burglary	6	8
Theft elsewhere	11	11	Robbery	19	26
All other reasons for use	7	7			
Total	97	100	Total	72	100

Sources: California survey—Field Institute (1976); Dade County justifiable homicides—compiled from short narrative descriptions in Wilbanks (1984, pp. 190-374).

Table 4.6. Crime Trends in Kansas City and Comparison Areas, 1961-1974

Year	Kansas City, Missouri						K.C. SMSA, excluding K.C.						Robbery West	
	Agg.		Auto		Auto		K.C.		Missouri,		Robbery		U.S.	
	Robbery	MNNM	Robbery	Burg.	Auto Theft	Burg.	Robbery	Assault	Rape	Burg.	Auto Theft	excl. S.M.S.A.	North Central	U.S.
1961	1169	49	1194	222	6020	1995	202	135	42	2430	622	2266	5702	106670
1962	1069	49	946	147	5337	2336	239	184	38	2680	840	2166	5597	110860
1963	1164	60	935	197	5600	2911	347	234	47	2937	958	2277	6241	116470
1964	1180	48	1126	205	6484	2701	270	745	83	3416	1109	2505	6594	130390
1965	1212	71	1180	209	7219	3054	261	770	100	4234	1148	2722	6938	138690
1966	1374	59	1315	205	7495	3689	432	674	124	4917	1414	2763	8022	157990
1967	2120	62	1711	231	9455	4835	644	760	93	6612	1925	3241	10624	202910
1968	2171	92	1995	307	10020	4929	563	874	170	6219	2319	4374	12724	262840
1969	2679	105	1921	375	12269	6926	559	879	174	6733	2810	5245	14272	298850
1970	2982	120	1805	401	11265	5570	712	1102	183	7554	2815	5699	16279	349860
1971	2473	103	1961	371	11550	5408	641	1389	173	8104	2666	5419	14582	387700
1972	2092	71	1960	344	9472	3921	742	1295	200	8391	2607	5513	14928	376290
1973	2333	81	2433	302	10394	3884	715	1288	185	10073	2554	6153	16571	384220
1974	3002	109	2575	363	13406	3719	1087	1856	201	12585	2761	6264	19894	442400
% change, 1967-68	2	48	25	33	6	2	-13	15	83	-6	20	35	20	30

Notes: Figures before 1961 for Kansas City are not comparable with later years (U.S. FBI, 1962:131). The Kansas City Metropolitan Police Department firearms training program sessions were held in September through November, 1967. MNNM = murders and nonnegligent manslaughter, SMSA = standard metropolitan statistical area.

Sources: Annual issues, Uniform Crime Reports (U.S. FBI, 1962-1975).

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ARMED AND CONSIDERED DANGEROUS
A Survey of Felons and Their Firearms

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CONTENTS

Preface	ix
Acknowledgments	xiii

1 THE CRIMINAL ACQUISITION AND USE OF FIREARMS

Introduction	1
Gun Crime as a Social Problem	2
Social Science Implications	5
Policymaking Considerations	7
An Overview of Prior Literature and Our Findings	8
Characteristics of the Prisoner Sample	12
A Typology of Criminal Gun Use	12
Firearms Ownership and Use	13
Growing Up with Guns	14
Why Do Criminals Carry Guns?	14
Armed Victims	15
What Felons Look For in Firearms	15
The Market for Criminals' Guns	16
"Gun Control" and Criminal Gun Use	18
Policy Implications	18

2 THE FELON SURVEY: METHODS, PROCEDURES, DESCRIPTIVE DATA

Research Goals	21
Survey Design and Method	23
Selection of Research Sites	23
Choosing Respondents within Prisons	26
Field Operations	27
Response Rates	28
Questionnaire Development and Disposition	28
Site Descriptions and Characteristics	29
Data Quality	32
Salient Sample Characteristics	38
Summary of Sample Characteristics	54

7

CONFRONTING THE ARMED VICTIM

Many private citizens claim to own guns for protection against crime, a finding that has been confirmed in a number of national surveys (see Wright, Rossi, and Daly, 1983: Ch. 7, for a review of relevant studies). Whether the people who own guns for such reasons are in fact any safer from crime is a matter of considerable and often rancorous dispute. Some believe that guns represent a potent and efficacious defense against crime; others believe that the "typical" American gun owner is less likely to capture a criminal in the act than to shoot himself in the foot (or perhaps, to shoot a loved one in a moment of rage).

Which of these is the correct view cannot be resolved, of course, through a survey of prisoners, and our point in this chapter, therefore, is not to come to some conclusions about whether people "should" or "should not" own guns to protect themselves from crime. What our data can tell us, however, is how often these prisoners had encountered armed victims and how they reacted to those encounters. About one-half of the prisoners claimed that defense against an armed victim was an important reason for acquiring and using guns (Chapter Six). Apparently, felons believe that armed victims are of sufficient concern to justify owning and using firearms. In addition, we asked the felons a number of direct questions about encountering an armed victim, findings from which are reported in this chapter. We cover two main topics: First, we consider evidence from the survey on whether an encounter with an armed victim is something about which felons worried in the course of committing crimes; and second, how frequently armed victims were encountered during the felons' criminal careers.

One piece of information that we do not provide (not having thought at the time to ask the appropriate questions) is just who the armed victims were that these men reported confronting. One potent and oft-exploited image of the armed victim is that of the hard-bitten, law-abiding home owner valiantly defending self and family from the incursions of the predatory criminal class. This, for example, is the image one obtains from "The Armed Citizen" column in the NRA's *American Rifleman*, where news accounts of these kinds of incidents are collected and printed. Such incidents doubtlessly occur, perhaps with considerable frequency. National survey data suggest that some 2-6% of all U.S. adults have at some time actually fired

a gun in their own self-defense (Wright, Rossi, and Daly, 1983: Ch 7); a 1981 survey by Peter Hart found that 9% of all handgun-owning households had used the handgun for defense in the previous five years.

On the other hand, one must also keep in mind in reviewing the materials presented in this chapter that felons often prey on others much like themselves, and that in many of these encounters, the issue of who is victim and who is perpetrator is decidedly ambiguous. An illustration: We report later that about one-third of our sample obtained its most recent handgun through direct theft by the felon himself. About 31% of these thefts were reported to have been thefts from the felons' own friends and family members, and another 30% were thefts from fences, drug dealers, and other black-market sources. Only about 29% of them involved thefts from the cars, homes, and apartments of total strangers.

That the predatory felons in this sample hung around with others who owned and carried guns has already been reported; that they tend to have preyed on the people they associated with (or others in their immediate environment) is suggested by the gun theft data just reviewed and is confirmed in detail by the many criminal victimization surveys (e.g., Hindelang, Gottfredson, and Garofab, 1978). Given these points, one has to expect that the rate at which these men confronted armed victims would be rather high, which, indeed, it is. To emphasize, many of the confrontations reported by these men (precise percentage unknown) would have involved their own friends and associates, that is, others of like background, circumstance, and (perhaps) felonious inclinations.¹

ARMED VICTIMS AS RISKS TO CRIMINALS

Generally speaking, a criminal poised at the edge of a decision to commit a crime faces a range of possible risks and benefits. The benefits consist

¹The point, that criminals tend to prey upon others much like themselves, is illustrated by some of the commonplace findings in criminological research. For example, it has been widely reported that most homicides and homicidal assaults involve persons who are known to one another prior to the event—family members, friends, acquaintances, and so on (see, e.g., Curtis, 1974; Zimring, 1968). Less than one-half of all household burglaries (where characteristics of the offender are known) are committed by strangers (Bureau of Justice Statistics, 1985); about one-half are committed by relatives and acquaintances of the victim. Concerning the crime of robbery, "most robbers . . . typically operate close to home," that is, in their own or adjacent neighborhoods (Cook, 1983: 19). A related finding pertinent to this discussion is that "there is a tendency for robbers to choose victims who are similar to themselves in terms of demographic characteristics" (Cook, 1982: 30). In most of the major categories of crime, in short, the odds are good that the victim is a relative, acquaintance, or reasonably nearby neighbor of the offender. The rate at which offenders would expect to encounter armed victims is therefore a function of the rate of gun owning and carrying among felons' relatives, acquaintances, and neighbors, which, as we have already noted, is apparently rather high.

of the potential economic or other gains, however conceived, from the contemplated crime; the costs include the possibility of being caught and imprisoned, of being shot at in the course of the crime, either by the police or by the victim, the likelihood of social disapproval, etc. Each cost (and each benefit) can be described in two parameters: (1) the value (positive or negative) of the anticipated outcome and (2) the probability that the outcome will be achieved. The expected benefit (or cost) of the behavior is the value of the outcome times its probability. In standard utility theory, one commits the act in question if and only if the expected benefits exceed the expected costs.

In principle, a crime-control measure based on utility theory operates on the decisions faced by potential criminals by changing the value of the expected costs of crime—either through affecting the probabilities of a cost being incurred by a criminal (e.g., by increasing the chances that one will be caught), or through changing the values associated with the outcome (e.g., by increasing the sentence meted out to those who are caught), or, of course, both. In theory, either of these should have equivalent effects, since a cost is to be reckoned as a simple multiplicative function of its associated probabilities and values.

Empirically, it has been shown (Anderson, Harris, and Miller, 1983) that a normal, noncriminal population is, in fact, more responsive to changes in the probabilities than to changes in the values, or in other words, that normal people are more sensitive to the certainty of punishment than to the severity of punishment. Whether this is also true of the "deterrence calculus" of a felon population has not been thoroughly studied.

Whether "The Armed Citizen" functions to deter, prevent, or thwart crime therefore appears to turn on two questions: First, what is the probability that a felon will encounter an armed victim in the course of his criminal affairs? Second, what are the potential costs of these encounters?

The probability of encountering a victim who possesses a firearm is by no means trivial, as it happens. National surveys conducted periodically since 1959 have routinely found that one-half the households in the United States possess at least one firearm (Wright, Rossi, and Daly, 1983: Ch. 5). All else equal, then, a burglar would expect to find at least one gun in every second home. This, of course, is not to say that one-half of all households are fully prepared to thwart a crime with a gun: The weapons may be inaccessible, no ammunition may be present, there may be no one home to use the gun, etc. Still, with one-half of all households possessing at least one gun, the prospect of encountering an armed victim who is at the time prepared to use his or her weapon is clearly greater than zero. We also emphasize again that criminals often prey upon each other: Those who would venture, say, to rob their own drug dealers can expect that the dealers would be armed and have their weapons ready to hand.

There are no firm estimates of the proportion of the American popula-

tion who routinely carry handguns or the proportion of businesses whose managers and proprietors keep guns handy on the premises. All evidence suggests that these proportions are small, but nonzero, and in some environments may actually be quite large. In any event, it is not just the burglar who faces the possibility of encountering an armed would-be victim but also those who commit other crimes as well.

The potential costs of encountering an armed victim vary all the way from being forced to abandon the intended crime and running away through being captured and turned over to the criminal justice system to being shot and physically harmed or killed. It is conceivable that would-be victims might be even more likely to fire their weapons than the police would be (when discovering a crime in progress), and if so, then the potential cost of encountering an armed victim may exceed the potential cost of, say, running into the police.

The possibility of greater damage from armed victims is offset by the possibility that victims might not have their guns handy, might not want to use their guns if they had them at hand, or for some other reason might not want to risk escalating an encounter into a full-scale shootout.

Whatever the true probabilities and costs, the prospects of an armed-victim encounter no doubt contribute to the general uncertainty of a life of crime. In the usual run of things, a criminal would seldom know for sure whether the intended victim were armed or what kinds of behaviors to expect even if the victim were armed. All he would know for sure is that there is some possibility the victim is carrying (or possesses) a gun and some possibility that the gun will be used against him. How large these probabilities are is unknown, but they are clearly larger than zero, and in the case of some classes of would-be victims, especially other criminals, store owners, banks, currency exchanges, etc., are likely to be quite high.

There is, in short, good reason to expect that felons would be made nervous by the possibility of running into an armed victim: Since there are so many armed potential victims "out there," the probability of such an encounter is relatively high and the possible consequences, potentially dreadful. On this basis, one may assume that criminals are no more anxious to encounter armed victims than victims are to encounter armed criminals.

ATTITUDINAL RESULTS

Fear of imprisonment is not a significant barrier to participation in crime because many felons do not expect to get caught in any case.² Our sample

²More correctly, hard-core predatory felons committed to a career in crime are rarely dissuaded from their commitment by the fear of imprisonment. Many do not expect to be caught; others are not bothered by the thought of prison even if they are caught. These points aside, it is also obvious that the fear of imprisonment is

was asked, in reference to their conviction offense, "At the time you committed that crime, were you worried about getting caught?" Over three-quarters (76%) were not. Results shown later suggest that our sample was not entirely indifferent to the prospect of apprehension and imprisonment, but these outcomes were so clearly unlikely to occur as the result of any one crime that they were not a cause for worry. Given the customary clearance and incarceration rates for crimes known to the police in most jurisdictions, it is also clear that the felons were not making unrealistic judgments. Objectively, the odds are very good that a felon will not be charged with any one crime that he has committed and even less that he would be sent to prison for that crime. This is a useful finding for our present discussion only because it sets a comparative context: It gives an initial idea of how worried our felons were about the prospect of getting caught, something that we can compare later with their anxieties about encountering armed victims.

We asked the sample a series of agree-disagree questions, each concerning the matter of armed victims in one or another way. Results from these items are shown in Table 7.1. There is a very consistent pattern to the results; in all cases, the majority opinion was that felons are made nervous by the prospect of an encounter with an armed victim.

The first item in the sequence asked men to agree or disagree that "a criminal is not going to mess around with a victim he knows is armed with a gun." About three-fifths of the sample (56%) agreed. Another item read, "A smart criminal always tries to find out if his potential victim is armed." More than four-fifths (81%) agreed with that. Yet another item read, "Most criminals are more worried about meeting an armed victim than they are about running into the police." About three-fifths (57%) also agreed with that. There were also two direct questions on whether guns thwart crimes: One reads, "One reason burglars avoid houses when people are at home is that they fear being shot during the crime." Three-quarters of the sample (74%) agreed. (Of course, there are other reasons for avoiding occupied homes, such as fear of being reported to the police, about which we did not ask.) The other reads, "A store owner who is known to keep a gun on the premises is not going to get robbed very often." About three-fifths (58%) again agreed. The possibility that one's intended victim is armed was evidently a concern to most of these men: The strong majority agreed that it is wise to find out in advance if one's potential victims are armed and to avoid them if they are.

How easy it is for felons to find out whether a potential victim is armed is not revealed in these answers. Some would-be victims are almost certainly armed (e.g., banks, currency exchanges, other criminals such as drug

one factor that prevents millions and millions of people from committing crimes—these being ordinary, law-abiding citizens.

TABLE 7.1. Attitudes toward Encountering Armed Victims: Total Sample
(in Percentages)

	Strongly agree	Agree	Disagree	Strongly disagree	(N)
1. A criminal is not going to mess around with a victim he knows is armed with a gun.	25	31	35	9	(1646)
2. One reason burglars avoid houses when people are at home is that they fear being shot.	35	39	20	7	(1628)
3. Most criminals are more worried about meeting an armed victim than they are about running into the police.	21	36	32	10	(1615)
4. A smart criminal always tries to find out if his potential victim is armed.	30	51	15	4	(1608)
5. A store owner who is known to keep a gun on the premises is not going to get robbed very often.	18	40	32	9	(1645)
6. Committing crime against an armed victim is an exciting challenge.	10	14	34	42	(1604)

dealers). Other would-be victims, while not certain to be armed, may nonetheless have a high probability (e.g., residents of neighborhoods that have reputations for high levels of gun ownership or associates and friends who the felon knows to carry guns on a regular basis). Still others would have very low probabilities of being armed (e.g., elderly women going shopping, children). In each of these cases, whatever prior expectations may be, there is undoubtedly an element of uncertainty that increases with lack of knowledge about the specific would-be victim.

One final question in the sequence was designed to explore the "other side" of this issue, namely, the possibility that "committing crime against an armed victim is an exciting challenge." For about three-quarters of the men in this sample, it was not.

A few of these findings warrant additional comment. For example, it has long been noted that most burglaries occur when the homes in question are unoccupied. (Estimates of the proportion unoccupied during burglary vary from about 75% to more than 90%.) This fact has been used (by Yae-ger, Alviani, and Loving, 1976) to argue against the advisability of keeping a firearm "for protection" in one's home; in most burglary cases, at least, the odds are excellent that no one will be home to use it. We now learn at the possibility of being shot during the crime is one of the reasons bur-

glars avoid occupied residences in the first place. (This, in any case, is the predominant view of three-quarters of our sample.)

The result reported in Table 7.1 is for the total sample, not all of whom had ever done burglaries. We thought it possible that the burglars in the sample might have had a different opinion, but agreement with the item ran to about 75% among almost all groups, whether they had ever done a burglary or not. (Only in the highest-rate group, those who had done "hundreds" of burglaries, did the level of agreement fall off, in this case to 57%.) Burglars and nonburglars alike, therefore, agreed that one reason burglars avoid occupied residences is the fear of being shot. There was also a fair-sized majority agreement that one would normally avoid stores that are known to keep a gun on the premises, too. Finally, more than one-half the sample also agreed that criminals are more fearful of being shot by their victims than by the police, and later results show that these men were themselves about equally fearful of these two prospects.

In sum, the prospect of being shot by the victim is clearly something the men in this sample worried about. This concern, it appears, is not unrealistic; one study has reported that in any given year, more criminals are shot to death in "justifiable homicides" by ordinary civilians than are killed by the police (Kleck, 1983).

We also call attention to the overwhelming majority who agreed that "a smart criminal always tries to find out if his victim is armed." Apparently, many of the felons in our sample took this advice to heart. Data reported later show that about two-fifths of these men (39%) had at some time in their lives decided not to do a crime because they "knew or believed that the victim was carrying a gun." Nearly one-tenth of the sample (8%) had had this experience "many times." Clearly, the fact or prospect of an armed victim encounter prevented at least some of the crimes these men would otherwise have committed.

Finally, it is worth emphasizing that while three-quarters of our felons did not agree that "committing crime against an armed victim is an exciting challenge," the remaining one-quarter did, about one-tenth of them "strongly." Some, in short, were apparently not at all nervous about the prospect of an armed victim; to the contrary, the prospect seemed to excite them. Who, then, are they? The answer, at least in part, is that they are the more predatory felons. Among the nonpredatory categories of our typology, agreement to the statement ran to about 20%, and among the Predators, to about 40%. For a substantial minority of the Predators, in other words, the thrill of confrontation with an armed victim appears to be part of the positive motivation to commit crime.

All the preceding items deal with criminals in general; we also asked each man about the kinds of things he personally thought about "when you were getting ready to do a crime" (Table 7.2). The three things most often on a felon's mind when getting ready to commit crime were, it ap-

TABLE 7.2. What Felons Worry about When Contemplating Criminal Activity: Total Sample (in Percentages)

	Regularly	Often	Seldom	Never	(N)
Might get caught	34	20	28	18	(1584)
Might get shot at by police	20	14	25	40	(1534)
Might get shot at by victim	19	15	27	39	(1521)
Might have to go to prison	30	20	24	25	(1555)
Your friends might look down on you	14	11	19	56	(1535)
Family might look down on you	30	18	17	35	(1557)
Might hurt or kill someone	20	12	18	51	(1554)

appears, the possibility of getting caught (cited as something one thought about "regularly" or "often" by 54%), the possibility of going to prison (50%), and the possibility that "your family might look down on you" (48%). Just over one-third thought regularly or often about the possibility of getting shot by the police; an identical percentage thought regularly or often about getting shot by one's victim. The possibility of hurting or killing someone was also thought about regularly or often by roughly one-third. That one's friends "might look down on you" was a concern to only about one-quarter.

Initially, there would appear to be some inconsistency between these responses and a result reported earlier, namely, that only about one-quarter of the sample was worried about getting caught during its conviction offense. On the other hand, to think about something, even regularly, is not the same thing as being worried about it. The possibility of being caught during a crime is, one presumes, ever present; it was, accordingly, "on the minds" one-half the sample more or less regularly. Whether this is something to worry about, however, depends on how much one disvalues getting caught (or if caught, going to prison). Our sample, recall, averaged some 10 prior arrests and 3 prior imprisonments; this notwithstanding, they still led active criminal lives. Clearly, these men might well have thought about the consequences of their actions, but they do not appear to have been especially worried about them.³

³For the record, there is a clear correlation between being worried about getting caught during the conviction offense and thinking about getting caught in general. Among those who said they were worried about getting caught during their conviction offense ($N=354$), 47% thought "regularly" and 22% "often" about getting caught when they did crime; only 7% "never" thought about it. Among those who were not worried ($N=1028$), only 29% said they thought about getting caught "regularly." Another 19% thought about it "often"; 22% never thought about it.

Percentaging the table in the other direction: There are 460 men in the sample who "regularly" thought about getting caught when they were doing crimes. Of these, just over one-third (36%) were worried about getting caught during the con-

As already noted, just over one-third thought regularly or often about being shot by the police; an identical percentage thought regularly or often about being shot by the victim. Utter indifference to these possibilities ("never" thinking about them) was indicated by about two-fifths in each case. The overall judgment of the sample reported earlier—that most criminals are more worried about being shot by their victims than by the police (with which 57% agreed)—therefore may be an example of a familiar pattern of imputing to groups certain motives that one is less likely to admit about oneself. Judging from these results, it appears that most of our sample was at least as worried about the one as they were about the other, still a noteworthy result.

It is of some interest to ask, Which felons thought most about being shot by their victim in the course of a crime? A major factor appears to be having had the experience of encountering an armed victim at some prior time. We asked the sample in a later question series whether they, personally, had ever "run into a victim who was armed with a gun." Results from this and several closely related questions are discussed more fully later. Among those who had never had the experience ($N=919$), 48% said they "never" thought about being shot by their victim; among those who had ($N=553$), only 23% "never" thought about it. Likewise, 45% of those who had at some time confronted an armed victim thought about being shot by their victim regularly or often; among the remainder, the comparable figure was 28%. Here as in many other instances, experience appears to be a capable teacher.

The survey contains some additional information on the relative importance of armed victims and the police in the minds of felons, namely, the questions on the "motivation to go armed" that were discussed in the previous chapter. Findings from that chapter relevant to the present discussion are shown in Table 7.3, which compares the relative importance of "there's always a chance my victim would be armed" with "the police have guns [or weapons], so criminals have to carry them too." These, to be sure, are not precisely parallel questions, and so the comparison of responses is somewhat hazardous. Still, in both cases, the armed victim appears to have been a much stronger motivating factor than the armed policeman.⁴

viction offense. This is consistent with the point made in the text, namely, that thinking about and worrying about getting caught are two different phenomena.

As it happens, those who were worried about getting caught during the conviction offense were also more likely to think regularly about being shot at by the police (24 versus 19% of the remainder), about going to prison (38 versus 27%), about the possibility that friends (19 versus 11%) and family (40 versus 26%) might "look down on you," etc.

⁴Of course, police do not automatically shoot anyone who is either a suspect or is seen in the process of committing a felony. The main menace of police to felons may be the latter's starting the criminal justice processing by making a felony arrest.

TABLE 7.3. Armed Victims and Police as Motivations to Carry Weapons
(in Percentages)

	Importance				(N)
	Very	Somewhat	A little	None	
<i>Gun criminals</i>					
There's always a chance my victim would be armed.	50	12	13	25	(712)
The police have guns, so criminals have to carry them too.	20	10	12	58	(688)
<i>Armed, not-with-a-gun criminals</i>					
There's always a chance my victim would be armed.	27	12	8	53	(135)
The police have weapons, so criminals have to carry them too.	10	5	13	72	(135)

Among the Gun Criminals, as we emphasized earlier, 50% indicated that the possibility of an armed victim was "very important" to them; only one-quarter stated that this was not important at all. The comparable figures for the item concerning police were 20 and 58%, respectively. Among criminals who were armed but not with a gun, 27% said that the possibility of an armed victim was "very important" to them, and 53% said that it was not important at all; here, the comparable figures for the item on police were 10 and 72%, respectively. In both cases, then, the possibility of confronting an armed victim appears to have been a more important motivator in the felon's decision to carry a weapon than the fact that the police have guns. The general picture that emerges from Table 7.3 is, therefore, much the same as has emerged in the other data so far presented. Beyond all doubt, criminals clearly worry about confronting an armed victim.

In order to get a better sense of who seemed to worry about "The Armed Citizen" and who did not, we created a simple summated index from five of the six items shown in Table 7.1.⁵ The average scores on the index var-

⁵Correlational analysis revealed that the item concerning "an exciting challenge" was not related to any of the other five items in the table; accordingly, it was omitted from the index. The other five items were all moderately and positively correlated with one another, the correlation coefficients ranging from about .17 to about .38. To create the index, responses were scored as follows: strongly agree = 4; agree = 3; do not know and no answer = 2; disagree = 1; strongly disagree = 0. Summing over the five items, the possible scores thus range from 0 (strongly disagree with all five items, the lowest possible degree of concern) to 20 (strongly agree with all five items, the highest possible degree of concern). Empirically, only 7 "0" scores were observed; there were 60 observations in the top category of the index. The overall mean = 12.1 (standard deviation = 3.8), or two scale points above the midpoint. This is only a restatement of results that are obvious in Table

ied significantly across the 10 states included in the study. The high value (most concern about armed victims) was registered in Georgia, followed by Maryland and Arizona; the low value was registered in Massachusetts, then Minnesota. The state means are positively correlated ($r = .51$, $p = .07$, $N = 10$ states) with a measure of the density of gun ownership within the state derived from Cook (1979). On the average, in other words, the highest concern about confronting an armed victim was registered by felons from states with the greatest relative number of privately owned firearms.

The effects of personal-level characteristics on the index of "concern about an armed victim" are shown in the multiple regression analysis reported in Table 7.4. With only a few exceptions, none of the observed effects is particularly striking, and the overall R^2 ($= .07$) is, at best, modest. Still, some of the patterns revealed here are intriguing.

None of the social background variables is strongly related to the tendency to have worried about armed victims. There is a weak tendency for concern to increase with the number of dependents and a somewhat stronger tendency for concern to increase with age. Also, veterans appear to be less concerned than nonveterans. Finally, there is a slight tendency for concern to decline with increasing weight; bigger men, in short, worry less about armed victims than smaller men. We emphasize, however, that none of these effects achieves customary levels of statistical significance; only one, the effect for age, even comes close.

Criminal background variables show somewhat stronger effects. Our "Index of Total Criminality" (see Chapter Three) has a statistically significant and negative effect on concern about an armed victim; so, too, does the number of prior arrests. Thus, more experienced (or higher rate) criminals worry less about armed victims than the less-experienced (or lower rate) felons. Of course, the direction of influence here is ambiguous: More experienced felons might have believed that they had the skills to cope with armed victims, but it may also have been the case that the more foolhardy (or courageous?) were more likely to engage in a great deal of crime.

The categories of the Armed Criminals typology were entered into the regression as a set of dummy variables, with the Unarmed serving as the omitted category. None of the coefficients is significant, although there is a clear tendency for all of them to be negative. In general, in other words, the Unarmed tended to worry most about encountering armed victims (but only slightly).

The survey contained one question about doing crime with partners versus doing crimes alone and another question about the tendency of felons to plan crimes in advance. We expected that felons who spent the most time planning their crimes would worry less about armed victims, and that

7.1, namely, that a majority of the sample was concerned over the prospect of encountering an armed victim.

TABLE 7.4. Regression of "Concern about an Armed Victim" on Selected Felon Characteristics^a

Independent variables	<i>b</i>	SE	<i>p</i>
Education of respondent	-.03	.08	NS ^b
Number of dependents	.08	.06	.16
Race (1 = white)	-.12	.23	NS
Marital Status (1 = married)	.13	.28	NS
In service (1 = yes)	-.34	.25	.18
Age (in years)	.03	.02	.09
Weight at arrest (divided by 10)	-.05	.04	.20
Total criminality (divided by 10)	-.02	.01	.01
Improvisers	.14	.53	NS
Knife criminals	-.15	.42	NS
One-timers	-.38	.33	NS
Sporadics	-.12	.35	NS
Predators	-.05	.36	NS
Number of prior arrests (divided by 10)	-.02	.01	.01
Do crime with partners ^c	-.03	.11	NS
Plan crimes ^c	.08	.15	NS
Substance abuse index ^c	.08	.05	.12
Age at first felony	.01	.02	NS
Ever own gun?	-.27	.27	NS
Ever shot at?	-.21	.23	NS
Current crime: Worried about getting caught?	.42	.24	.08
Think about getting shot by victim?	.39	.09	.00
Ever scared off by armed victim?	.10	.27	NS
Friends scared off by armed victim?	.41	.11	.00
Ever run into armed victim?	-.73	.28	.01
Gun-knowledge test ^c	.13	.08	.10
Word-knowledge test ^c	-.18	.05	.00
Intercept	11.4	.83	.00
<i>F</i> = 3.39			
<i>p</i> = .000			
<i>R</i> ² = .07			

^aDependent variable is "Index of concern about armed victims."

^bNS, Not significant.

^cSee text for details on how these variables were measured.

felons who worked with others would also worry less. Contrary to these expectations, neither of these variables is significantly related to the index of concern. Likewise, the felon's age at the point of his first serious crime also has no significant effect.

Another composite variable included in this analysis is an index of substance abuse—a simple count of the number of drugs (including alcohol) that the felon said he took "many times" or "most of the time." (See Chapter Two for marginals on the relevant questions.) This index has a modest

positive effect on the index of concern: Heavy drug users, in other words, tended to be more concerned about armed-victim encounters than the lighter users.

Two of the other "attitudinal" questions discussed earlier in this chapter show significant effects on the index of concern. Persons who were worried about getting caught during their conviction offense were also more likely to worry about confronting an armed victim. Likewise, the more often a felon thought about "being shot at by your victim" during his crimes, the more concern he evidenced over the possibility. Unsurprisingly, this latter is the strongest effect shown in the table.

There is no significant effect of having ever owned a gun on the index of concern; likewise, felons who had ever been shot at with a gun were no more concerned than those who had not. On the other hand, our "Gun Knowledge" Index (a seven-item true-false test concerning guns; see Chapter 8) shows a moderately strong positive effect on concern about armed victims. The more knowledgeable a felon was about guns, the more concerned he was about encountering a victim who had one.

The regression contains three "experiential" variables that measure the felon's prior experiences in encountering armed victims. All three are analyzed later. One asks, "Did you personally ever run into a victim who was armed with a gun?" Those who had were significantly less concerned about armed victims than those who had not; this, too, is among the strongest effects revealed in this analysis. Another question asks, "Have you ever been scared off, shot at, wounded, or captured by an armed victim?" The effect of this experience is positive on the index of concern, but it is not statistically significant. Finally, we asked, "Have any of the criminals you have known personally ever been scared off, shot at, wounded, captured, or killed by an armed victim?" Response options were none, only one, a few, and many; the effect of this variable on concern is positive and statistically significant.

The general pattern revealed here is thus quite interesting. Felons who had themselves experienced a confrontation with an armed victim were significantly less concerned about the possibility, perhaps because they knew from their own experience that one can survive such an experience. Felons whose friends had had the experience, on the other hand, were significantly more concerned.

The final variable included in this analysis is the felon's score on a 10-word vocabulary test, which is negatively and significantly related to the index of concern: As the word-knowledge score increases, concern about armed victims declines. It is unclear to us why this should be the case.

In summary, most felons appear to have experienced some anxieties in thinking about encounters with armed victims; on most relevant questions, the majorities were quite substantial; a consistent pattern is that most criminals were at least as worried about confronting an armed victim as they

were about confronting the police. Generally speaking, felons from states with proportionally more gun owners worried proportionally more about "armed victim" encounters than did felons in other states. Felons who worried most about such things tended to be older and with more dependents, less criminally active, more likely to be substance abusers, more knowledgeable about guns, less verbally sophisticated, more likely to have known other criminals who had encountered an armed victim, but less likely to have had the experience themselves. We close with the emphasis that most of the individual-level effects summarized above are quite weak—they represent modest patterns, not sharp lines of differentiation.

ARMED VICTIM CONFRONTATIONS: EXPERIENTIAL RESULTS

To worry about confronting an armed victim is one thing; to actually have had the experience is something else again. In the previous section, we examined briefly the role of experience in creating these concerns; here, we analyze the experiences directly. Our measures of encountering an armed victim are contained in a four-item sequence; questions and marginal results are shown in Table 7.5.

Most of these results have been noted earlier and therefore require only a passing comment. Just under two-fifths of the sample (37%) had at some time in their careers run into a victim who was armed with a gun. A slightly smaller percentage (34%) said they had been "scared off, shot at, wounded, or captured by an armed victim," and about two-thirds (69%) had at least one acquaintance who had had this experience. (One-tenth knew "many" criminals who had been thwarted by an armed victim.) As noted earlier, about two-fifths of the sample (40%) had at some time decided not to do a crime because they knew or believed that their intended victim was armed.

A cross-tabulation of the first two items shown reveals that encountering an armed victim is not the same thing as being thwarted by one. About 37% of the sample had run into an armed victim, but a slightly smaller percentage, 34%, said they had been scared off, shot at, or otherwise opposed forcefully by one. The correlation between these two experiences is strong ($r = .52$) but short of perfect. As it happens, there were 1049 men in the sample who said they had never "run into a victim who was armed with a gun," and of these, some 15% said they had been scared off, shot at, etc. This appears to be an inconsistency but may in fact not be. "Run into" might be interpreted to imply a direct face-to-face encounter, and clearly, one could be "scared off," or even "shot at," by a gun-wielding victim and never confront that victim face-to-face.

There were, likewise, 609 men in the sample who had encountered an armed victim. Of these, just two-thirds said they had also been scared off, shot at, etc.; the remaining one-third had not been. This implies, first, that not all encounters with an armed victim eventuate in a thwarted crime;

TABLE 7.5. Confronting the Armed Victim: Experiential Results

1. Thinking now about all the crimes you ever committed, . . . did you personally ever run into a victim who was armed with a gun?	
No	63
Yes	<u>37</u>
	100%
(N) = (1667)	
2. Have you ever been scared off, shot at, wounded, or captured by an armed victim?	
No	66
Yes	<u>34</u>
	100%
(N) = (1673)	
3. Was there ever a time in your life when you decided not to do a crime because you knew or believed that the victim was carrying a gun?	
No, never	61
Yes, just once	10
Yes, a few times	22
Yes, many times	<u>8</u>
	101%
(N) = (1627)	
4. Think now about other criminals you have known in your life, . . . have any of the criminals you have known personally ever been scared off, shot at, wounded, captured, or killed by an armed victim?	
No, none	31
Yes, but only one	10
Yes, a few	48
Yes, many	<u>11</u>
	100%
(N) = (1627)	

one-third of the men who had ever encountered an armed victim said they had never been deterred by one. But it also implies, second, that at least some of these encounters do result in a thwarted crime. Two-thirds of the men who had ever encountered an armed victim said they had also been deterred or thwarted by an armed victim at least once. This is, to be sure, very imperfect evidence on the efficacy of private firearms as a defense against crime, but it is at least some evidence that armed citizens abort or prevent at least some crime. That 40% of the sample had at some time decided not to do a crime because the intended victim was carrying a gun is additional evidence favoring the same point.

We can only speculate about the circumstances under which a felon might find out that a potential victim had a weapon. Except in the few states where open gun toting is legal and customary, it would normally be rather difficult to determine whether a potential victim was armed, unless the victim was a policeman or an armed guard, or was carrying his or her weapon in

7-44

some outrageously obvious way. It would, in short, be quite difficult to know whether the victims of ordinary street crimes, muggings, robberies, etc., were armed or not. So also with burglaries of strange homes in strange neighborhoods. It may also be difficult to make such judgments about stores and gas stations, although specific store and gas station owners may develop appropriate reputations.

Thus, knowledge about a victim's armament is probably highest and most accurate when the victims are one's friends and neighbors or persons with whom one has frequent dealings. Hence, a felon might well decide not to rob his drug dealer when he knows that his drug dealer carries a weapon all the time, might decide not to hijack the loot from a fellow thief when the thief is an associate known to be armed, etc. Indeed, it could be argued that the process that results in these men saying they have been thwarted in at least one crime by an armed victim is, in fact, the opposite side of the self-protection theme about which the prisoners made much as a motive for their own acquisition and carrying of guns.

Our point here is simply that it is not at all clear what these men were saying when they told us that they had decided at least once not to do a crime because they knew or suspected that the intended victim was armed. This might involve a street robbery that was not committed because of a suspicious bulge under the victim's jacket, or it might involve a burglary thwarted in progress because the home owner opened fire, or it might involve nothing more than a general tendency to avoid victimizing other thugs in the immediate environment whom these felons knew to be armed. In all probability, it involves all of these possibilities and more, but the relative proportions are undetermined in these data.

The four items in Table 7.5 are fairly strongly correlated one with the other; the correlation coefficients range from .27 to .52. Substantively, this implies that those who had run into an armed victim were also likely to have been deterred or thwarted by one and to have had friends and acquaintances who had had similar experiences. The correlations among the items are strong enough to justify combining them into a simple summated index of armed victim encounters, consisting of a count of experiences such that the index varies from 0 (for respondents who had none of the four experiences described) to four (those who had all four). The mean on the "Encounter Index" = 1.8 (standard deviation = 1.4). Of the sample, 21% answered "no" to all four questions, which means that about 80% of the sample had had at least some experience with an armed victim—either directly or vicariously, through the experiences of friends and acquaintances.

Table 7.6 shows means on the "Encounter Index" separately for each of the categories of our Armed Criminals typology. The table makes an important point, namely, that the more crime one has committed, the higher the odds on encountering an armed victim. The least likely ever to have had such an encounter were the Unarmed Criminals (mean = 1.18); the most

likely, by far, were the Predators, especially the Handgun Predators, among whom the average = 2.73. The probability of an encounter with an armed victim, in other words, appears to be directly proportional to the rate at which crimes were committed. Consistent with this latter point, the correlation between the Encounter Index and our Index of Total Criminality is .31.

TABLE 7.6. The "Encounter Index" by Criminal Type

	\bar{x}	SD
Unarmed	1.18	1.2
Improvisers	1.61	1.3
Knife criminals	1.58	1.3
One-timers	1.63	1.2
Sporadics	2.24	1.3
Handgun predators	2.73	1.1
Shotgun predators	2.53	1.2
$F = 63.4$		
$p = .000$		

Table 7.7 shows the regression of the "Encounter Index" on selected background characteristics. These results are clearly dominated by the criminal history variables; the more crime one had committed, the higher the probability of having encountered armed victims. Neither Improvisers nor Knife Criminals were significantly more likely (than the Unarmed, the omitted category) to have had such encounters, but the coefficients for the other three types are all positive, correctly ordered, and statistically significant.

Holding constant the number of assaults, burglaries, drug deals, and robberies the felon had ever committed, the coefficient for the "Total Criminality" Index turns negative; but the coefficients for each of the crime-type variables are positive and statistically significant: The more crimes (of each type) ever committed, the higher the probability of an armed victim encounter. In the same vein, the coefficient for age is positive and significant (older felons were more likely to have had these encounters); the coefficient for age at first felony is negative and significant (the older one was when starting in one's criminal career, the less likely one is to have encountered armed victims). Whites were significantly less likely than non-whites to have had these encounters. Finally, armed-victim encounters were more common among the serious drug abusers than others.

The multiple R^2 for the equation = .30; experience with armed victims is clearly more structured than concern about it. As is obvious in the above results, the structure in question is driven by an apparently simple probability process. Each crime a felon commits exposes him to some risk of en-

7-45

TABLE 7.7. Regression of the "Encounter Index" on Selected Background Variables ^a

Independent variables	b	SE	p
Improviser	.11	.16	NS
Knife criminal	-.02	.13	NS
One-time gun user	.27	.10	.01
Sporadic gun user	.46	.11	.00
Predators	.70	.11	.00
Total criminality (divided by 10)	-.01	.00	.00
N assaults	.17	.03	.00
N drug deals	.05	.03	.05
N burglaries	.14	.03	.00
N robberies	.13	.03	.00
N arrests (divided by 100)	.03	.03	NS
Age	.02	.00	.00
Age at first felony	-.03	.01	.00
Race (white = 1)	-.26	.07	.00
Word-knowledge test	-.01	.01	NS
Drug-abuse index	.03	.02	.05
Intercept	1.16	.16	.00
F = 37.2			
p = .00			
R ² = .30			

^aDependent variable is "index of encounters with armed victims."

countering an armed victim; the greater the number of "exposures," the higher the probability of having come across a victim who is armed with a gun.

SUMMARY

The principal conclusions to be derived from the analyses reported in this chapter are as follows:

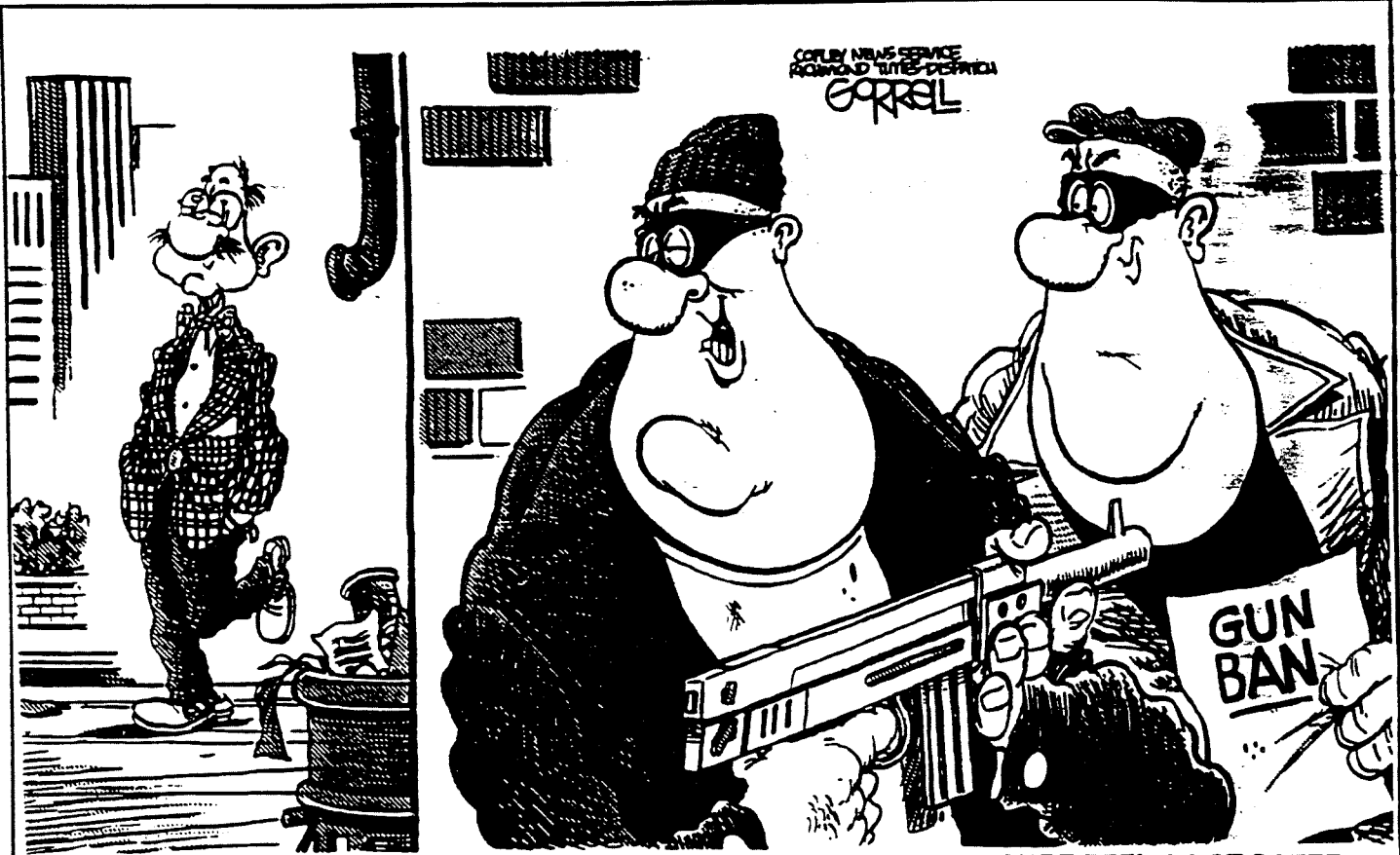
1. The felons in this survey were clearly concerned about encounters with armed victims. Most felons agreed that "a smart criminal always tries to find out if his victim is armed" and with a series of other items expressing the same general sentiment.
2. In general, encounters with armed victims seemed to be about as worrisome to these men as encounters with the police.
3. Most felons apparently thought about, but did not worry about, the prospect of being caught during their crimes.
4. Felons who had no prior encounters with armed victims, but who knew of other felons who had had these encounters, expressed more concern about such encounters than felons who had not; felons in

states with higher rates of private gun ownership also expressed more concern; the more predatory felons expressed less concern.

5. Confrontations with armed victims were a fairly frequent occurrence for these men. About two-fifths had run into an armed victim at least once; about one-third had been scared off, shot at, wounded, or captured by one; about two-fifths had decided at least once in their lives not to commit a crime because they knew or suspected that the victim was armed; about 80% had had at least some experience with an armed victim, either directly or vicariously, through the experiences of their associates.
6. The more crimes a felon had ever committed, the greater were his chances of encountering an armed victim. Perforce, then, predatory felons had had more of these encounters than any of the other felon groups.
7. The principal ambiguity in these results is that we do not know who the armed victims were. Some would have been law-abiding citizens successfully defending themselves against crime; others would have been friends and associates of the felons who, in different circumstances, as easily could have been the perpetrator as the victim. Nothing in our data speaks to the relative frequencies in this regard.

7-46

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"HERE COMES ANOTHER INNOCENT, LAW-ABIDING CITIZEN . . . I SURE FEEL A LOT SAFER KNOWING HE CAN'T CARRY A DANGEROUS ASSAULT WEAPON!"

F45A
2-20-95
Atch#8

SELF DEFENSE ACT TESTIMONY

HB2420

By Phillip B. Journey

Haysville Ks.

First let me thank the committee for the opportunity to testify as a proponent for the bill HB2420.

This bill offers an opportunity for the citizens of this state to lawfully resist crime. Currently the laws of all 50 states acknowledge the right of self defense. When necessary deadly force may be used in defense of self or others. One third of the states have licensing systems similar to the one proposed in this bill. Vermont simply has no prohibition to carrying a firearm on ones person. At this juncture in Kansas the ability to self defensive use of a firearm without possible legal repercussions ends at your property line.

Philosophically here as in many other states currently considering this issue has always been one of trust. The citizens trust their representatives with the power of government and in turn the representative should trust the people to exercise their judgment in defense of themselves and others.

We should consider the words of Thomas Jefferson as co-author of the Bill of Rights he considered the potential for abuse of governmental authority when he stated, "Men, by their constitutions, are divided into two parties: those who fear and distrust the people, {and} those who identify themselves with the people, have confidence in them, cherish them and consider them as the most honest and safe...depository of the public trust."

The law enforcement politicians, and lobbyists who testified on February --- clearly are in the class of elitists Thomas Jefferson warned us about. Their expression for the academically bankrupt collectivist theory of Second Amendment and overtly corrupt attitude that simply abhors private citizens protecting themselves. The corruption of their ----- is self evident they have the ability to protect themselves and are unwilling to share it with the people. They fail to recognize that the "People" are the ones who voluntarily gave them the power they so selfishly and despartly are trying to monopolies. In their desperate attempt to turn the tide of this legislation that was passed by four states in 1994 they resort to the false assertion that gun violence is bound to increase. Considering their mindset and who they deal with every day their predictions are understandable but still false. There are millions incidents per year of private citizens using firearms defensibly. Rather than "serve and protect" they can be more accurately described by the words "Subjugate and Persecute".

In the entire afternoon of testimony they offerred nothing but their opinions and baseless conclusions and conjecture. The experience in the states that have adopted this and similar laws and field of research reviewing its effects supports the adoption of this bill. Three times as many law abiding citizens defend them selves and there families with a gun as there are gun crimes in this nation. While there rare incidents of citizens making mistakes or even committing a crime they are far out weighed by the number of times that permit holders have saved lives and thwarted felonious acts.

Yes permit holders will be human beings just as police are. It is reasonable to assume that those few who committed a crime would have done so with or without a permit. Both make occasional mistakes police arguably more often than private citizens. In a study conducted in New York city of 1500 incidents police were not justified in the use of deadly force 40% of the time. {166} Similar results were found in studies in Chicago and Los Angeles. This is due in part to the fact that the victim is at the scene from the beginning of the incident and the officer at best usually arrives after the criminal activity is initiated. The woman accosted in the deserted parking lot does not have a difficult decision determining who is the bad actor while the officer who arrives at an incident in progress may have a tough time determining who committed the battery and who is acting in self defense. Therefore they are more likely to make a mistake. There Poll of KPOA board members had a predictable outcome as the board is dominated by politicians who happen to be in law enforcement. When you talk to line officers those on the street the results are the opposite. Having worked thousands of cases in criminal court I have nearly unlimited opportunity to discuss these topics with the cop on the street universally they support the peoples right to self defense. In 1991 Law Enforcement Magazine conducted a pole of all ranks in law enforcement and 76% of those responding believed that all trained, responsible adults should be able to obtain handgun carry permits and 59% of law enforcement in supervisory positions agreed. Dozens of Wichita police officers desire to reinforce this opinion poll but would be fired or disciplined for exercising their opinions under the First Amendment by our anti-gun mayor and submissive chief Stone. It is ironic that KPOA opposes retired law enforcement and district court judges from being able to protect themselves along with the rest of us. While the average number of lawenforcement officers have increased steadily since 1988 in Kansas much to the credit of many office holders the violent crime rates over the same period have also increased. They can not protect the public and when they fail to do so they are not and should not be liable civilly for the intentional acts of others even when they are grossly negligent.

Let no one be mistaken unlike our opponents who repeatedly have claimed that their anti-gun rights proposals will work miricals until their passage I must be frank the personal protection act is not a cure all for crime, it is only one part of a multi faceted anti-crime proposal. Besides the direct use of a firearm to thwart crime there is also the benefit of deterrence of crime that is directly effected by the publicity surrounding the laws adoption and the use of firearms defensibly by permit holders. There is also the intangible benefit that comes from the peace of mind knowing that one can successfully resist aggression.

Every day citizens in this nation resist criminal assaults a few have permits most do not. Resistance with a firearm gives one the greatest likelihood of thwarting the assailant. Enactment of this bill is no panacea for crime failure to enact it can have tragic consequences. If more notice for these hearings had been available Dr. Suzanna Gratia would have been available to testify that if Texas had had lawful carry of firearms she could have shot

George Hennard after he crashed his truck through the front of Lubby's in Killeen, Texas. Potentially saving many of his victims. Where lawful carry is the law of the land documented incidence of self defense are numerous.

The Statistics which are raw data as provided by Rep. Alldrite are less than illuminating. there is no standard with which to compare. They must be placed into the context of their environment of the US and other potential influencing factors eliminated. This is why the relationship must not only be broken down to a per capita basis but also be expressed as a percentage of the per capita rate of the entire United States not including the state to be evaluated. This type of analysis eliminates skewing of the results by national trends unrelated to the adoption of the statute in question. Florida is the best state to look to as its law was the first that has now been followed by 1/3 of the states. It also is the best possible place to look for the potential negatives of carry reform. It is highly urbanized with an overloaded criminal justice and corrections systems and a horrendous crime rate by Kansas standards. Smaller states should be avoided except for long range overall trends as their small populations and relatively low crime rates can be skewed by 1 or 2 criminals in any one year.

From 1975 to 1986 had a homicide rate of 118% to 157% of the national average. From the year of passage the Florida rate per capita for homicide as compared to the national per capita began to decline dramatically. It hit a floor in 1992 when Florida per capita fell "5%" when the national rate fell 10%. In 1993 the Florida Legislature enacted reform allowing non-resident US citizens to obtain permits as tourists. The criminal element shifted to foreign tourists as their targets. In 1991 Florida fell to a low of 95% of the national per capita rate.

Brian Withrow completed a six state study comparing three states that had CCW to three states with similar demographics that did not allow its citizens to legally possess concealed firearms. In two of the comparisons homicide rates and robbery rates supported the adoption of the Personal Protection Act. In all three comparisons the rates of Aggravated Assault supported the adoption of Carry Concealed laws. The only category of violent crime that did not support adoption was rape. This is due to the fact that far more men than women obtain permits and that CCW is not able to effect the majority of rape cases as they are acquaintance rape. No state to my knowledge separates acquaintance/nonacquaintance rape statistics.

In Kansas the rate of growth of violent crime has out paced the national average. From 1984 to 1992 Kansas violent crime rate increased an annual average of 5.9% while the nation increased 5.4%. To quote the Koch Crime Commission, "Even though 1992 crime rates for Kansas are lower than national rates, Kansas faces a growing crime problem. Violent crime is a prime concern of Kansas-the per capita has been growing...Of particular interest is the fact that arrests for violent crimes in the 10-14 year-old age group have been increasing...32% per year. Currently available data indicate the criminal justice system, ...is functioning effectively. Most crime is not reported. Most reported crimes do not result in arrest. A small percentage of the reported crimes

8-4

result in a criminal being imprisoned."

Trust vs. Control:

WHY CCWS

Facts show that carrying concealed weapons reduces crime . . .

DETER CRIME

BY PHILLIP B. JOURNEY

see how they spell Wichita please show Eagle Eye Reporter for me.

The author is an attorney in Wichita, Kansas, and highly involved in defending our Second Amendment rights. He is a spokesman for the Air-Capital Gun Club, a member of the legislative committee of the Kansas State Rifle Association, a NRA life member, and the recipient of the 1992 NRA/ILA Local Activists of the Year Award. He is also a candidate for the NRA Board of Directors—The editors.

AS government bureaucrats and the media waive the gun control banner, we should consider the words of Thomas Jefferson, who said, "Men, by their constitutions, are naturally divided into two parties: those who fear and distrust the people, (and) those who identify themselves with the people, have confidence in them, cherish them and consider them as the most honest and safe...depository of the public interest."

Trust is the real issue when it comes to dealing with gun control laws. Those who favor gun control do not trust law-abiding citizens enough to own the means to protect themselves and their families.

One law that demonstrates trust in law-abiding citizens, and has clearly reduced crime in states such as Florida, is a system which requires the government to issue carry concealed permits to private citizens. States such as Florida, Washington, Utah, Virginia, Georgia, Oregon, West Virginia, Pennsylvania, Idaho and Montana have all instituted carry concealed permit systems.

In October of 1992, a homicidal maniac armed with several handguns entered Lubby's Cafe in Killeen, Texas, and methodically murdered twenty-two

people and then committed suicide. No resistance was offered from the scores of people in the restaurant, including Dr. Suzanna Gratia. She was unable to prevent the death of her parents because she complied with Texas law prohibiting the carrying of concealed firearms on one's person. Despite the emotional trauma involved seeing her parents murdered, she has courageously testified before the Texas state legislature and other state legislatures in favor of carry concealed legislation.

In an editorial in the *San Antonio Light*, on April 22, 1992, she wrote: "State law (Texas) prohibits the concealed carrying of firearms, denying me or someone else the right to have a gun that day to protect ourselves and our loved ones from the rampages of a mad-man. That's flat out wrong."

In cities where police response times to requests for help can be as long as thirty minutes to one hour on a bad night and ten minutes on the best night, each of us should realize that we are on our own during that period of time. The average felony might take as little as forty-five seconds to commit.

In each of the states where laws have been adopted mandating the issuance of carry concealed permits upon proof of qualification, no pattern of any increase in gun related crimes by permit holders has materialized. In a study done by David B. Kopel and Clayton E. Cramer of the Independence Institute in Golden, Colorado, they concluded that "states considering carry reform can enact such laws knowing that reform will not endanger public safety and sometimes, carry reform lets citizens save their own

lives."

This author has drawn heavily from their issue paper. In that issue paper Kopel and Cramer studied the relationship of a state per capita murder rate as a percentage of the per capita murder rate of the United States as a whole. This comparison determines how homicide rates change due in part to these laws and would negate overall trends from influencing the analysis.

Opponents to carry concealed systems have argued that reform would lead to tragic increases in homicide. While Florida was debating their statute in 1986, editorialist and gun control proponents referred to Florida as "the Gun-shine State." They predicted shoot-outs over traffic accidents and increases in domestic violence homicide rates.

Willis Booth, executive director of the Florida Chiefs Association, stated, "The minute that the bill was passed, we asked our chiefs in the state to be particularly alert for any cases in their jurisdiction that would give us knowledge of the fact that there was some abuse. At this point it would appear the law is working very well."

Under Florida's non-discretionary concealed weapons permit law, it is mandatory that the permit be issued provided the applicant is twenty-one years of age or more, "does not suffer from a physical infirmity which prevents the safe handling of a firearm," has not been convicted of a felony, has not been convicted of a drug charge in the preceding three years, has not been confined for alcohol problems in the preceding three years, has completed a firearms safety class, and has not been committed to a mental hospital in the preceding five years.

Discretion by the government in the

8-6

issuance of the permit is allowed when the applicant has been convicted of a misdemeanor crime of violence or was on probation for a crime of violence within the preceding three years. The requirement that the permit be issued limiting the discretion of the government is a very important characteristic in the Florida law. In other jurisdictions that have permissive carry concealed permit systems, some require that need be shown or the issuance of the permit is based upon the arbitrary decision of a government or law enforcement bureaucrat.

Per capita statewide homicide rates as a percentage of the national per capita homicide rate in Florida, between 1975 and 1986, ranged from 118 percent to a high 157 percent of the national homicide rate. After the introduction of a mandatory carry concealed permit system in Florida, the murder rate dropped precipitously to below the national average in 1991. This is the lowest rate compared with the national average in the time periods examined.

In the state of Washington, where the carry concealed law was adopted in 1961, murder rates have never risen above the 70th percentile of the national per capita homicide rate. That high point was reached in 1988 and then dropped back to normal levels from 1989 to the present date.

Utah adopted a permit system in 1986. Homicide rates as a percentage of national per capita murder rate reached a high of just over 50 percent in 1976 and 1979. After adoption of the law in 1986, Utah murder rates never rose above the 40th percentile.

In Virginia, a carry concealed permit system was adopted in 1988. The first year showed a dramatic decrease in the murder rate percentage. It is unfortunate that Virginia is next to the District of Columbia, where some of D.C.'s crime problems have made it across the state border and murder rates have gone back up in 1990 and 1991 in Virginia, but are still below the national average.

By changing the Georgia Attorney General's interpretation of the law in Georgia, issuance of permits became more available to the average citizen and murder rates have declined in the two years since then, from 140 percent of the national average to about 130 percent of the national average. But as the reinterpretation has been so short and may be temporary, the results in Georgia are inconclusive.

In Oregon the carry concealed law was adopted in 1989. From a high in 1986, the percentage murder rate relative to the national average was just under 80 percent and declined through 1987, 1988 and 1989, the year of adoption, but dropped substantially more in 1990 and rose again from 40 percent to 48 percent in 1991 of the national average.

In Portland, Oregon, the largest metropolitan area in the state, the homicide rate fell dramatically during the first six month period after the law went into effect. This drop in the homicide rate clearly demonstrates that the publicity can be a deterrent to crime.

In Pennsylvania, where the law was adopted in 1989, there was no obvious difference after the adoption of the new permit law. However, the murder rate in Philadelphia was lower in 1991 than in the year of the adoption of the law in 1989. Clearly, while murder rates have not dropped, the adoption of the law did not make Pennsylvania a more dangerous state.

The rate of homicides in states such as West Virginia, Idaho and Montana varies dramatically from year to year. The statistical sample sizes of these states are so small that it is difficult to draw sound conclusions. One or two perpetrators of crime can wildly affect the annual murder rate for each state for any given year.

In Idaho, murder rates varied widely from year to year as the state is very small in terms of population, but a general trend down from the year of adoption, in 1990, to 1991 was from 28 percent of the national average to below 20 percent.

Montana recently adopted the law in 1991 and there are no statistics available other than in the year of adoption. The murder rate in 1991 was the lowest since 1975.

Publicized local programs on firearms and self-defense have a deterrent effect on crime rates. From October 1966 to March 1967 the Orlando, Florida, Police Department trained 2,500 women to use guns in response to a substantial increase in the rate of rape. In 1967 the rate of rapes in Orlando decreased 88 percent.

In Kansas City, metropolitan police in response to business concerns about armed robberies, instituted a publicized training program. Armed robberies in Kansas City ceased to rise and decreased by 13 percent in surrounding areas of the city after increasing the five years prior to the training program.

In Kennesaw, Georgia, a suburb of Atlanta, the city council passed an ordinance requiring the heads of households to keep a firearm in their homes. During the seven months following the passage of the law, residential burglaries dropped 89 percent.

The National Institute of Justice commissioned a study by Mr. James Wright and Mr. Peter Rossi on adult male imprisoned felons. Wright and Rossi found 40 percent of the prisoners studied said that criminals did not attack a potential victim they suspected to be armed. Thirty-four percent of the criminals said they had been shot at, wounded by or captured by an armed victim.

Gun control proponents and lobbying organizations, such as Handgun Control Inc., claim that they wish to get firearms out of "wrong hands." When anti-gun lobbyists say this they claim the "wrong hands" are criminals, the mentally ill, drug addicts and other classes of persons prohibited from possessing firearms by both federal and state law.

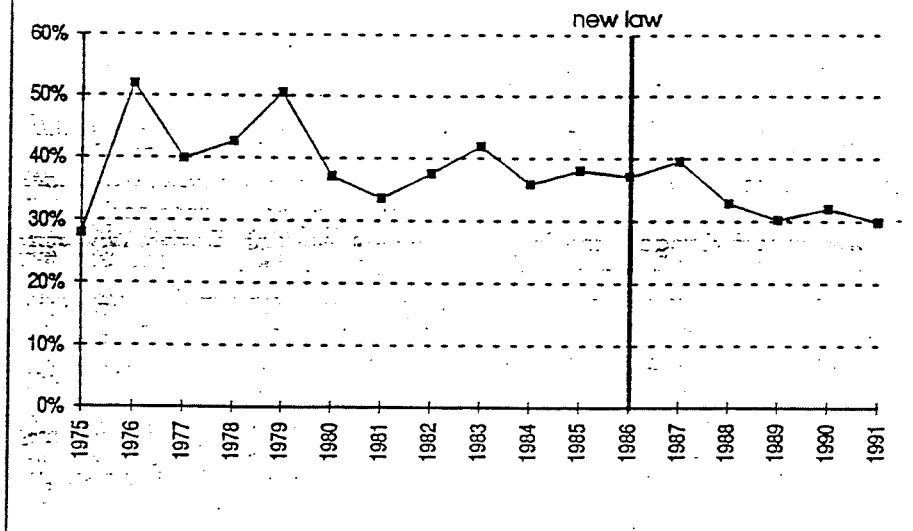
While they claim that they do not intend to remove firearms from the hands of law-abiding citizens, the statements and positions taken by these groups contradict their propaganda. They continually use anecdotal tragedies in emotional settings rather than hard statistical evidence in drawing their conclusions. They continually exploit the emotional response to such tragedies and justify their proposals by saying, "If it saves just one life it is worthwhile."

Time and time again private citizens with carry concealed permits have thwarted potentially murderous rampages by effectively using their firearms in self-defense. A 33-year old Miami cab driver was among the first to apply for a carry concealed permit license under Florida's law. Only a few months after receiving his license he became involved in a shooting.

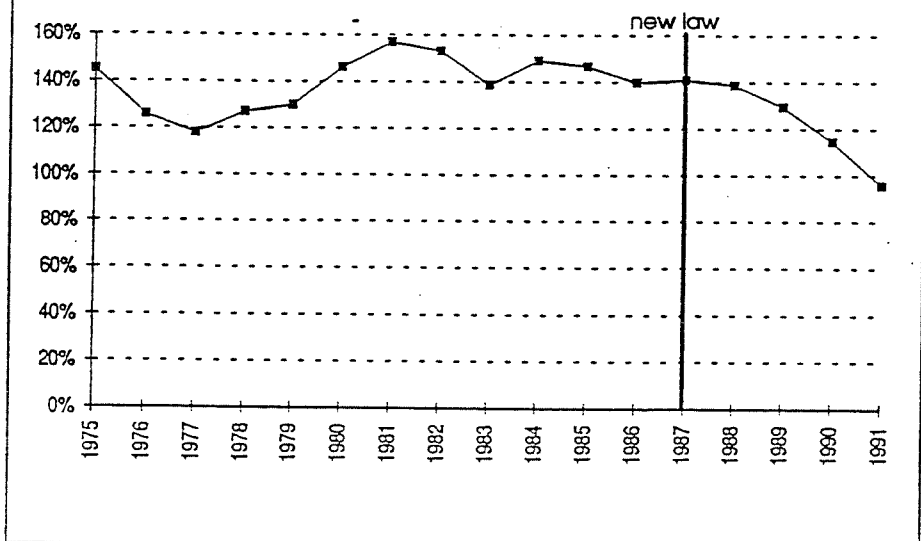
He shot and killed an armed robber after the criminal pointed a firearm at him, demanded money and told the cab driver that he was going to kill him. That 29-year old ex-convict had prior convictions for attempting to kill police officers. The cab driver mortally wounded his attacker with a Colt .45 semi-automatic hand gun. While Florida's criminal justice system failed to protect this citizen, the carry concealed law made it possible for the cab driver to protect himself.

On December 17, 1991, in Annis-

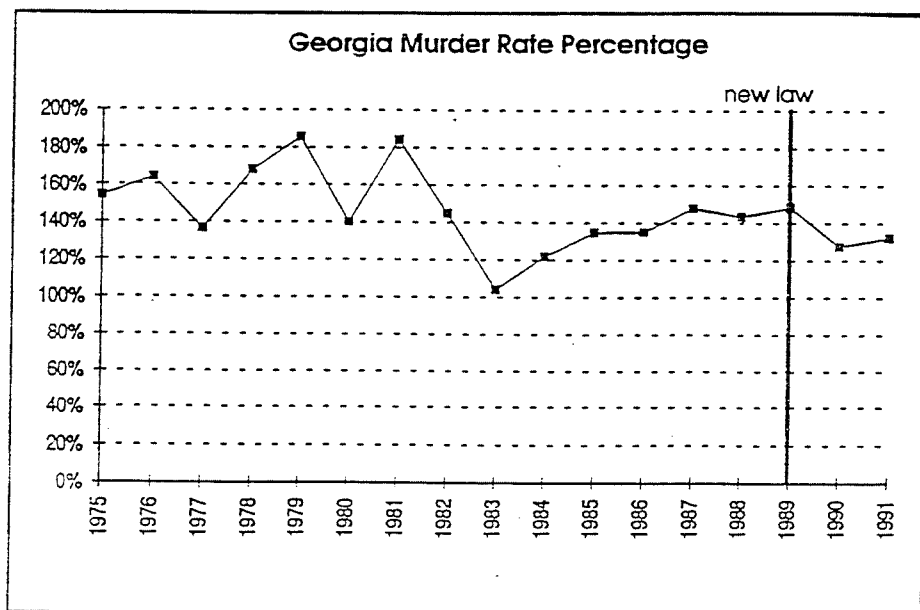
Utah Murder Rate Percentage



Florida Murder Rate Percentage



Georgia Murder Rate Percentage



ton, Alabama, a restaurant patron used his lawfully carried Colt .45 semi-automatic hand gun to stop two armed robbers in the restaurant as they were ordering all of the customers into the walk-in freezer. Suzanna Gratia has testified that had she had her .38 in her purse instead of in her car, as Texas law required, she could have foiled the murderer in Lubby's Cafe. She also testified that she had ample opportunity to do so when the man reloaded his firearm with a new magazine.

Carry concealed laws clearly pass the "save one life" test. But gun control lobbyists and proponents oppose carry concealed reform in every state where it has been proposed. It is important that if these laws are proposed in your state or locality the statute be scrutinized and a determination made as to whether the law provides for permissive or mandatory issuance of the permit. Permissive systems are open to bureaucratic abuse while mandatory issuance systems require the permit be issued to qualified applicants and that civil suits may be instituted to compel the issuances of those permits.

National carry concealed weapon permit systems have been proposed as legislation in Congress and would have the advantage of simplifying interstate travel while in possession of a firearm for personal protection. Each state should be required to honor other states' permits just as they do driver's licenses.

It is important that in this legislation, criminal sanctions be imposed upon federal bureaucrats who attempt to create registration systems based upon applications and/or permits. Issuance of these permits by state officials can help decentralize those records. Constitutional authority for national carry concealed legislation can be supported by arguments using other sections of the *U.S. Constitution* and the *Bill of Rights* separate and distinct from the Second Amendment.

In summary, perhaps Thomas Jefferson said it best, "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 prevent homicides for an unarmed man may be attacked with greater confidence than an armed man." So tell your elected officials, "Hey, trust me or I won't trust you with my vote." ●

Va. Concealment Issue Reveals a Twist in Annual Gun Debate

By Donald P. Baker and John W. Fountain
Washington Post Staff Writers

After Patrick Kenneth Lower resigned as a Virginia state trooper in March, he applied for a permit to carry a concealed weapon. He was concerned that the dangers of law enforcement would carry over into his new life, explaining that "on several occasions, I received verbal threats against my personal well-being."

But Chief Judge F. Bruce Bach of the Fairfax Circuit Court denied Lower's application, saying the 28-year-old Fairfax resident had "not demonstrated a need to carry a concealed weapon."

Such decisions would end if legislation now working its way through the Virginia General Assembly is passed. The legislation would require judges to grant permits to any resident who isn't disqualified by reason of a criminal record, insanity, substance abuse or other specified circumstances. No longer would an applicant have to show any need.

In some respects, the legislation proposed by Sen. Virgil H. Goode Jr. (D-Rocky Mount) is just the latest in what has become an annual showdown between rural and

See WEAPONS, B5, Col. 4

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7-15

8-9

Some in Law Enforcement Back Gun Plan

WEAPONS, From B1

urban lawmakers, and between lobbying groups such as the National Rifle Association and Handgun Control Inc.

One difference this time is that a few law enforcement officials, including state Attorney General James S. Gilmore III (R), are pushing to relax the rules.

"The law is being applied inconsistently," Gilmore said yesterday, "with, in some areas, courts denying all concealed weapon permits, regardless of circumstances."

But most law enforcement officials, particularly those in urban and suburban areas, argue against changing the permit process. Twenty-two states issue some form of a concealed weapon license, and Goode's proposal—addressing any legal weapon, from a handgun to a semiautomatic rifle—would make Virginia's requirements among the most permissive.

About 8,000 Virginians hold permits, which are good for two years. Maryland and the District don't allow concealed weapons. "Some people just desire to have guns under their coats," said Fairfax County's chief prosecutor, Robert F. Horan Jr. "And under this bill, if it passes, you'll be allowed to have a gun under your coat simply because you want to have one."

It's only natural that most police officers and judges oppose the proposal, said NRA lobbyist Tanya Metaksa, because "they view the world through dark and foreboding glasses," tinted by the day-in, day-out experiences of dealing with criminal defendants.

Those who apply to carry a concealed weapon "should be presumed to be responsible, law-abiding gun owners," said Metaksa, who is executive director of the NRA's Institute for Legislative Action.

Alexandria Sheriff James H. Dunning, however, said he is "opposed to easing any restrictions on the sale, possession and use of handguns. . . . There are much more effective ways to design and arrange physical security."

"I believe in the constitutional right to bear arms," said Prince William County Sheriff Wilson G. Garrison Jr., "but if this bill goes through, I'd like to see it amended to mandate certain firearms training."

The effect of the bill, should it pass, is unclear. Two leading criminologists concur that there is little evidence about whether making it easier to carry a concealed weapon prevents crimes or protects people.

"I believe in the general protective utility of guns," said Gary Kleck, a professor of criminology at Florida State University, "but there is no evidence that carrying a concealed weapon has a deterrent effect."

"I don't know from the data if more crimes are prevented than caused," said Franklin Zimring, director of the Earl Warren Institute at the University of California at Berkeley law school.

Criminal science professor William Peltrey of Virginia Commonwealth University contends that allowing concealed weapons results in more harm than good. Peltrey cited a University of Chicago study that found that people seldom use their concealed weapons—once in 100 attempted homicides, twice in 100 attempted robberies—while the chances of their being killed increases 14 times in a street robbery and 49 times in a business robbery.

Nonetheless, many people have told lawmakers that it's their constitutional right to carry a hidden weapon. Charles L. Waddell (D-Leesburg) was one of only two Northern Virginia senators to support the measure as it passed the Senate 24 to 16 last week. His mail ran 40 to 1 in favor of the change, he said.

Former state trooper Lower eventually was allowed to carry a concealed weapon—when he rejoined the state police. But the fate of other rejected applicants rests with the legislature.

The measure will be debated tomorrow before the House Courts of Justice Committee. If the measure passes the House, Gov. George Allen has said he will sign it.

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copy 2

8-10

20 February 1995

Regarding HB 2420

Testimony of George R. Pisani, 809 Connecticut St., Lawrence, KS 66044

I am a research biologist and administrator in Lawrence.

Two years ago in Lawrence, a man was killed and his family terrorized by three armed juveniles during a carjacking. Six months ago in New York City, a black man set upon by two armed black thugs killed both with his unlicensed concealed handgun carried for defense. No innocent bystanders were injured; police arrested the victim on a weapons charge! In 1970, four men decided not to rob me while I was camping overnight. My .45 Colt pistol helped them make their decision. I did not need to fire it.

I'm here in strong support of HB 2420, which provides a formal mechanism for law-abiding Kansans to be issued a permit to carry a concealed firearm for personal protection. The April 1994 U.S. Dept. of Justice Crime Data Brief points out that nationwide between 1987-92, an **annual** average of 82,500 (or, roughly 12%) of the victims of crime defended themselves successfully with a firearm. In 63% of these defenses, the victim merely produced the firearm, without discharging it. The Brief further states that in this time period, about 35% of these victims faced an armed aggressor, and that about 75% of these victims defended themselves during what is defined as a crime of violence. A 1989 study showed that armed civilians mistakenly shot an innocent person thought to be a criminal 2% of the time, but the error rate for police was 11%. This statistic is **not** presented to vilify police, as it doubtless is a consequence of their **continual** exposure to danger and the need to react quickly in order to survive. The 1993 Los Angeles Police Dept. Firearms Discharge Report lists "bad communication" as the most common reason cited by LAPD officers for "errors in shooting."

Yet, some officials continue to insist that citizens cannot be trusted to defend themselves effectively and appropriately with a gun. They argue that citizens like you and like me lack the maturity and judgement to be trusted with a gun. They argue

that such licensing of citizens would turn Kansas into a wild west show. And, they argue that only the police can show such skill, maturity and judgement. Are police born with a badge on them?

I hold both State and Federal controlled substances licenses for which I passed background checks; I have been a certified firearms instructor for over 30 years; I have been a Kansas resident for 25 years. And yet there is no legal mechanism allowing me to carry a concealed firearm for defensive purposes on my person or in my vehicle, even though in my previous state of residence I was licensed to do so. The licensing provisions of HB2420 have been structured carefully so that qualification is far more stringent than presently is required to obtain my State drivers license, my Federal pilot license, or even my State or Federal controlled substances licenses.

As you no doubt are aware, in 1987 Florida passed such a law despite the same sort of strident objection you will hear about this bill. HB2420 is modeled upon Florida's law, and while some may say that its application fee is set too low or that there should be more stringent licensing provisions, or even a whole new State bureaucracy established to administer such a law, the results Florida's effort, now enacted in 21 states, indicates otherwise. Restrictively high fees in particular would discriminate economically against many capable women and men in potential high-crime areas who otherwise would qualify for licensing.

Years of data from the Florida experiment and from federal sources conclusively show that a greater abundance of trained, responsible, armed citizens makes criminals reconsider attacking a seemingly helpless victim. Career criminals are deviant, but generally are not stupid. The potential gain from a robbery would not be worth the risk of being shot or held at gunpoint for the police by an intended victim!

In Florida, of 227,569 permits issued between October 10, 1987 and May 31, 1994, only 18 (0.008%) have been revoked because the permit holder committed a

crime in which a gun was present. FBI Uniform Crime Reports compiled since 1987 show while the overall U. S. homicide rate rose 12% in that period, Florida's has DROPPED 21%. States with Florida-type CCW laws have, overall, a 21% lower total violent crime rate, a 33% lower homicide rate, and a 13% lower aggravated assault rate.

In conclusion, as almost half the states have observed since 1987, a permitting system thus empowering citizens makes criminals think twice before acting. The police cannot be omnipresent. Properly trained armed citizens can and do form a powerful adjunct to formal law enforcement efforts. Kansas should avail itself of this resource, which would do more to fight crime than the few extra police provided to a few major cities under President Clinton's so-called crime bill.

Trust the people. Our country's founders did.

Thank you very much.

Discussion concerning criminals, and their choice of weapons, as observed throughout a 32-year law enforcement career and the criminal's perception of the victim's inability to deter his attack regardless of his choice of weapons.

Owen L. Sully, Presenter
Former Wyandotte County Sheriff
Kansas City, Kansas Police Department, 28 years.

Thank You.

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Atch #10

KAR

Testimony Before the Federal and State Affairs Committee
Concerning House Bill #2420

February 20, 1995

Kansas is the 15th most dangerous state according to facts compiled by the Morgan Quitno Corporation in their book, Crime State Rankings 1994. This determination was based upon statistics from the U.S. Department of Justice and the F.B.I. on crime in each of the fifty states. While exact rankings are arguable it is clear that the State of Kansas with it's location and low population density should rank much lower. Law enforcement is doing what it can with the people and resources it has however when one considers that there are only about 22 Law Enforcement Officers per 10,000 people in Kansas, down from 25 in 1987, one realizes how difficult it is for them to insure our safety. We need to look for other more efficient means to protect our citizens.

Nationally, 87 % of violent crime takes place outside of the home. Criminals also take great pains to commit crimes away from police presence. According to Department of Justice statistics for 1991 for all violent crime only 28 % of calls were responded to within five minutes. With these facts in mind it is time for Kansans to consider enacting laws which allow honest citizens to protect themselves.

One of the advantages of our Federalist system of government, with fifty sovereign states, is that a variety of ideas can be tried and through experience, determine what works and what does not. Last year Kansas was one of only fifteen states that had no method for honest citizens to acquire a permit to carry a handgun concealed. As we begin this year, 1995, Kansas is now in the minority of 11 states which guarantees it's criminals will have victims, who are defenseless.

In the testimony presented against this bill it was suggested that Kansas citizens who underwent a background check, had training in safe use of a weapon and were trained in lawful self defense, would be incompetent or act irresponsibly. Why would Kansans be different from the citizens of other states, who have enacted concealed carry laws. Some of these states have far fewer restrictions, yet their citizens have not acted irresponsibly. Each year more states are passing laws to allow concealed carry of handguns and no evidence has been presented to show any have had the problems suggested.

The protection offered to those with a license to carry would extend to others as criminals will not know if their victim is armed and would be concerned that someone nearby might be.

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Finally, with my written testimony is a complete list of the fifty states in order of most dangerous to the safest. Each state is marked as to whether it gives its citizens the opportunity to carry a weapon concealed and if so some basic criteria as to what is required to do so. The requirements were compiled by Handgun Control Inc. per an article in USA Today dated December 29, 1994. What is shown is that while most states have some form of concealed carry permitting system the twenty-five safest states have by far the more lenient criteria for obtaining a permit. In fact Vermont does not require any permit or training for its adult non-criminal citizens to carry a handgun concealed and it is the safest of all the fifty states.

As I have said earlier Kansans need to rethink their laws concerning the carrying of handguns. The question which needs to be asked is whether we should continue to follow the states with the highest crime rates, or, if public safety is our goal, should we change our laws and model them after those of the safest states.



Bill Kamm
Bonner Springs, Kansas

This is a list of the 50 states ranked from the most dangerous to the safest according to Crime State Rankings 1994 by Morgan Quitno Corp. of Lawrence, Kansas

25 Most Dangerous

- * 1. Louisiana
- * 2. Maryland
- 3. Texas
- 4. Illinois
- ** 5. Florida
- * 6. California
- * 7. Nevada
- * 8. New York
- ** 9. Arizona
- * 10. South Carolina
- **11. Georgia
- * 12. Michigan
- 13. New Mexico
- 14. Missouri
- 15. Kansas
- * 16. Alabama
- * 17. New Jersey
- 18. Oklahoma
- **19. Tennessee
- **20. Colorado
- * 21. Delaware
- 22. North Carolina
- 23. Ohio
- **24. Alaska
- * 25. Indiana

25 Safest

- **26. Washington
- **27. Oregon
- * 28. Hawaii
- * 29. Massachusetts
- 30. Arkansas
- **31. Connecticut
- * 32. Mississippi
- 33. Wisconsin
- * 34. Minnesota
- * 35. Utah
- * 36. Rhode Island
- **37. Pennsylvania
- * 38. Virginia
- **39. Idaho
- **40. Wyoming
- * 41. Montana
- **42. Kentucky
- **43. South Dakota
- 44. Nebraska
- * 45. New Hampshire
- **46. West Virginia
- **47. North Dakota
- * 48. Iowa
- **49. Maine
- ***50. Vermont

No stars next to a state means citizens are not allowed to carry a handgun concealed.

One star means citizens can obtain a permit if they can show need to the satisfaction of the authorities.

Two stars means non-felons can usually get a permit.

Three Stars means no permit is required. Vermont is the only state with three stars yet it is the safest!

CRIME STATE RANKINGS 1994

Crime in the 50 United States



Kathleen O'Leary Morgan, Scott Morgan and Neal Quitno, Editors




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P.O. Box 1656, Lawrence, KS 66044
800-457-0742 or 913-841-3534

11-4

WHICH STATE IS THE MOST DANGEROUS?

 It's fun. It's beautiful. It's a great place for jazz. But on the whole, Louisiana is 1994's "Most Dangerous State." The Bayou State has the dubious distinction of being the first to receive this designation. Conversely, Vermont registers as the safest.

Using 16 basic criteria (listed below) the Most Dangerous State was determined by comparing factors such as state crime rates, juvenile crime statistics, crime clearances, police protection and expenditures. These provide a sound statistical basis for comparing states' abilities to keep their streets safe for the average citizen.

Once the factors were determined, we averaged each state's ranking for all 16 categories. Based on these averages, states were then ranked from "most dangerous" (lowest average ranking) to "safest" (highest average rankings). States with no data available for a given category were assigned a zero for that category and ranked on the remaining factors. In our book, data are listed from highest to lowest. However, for the purposes of this calculation, we inverted the rankings for those factors we determined to be "positive." Thus, in the book, the state with the lowest percent of crimes cleared (ranking 50th) would be given a #1 ranking for this designation.

Morgan Quitno prides itself on presenting facts without bias and in an objective manner. A central theme of our books is that we present the data and leave the analysis to our readers. However, with each new series we take what we determine to be the most critical statistics, throw them into our computer and present an "award" based on the results. Annually since 1991 we have named the "Most Livable State" and in 1993, the "Healthiest State." With the debut of this third series of books, *Crime State Rankings*, we begin the "Most Dangerous State" designation.

We realize that those living in high ranking states may take offense at our characterization of their home states as "dangerous." However, our intent is not to anger, but rather to facilitate a productive discussion on a problem of great concern to us all.

THE EDITORS

1994 MOST DANGEROUS STATE

STATE	AVG	STATE	AVG
1. Louisiana	10.63	26. Washington	25.13
2. Maryland	12.81	27. Oregon	25.44
3. Texas	15.00	28. Hawaii	25.75
4. Illinois	15.31	29. Massachusetts	26.63
5. Florida	15.81	30. Arkansas	27.00
6. California	16.50	31. Connecticut	27.44
7. Nevada	16.75	32. Mississippi	27.94
8. New York	17.13	33. Wisconsin	28.06
9. Arizona	18.13	34. Minnesota	28.31
10. South Carolina	18.14	35. Utah	29.44
11. Georgia	18.75	36. Rhode Island	29.63
12. Michigan	18.81	37. Pennsylvania	30.38
13. New Mexico	18.88	38. Virginia	30.63
14. Missouri	19.88	39. Idaho	31.94
15. Kansas	20.19	40. Wyoming	32.69
16. Alabama	20.44	41. Montana	33.13
17. New Jersey	20.63	42. Kentucky	34.00
18. Oklahoma	20.88	43. South Dakota	34.31
19. Tennessee	21.69	44. Nebraska	34.50
20. Colorado	22.88	45. New Hampshire	35.81
21. Delaware	22.94	46. West Virginia	37.75
22. North Carolina	23.25	47. North Dakota	39.00
23. Ohio	23.38	48. Iowa	39.43
24. Alaska	24.00	49. Maine	43.06
25. Indiana	24.81	50. Vermont	45.81

NEGATIVE FACTORS CONSIDERED:

1. Crime Rate in 1992 (Table 277)
2. Violent Crime Rate in 1992 (Table 283)
3. Murder Rate in 1992 (Table 289)
4. Rape Rate in 1992 (Table 308)
5. Robbery Rate in 1992 (Table 314)
6. Aggravated Assault Rate in 1992 (Table 328)
7. Property Crime Rate in 1992 (Table 343)
8. Percent Change in Crime Rate: 1988 to 1992 (Table 413)
9. Percent Change in Violent Crime Rate: 1988 to 1992 (Table 417)
10. State Prisoner Incarceration Rate in 1992 (Table 73)

11. Reported Arrests of Youths 17 Years and Younger as a Percent of All Arrests in 1992 (Table 36)
12. Reported Arrests of Youths 17 Years and Younger for Violent Crime as a Percent of All Such Arrests in 1992 (Table 38)
13. State-Local Government Expenditures for Police Protection as a Percent of All Direct Expenditures in 1991 (Table 182)
14. Full-Time Sworn Officers in Law Enforcement Agencies per 10,000 Population in 1992 (Table 224)

POSITIVE FACTORS CONSIDERED:

15. Percent of Crimes Cleared in 1991 (Table 450)
16. Percent of Violent Crimes Cleared in 1991 (Table 451)

Texas ready to take aim at legalizing concealed guns

By Mark Potok
USA TODAY

DALLAS — As bullets whizzed around her and the moans of the dying echoed through the chaos, Suzanna Gratia cowered behind an overturned table with her parents, planning the shot that would end it.

Then Gratia realized she didn't have her gun.

In the next seconds, the man who three years ago killed 22 people at a Luby's Cafeteria in Killeen, Texas, murdered her father before her eyes.

Then, as Gratia's mother cradled her dying husband's head, she, too, was shot dead.

Gratia, 35, says she's never been the same. "I made a very, very, very stupid decision to obey the law," against concealed weapons, she says.

She had left her Smith & Wesson .38 caliber pistol in her car's glove compartment rather than carry it in her purse.

"I would much rather be in jail with a felony offense on my head, and still have my parents alive today."

Nationwide, more laws allowing concealed weapons are being approved. In Texas, where owning a gun is practically a badge of citizenship, analysts and legislators expect such a law to be signed in 1995, after years of failed attempts.

Gwen Fitzgerald of Handgun Control Inc., a Washington, D.C., gun-control group, says, "More guns equal more deaths and injuries. If you've got everyone running around carrying guns, minor traffic altercations and fights over neighbors mowing the lawn have the potential to turn deadly."

But Gratia couldn't be happier about change in Texas.

"The first several people would have been killed anyway," she says of the attack. "After that, there's no doubt in my mind that I would have had an opportunity to save my family and a number of others. One thing is certain: It sure would have changed the odds."

Ron Wilson agrees.

A liberal Houston Democrat, Wilson is sponsoring the latest concealed weapons law, after an earlier, watered-down version was vetoed by Democrat Gov. Ann Richards in 1993.



By Ron Jenkins, AP
BACKS LEGISLATION: Fort Worth police officer Paul Ware supports allowing private citizens to carry concealed weapons.

11 states ban concealment

Texas is one of 11 states that ban carrying concealed weapons. Only Vermont allows it without a permit. Requirements:

Permitted for licensed non-felons: Alaska, Arizona, Colorado, Connecticut, Florida, Georgia, Idaho, Kentucky, Maine, North Dakota, Oregon, Pennsylvania, South Dakota, Tennessee, Washington, West Virginia, Wyoming

Permitted for licensees who can show need: Alabama, California, Delaware, Hawaii, Indiana, Iowa, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, Nevada, New Hampshire, New Jersey, New York, Rhode Island, South Carolina, Utah, Virginia, District of Columbia

Not permitted: Arkansas, Illinois, Kansas, Missouri, Nebraska, New Mexico, North Carolina, Ohio, Oklahoma, Texas, Wisconsin

Source: Handgun Control Inc.

With Republican George W. Bush about to replace Richard, some version of the law is expected to finally pass.

Wilson, whose wife was once stabbed by an intruder and

who has himself been shot at, says whether the law lowers crime is beside the point.

He says what matters is that law-abiding citizens have the right to defend themselves.

"There's only one statistic that really matters — what happens to you," he says.

Harold Dutton, another Houston Democrat and an opponent of Wilson's proposal, says: "We're heading for a state that's totally out of control, where every dispute is settled out in the street at noontime."

Most law enforcement officials have opposed concealed weapons. But the bill's safeguards — barring felons and requiring a license and training — have changed minds.

"They've put in many of the protections we wanted," says Ron DeLord of the Combined Law Enforcement Association of Texas. "This session we're going to be neutral."

Fort Worth Police Chief Thomas Windham once thought it didn't make sense "to put an instrument of violence into a situation of violence." Then two of his officers, both out of uniform, managed to save themselves because they had weapons.

"Had any of these individuals been private citizens, they would not have had the privilege of self-defense the officers had," Windham says now. "I just concluded they should not be denied that privilege."

By Bob Child, AP
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I am here to speak in behalf of House Bill 2420.

A gun is merely a pipe that launches a projectile, it is not magic, it is not a demon, and it certainly has no mind of its own. A gun is no more a life taker than automobiles, electricity or medicine.

As of 1995 4,600,000 Americans have used a handgun in protecting themselves. An F.B.I. research survey reports that less than 5 % of these cases resulted in injury or death.

The Dept. of Justice victimization surveys, show that the protective use of a firearm lessens the chances that a rape, robbery or assault attempt will be successfully completed, and reduces the chance of injury to the intended victim.

Many many times, legislators and anti-gun activists have compared gun ownership to that of an automobile, they point out that a vehical has to be registered & licensed by the state, and so should a gun, that it is a privilage, not a right.

I and many others would certainly agree to this, provided we had the same privilges given to Kansas motorists. They should understand, that like a firearm, ownership of a vehical is a right granted me at birth as an American; the privilige offered me by the state, is the safe & legal operation of such vehical, if, I successfully complete the operating tests, licensing fees & requiremnts, I can legally operate this vehical, night & day on any and all designatd areas the state offers.

I for one, would adhere to all such requirements in the legal carrying of a concealed firearm.

Crime rates are lower in Cities that allow law abiding citizens to carry firearms.

States with favorable concealed carry laws have lower rates of crime than states with restrictive concealed carry laws. The homicide rates for states with favorable carry laws is 31 % lower and the robbery rate is 30 % lower.

States that have recently changed their laws have experianced reductions in homicide rates. Since Florida enactd a favorable concealed carry weapon law in 1987, their homicide rates dropped 22 %, when the national rate rose 15 %.

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2-20-95
Atch #1

I am 51 yrs. old, I am a female, and have had open heart surgery. I cannot climb nor run. I am physically weaker than a man. I am a nurse, I have worked many varried shifts. Going to or from work at all different hours of the day and noc, in the city, and commuting to a differnt town.

If I were to be attacked, I would not have a really great chance of getting away, and little to defend myself.

I myself have had cause to protect myself and others with a firearm. Myself and two other girls went to the store, around 11:30 pm. There were three men hanging around outside the store, they had been drinking and had decided evidently that we would be fun to play with. The car doors were locked, one of them was sitting on the hood of the car. Another one walked around behind the car, and the third one tried to open the door, when he found it was locked, he demanded that we open the door, stricking the glass with his fist and kicking the side of the car. I told them to get off the car, and told them to leave us alone, and tyo get out from behind the car. They refused, cussing, calling out derogatory names, hitting and kicking the car. I saw very few options. I could not pull forward, as the store was in front of me, If I backed up, I would be running over one of them. I pointed my firearm at them, and told them to get away from the car. They did move away from the car after I assured them I was willing to use the firearm if necessary to protect us from them, thus allowing me to pull out of the parking space and hurriedly leave.

Speaking as a woman, being able to carry a firearm as protection, gives me, a chance. A man intent on doing you bodily harm, could run through a waterfall of pepperspray or mace, and still tear your head off.

Sharon Mawien

PRESENTATION

MR. ALBERT B. THOMPSON

HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

20 FEBRUARY, 1995

Mr. Chairman, members of the committee, my name is Albert Thompson, and I reside in Topeka, Kansas. I am here today to speak in support of proposed legislation that would provide qualified, responsible men and women of Kansas the opportunity to obtain a state wide license for the carry of certain concealed weapons. As framed within the context of HB 2420, the act would allow the state to exercise reasonable control over licensing by conducting full background checks and requiring evidence that applicants have adequate training and demonstrated proficiency.

The note of fiscal impact provided by the Division of the Budget appears to indicate that the system would be totally funded by user fees. Additionally, alternative methods of fiscal assessment based on the actual experience of states currently having such licensing provisions reveal a potential for the capture of additional revenues.

The proposal before you is not revolutionary. It is modeled on the existing uniform carry law that was so successfully implemented in Florida in 1987, that it has now been adopted by Georgia, Pennsylvania, Idaho, Mississippi, Montana, Arizona, Tennessee, Wyoming and Oregon and is now pending in Texas and several other states. Florida State Representative Ron Silver, who opposed the Right to Carry bill, admitted in 1994, "I am pleasantly surprised to find that I think it's working pretty well...We have found very few instances whereby permit holders have actually gone out and committed a crime afterwards." Of 258,000 carry permits issued in Florida

F & SA
2-20-95
Atch #13

through November 30, 1994, only 18 less than 0.007% have been revoked because permit holders committed crimes [not necessarily violent] in which guns were present [not necessarily carried or used].

In conclusions cited within the executive summary of the Koch Crime Commission Report The Crime Situation In Kansas, published August 5, 1994, the commission stated:

"Crime in Kansas is increasing rapidly. The number of reported crimes in Kansas increased more than 26 percent between 1984 and 1992. Violent crime is increasing faster in Kansas than property crime. Kansas has a higher rate of increase than the nation in both number of crimes and reported crimes per thousand population. This applies for violent and property crimes. From 1989 to 1992, reported violent crimes in Kansas increased by 28 percent, a growth rate of 8.6 percent per year. This is significantly higher than the 5.9 percent per year growth rate in violent crime over the 1984 1992 period."

The dramatic increase in gang activity and drug use has brought a wave of violent street crime to Kansas, streets where current law denies honest citizens the right to bear any effective means to protect themselves. Clearly, the police cannot protect everyone.

Sworn peace officers of this state are a hard working and dedicated cadre of men and women. Nevertheless, they are indeed a thin blue line. According to Crime In Kansas 1992, as published by the Statistical Analysis Center of the Kansas Bureau of Investigation, Topeka, Kansas, 1993, Kansas has only 5,025 sworn local law enforcement officers to serve over two million citizens. At most, only one fifth are on duty in any 8 hour time period. Consequently, the role of the police officer is one of only generalized crime prevention, coupled with what is often, unfortunately, an after the fact response.

The tragic irony of laws that completely prohibit the carry of defensive weapons by responsible citizens is that they have made the streets safer for predatory criminals. Areas in this nation with the strictest gun laws have: 1] the highest crime rates, 2] the highest murder rates, and 3] the largest number of illegal guns on the street.

Nationwide, over 650,000 Americans use firearms in self defense each year. That's 1780 a day, at least one every 49 seconds. Most of the time, no shot is fired. The mere realization that a victim is armed is usually sufficient to discourage a criminal.

As the Florida State Legislature considered the bill that led to its Right to Carry law, firearms ownership opponents predicted that catastrophe would follow if average people were allowed to have handguns in public. Nevertheless, the bill was endorsed by the Florida Department of Law Enforcement, the Florida Sheriffs Association, The Florida Police Chiefs Association and other law enforcement groups.

As of 1993, Florida's per capita homicide rate had dropped 22% since 1987, while the national homicide rate has risen 15%; testament to the irrationality of the claims of its detractors. Even total homicides in Florida, ignoring population increases, have dropped from 1368 in 1987 to 1191 in 1993; a total decrease of 13%.

In many states throughout this nation, qualified and law abiding citizens are carrying their concealed weapons responsibly and safely. Their records are impressive, and I believe the record of Kansas would be no less so. You have before you proposed legislation possessing unique qualities. It is a rational and proven system that promotes public safety. It pays for itself. It invites the compliance of responsible citizens. And most importantly, it guarantees that the most basic of human

rights, the right to protect and defend one's life, does not end at the front door.

Mr. Chairman, members of the committee, thank you for your attention and consideration.

As an alternative to the fiscal impact statement proposed by the Division of the Budget, a more realistic measure of the potential number of applications for CCW may be gained by looking at the experience of other states. Other states have issued CCW licenses to approximately 1% to 4% of their populations. In Florida, with a population of approximately 13,679,000 persons, a total of 266,607 applications were received from 10/01/87 through 11/30/94. This represents approximately a 1.9% population rate. Of the applications received, 185,330 were new, and 81,277 were renewals. Assuming a homogeneous distribution of the new applications over the seven year period, approximately 26,476, or 0.2% of the population, applied in each year. Assuming further that the renewals are captured within the last four years of activity, approximately 20,251, or 0.15% of the population renewed within a given year.

Application is made to the Kansas population of approximately 2.2 million during the first year at a rate of 0.2% of the population or 4,400 applications. At \$125 per application, projected revenues would total \$550,000 during the first year, with similar amounts in years two and three. In the fourth year, new application revenues would be augmented by the 0.15% of the population renewing licenses at \$100 each, for a total of 3,300 renewals, and an additional \$330,000 in revenues for years four through seven. Based on the above, yearly totals for years four through seven would be \$880,000 per year.

PRESENTATION

GRACE DESTER PETRON

HOUSE COMMITTEE ON BILL 2420

02/20/95

Mr. Chairman, members of the committee, my name is Grace Dester Petron, I reside in Topeka, Kansas. Today I would like to indicate to you the reasons I feel House Bill 2420 has merit. While the number of victims increases it is evident that the number of arrests and convictions of perpetrators fails to diminish occurrences. House Bill 2420 allows law abiding citizens a means of self defense. The concept of having to fire a weapon in self-defense or in the defense of another does not appeal to me. However, the idea of being made a victim or statistic appeals even less. Being responsible for ones own action is of the utmost importance.

- 1] It provides a legal means of defense to be available should such a means be chosen by an individual.
- 2] The firearms and personal protection training stipulated as a prerequisite in the bill is quite appropriate.
- 3] The criminal element will be forced to the realization that a prospective victim could be in the MINORITY by NOT possessing a weapon and the training to take necessary action.

While I believe strongly in my right to keep and bear arms I would also like to note the following:

- 4] The cost of licensing must be kept affordable for the average citizen of the state of Kansas.
- 5] Some provision should be made through the language of the bill to deny such licenses to individuals with a history of Domestic Violence or who are currently under a restraining order due to past violent behavior.

F-5A
2-20-95
Atch #14

Other states passing similar bills have experienced dramatic reduction in violent crimes. It is also noted there are perhaps few citizens in number whom attain the license leaving the criminal element to ponder which of the possible victims posses a weapon. Ideally we all do our best to avoid high risk situations. and take appropriate precautions in regard to our safety and the safety of those we love. Sometimes these situations cannot be avoided or they occur outside a recognized high-risk environment.

Passage of House Bill 2420 would provide law-abiding citizens the legal right to possess their means of safety.

Thank you for allowing me to present my views.

20 February 1995 Regarding HB 2420

Testimony of Clare T. Wuellner, 1545 Haskell, Lawrence, KS 66046

I am a Graduate Student in Lawrence.

Though police do attempt to protect the public to the extent that the law and their resources allow, they cannot [and in a free society SHOULD NOT] be omnipresent. Various court decisions, including the U. S. Supreme Court [DeShaney v. Winnebago County Dept. of Social Services, 489 U.S. 189 (1989)], have affirmed that the INDIVIDUAL is responsible for his or her own defense, and that government [through police] is responsible only for protecting society as a whole, and not any specific person during any specific incident. This model unfortunately assumes that a certain number of citizens will be sacrificed to crime, since police cannot respond in time to offer effective aid to them.

Some of those who have spoken against this bill seem to feel that lawfully armed citizens pose just as great a threat to law enforcement personnel and shopkeepers as do criminals. In testifying against HB 2420, Jim Kaup stated that "HB 2420 would put more guns on the streets...", and that "police officers... will know that more of the drivers they pull over for traffic offenses will have handguns on them. Shop keepers will know that more of the people coming through their doors will be armed." The implication is that every citizen who is lawfully armed is in fact a potential criminal. This attitude is nothing short of offensive.

Mr. Kaup sees the fact that there are 200 million guns legally owned as a "problem". The implication here is that these guns are tools of crime. No, the vast majority of these guns are used responsibly by their owners. An additional implication is that passing HB 2420 would somehow increase crime. There is abundant indication that just the reverse is true. Responsible gun owners will still be responsible, and criminals will still play by their own rules. Passing HB 2420 will give responsible,

proficient, gun owners like myself the choice of doing for myself what the police cannot. That the police defend society as a whole, and not individuals means that, although their presence is effective in reducing crime, they cannot stop it altogether. I know this to be a fact from personal experience. I was alone in a laundromat at night in a Lawrence neighborhood that has a higher than average crime rate. (As a graduate student, I cannot afford to live in the less crime-ridden parts of Lawrence.) The only other person in the laundromat was a man who was behaving abnormally. He was extremely nervous and aggressive. He cornered me. Fortunately, I was able to convince him to leave me alone. The police could not have helped me had he chosen to harm me. Had I had my gun with me, I could have defended myself, had all other non-violent options failed me.

I have spoken with many, many men and women about how they perceive the world, and I can tell you that women, including myself, have far more to fear with regard to being victims of violent crime. This fear shapes the way many women, including myself, live their lives. But we all have the opportunity to educate ourselves to reduce our risk of being a victim. I have learned much about self-defense and how to avoid being a victim. But despite all of my precautions and self-defense training I know quite well that my odds of physically defending myself from assault by most men would be far from even. The legal right to carry a concealed weapon would give me an option far more effective than physical combat. I see no reason why I should not be given every opportunity to defend myself as effectively as possible. I ask you for that chance.

15-2

Carissa McKenzie
Route 1 Box 165A
Alta Vista, KS 66834
(316) 443-5617

RE: Testimony in favor of passage of House Bill 2420 before the
Committee this February 20, 1995.

My name is Carissa McKenzie and I reside in Wabaunsee County,
Kansas. I urge the Kansas Legislature to pass law providing for the
licensure of law abiding citizens to carry certain concealed weapons.
This is a matter of ensuring the security of a free state as well as
preserving individual safety.

As a rural resident, I frequently travel remote and subsidiary
roads, often in hours of darkness. I want the legal right to possess
and carry a weapon in order to defend my life against uninvited assault,
when and if such aggression should occur.

Criminals, by their very nature, do not obey laws, and thus pose
a threat to the security of our nation and our people. We must, as
a society, allow the law abider to defend himself against criminal
aggression. There are some 450 million firearms in this country, yet
fewer than one half of one percent ($\frac{1}{2}$ of 1%) are used criminally.

Conversely, more than 99% of firearms in this country are used for
lawful purposes. Every year, tens of thousands of Americans use their
weapons to defend their life and liberty against criminal action.
Unfortunately, current law disallows these same citizens from protecting
themselves and their families in most public settings because we are
prohibited from carrying firearms for our security.

As Kansas law stands, I can lawfully carry weapons in my home, on
my property, and in my vehicle. While in my vehicle, firearms can be
exhibited visibly or stored unloaded and secured out of view. When
visible and at hand, the firearm can be used defensively in dire need.
When unloaded or inaccessible, a firearm is of no use to ward off lethal
threats. Therefore, when I travel, my firearm is left visible and
loaded on the seat beside me.

But what happens when I leave my vehicle to conduct business?

F-5A
2-20-95
Atch #16

I can leave the weapon unattended and visible, giving the criminally minded the opportunity to break and enter my vehicle to steal the weapon. Or, I can unload the weapon to store out of view, hoping that no one steals my vehicle. My third choice is to carry that weapon in plain view.

What do you suppose will happen when I enter a business with a firearm at my hip? The Dillons stores now post armed security guards at their entrances. The guard will most likely demand I disarm or deny me entrance. Disarmed, I will be unable to defend myself on premises where assaults and robberies have occurred.

I tell you this to point out how the mere sight of a firearm makes many people uncomfortable even to the point of irrationally fearing law abiding citizens. It is in fact, the unlawful use that should be of concern to the public. A concealed carry law will allow me to enter premises as a law abiding citizen to conduct lawful business and lawfully defend myself should the need arise.

How would I be a threat to society for carrying a concealed weapon? My fingerprints will be on file with law enforcement agencies and I will receive further training in firearms safety.

Many lives could have been saved if the victims had the legal authority to protect themselves. Violent crime has decreased in the state of Florida since the implementation of a concealed carry permit system while violent crime continues to escalate in those states and our nation's capital where law abiding citizens are prevented from lawfully possessing firearms. The state of New Mexico offers concealed carry options for its women. Women can feel especially vulnerable to violent crime when they do not have protection. Please allow women the right to defend themselves against rape and threat of death.

A concealed carry permit can be an effective tool in decreasing criminal actions. Police officers cannot be everywhere and do not offer the citizens protection against violence. Thus, I urge you to support HB 2420 (or any concealed carry permit system) providing for the licensure to carry certain concealed weapons.

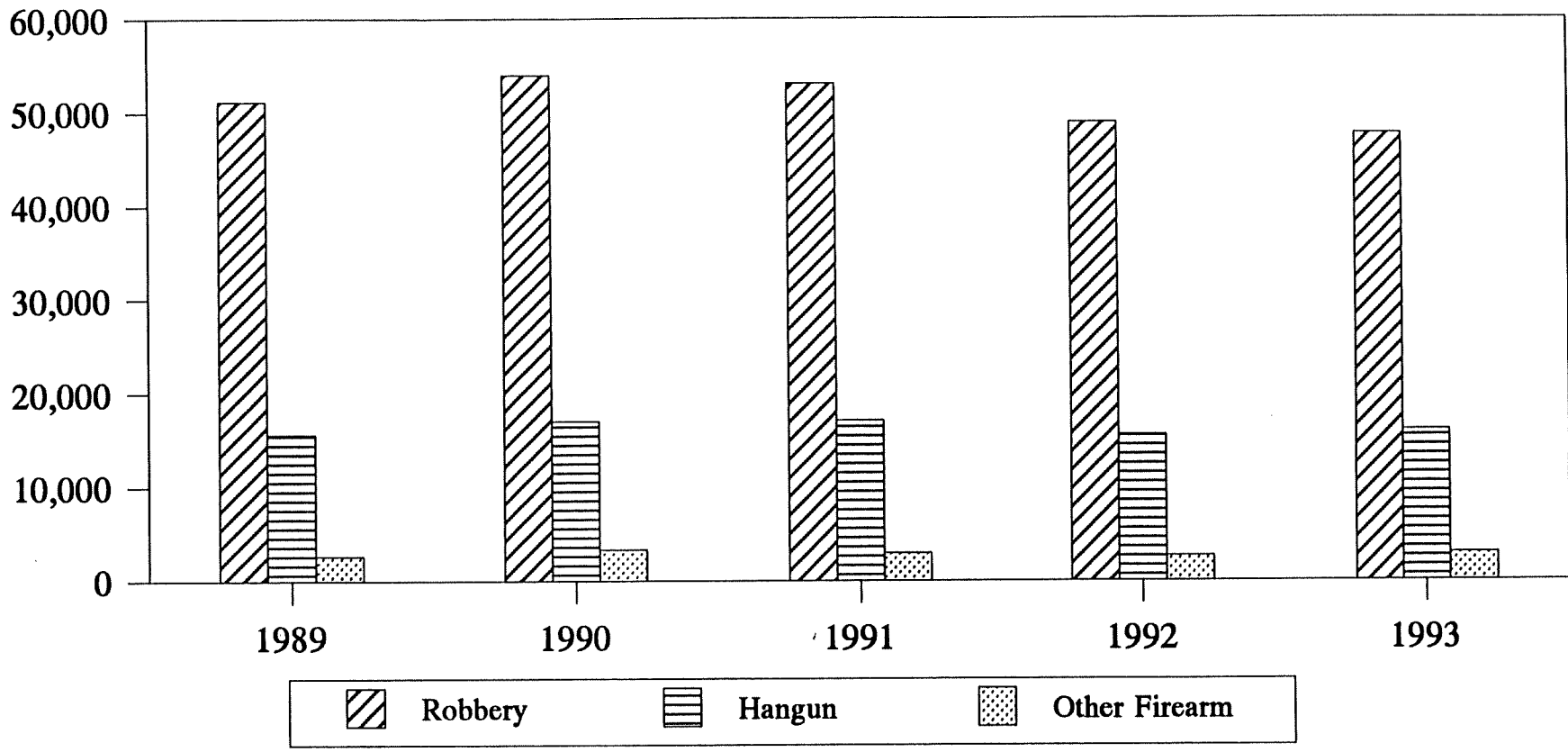
Thank you.

Carissa McKenzie

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Atch#17

Robberies in Florida

1989 thru 1993



Robbery	51,188	54,015	53,076	48,957	47,742
Hangun	15,647	17,018	17,124	15,566	16,057
Other Firearm	2,648	3,316	2,976	2,655	2,936

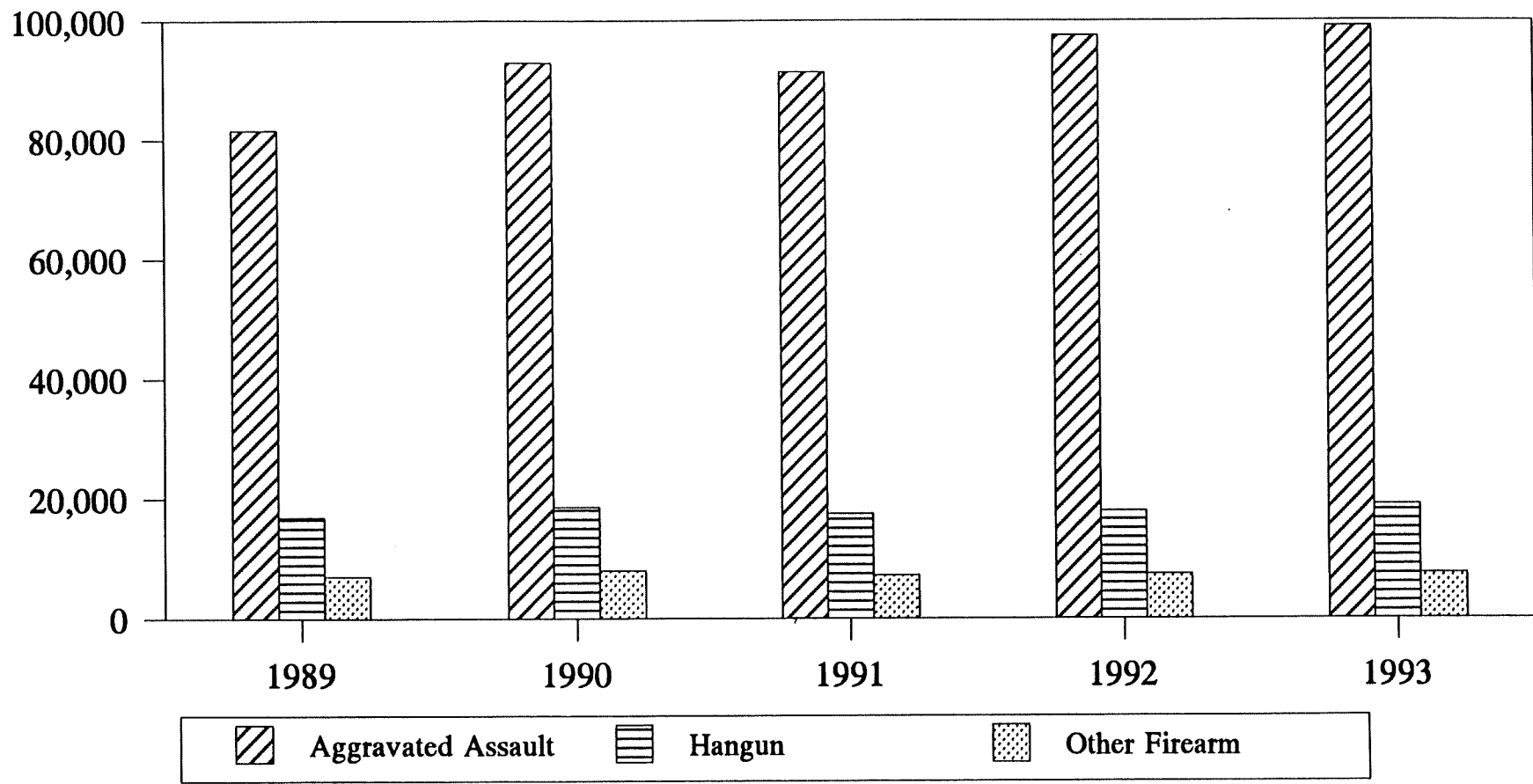
Source: Florida Department of Law Enforcement

Kansas Legislative Research Department February 13, 1995

17-2

Aggravated Assaults in Florida

1989 thru 1993



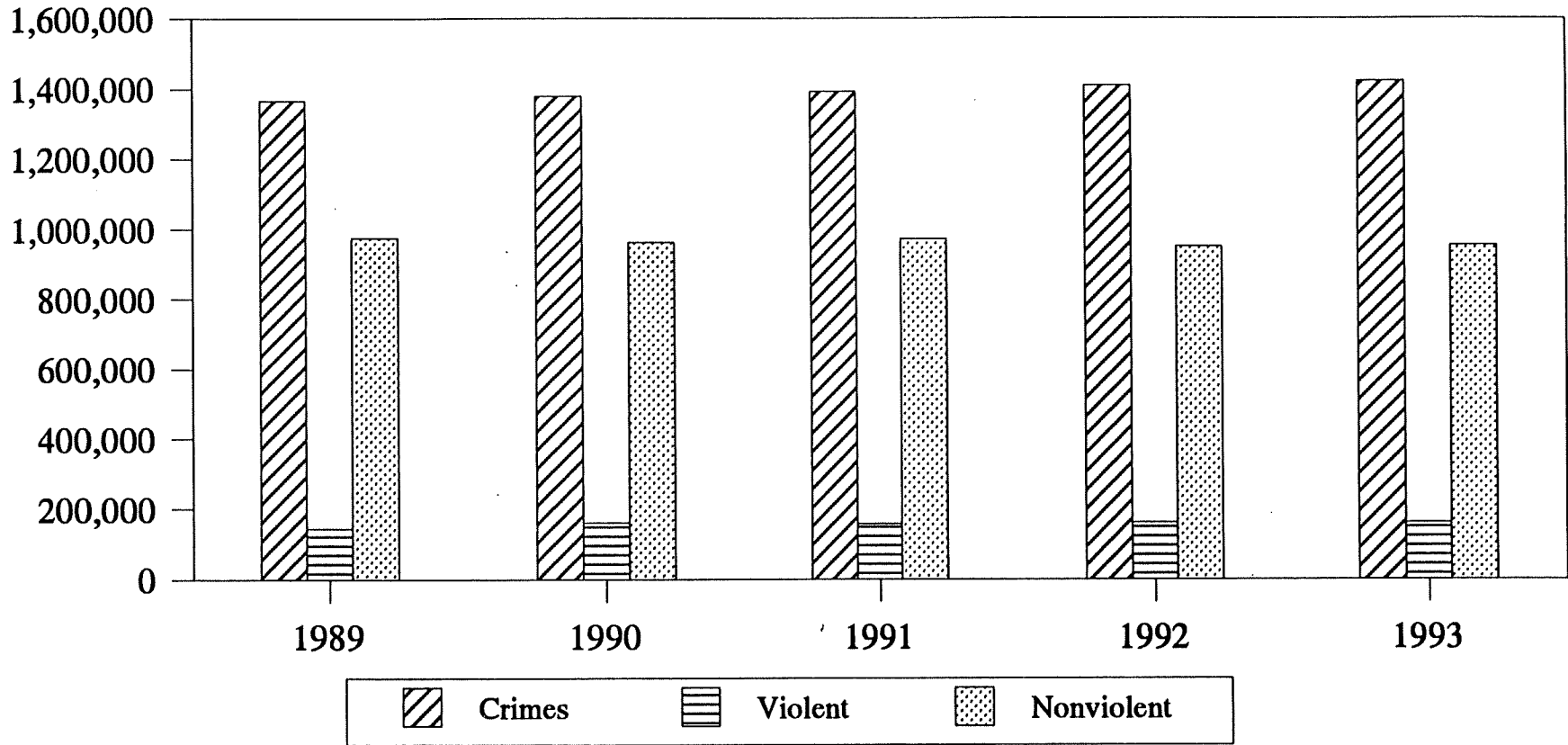
Aggravated Assault	81,683	93,042	91,439	97,560	99,108
Hangun	16,955	18,601	17,508	17,999	19,042
Other Firearm	7,058	7,969	7,223	7,441	7,574

Source: Florida Department of Law Enforcement

Kansas Legislative Research Department February 13, 1995

Total Crimes for Florida

1989 thru 1993



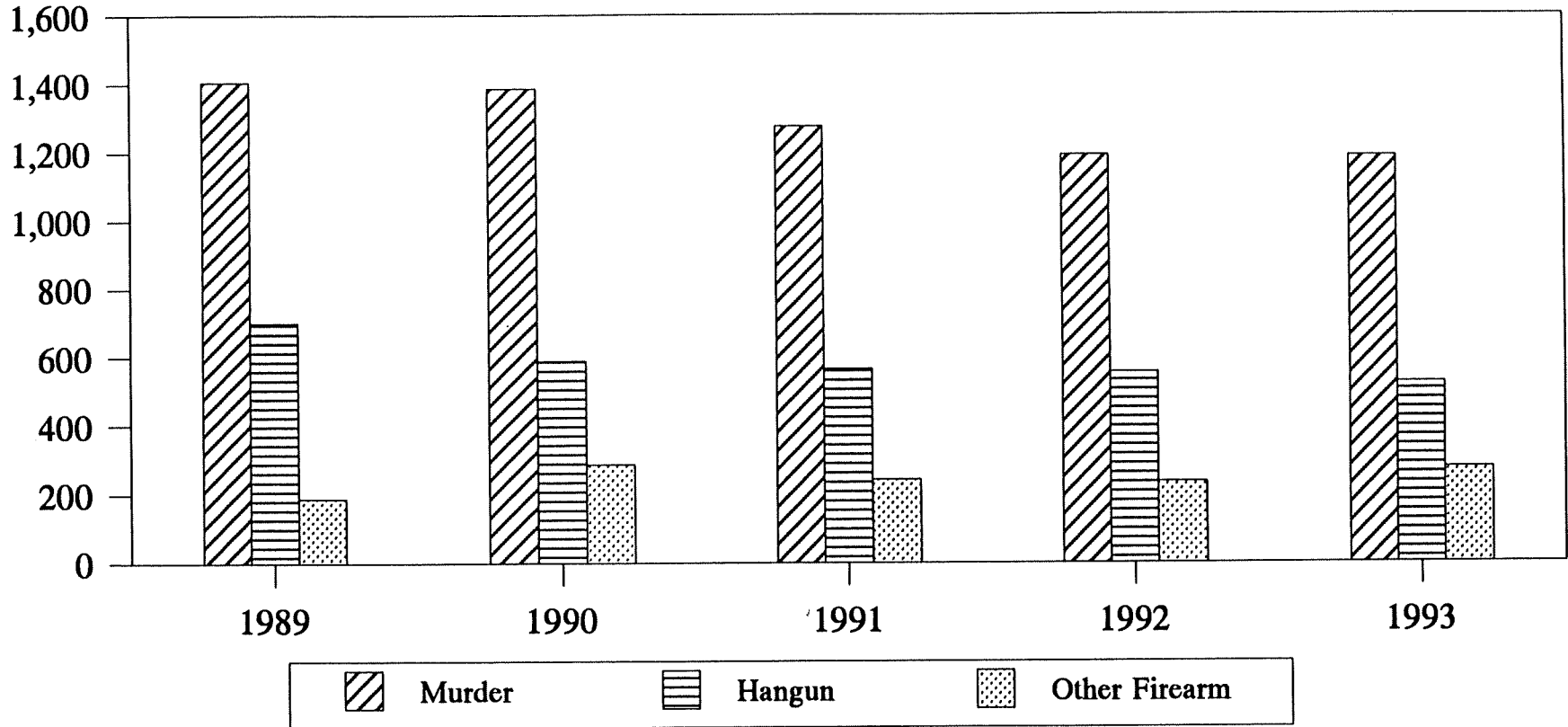
Crimes	1,365,557	1,379,761	1,393,269	1,409,034	1,422,141
Violent	145,473	160,554	158,181	161,137	161,789
Nonviolent	975,042	962,381	971,523	951,609	954,778

Source: Florida Department of Law Enforcement

Kansas Legislative Research Department February 13, 1995

Murders in Florida

1989 thru 1993



Murder	1,405	1,387	1,276	1,191	1,187
Hangun	700	588	565	554	525
Other Firearm	188	285	241	235	275

Source: Florida Department of Law Enforcement

Kansas Legislative Research Department February 13, 1995

JOSEPH G. HEROLD
6447 SW 24th Street
Topeka, KS 66614-4390
(913) 272-6106

To: House Federal & State Affairs Committee

Re: House Bill 2420 (Concealed Carry)

February 16, 1995

MEMORANDUM OF SUPPORT

I am an attorney in private law practice in Topeka and the purpose of my written testimony is to provide some historical and legal insight in support of this proposed bill. The views presented here are my own.

HISTORICAL BACKGROUND

There was no prohibition preventing the general public from carrying concealed weapons for self defense in Kansas at the time of statehood. The first statute to address this issue was Section 282 of the General Statutes of Kansas 1868. This statute stated in part:

"Any person who is not engaged in any legitimate business, any person under the influence of intoxicating drink, and any person who has ever borne arms against the government of the United States, who shall be found within the limits of this state carrying on his person a pistol, bowie-knife, dirk or other deadly weapon...."

This statute was amended in 1903 by House Bill 72 which prohibited anyone other than law enforcement officers or their deputies from carrying concealed weapons. The amended statute can be found at Section 2365 of the General Statutes of Kansas 1905, however, unfortunately the House and Senate Judiciary Committee records and minutes for the 1903 session are not available at either the State Historical Society or the Legislative Administrative Services office for the purpose of reviewing the Legislature's intent in amending this statute.

During the same time when concealed carry was legal so was the death penalty from statehood until 1907 (then again from 1933 until 1972, and finally once again in 1994). The last legal hanging prior to 1907 was in 1870 when William Dickson was executed at Leavenworth. Thus during the time period generally acknowledged as the wild west (i.e., the 1870's and 1880's), Kansas apparently did not have enough of a crime problem to warrant the use of the death penalty. An argument could thus be made that our state's history would appear to indicate concealed carry did not result in an inordinate number of "wild west" shootouts during the actual days of the wild west in Kansas, at least based upon the lack of any application of the death penalty for the same.

LEGAL BACKGROUND

History aside, the Kansas Supreme Court's holding in Robertson v. City of Topeka, 231 Kan. 358, 644 P.2d 458 (1982), should leave no doubt

FVSA
2-20-95
Atch #18

Kansas citizens must at times look to themselves for defense from criminal threat.

In Robertson the City of Topeka was sued for monetary damages for the destruction of some residential property based upon the alleged negligence of three police officers. The policemen were called to a house by the owner for the purpose of removing a man whom the owner believed to be intoxicated and capable of burning down the owner's house. However, the policemen chose to leave the trespasser at the house and removed the owner. Fifteen minutes later the house was burned by the trespasser.

In Robertson the Court stated in part at page 363:

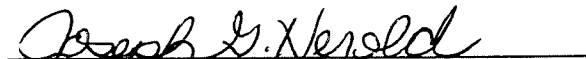
"...It is generally held that the duty of a law enforcement officer to preserve the peace is a duty owed to the public at large, not to a particular individual....Absent some special relationship with or specific duty owed an individual, liability will not lie for damages...." (Emphasis added).

Although the Supreme Court decided the Robertson case based in part upon the discretionary function exception of the Kansas Tort Claims Act, the language quoted above was the second basis and is the law of Kansas. The police simply owe no specific duty to protect any one individual from criminal harm, just the public in general. This applies even when the police may make bad decisions in the exercise of their duties.

Since the police cannot protect everyone, everywhere and at all times, the question which should be asked when considering a concealed carry law is: Shall Kansans be allowed the opportunity of exercising reasonable self defense for themselves? This is the real issue to be addressed when you debate the merits of this bill.

Thank you for your time and consideration.

Very truly yours,



Joseph G. Herold
Supreme Court #12015

Williams

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FEBRUARY 20, 1995

REPRESENTATIVE GARRY BOSTON
CHAIRMAN, FEDERAL AND STATE AFFAIRS COMMITTEE
STATE CAPITOL
TOPEKA, KANSAS 66612

RE: HOUSE BILL NUMBER 2420

DEAR REPRESENTATIVE BOSTON:

I WISH, BY THIS WRITING, TO DEMONSTRATE SUPPORT FOR THE SENATE BILL CAPTIONED ABOVE.

PERSONALLY SPEAKING, AS A SON, HUSBAND, FATHER AND LIFETIME KANSAN, I SUPPORT THE RIGHT OF KANSANS TO PROTECT THEIR FAMILIES AND LOVED ONES BY WHAT EVER MEANS NECESSARY. WE HAVE SEEN, ALL TOO MAY TIMES CRIMINALS VICTIMIZING INDIVIDUALS SIMPLY BECAUSE THEY KNEW THEY COULD. MANY OF THESE ATTACKS RESULT IN DEVASTATING INJURES AND/OR DEATH.

FEAR IS THE NUMBER ONE FACTOR WHICH ALLOWS CRIMINALS THE ABILITY TO TAKE ADVANTAGE OF LAW ABIDING KANSANS. I SUPPORT PUTTING THE FEAR FACTOR BACK ON THE SIDE OF KANSANS WHO HAVE WORKED HARD ALL THEIR LIVES TO SUPPORT THEIR FAMILIES AND WHOM HAVE PAID TAXES RELIGIOUSLY.

YOU WOULD THINK THIS ALONE WOULD GAIN THIS GROUP THE RESPECT THEY DESERVE. HOWEVER, RECENT TIMES AND CRIME STUDIES REVEAL THIS IS SIMPLY NOT THE CASE. MORE FAMILY MEMBERS ARE BEING VICTIMIZED NOW MORE THAN EVER BEFORE. MAY MAYBE IT IS TIME WE ALLOW THIS GROUP THE RIGHT TO EARN RESPECT ON KANSAS STREETS THE SAME WAY THEY HAVE EARNED IT IN THE WORK PLACE. BY COMMON SENSE, TRAINING AND WORKING HARD TOWARDS A COMMON GOAL, PROTECTION OF OUR CITIZENS.

PROFESSIONALLY SPEAKING, AS AN EX-LAW ENFORCEMENT OFFICER, LICENSED PRIVATE INVESTIGATOR, KANSAS CERTIFIED INSTRUCTOR OF FIREARMS AND USE OF FORCE, NATIONAL RIFLE ASSOCIATION POLICE FIREARMS INSTRUCTOR, NATIONAL RIFLE ASSOCIATION SECURITY FIREARMS INSTRUCTOR AND NATIONAL RIFLE ASSOCIATION PERSONAL PROTECTION INSTRUCTOR, I STILL SUPPORT THE RIGHT FOR ADULT, TRAINED INDIVIDUALS TO CARRY A CONCEALED FIREARM.

W WE PUT OUR NAME ON EVERYTHING WE DO.

INVESTIGATIVE
DIVISION
CRIMINAL INVESTIGATIONS
CIVIL INVESTIGATIONS
SKIP TRACE
REPOSSESSIONS
CIVIL PROCESS
ARMED ESCORT SERVICE

COMMUNICATIONS
DIVISION
ALARM MONITORING
PAGER RENTAL AND SALES

ALARM
DIVISION
BURGLARY DETECTION EQUIPMENT
FIRE DETECTION EQUIPMENT
CLOSED CIRCUIT TV EQUIPMENT
HOLDUP ALARMS
MEDICAL ALARMS
INTERCOM SYSTEMS

F-5A
2-20-95
Atch #19

STATE CAPITOL
CONTINUED, PAGE 2

WE ARE ALL AWARE OF THE CONTINUED CUT BACKS IN LAW ENFORCEMENT AND RELATED BUDGETS, THIS ALONE SHOULD INDICATE THE NEED TO TRAIN AND UTILIZE THE PUBLIC AS AN EXTENSION OF THE EYES AND EARS OF LAW ENFORCEMENT. IMAGINE HOW MUCH SAFER KANSAS WOULD BE IF LAW ENFORCEMENT WOULD TRAIN ITS' OFFICERS TO ACCEPT AND ENCOURAGE THE PARTICIPATION OF TRAINED AND ARMED KANSANS.

AS A PRIVATE INVESTIGATOR, I SUPPORT THE BILL SIMPLY BECAUSE IT WOULD ALLOW ANOTHER MEANS FOR INDIVIDUALS TO PROTECT THEMSELVES WITHOUT BECOMING A PRIVATE INVESTIGATOR. ATTORNEY GENERAL STOVALL WILL SUBSTANTIATE THAT MANY PRIVATE INVESTIGATOR APPLICANTS HAVE NO BUSINESS IN OUR INDUSTRY (NO EXPERIENCE, TRAINING ETC). THEY SIMPLY DESIRE TO LEGALLY CARRY A CONCEALED WEAPON. CURRENTLY IN KANSAS THERE ARE ONLY TWO (2) METHODS WITH WHICH THIS CAN BE DONE. YOU MUST EITHER BE A SWORN LAW ENFORCEMENT OFFICER OR A LICENSED PRIVATE INVESTIGATOR. THE LATTER IS THE DIRECTION MOST FOLKS TAKE.

IN CLOSING, IT SHOULD BE NOTED THAT LAW ENFORCEMENT IN GENERAL, WITH A FEW EXCEPTIONS, IS VIGOROUSLY OPPOSED TO THIS BILL. THEIR ATTITUDE, FOR THE MOST PART IS NORMAL. LAW ENFORCEMENT AS A WHOLE, DISLIKES CHANGE WITH A VENGEANCE. BY WAY OF EXAMPLE, I WOULD POINT OUT THE RELUCTANT ATTITUDE TOWARD THE MIRANDA DECISION OF THE 1960'S OR MORE RECENT, THE SWITCH FROM REVOLVERS TO SEMI-AUTO PISTOLS AS THE DEPARTMENTAL WEAPON OF CHOICE. LAW ENFORCEMENT OFFICIALS FINALLY CHANGED THEIR ATTITUDES ONCE THE PUBLIC'S OUT-CRY OVER OFFICERS BEING OUT GUNNED BY CRIMINALS ON THE STREET BECAME HARD TO IGNORE.

IT WOULD APPEAR TO ME, THE SAME TAX PAYING KANSANS ARE ASKING FOR LAW ENFORCEMENTS' SUPPORT FOR THE SAME REASON. THEY ARE BEING OUT-GUNNED ON THE STREETS OF KANSAS.

THANK YOU FOR YOUR CONSIDERATION IN REGARD TO THIS MATTER. I REMAIN,

PROFESSIONALLY YOURS,



DALE WILLIAMS

DW/hh

D
FISA
Rec

Feb. 14th, 1995
501 E. Old US 56 Highway
Olathe, Kansas 66061

The Honorable Gary K. Hayzlett
Kansas State House
State Capitol
Topeka, Ks 66612

Dear Sir,

Thank you for returning my call today, regarding the bill which you have sponsored this year which would permit a citizen to obtain a permit to carry a concealed weapon in Kansas.

I have been a police officer for 25 years, previously having worked in Western Kansas (Russell, and Hays), and as a Federal Officer stationed in Kansas City, Missouri. Presently I am a Detective Sergeant with Olathe, having worked here for just over 23 years, I am presently assigned to Crimes Against Persons, working robbery, homicide, assaults, batterys, and sex crimes.

For a number of years I have followed as states across the nation have passed "Concealed Carry" laws, and seen that without exception the laws have resulted in no "gun fighter" episode's, and a decrease in street crime.

I work daily with victim's of crimes, and I deal with them on a long term basis, not just taking a report from them, and going on my way, as I deal with them as they travel through the system, for better or worse. I know that some of these crimes could have been prevented if the victims had a means to defend themselves or their family members.

As you and I know, the perfect situation would be for a victim to retreat from the assault or robbery that they find themselves in, however, that is not able to be done in a good number of cases. As we have seen in other states the fact that a victim of crime was able to defend themselves with a firearm even without firing a shot, is common, and a number of crimes which would have ended in tragedy were prevented.

Today in Kansas in the more populated area's, and the more rural areas as well, violent crime is on the increase, and our citizens have an absolute right to defend their lives, and the lives of their families. I know a number of business persons who travel carrying large amounts of money or other valuable's, and the use of uniformed security or armored vehicles are out of the question. These people would probably willing give up their valuables in the event of a robbery, but they don't intend to allow themselves to be executed at the whim of the criminal.

Over the years in Kansas we have operated on the "it's legal to walk down the street with a firearm strapped on in the open", well, in this day and

FISA
2-20-95
Atch#20

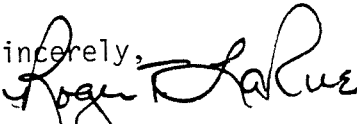
age if you do that in my city, or in most others you are going to get the attention of a uniformed officer right away, you may not be arrested, but you should have a good reason for what you are doing.

The other side of the coin is that the ability of getting a permit in Kansas to carry a concealed weapon was impossible, unless you were a friend of the Chief or the Sheriff, in other words, the good old boy system. Then you became a Reserve officer or deputy, or a Special Investigator for the Attorney General of the State of Kansas. This has gone on for years, and although it may have some merit in that the issuing authority probably wouldn't give a commission to someone that they didn't know, and think was OK, but those persons were not just bestowed with the ability to carry a concealed weapon, but also, the power of arrest, which they probably didn't know the slightest thing about.

As I am sure you know, you will get opposition from some law enforcement circles or groups, but I would like my letter to show that those persons or groups do not represent anything other than their own opinion, or the opinion of the legislative spokesgroup, not the entire membership, or the rank and file.

I wish you good luck in your pursuit of this bill, a number of people beside's myself and other officers support your effort, nurse's, paramedic's, insurance executives, teachers, sales people, retired persons, ect.

Sincerely,



Roger T. LaRue
Detective Sergeant
Olathe Police Department

202

February 17, 1995

Testimony of Sharon Hagen, 727 Alabama, Lawrence, Kansas 66044

Re: HB 2420

I support HB2420 which would allow citizens to apply for a permit allowing them to legally carry a concealed firearm for personal protection.

The neighborhood in which I live in Lawrence has been plagued with numerous acts of vandalism and I have been involved personally twice, each time inciting great fear for my personal safety. The police were called concerning a near breakin into my home but prior to their arrival the stranger had torn off the screen and was prying on the window frame. His near-entry was within minutes of the arrival of the police. Had he entered I was unarmed and ill prepared to protect myself. I was later told this man was taking drugs. On another occasion, my cars parked in front of my house and in the carport, were moved, entered and vandalized. The police arrived an hour after my telephone calls. I have since installed movement-exterior lights on my house at a considerable cost for my personal protection and I believe a firearm in my possession would provide me with an added sense of protection should another event occur. Living in fear of one's safety in older age is not living.

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Atch # 21