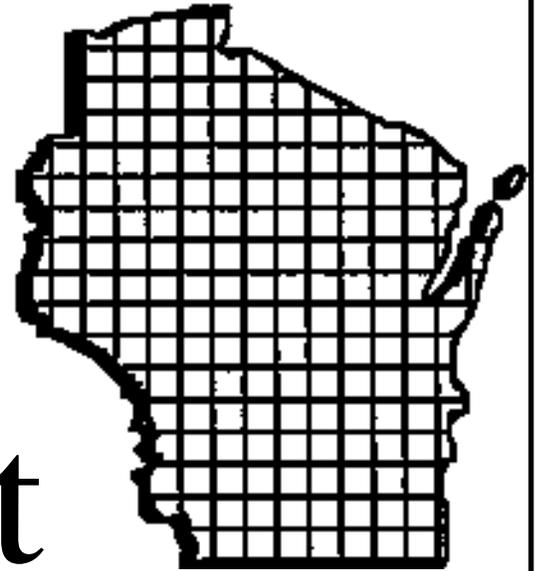


Wisconsin

Policy  
Research  
Institute

Report



May 2006

Volume 19, Number 4

**Concealed  
Carry  
Legislation**

*An Examination of the Facts*

## REPORT FROM THE PRESIDENT:

Recently, Wisconsin became one of only two states having an outright prohibition on the carrying of concealed weapons in public. This occurred when Nebraska began setting up a permit system to allow its citizens to carry hidden handguns, and the Kansas legislature overrode the veto of concealed carry legislation by their governor. Nebraska governor, Dave Heineman said it best:

To my friends and neighbors who disagree with the signing of this bill, consider for a moment the cold hard truth. The people who are willing and able to complete this permitting process are not the sort of people who will use a weapon illegally. Criminals already carry guns, and they already do it illegally.

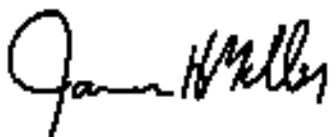
In Wisconsin the debate over concealed carry has been dominated by unsubstantiated facts fueled by rhetoric. We asked Dr. David Dodenhoff to examine what the impact of concealed carry legislation has been in states across the country.

The point of his study is not necessarily to encourage the legislation, but to present cogent arguments for either side on what really has gone on in other states to eliminate much of the rhetoric from the issue. Dodenhoff identified four arguments that have been used in Wisconsin to oppose concealed carry laws:

1. The proposed shall-issue law provided for inadequate training for permit-holders;
2. More guns on the street would result in more violence;
3. Guns are not useful for self-defense; and
4. Law enforcement opposes shall-issue legislation, so the rest of us should, too.

He then examines reasonable arguments and presents facts that answer at least some of the criticism of concealed carry legislation.

Whether or not Wisconsin decides in the future to join the overwhelming majority of states ought to be based on what is happening in states that have chosen to allow their citizens to legally carry concealed firearms. The governor of Nebraska certainly has it right. We know that criminals will always carry firearms with or without legislation. It is the people who obey and respect our laws who will benefit from concealed carry.



James H. Miller

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# CONCEALED CARRY LEGISLATION

## *An Examination of the Facts*

DAVID DODENHOFF, PH.D.

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## EXECUTIVE SUMMARY

In January of this year, Governor Jim Doyle vetoed “concealed carry” legislation passed by the Wisconsin legislature. This legislation would have allowed qualified Wisconsin residents to carry a concealed weapon in public places. Thirty-five states in the U.S. have already adopted a version of the concealed carry law that was proposed in Wisconsin. These are known as “shall-issue” states. This is because if an individual in these states wishes to carry a concealed weapon, the licensing authority in the state *must* grant him or her a license — provided that he or she meets some basic requirements set forth in law, including a clean background check.

Wisconsin is not a shall-issue state. In fact, it is one of only four states in which residents are prohibited from carrying a concealed weapon in public under any circumstances, even with police permission. In recent years, legislators have been trying to change that. In 2003, the Senate and Assembly passed shall-issue legislation and sent it to Governor Doyle for his consideration. The governor vetoed the bill, and the legislature was unable to override. In 2005, the legislature took up the issue again. The Senate and Assembly sent Governor Doyle a revised concealed carry bill. As he did in 2003, Governor Doyle vetoed the legislation (in early 2006). The legislature was again unable to override the governor’s veto.

During the course of the legislative debate, opponents of the legislation emphasized the following four arguments:

1. The proposed shall-issue law provided for inadequate training for permit-holders;
2. More guns on the street would result in more violence;
3. Guns are not useful for self-defense; and
4. Law enforcement opposes shall-issue legislation, so the rest of us should, too.

These arguments collapse under close examination — just as they have in 35 other states, where opponents raised them in unsuccessful efforts to defeat shall-issue legislation. In fact, other states’ experience with concealed carry laws is the best response to opponents of the proposed Wisconsin legislation. Consider, for example, these quotes from officials in Michigan and Texas, states that also had high-profile debates over the passage of concealed weapons laws:

- “‘We have not seen, in Michigan, that people get out their guns and start blasting each other,’ said Matt Davis, of the Michigan Attorney General’s Office. ‘It appears the new law is working.’”<sup>1</sup>
- “‘As you know, I was very outspoken in my opposition to the passage of the Concealed Handgun Act. I did not feel that such legislation was in the public interest and presented a clear and present danger to law-abiding citizens by placing more handguns on our streets. Boy was I wrong. Our experience in Harris County, and indeed statewide, has proven my initial fears absolutely groundless.’—John B. Holmes, District Attorney, Harris County, Texas (which includes Houston).”<sup>2</sup>

Quotes like these from officials in shall-issue states are legion; many more are presented below.

Opponents’ arguments are undermined not just by the experience of other states, but by basic logic and readily available data. For example, with respect to the argument that concealed weapon permit-holder training should resemble the far more rigorous police training, this paper shows that:

- the situations for which civilian weapons-holders and police must be prepared are dramatically different;
- the proposed training requirements for Wisconsin were well within the mainstream of training requirements in other shall-issue states; and
- shall-issue states with the same training requirements as those proposed for Wisconsin have had extraordinarily few permit revocations or suspensions.

Second, regarding the argument that the granting of concealed weapons permits would lead to an increase in crime, the evidence indicates that:

- after years of academic study, there is no empirical basis for believing that legally concealed weapons either increase or decrease crime rates;
- states that have adopted shall-issue laws in the past ten years have not seen an increase in the frequency of gun use in crime; and

- officials in states with shall-issue laws report no noticeable impact on crime, for better or worse, after the adoption of such laws.

Third, with respect to the argument that guns are not a useful tool for self-defense, the data reveal that:

- defensive gun use is relatively common;
- resisting crime with a gun reduces the probability of property loss or physical injury; and
- criminals are both aware of and fearful of the possibility of facing an armed victim.

Finally, regarding the argument that one ought to defer to law enforcement officials in their opposition to shall-issue legislation, the record indicates that many law enforcement officials who resisted shall-issue legislation in other states now admit that their concerns were unfounded.

Having demonstrated fatal flaws in the arguments against shall-issue legislation, this paper concludes that concealed carry legislation will enable Wisconsin citizens to make safe, responsible choices about their personal security, consistent with their constitutional rights.

## INTRODUCTION

In January of this year, Governor Jim Doyle vetoed “concealed carry” legislation passed by the Wisconsin legislature. This legislation would have allowed qualified Wisconsin residents to carry a concealed weapon in public places. Thirty-five states in the U.S. have already adopted a version of the concealed carry law that was proposed in Wisconsin. These are known as “shall-issue” states. This is because if an individual in these states wishes to carry a concealed weapon, the licensing authority in the state *must* grant him or her a license—provided that he or she meets some basic requirements set forth in law, including a clean background check. An additional eleven states have “may issue” statutes, which give state and local authorities discretion over whether to grant a permit to individuals who wish to carry a concealed weapon. Finally, four states — Wisconsin, Illinois, Kansas, and Nebraska — have an outright prohibition on the carrying of concealed weapons in public.

Legislators have been trying to add Wisconsin to the ranks of shall-issue states in recent years. In 2003, the Senate and Assembly passed shall-issue legislation and sent it to Governor Doyle for his consideration. The governor vetoed the bill, and the legislature was unable to override. In 2005, the legislature took up the issue again, this time offering some concessions to law enforcement authorities and other stakeholders. As he did in 2003, Governor Doyle vetoed the legislation (in early 2006). The legislature was again unable to override the governor’s veto.

During the course of the legislative debate, opponents of shall-issue legislation emphasized the following four arguments:

1. The proposed shall-issue law provided for inadequate training for permit-holders;
2. More guns on the street would result in more violence;
3. Guns are not useful for self-defense; and
4. Law enforcement opposes shall-issue legislation, so the rest of us should, too.

In the following pages, I examine each of these arguments in detail.

## ARGUMENT #1: THE PROPOSED LAW PROVIDED FOR INADEQUATE TRAINING

### Introduction

The proposed shall-issue legislation in Wisconsin required most permit applicants to complete a firearms training course as a requirement of permit issuance. The training was a one-time requirement, and had to include the following elements:

1. instruction on how to handle, load, unload, and store handguns;
2. instruction on the privilege of self-defense and the defense of others;
3. instruction on how to avoid injuring third parties when defending oneself or others;
4. basic self-defense principles;
5. instruction on how to carry a concealed handgun safely;
6. instruction on firing a handgun; and
7. practice firing a handgun.<sup>3</sup>

Critics of the proposed legislation argued that these training provisions were inadequate. They were particularly concerned that training was a one-time requirement only:

- Governor Jim Doyle: “The bill requires only one-time training to carry a handgun and requires no training for tear gas guns, authorized knives, and billy clubs. In contrast, ongoing and intensive training is a requirement for law enforcement officers who routinely handle and discharge weapons.”<sup>4</sup>
- Wisconsin Chiefs of Police Association: “While police officers receive extensive initial and on-going training, permit holders would only be required to receive very limited one-time training on the use of firearms.”<sup>5</sup>
- The *Milwaukee Journal-Sentinel*: “. . . one-time training for the entire life of a renewable permit strikes many in law enforcement — and us — as wholly inadequate. Milwaukee police officers must train up to four times a year.”<sup>6</sup>

### **The difference between police and civilian training needs**

Concealed weapons training is presumed by these critics to be inadequate because it falls short of the more rigorous requirements for police firearms training. But there are many differences between the situations for which concealed weapons permit holders must train and those that routinely confront police.

Permit holders need concern themselves with only one thing: protecting themselves from a sudden, violent assault that threatens life or grievous bodily injury. Rape, robbery, and attempted murder are not typically actions rife with ambiguity or subtlety, requiring special powers of observation, great book-learning, or a stint at the police academy to discern. When a man pulls a knife on a woman and says, “You’re coming with me,” her judgment that a crime is being committed is not likely to be in error.

Police, by contrast, do not carry arms solely for the purpose of defending themselves, but also for the purpose of enforcing the law. They deliberately inject themselves into potentially dangerous and violent situations, responding to calls for assistance, investigating crimes, intervening in domestic violence, and making arrests. ... (Among concealed weapons holders), the intended victim is always at the scene of the crime; he knows precisely who his tormentor is. It is the police who, because they are rarely at the scene of the crime when it occurs, are more likely to find themselves in situations where guilt or innocence is not so clear-cut, and the probability for mistakes is correspondingly higher.<sup>7</sup>

### **Training requirements in shall-issue states**

Given the differences in the requirements and expectations for police versus civilians when bearing arms, one would like to have an objective, recognized training standard exclusively for civilian weapon-holders. As far as I know, no such standard exists. The next best thing, then, is to look at the training standard in states that already have shall-issue laws in place. Of the 35 states with such laws:

- eight have no firearms training requirement;
- twelve have a one-time training requirement similar to the proposed Wisconsin requirement;
- ten have an up-front training requirement and a requirement for re-training upon permit expiration; and
- five have a training requirement that fits into some other category.<sup>8</sup>

Of this last group of five states, one (Idaho) leaves up-front training to the discretion of the issuing authority, who is the local sheriff. There is no training required upon permit renewal. In summary, then, the proposed training requirements in Wisconsin were the same as or more stringent than the requirements in twenty-one states; less stringent than the requirements in ten states; and indeterminate in comparison with the remaining four states. Wisconsin’s proposed training requirements, therefore, were well within the mainstream of policies adopted elsewhere.

### **The experience with revocations and suspensions in shall-issue states**

Opponents of shall-issue legislation in Wisconsin would undoubtedly argue that the two-thirds of shall-issue states with no training requirement, or a one-time requirement, have made a terrible, dangerous mistake. There is no evidence to support such a claim. In fact, as will be shown below, states that have passed shall-issue laws in recent years have reported few problems. For the moment, though, let us take seriously opponents’ concerns about inadequate training. Inadequately trained bearers of concealed weapons might be prone to two kinds of problems: a) accidental shootings, or b) unwitting commission of criminal acts involving a firearm. Unfortunately, we do not have data on either accidental shootings or unwitting commission of gun crimes by concealed weapon permit holders. What we *do* have, though, are data on permit revocations and suspensions in some of the shall-issue states that have training requirements similar to those proposed in Wisconsin.

Consider the case of Florida, for example. Since 1987, Floridians have been permitted to carry concealed weapons, provided that they pass a background check and complete training very much like the proposed requirement in Wisconsin. Between the beginning of Florida’s permitting program and the end of 2005, the state issued 1,104,468 concealed weapons permits. During that time period; 3,643 permits were revoked — a rate of about .3 percent. Of those revocations; 2,941 involved a crime after licensure; 157 of those crimes involved the use of a firearm.

In other words, .01 percent of Florida's concealed weapons permit-holders have had their permits revoked for commission of a gun crime.<sup>9</sup>

Among shall-issue states, Florida maintains the most comprehensive data on its experience with concealed weapon permit-holders. To the extent data from other states with similar training requirements are available, though, they tend to affirm the experience in Florida:

- in 2004, the state of Utah had a permit revocation rate of about .4 percent. The rate for revocations due to firearm offenses was .02 percent;<sup>10</sup>
- between 1986 and 2003, only .8 percent of Kentucky's 71,770 licenses were revoked for any reason;<sup>11</sup>
- in 2001, Indiana revoked about .2 percent of its outstanding concealed weapon permits;<sup>12</sup>
- between 1995 and 2005, officials in North Carolina revoked only one-tenth of one percent (that is, .1 percent) of concealed weapons permits that had been issued.<sup>13</sup>
- since the inception of its concealed weapons program in 1995, Virginia has seen a revocation rate of just .2 percent.<sup>14</sup>
- between October of 1994 and February of 1996, the state of Wyoming issued 2,273 permits and revoked four, a revocation rate of just under .2 percent.<sup>15</sup>
- between 1996, when its shall-issue law passed, and September of 1999, the state of Oklahoma issued 30,406 permits and revoked only 62—a rate of .2 percent.<sup>16</sup>

Opponents of shall-issue legislation tend to consider any evidence of malfeasance by a permit-bearer sufficient to call into question the wisdom of granting a gun permit to *anyone*. All public policies, though, have some undesirable consequences. For example, every state licenses doctors to practice medicine. Yet, licensed doctors commit medical errors that are responsible for thousands of patient deaths every year. No matter how good the medical training we provide, nor how rigorous the licensing process, there will be some number of patient injuries and deaths due to medical malpractice. Insisting that that number be zero is unrealistic.

The real question, then, is what non-zero rate of permit revocations and suspensions we should be prepared to accept. Where one draws such a line is highly subjective. Consider, though, some statistics on the licensing of motor vehicle operators. In 2003 (the most recent year for which data are available), there were 3.8 million licensed motor vehicle drivers in Wisconsin.<sup>17</sup> That same year, there were 415,011 driver license revocations or suspensions.<sup>18</sup> This amounts to a roughly 11 percent rate of revocation/suspension — a figure larger than that for concealed weapons permits by a factor of about 25 (conservatively estimated). By that standard, the training process for concealed weapons would appear to be spectacularly successful.

Opponents of shall-issue legislation would also argue, though, that the consequences of misuse of a driver license are much less serious than those of misuse of a concealed weapons permit. (This is probably true in many cases, though a car can clearly be as dangerous as a gun.) The next section, therefore, addresses the concern that shall-issue laws will result in an increase in violent crime.

## **ARGUMENT #2: MORE GUNS ON THE STREET WOULD RESULT IN MORE VIOLENCE**

### **Introduction**

The “more guns = more crime” argument was made repeatedly by various opponents of the proposed shall-issue legislation in Wisconsin (and by proponents of gun control in general). They include:

- The Wisconsin Chiefs of Police Association: “Considerable research suggests that more guns may result in more crime.”<sup>19</sup>
- The *Milwaukee Journal Sentinel*: “More people will be packing heat on the streets – which is likely to cause more harm than good.” and<sup>20</sup>
- The Wisconsin Anti-Violence Association, or WAVE: “Any legislation that puts more hidden, loaded guns on our streets is irresponsible and dangerous.”<sup>21</sup>

One common approach in testing this argument is to compare crime rates among cities, counties, states, and even countries with different gun control policies.<sup>22</sup> Gun rights advocates attempt to demonstrate that in places where gun

laws are relatively liberal — in shall-issue states, for example — crime rates are sometimes lower than in areas that maintain tighter control over guns. The conclusion in such analyses usually is, “More guns on the street do not necessarily result in more crime.” Gun control advocates typically try to make the opposite case: geographic areas in which guns are more freely available are sometimes more violent and crime-ridden than those in which guns are more heavily regulated. The conclusion in such cases is, “When there are more guns in circulation, there is more crime as well.”

The problem with such geographical comparisons is that they ignore the ubiquitous but indispensable “other things being equal” assumption. If we are to compare gun laws and crime rates among two localities and attribute any difference in the latter to differences in the former, we are implicitly assuming that everything else that determines crime rates is identical in the two areas. This is almost never the case, though.

Consider, for example, the states of Arizona, Wisconsin, and Vermont. In 2003, Wisconsin had a violent crime rate that was less than half of Arizona’s. Arizona is a shall-issue state, and Wisconsin is not. This would seem to support the gun controllers’ view. But in 2003, Wisconsin had a violent crime rate roughly double that of Vermont.<sup>23</sup> Unlike Wisconsinites, Vermonters who wish to carry a concealed weapon can do so, with no application or permit necessary. This would seem to bolster the view of gun rights advocates.

What these examples really illustrate, though, is that a state’s willingness to tolerate concealed weapons in public places is not the only factor that determines crime rates. To the extent that states differ on *other* crime-related factors — such as population demographics, the number of police per capita, incarceration rates, and the vitality of the local drug trade — their crime rates will differ, too. This renders most cross-sectional comparisons of gun laws and crime rates uninformative.

But what if, rather than comparing two or more distinct geographic areas, one were to look at a single location over time? One could pick a location that changed its gun control policies at a particular point, and then look at crime rates before and after. In 1990, for example, the state of Oregon adopted shall-issue legislation. Might it not be informative to look at Oregon’s violent crime rate before and after 1990?

Unfortunately, we run into the same problem with this sort of exercise — “other things” may not be equal. If any of the crime-related factors *other* than gun policy were different in Oregon between, say, the mid-to-late 1980s and the early-to-mid 1990s, changes in crime rates in the two periods will reflect *those* differences, too, and not just the change in gun policy. As it turns out, the state of Oregon abolished parole for convicted felons in 1989, just as it was about to liberalize its gun control policy. Thus, if we were to look at changes in crime in Oregon from the 1980s to the 1990s, we could not be certain whether they resulted from the abolition of parole, the change in gun laws, some combination, or some other factor(s).

There are some fairly complicated statistical procedures available for addressing this “other things being equal” problem. These techniques do more than simply compare crime rates in jurisdictions with and without shall-issue laws, or within a single jurisdiction over time before and after it adopts such a law. Rather, they seek to account for every significant influence on crime rates across jurisdictions, and within jurisdictions over time. These analyses include the adoption of shall-issue laws, but also incorporate such variables as urbanization, per capita income, unemployment, racial demographics, poverty, incarceration rates, number of police, and so on. The purpose of such analyses is to say, “Having accounted for these *other* factors that might conceivably influence crime rates, we can now say that the independent influence of shall-issue laws on crime, for better or for worse, is. . .”

The remainder of that sentence ends differently, depending on the study. Research in this vein began with a 1997 paper by John Lott and David Mustard that spawned a large amount of follow-up literature. Rather than walking the reader through the highlights and low points of this body of work, I will simply provide an excerpt from the National Research Council’s recent, magisterial review of the state of knowledge about guns, gun violence, and gun-related policy interventions:

A total of 34 states have laws that allow qualified adults to carry concealed handguns. Right-to-carry laws are not without controversy: some people believe that they deter crimes against individuals; others argue that they have no such effect or that they may even increase the level of firearms violence. This public debate has stimulated the production of a large body of statistical evidence on whether right-to-carry laws reduce or increase crimes against individuals.

However, although all of the studies use the same basic conceptual model and data, the empirical findings are contradictory and in the committee’s view highly fragile. Some studies find that right-to-carry laws reduce violent crime, others find that the effects are negligible, and still others find that such laws increase violent crime. The committee concludes that it is not possible to reach any scientifically supported conclusion. . . .<sup>24</sup>

To paraphrase: a large body of sophisticated econometric research provides no basis on which to conclude that shall-issue laws result in either an increase *or* a decrease in crime.

### Gun use in crime before and after passage of shall-issue laws

Rather than just throw up our hands at this conclusion, we can examine the “more guns, less crime” argument in a bit more depth. An allegation that more guns — even in the hands of generally law-abiding citizens — will lead to more crime is usually based on the following reasoning:

If you introduce guns into situations in which they were not allowed before, a couple of bad things can happen. First, a situation that would not have resulted in violence before may do so now, as one or both parties feel emboldened or threatened by the presence of a handgun. Second, a situation that would have escalated to a mere shoving match or fistfight before, now may escalate to a shooting.

The concern here is not over defensive uses of violence — for example, shooting an assailant during an attempted rape. Instead, the concern is about criminal, non-defensive violence that occurs simply because a gun is handy. (The classic example is the fender-bender that turns into a gunfight.)<sup>25</sup> To validate this concern empirically, one would need data on the outcomes of two kinds of confrontations: a) those in which one, both, or all parties present were carrying a concealed weapon; and b) those in which none of the parties was carrying a concealed weapon. One could then compare the outcomes for the different cases, with an eye toward these questions: what percentage of the incidents in which guns were present ended in criminal violence, versus the incidents involving no guns? And how severe were the violence and any injuries in both kinds of cases?

I am unaware of any data that would allow for such comparisons. But consider a slightly different approach to the question. Imagine a state that has been purged of all handguns. Violent and property crime still occur, but never at the point of a gun. And now imagine that the state decides to pass shall-issue legislation. Opponents of the legislation will make two arguments: a) some situations that were once merely tense will now become criminal — in other words, the introduction of guns will result in more crime; and b) situations that previously escalated to the point of criminality will continue to do so — only now, some of those situations will involve gun violence.

We have already seen some of the challenges involved in testing the first of these arguments, and the ambiguous results of the econometric research. The implication of the second, though, is that after passage of shall-issue legislation, an increasing proportion of the crime that occurs in a geographic area will involve the use of a firearm. Think again about the hypothetical gun-free state. If there are 1000 traffic incidents per year that escalate to aggravated assault on the part of one of the parties, zero percent of those assaults will involve a firearm. Now imagine that shall-issue legislation passes, and that 1000 traffic incidents involving aggravated assault occur in the year after its passage. If the opponents of shall-issue legislation are correct — that is, if the mere availability of a gun sometimes leads to its use — then some non-zero percentage of those 1000 traffic incidents ought to involve gun usage. In other words, the proportion of crimes committed at the point of a gun ought to increase, from zero to some non-zero number.<sup>26</sup>

In the real world, there are no states that began with zero concealed weapons in circulation and then passed shall-issue laws. Wisconsin opponents of such laws contend, though, that whatever the number of concealed weapons currently (and illegally) in circulation, the number will increase when concealed-carry becomes legal. As the number of guns increases, an increasing percentage of incidents that once merely would have become violent, now will become violent *and* involve a firearm.

The Federal Bureau of Investigation’s (FBI) Uniform Crime Reporting program allows us to test this proposition in shall-issue states. Specifically, we can look at the percentage of crimes that are gun crimes, both before and after passage of shall-issue legislation. If the percentage of gun crimes increases after shall-issue laws go into effect, this will provide support for the idea that increasing gun circulation will increase gun use in crime — an important concern among opponents of shall-issue laws.

Before diving into the data, though, we need to decide what kinds of crimes we should examine. Keep in mind that we are not talking about routine street crime or about all categories of violent crime, nor are we talking about the behavior of habitual criminals. We are talking instead about acts of crime that might be committed by generally law-abiding holders of concealed weapons permits. (They will *have* to be generally law-abiding in order to be granted a permit.) More specifically, we are talking about acts of crime that might grow out of everyday interactions and altercations. This means that we do not need to look at things like rape or robbery. It may happen occasionally that

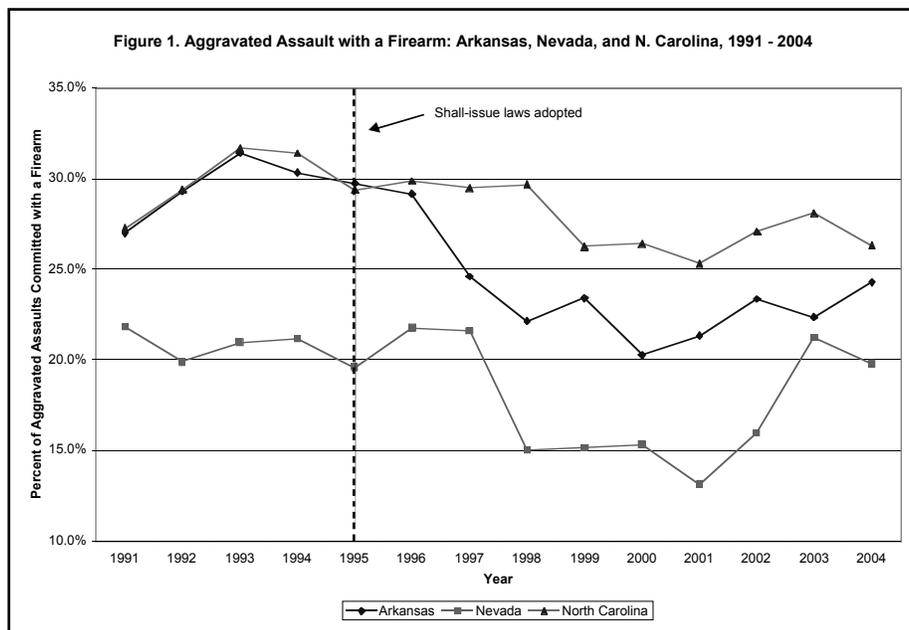
a routine altercation (say, a bar fight) escalates to a rape or a robbery, but one would expect that to be extremely rare. Instead, we should be looking at crimes like aggravated assault and murder — crimes that are more commonly thought to result from the boiling over of emotions, and crimes in which infliction of physical injury — perhaps with a gun — defines the act.

If we limit our analysis to, roughly, the last ten years, we can find good data on murders and aggravated assaults before and after the passage of shall-issue legislation in the following eight states:

- Arkansas, Nevada, North Carolina, Oklahoma, and Virginia, all of which passed shall-issue laws in 1995;
- South Carolina and Texas, which passed shall-issue laws in 1996; and
- Michigan, which passed its shall-issue law in 2001.<sup>27</sup>

In each state, we need to look at two kinds of data: a) the proportion of aggravated assaults that were committed with a firearm before and after shall-issue legislation passed; and b) the proportion of murders that were committed with a handgun before and after shall-issue legislation passed.<sup>28</sup> Again, if an increasing percentage of these crimes involve a gun after the passage of shall-issue laws, that will support the case of shall-issue opponents.

We can turn now to the data.<sup>29</sup> Figure 1 covers aggravated assaults in three of the states that passed shall-issue legislation in 1995: Arkansas, Nevada, and North Carolina:



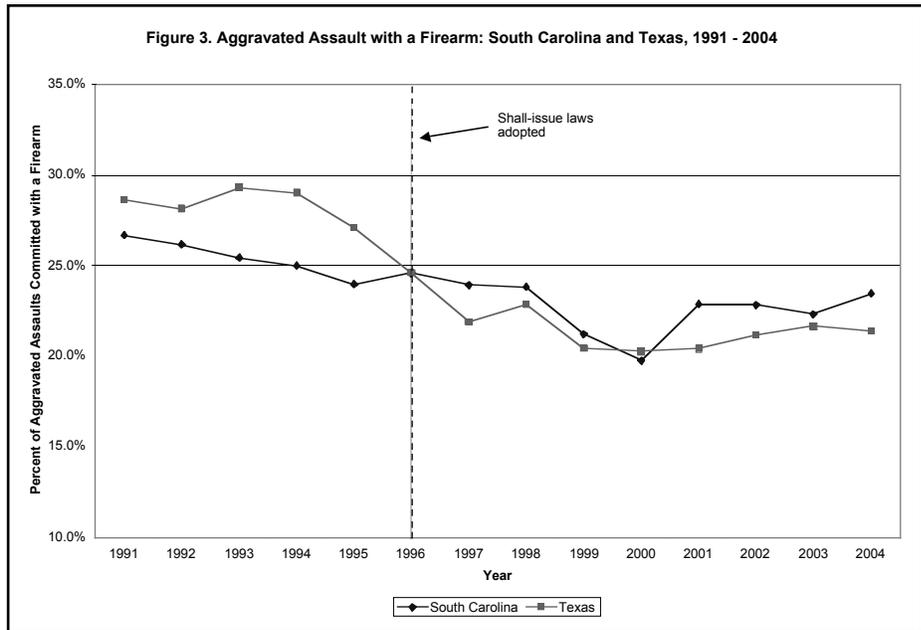
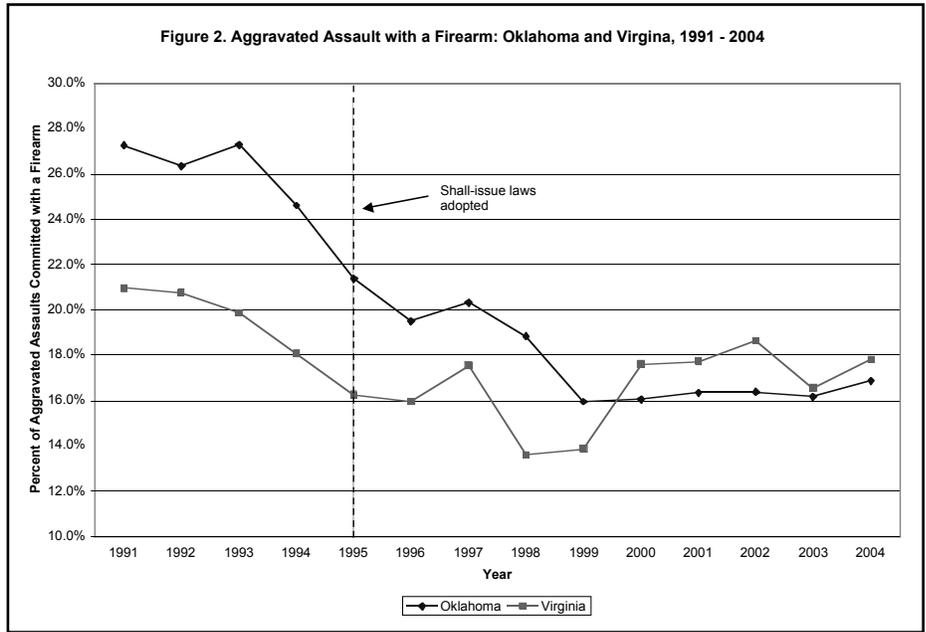
The trend lines indicate the percentage of aggravated assaults involving a firearm for each of the states between 1991 and 2004. In all three cases, the percentage of aggravated assaults in which a firearm was used was generally *lower* after the passage of shall-issue legislation.

Figure 2 presents similar data for the other two states that passed shall-issue legislation in 1995: Oklahoma and Virginia.

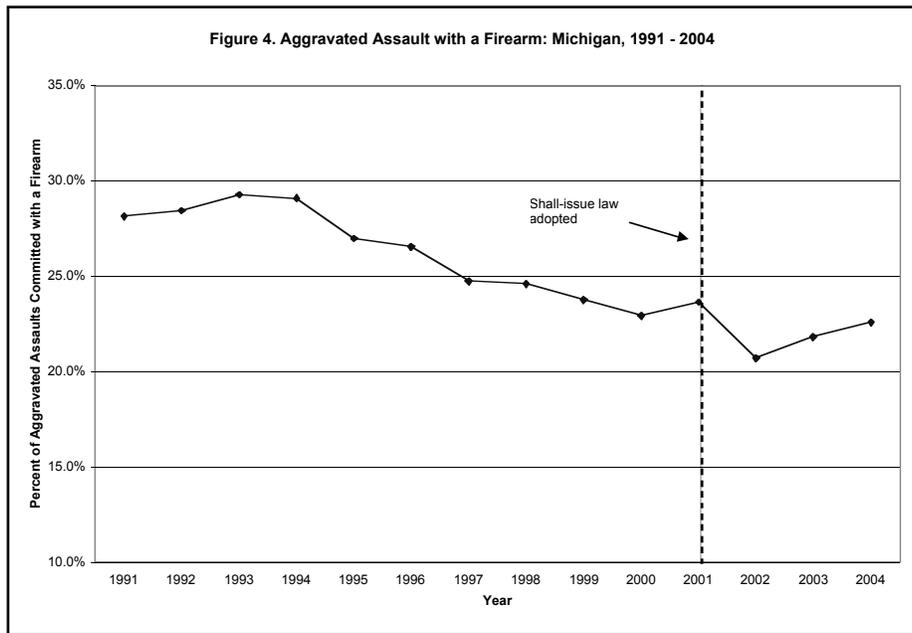
Again, in both cases the percentage of aggravated assaults involving a firearm was lower after the passage of shall-issue legislation than before.

Figure 3 presents data on South Carolina and Texas, two states that passed their shall-issue laws in 1996.

As above, the use of firearms in aggravated assaults was at a lower rate after the passage of shall-issue legislation than before.

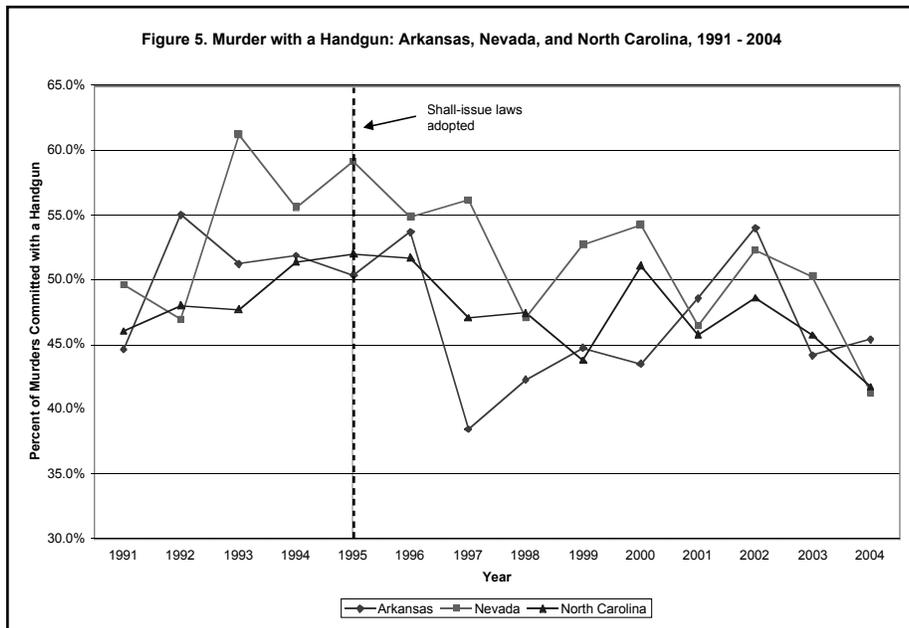


Finally, Figure 4 presents data for the state of Michigan, which adopted shall-issue legislation fairly recently, in 2001.



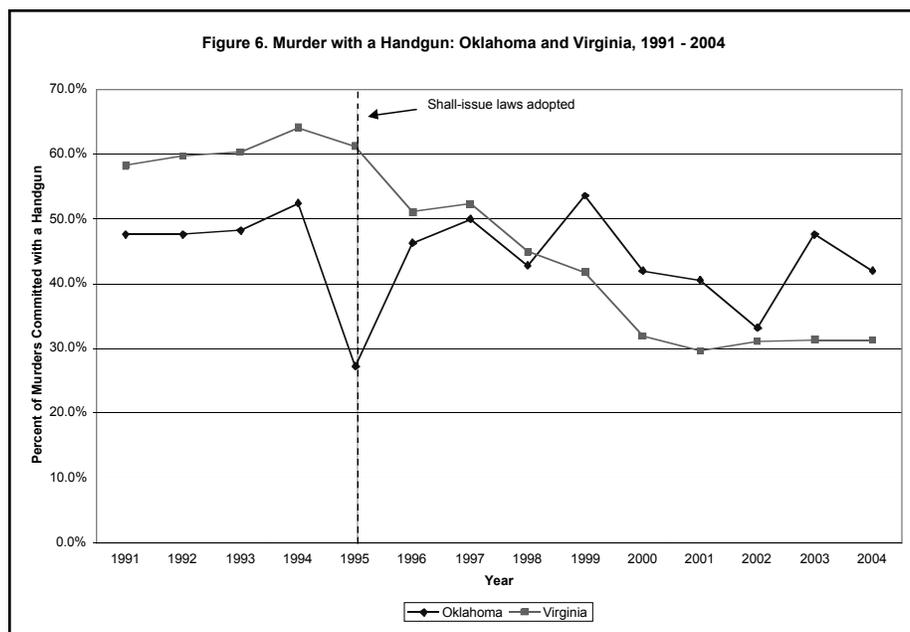
The result here is consistent with that seen in the other states: after the passage of shall-issue legislation, the percentage of aggravated assaults involving a firearm was at an overall lower level than before passage.

Next, we look at similar data on gun use in homicides. First, consider Arkansas, Nevada, and North Carolina, three of the states that passed shall-issue laws in 1995.



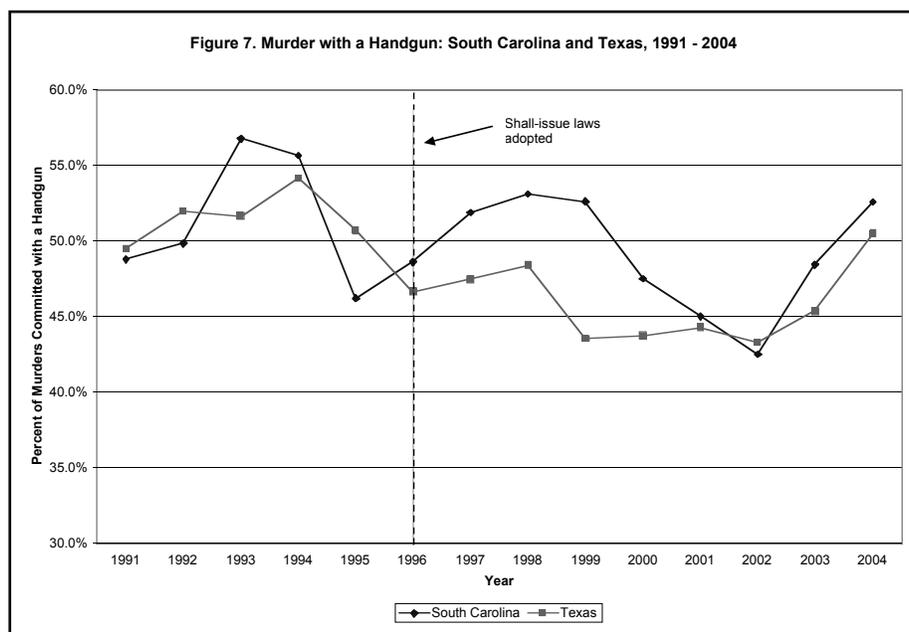
Though the trends are somewhat difficult to disentangle visually, a close look at the chart and the underlying numbers indicates that Arkansas and Nevada saw a modestly lower rate of handgun usage during homicides following the passage of shall-issue legislation. North Carolina's rate of gun use in homicides was also lower after 1995, but not by much.

Figure 6 presents the homicide data for Oklahoma and Virginia, the other two states that adopted shall-issue laws in 1995.



In Oklahoma, there was no change in the rate of gun usage in homicides before and after the passage of shall-issue legislation. In the case of Virginia, though, gun usage in homicides clearly fell.

Figure 7 presents similar data on South Carolina and Texas, the two states that passed shall-issue legislation in 1996.



Because of the increasing rate of gun usage near the end of the South Carolina series, the rate of handgun usage in homicides after 1996 was only modestly lower than before. In Texas, however, the overall rate of gun use was generally much lower following the passage of shall-issue legislation.

Finally, Figure 8 indicates that Michigan, which passed its version of shall-issue in 2001, saw a clear *increase* in handgun use in homicides after the legislative change.

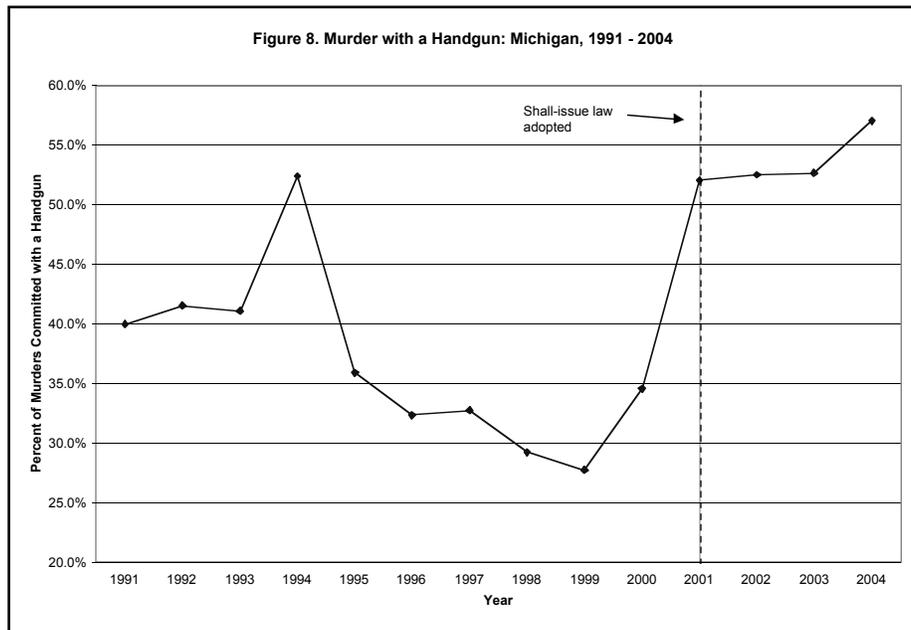


Table 1 summarizes the data from the foregoing charts:

**TABLE 1. SUMMARY OF FINDINGS ON GUN USE BEFORE AND AFTER PASSAGE OF SHALL-ISSUE LAWS**

State	Overall level of firearm assaults higher, lower, or unchanged after shall-issue?	State	Overall level of handgun homicides higher, lower, or unchanged after shall-issue?
Arkansas	Lower	Arkansas	Lower
Nevada	Lower	Nevada	Lower
North Carolina	Lower	North Carolina	Lower
Oklahoma	Lower	Oklahoma	Unchanged
Virginia	Lower	Virginia	Lower
South Carolina	Lower	South Carolina	Lower
Texas	Lower	Texas	Lower
Michigan	Lower	Michigan	Higher

In only one case — that of Michigan, with respect to homicides — was the overall rate of gun usage in the commission of crimes higher after the passage of shall-issue legislation than before. In one other case, there was effectively no change. In the remaining fourteen cases, the rate of gun usage in the commission of crimes was actually *lower* after the adoption of shall-issue laws.

These findings are inconsistent with an important claim of shall-issue opponents. Specifically, opponents argue that increasing gun prevalence will result in increasing gun use in crime. This appears not to be the case.

One could, of course, raise several objections to this conclusion and the analysis on which it is based. First, to speak of overall “before” and “after” rates of gun usage in the commission of crime appears to be somewhat arti-

cial. In looking at some of the data, the overall rate of gun use is not a very meaningful number. For example, Oklahoma’s rate of handgun usage in homicides fluctuated sharply after the passage of shall-issue legislation. It seems unwise to try to assign a single, overall “rate” when the numbers changed so much from year to year.

As a supplemental exercise, therefore, it might be worth looking at *trends* in the rate of gun usage before and after the passage of shall-issue legislation. It would be interesting to note whether the overall trend in gun usage improved, worsened, or remained unchanged in various states after the passage of shall-issue laws.

Table 2 presents the relevant data, characterizing the change in the gun usage trend in each state after shall-issue passage as “favorable,” “unfavorable,” or “indeterminate.”

**TABLE 2. NATURE OF CHANGE IN THE GUN USAGE TREND AFTER PASSAGE OF SHALL-ISSUE LAWS**

State	Favorable, unfavorable, or indeterminate change in firearm assault trend after shall-issue?	State	Favorable, unfavorable, or indeterminate change in handgun homicide trend after shall-issue?
Arkansas	Favorable	Arkansas	Indeterminate
Nevada	Favorable	Nevada	Favorable
North Carolina	Indeterminate	North Carolina	Favorable
Oklahoma	Indeterminate	Oklahoma	Indeterminate
Virginia	Unfavorable	Virginia	Favorable
South Carolina	Indeterminate	South Carolina	Indeterminate
Texas	Indeterminate	Texas	Indeterminate
Michigan	Unfavorable	Michigan	Indeterminate

The table is divided into two sections, one for the aggravated assault data, the other for homicide data. The table entries reflect my subjective interpretation of the change in gun usage trends from the period before the passage of shall-issue legislation to the period after passage.

Rather than explaining the logic behind each table entry, I will address only a handful of entries about which readers may have questions. On the aggravated assault side of the table, the nature of change in the Oklahoma trend is labeled as “indeterminate.” A quick look at Figure 2 indicates that the downward trend in the rate of gun usage in aggravated assaults continued for a few years after the passage of shall-issue legislation, but then flattened out. Should this not be considered an unfavorable change in the trend, then?

I have not labeled it as such because the duration of the downward trend before and after the passage of shall-issue legislation is effectively the same. Without knowing what the trend looked like prior to 1991 — and gaps in the Uniform Crime Reporting data make that impossible — “indeterminate” seems a more judicious choice than unfavorable. (Similar logic holds with respect to the characterization of the South Carolina and Texas trends as “indeterminate” on the aggravated assault side of the table.)

On the homicide side of the table, the nature of the trend change in Michigan is listed as “indeterminate.” Some readers might look at Figure 8 and think the trend should be characterized as “favorable.” In the first two years after passage of Michigan’s shall-issue law, the rate of gun use in homicides was stable. After that, it rose noticeably, but by nowhere near as much as it did in the two years prior to passage. However, those two years of increases just before passage followed five years of equally sharp decreases. Thus, it is difficult to come up with a fair, accurate characterization of exactly what was happening to the rate of gun usage in homicides in Michigan prior to the passage of shall-issue legislation. Without such a characterization, the conservative description of the change in the pre- and post-2001 trend is “indeterminate.”

Whatever objections one might have to the characterization of this or that data trend, the overall picture from Table 2 and the figures on which it is based is clear. There is little empirical support for the idea that shall-issue laws either: a) took desirable trends in the rate of gun usage in the commission of crimes and turned them into undesirable

ones, or b) took undesirable trends in the rate of gun usage in the commission of crimes and rendered them more undesirable.

A second objection to the analysis above is that it ignores the “other things being equal” problem. This objection would read roughly as follows: “Maybe there were things going on in these states other than the passage of shall-issue laws. Maybe those things affected the likelihood of a gun being used, or not being used, in the commission of murders and aggravated assaults. Maybe the rate of gun usage in the commission of crimes would even have gone up were it not for those unspecified other things.”

All of that may be true. It is relatively difficult, however, to think of “other things” that might have affected assailants’ decisions about whether or not to use a gun in the commission of a crime. If we accept the gun controllers’ assumptions, the prime candidates for “other things” would be gun control laws that made it tougher for criminals to acquire weapons. On that score, though, consider again the National Research Council’s review of the relevant research literature:

It is simply not known whether it is actually possible to shut down illegal pipelines of guns to criminals nor the costs of doing so. Answering these questions is essential to knowing whether access restrictions are a possible public policy.

...

Despite (the) apparent associations between crime and policing policy, however, the available research evidence on the effects of policing and sentencing enhancements on firearm crime is limited and mixed. . . . These programs are widely viewed as effective, but in fact knowledge of whether and how they reduce crime is limited. Without a stronger research base, policy makers considering adoption of similar programs in other settings must make decisions without knowing the true benefits and costs of these policing and sentencing interventions.<sup>30</sup>

In other words, there is no empirical basis for arguing that gun control — whether in the form of firearms restrictions, targeted police interventions, or increased penalties for firearm use — reduces either the availability of guns or the likelihood of their use. Accordingly, asserting that gun control was the “other thing” holding down gun usage during crimes helps little in debunking the findings from the data analysis above.

Still, there may be some *other* “other thing,” or things, at work here. Most of the states examined above passed shall-issue legislation in 1995 or 1996. (Michigan, the sole exception, did so in 2001.) During the post-1995/1996 period, the country enjoyed a decline in the overall rate of violent crime. Perhaps, then, whatever factor or factors produced that drop in crime also produced a decline in the incidence of gun use in the *commission* of crimes. If that is the case, the lower rates of gun usage in crime after the passage of shall-issue laws may simply be an artifact of those other influences. In fact, had those factors not been at work (that is, had other things not been equal), gun usage in crime might very well have gone up.

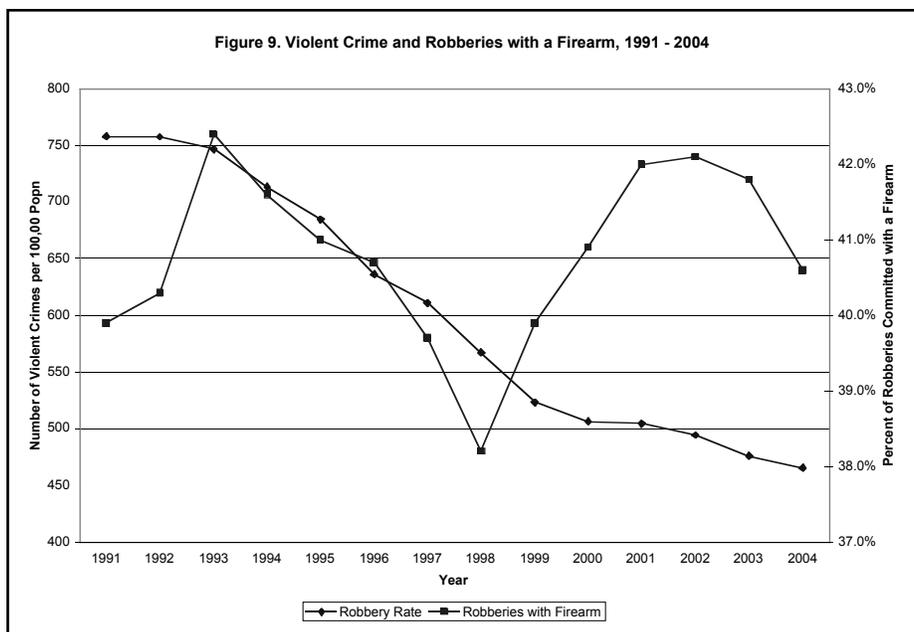
There are a number of ways of testing this possibility. A simple one, though, that minimizes data complications is to look at another category of crime — robbery. In recent years in the United States, about 60 percent of robberies have involved some kind of weapon. If there were some general factor or factors suppressing gun use during the commission of crimes in the post-1995/1996 period, that ought to show up in the trend data on robbery, too. Specifically, one ought to see a lower rate of gun usage in robberies after 1995/1996 than before.

Figure 9 presents data on this possibility.<sup>31</sup> It displays the trend in violent crime in the U.S. from 1991 through 2004, and the trend in the percentage of robberies involving a firearm during the same period.

If the premise presented above is correct — that factors driving down crime in general also drive down gun use during the commission of crimes — the two series should track each other relatively closely. They do not. In fact, they show a slight negative correlation:  $-.06$ . The rate of firearm use in robberies does drop, along with the crime rate, between 1993 and 1998. After that, though, the violent crime rate continues to drop — albeit at a slower rate — but gun use during robberies goes *up*. Gun use peaks in 2002, and then begins to drop again. Considering all the data points, the rate of gun use in robberies before 1995/1996 and after is virtually identical.

While perhaps not disposing of the “other things” argument completely, this fact clearly and seriously undermines it.

A third objection to the data analysis exercise is that the number of concealed weapon permit holders in any given state — often just one or two percent of the adult population — is too small to make any noticeable impact on statewide crime data. In the data above, then, any criminal behavior on the part of concealed-carry permit holders could have been swamped by the behavior of garden variety, non-permit-holding criminals.



If this is true, why is there so much concern about the impact on crime from issuance of concealed weapons permits? If a negligible fraction of the adult population is “carrying” — a fraction drawn disproportionately from the most law-abiding segment of society — we should expect a bare minimum of trouble.

Responses to that point usually begin this way: “True, perhaps, but if we can save just one life...” But that premise is not a sound one on which to base public policy. We could save *thousands* of lives, for example, by reducing the speed limit on highways and interstates to, say, ten miles per hour. But even the most zealous advocate for public safety would reject such an idea. The costs are out of line with the benefits — even when the benefits are saved lives.

In the case of legally concealed weapons, furthermore, there are nowhere near thousands of lives at stake in Wisconsin, or even hundreds, or even dozens. As noted above, only a small proportion of the adult population will be carrying a concealed weapon if the legislation passes. Furthermore, there is no empirical basis on which to believe that any given permit-holder’s use of a weapon, for either defensive or criminal purposes, will be a routine occurrence. But let us assume that it was. How often would that result in someone being killed, or even wounded? On that question, criminologist Gary Kleck has concluded the following, from studies of both defensive and criminal gun use:

Most uses of guns for either criminal or defensive purposes are much less dramatic or consequential than one might think. Only a tiny fraction of criminal gun assaults involve anyone actually being wounded, even non-fatally, and the same is true of defensive gun uses (DGUs). More commonly, a gun is merely pointed at another person, or perhaps only referred to (“I’ve got a gun”<sup>32</sup>) or displayed, and this is sufficient to accomplish the ends of the user, whether criminal or non-criminal.

So, we are left with a small proportion of the adult population carrying concealed weapons, some subset of that small proportion ever having occasion to pull a weapon for self-defensive or criminal purposes, and a “tiny fraction” of cases in which, when the weapon is pulled, it results in a firearm injury or death. Given the math, rhetoric about “just one life” may not be far off the mark.

A final objection to the findings above is that for most statistics or analyses one can produce in support of shall-issue legislation, an opponent can produce a contrary statistic or bit of data analysis. That is true. The next sub-section, therefore, sets aside the data analytical approach and examines the experience of states that have had shall-issue legislation in place for at least a few years.

## The experience of other states

How does the experience of other states bear on the allegation that more guns will lead to more crime? As state after state has passed shall-issue laws, reports have come back that the permitting programs have generally worked well, without an increase in violence. We begin with three Midwest states that passed shall-issue laws within the past five years: Ohio, Minnesota, and Michigan.

- “Ohioans have been carrying concealed weapons — legally — for nearly a year now, and so far, area law enforcement officials say they have not encountered the problems many feared.”<sup>33</sup>
- “Last April, when Ohio became the 46th state to permit law-abiding citizens to carry guns, some in law enforcement worried that routine traffic stops and road rage incidents would turn violent. That hasn't happened.”<sup>34</sup>
- Dayton, Ohio Police Chief Julian Davis: “The people who go through this training and get the permits, those are not the people who cause the police department problems. We don't worry about those folks.”<sup>35</sup>
- “The acrid smell of gun smoke is not rising from every street corner, nor has crime plummeted during the year since Minnesota enacted a gun law allowing law-abiding citizens to carry a pistol in public.”<sup>36</sup>
- “‘The truth is, I don't know that there has been a change one way or the other here or anywhere else,’ said Anoka County (Minnesota) Sheriff Bruce Andersohn. ‘We had one side that swore the world would be safer, we'd be in better condition, we'd have a fall in crime. That's not a reality. The other side was that this would be the Wild West with a shooting on every corner. Well, I'm not seeing that, either.’”<sup>37</sup>
- “‘...Oakland County (Michigan) Prosecutor David Gorcyca said most (concealed weapon permit) violations are minor, for infractions such as being intoxicated while carrying a weapon or carrying a weapon without a license. ‘We haven't seen a huge increase in offenses,’ he said. ‘It's already been three years. I don't think we'll ever see any increases.’”<sup>38</sup>
- “‘We have not seen, in Michigan, that people get out their guns and start blasting each other,’ said Matt Davis, of the Michigan Attorney General's Office. ‘It appears the new law is working.’”<sup>39</sup>
- “‘What we've found is there's been no significant increase in crime, because the people getting permits are law-abiding people,’ said Katie Bower, one of the administrators of Michigan's 2001 concealed-carry law. ‘There have been a few cases where we've had problems, but it's not statistically significant.’”<sup>40</sup>
- “‘Everyone who looks at this who was anticipating more violence sees that the numbers of problems is (sic) very small,’ said Kim Eddie, assistant executive secretary of the Michigan Prosecuting Attorneys Coordinating Council, a state agency. ‘Both sides see that.’”<sup>41</sup>

A 2003 *Milwaukee Journal-Sentinel* news article summed up nearby states' experience with shall-issue laws this way: “Based on the experiences in neighboring states, officials there say, Wisconsinites should not believe predictions of shootouts between citizens legally carrying concealed weapons and armed criminals.”<sup>42</sup>

The experience in other parts of the country has been much the same. Here are a few representative examples.

- “In my professional experience in South Dakota, a ‘shall-issue’ concealed-carry state where permits are issued to anyone who can pass a background check, I have never had — nor heard of — any problems with a person legally carrying a concealed pistol.” — South Dakota municipal patrol officer, Adrian Alan.<sup>43</sup>
- “‘There was concern here initially that more officers would be killed or more officers would be drawing on people who didn't announce right away that they were carrying,’ says Kym Koch at the Oklahoma State Bureau of Investigation. ‘We haven't seen that.’”<sup>44</sup>
- “‘The people that go through all the effort to get a pistol permit seldom get into any trouble with the police,’ Fulton County (Georgia) Police Maj. Terry Mulkey said.”<sup>45</sup>
- “‘We haven't seen any cases where a permit holder has committed an offense with a firearm,’ (the Covington, Kentucky police chief) said. ‘Licensing is not the problem relating to firearms.’”<sup>46</sup>
- “‘Sgt. Tom Keller, who helped usher in the (Nevada) law during the two years he spent with the Police Department's concealed-weapons detail, said he couldn't recall any cases during his watch ‘where there was inappropriate use of a CCW (permit).’ Nor could his boss at the time, Lt. Bill Cavagnaro. ‘I don't recall anybody getting in any trouble,’ he says. ‘It seems to me most people who had the CCWs acted responsibly.’”<sup>47</sup>

- “‘We feel the program has done very well over the past 10 years,’ said Sgt. Bill Whalen, supervisor of the (Arizona) DPS Concealed Weapon Permit Unit. ‘The program has served as a model for other states.’ There has been no analysis of whether the concealed-weapon law has had any effect on crime, Whalen said, but nearly everything he’s heard points to the vast majority of permit holders as responsible gun owners focused on safety. ‘All the people who get concealed weapon permits are law-abiding citizens. These are the people who aren’t getting in trouble,’ Whalen said. ‘The people who don’t care for laws, in general, don’t get permits.’”<sup>48</sup>

- “‘A lot of the critics argued that the law-abiding citizens couldn’t be trusted, nor were they responsible enough to avoid shooting a stranger over a minor traffic dispute. But the facts do speak for themselves. None of these horror stories have materialized.’ — Sheriff David Williams, Tarrant County, Texas<sup>49</sup>

- “‘I think that says something, that we’ve gotten to this point in the year and in the third largest city in America (Houston) there has not been a single charge against anyone that had anything to do with a concealed handgun.’ — Harris County (Texas) District Attorney John Holmes<sup>50</sup>

- “‘Florida has the longest track record, and officials there maintain that the state has encountered few problems with concealed weapons. ‘It’s not the old Wild West that everyone predicted, with shoot-outs at traffic lights,’ says John Russi, director of the licensing division in Florida’s Department of State. ‘It just didn’t materialize.’”<sup>51</sup>

- “‘I haven’t seen any problems from people carrying weapons. And we haven’t had more crime broken up because people have weapons,’ said Lt. M. E. Frank of the Virginia State Police division, which supervises 14 counties in that state.”<sup>52</sup>

- “‘I haven’t seen any problems because of the law, (West Virginia Chief Sheriff’s Deputy Larry Stephens) said. ‘Most of the problems we have is (sic) with people who aren’t going to get a permit anyway.’”<sup>53</sup>

- “‘Concealed handgun permits have been available in New Mexico for nearly a year, and so far, about 2,000 state residents have chosen to pay hundreds of dollars for a license to keep a hidden, loaded weapon. When the state Legislature enacted the permit law last year, some people said it would make them feel safer and deter crime. Others, including those who unsuccessfully challenged the law at the state Supreme Court, said concealed guns would increase public fear. But law-enforcement officers in Santa Fe County say the new law has no noticeable impact.’”<sup>54</sup>

- “‘Cabarrus (North Carolina) Sheriff Robert Canaday said the county’s crime rate had been falling before the new concealed-weapons law passed. ‘I haven’t seen any impact whatsoever,’ Canaday said. ‘We haven’t had any incidents where these folks who have the permits have done anything wrong, and you can’t draw any correlation between concealed-weapons permits and the crime rate.’”<sup>55</sup>

- “‘When the state’s concealed weapons law was passed in 1996, critics said it would turn South Carolina into Dodge City. Although a few abuses have been recorded, law enforcement officials say the program has been effective for the most part and is growing in popularity. . . . Former Gov. David Beasley signed the concealed gun bill into law in 1996 after heated debate in the Legislature. At the time, critics said it would just add trouble to the state’s gun culture. But (state police captain Joe) Dorton said very few permit holders have abused the privilege since the law was enacted.’”<sup>56</sup>

- “‘[T]here haven’t been reports of people with concealed handgun permits getting in trouble with their guns, even though critics of the law predicted there would be problems. ‘I haven’t heard of any (problems),’ said Sgt. Michael Noel, supervisor of daily operations in the (Louisiana) State Police’s concealed handgun section.’”<sup>57</sup>

Consistent with these results, the previously referenced 2003 *Milwaukee Journal-Sentinel* article offered the following “bit of advice,” culled from interviews with officials in shall-issue states: “Once such laws are enacted, it is rare for a legally armed private citizen to be involved in an incident that threatens public safety.”<sup>58</sup> Thus, there is ample reason to believe that issuance of concealed weapons permits will not have an adverse impact on crime — though it may not have a crime-detering effect, either.

### ARGUMENT #3: GUNS ARE NOT USEFUL FOR SELF-DEFENSE

#### Introduction

The ostensible purpose of carrying a concealed weapon is protection of oneself, one’s family, and perhaps even strangers. Some critics of the proposed shall-issue legislation in Wisconsin, though, denied that guns are useful for defending against criminals:

- Milwaukee Police Deputy Inspector Anna Ruzinski: “How many people here today are honestly prepared to take another’s life? If you pull out that weapon, you’d better be prepared to use it, both physically and mentally.”<sup>59</sup>
- Wisconsin Anti-Violence Effort: “Despite the gun lobby’s rhetoric, concealed guns are generally a terrible self-defense tool and are hardly ever used to actually thwart burglaries or assaults.”<sup>60</sup>
- The *Milwaukee Journal-Sentinel*: “The argument for concealed carry, of course, is self-defense—the notion that people carrying these weapons will deter crime either because they will take out the bad guys or that the bad guys won’t commit violent crimes for fear that their victims might be armed. Both are dubious claims. Unless a person has years of training, practice and experience in dealing with criminals, it is just as likely that guns will be taken away and used against their owners or used carelessly by them, endangering the innocent. And a suspicion that a victim is armed may result less in deterrence than in criminals shooting first and checking for weapons — to steal — later.”<sup>61</sup>

### Surveys on the frequency of defensive gun use

Through random sample surveys, researchers have learned a great deal about the use of firearms, whether concealed or otherwise, for self-defense. Their findings undercut the assertions by shall-issue critics, such as the Wisconsin Anti-Violence Effort, that firearms are only rarely used to defend against crimes. As with most areas of research involving firearms, there is some dispute over the survey findings on defensive gun use. The National Research Council describes the conclusions of this body of research as follows:

How many times each year do civilians use firearms defensively? The answers provided to this seemingly simple question have been confusing. Consider the findings from two of the most widely cited studies in the field: McDowall et al. (1998), using the data from 1992 and 1994 waves of the National Crime Victimization Survey (NCVS), found roughly 116,000 defensive gun uses per year, and Kleck and Gertz (1995), using data from the 1993 National Self-Defense Survey (NSDS), found around 2.5 million defensive gun uses each year.

Many other surveys provide information on the prevalence of defensive gun use. Using the original National Crime Survey, McDowall and Wiersema (1994) estimate 64,615 annual incidents from 1987 to 1990. At least 19 other surveys have resulted in estimated numbers of defensive gun uses that are similar (i.e., statistically indistinguishable) to the results found by Kleck and Gertz. No other surveys have found numbers consistent with the NCVS.<sup>62</sup>

The National Research Council panel does not offer conclusions on whether the high-end estimate or the low-end one is more accurate. Significantly, though, it does conclude the following: “even the smallest of the estimates indicates that there are hundreds of defensive uses every day. . . .”<sup>63</sup> That is, even estimating very conservatively, defensive gun use is not some exotic event that “hardly ever” occurs.

### The nature of defensive gun use

Another objection raised above, by Milwaukee Police Deputy Inspector Anna Ruzinski, is that most civilian weapons-bearers lack the stomach for defensive gun use. Speaking at a legislative hearing, she asked, “How many people here today are honestly prepared to take another’s life?” Survey data indicate, however, that in the vast majority of cases, a person pulling a weapon in self-defense rarely has to fire it, let alone fire it with the intent to kill. Instead, about three-quarters of the time, the defender simply brandishes the weapon, or displays it to the criminal, or in some cases merely makes reference to it (e.g., “I’m carrying a gun.”).<sup>64</sup> Thus, in the vast majority of cases, the decision to defend oneself with a firearm does not amount to a decision to injure someone else, let alone take their life.

Why don’t armed victims fire at their assailants more often? Criminologist Gary Kleck explains:

One reason crime victims are willing to take the risks of forcefully resisting the offender is that most offenders faced by victims choosing such an action are unarmed, or armed only with less lethal weapons. Relatively few victims try to use a gun against adversaries who are themselves armed with guns – offenders were armed with some kind of weapon in 48 percent of defensive gun use incidents, but had guns in only 18 percent of them.<sup>65</sup>

In other words, in roughly 80 percent of the cases in which a victim uses a firearm to defend against an assailant, the assailant is not *also* carrying a firearm. Under those circumstances, the power disparity between victim and assailant is obvious, so it is generally not necessary to fire the weapon.

### The effectiveness of defensive gun use

The Wisconsin Anti-Violence Effort provides no evidence to support its claim that guns “are generally a terrible self-defense tool,” so it is hard to know exactly how to address this claim. There are two kinds of evidence one can look at, however. First, a number of national, random sample surveys have been fielded with the express purpose of quantifying and describing incidents of defensive gun use. Those surveys provide one estimate of the extent to which defensive gun use is successful in thwarting crime. According to analyses of survey data performed by Gary Kleck, who pioneered the use of such surveys:

In general, self-protection measures of all types are effective, in the sense of reducing the risk of property loss in robberies and confrontational burglaries, compared to doing nothing or cooperation with the offender. The most effective form of self-protection is use of a gun.<sup>66</sup>

The same basic finding applies to injury-avoidance during the commission of crimes:

Victims who used guns were less likely to be injured than crime victims who did not resist, but their post-self-protection injury rates were not significantly different from those of victims using many other self-protection measures.<sup>67</sup>

The National Research Council (NRC) panel reviewed the literature conducted in this vein, and found it uniformly supportive of the idea that defensive gun use is effective in thwarting crime and reducing violence. The NRC panel did, however, raise some questions about the methods used in the literature, and therefore about the validity of its conclusions. Even so, the worst one can say about research on this point is: “The available academic literature shows that defensive gun use is effective in disrupting crime. There are some methodological flaws in that literature, however, which raise questions about the reliability and validity of the findings. Still, there is *no* research evidence at all indicating that firearms are ‘a terrible self-defense tool.’”<sup>68</sup>

Second, a dated but unique study commissioned by the National Institute of Justice sheds light on criminals’ experience with and attitudes toward firearm-bearing victims. The study involved a survey of 1,874 adult prisoners in ten states. It was fielded in the early 1980s, before the proliferation of shall-issue laws. Still, a few of the questions and answers bear on both the frequency and effectiveness of defensive gun use.

**1. Thinking about all the crimes you ever committed, . . . did you personally ever run into a victim who was armed with a gun?**

No: 63%

Yes: 37%

**2. Have you ever been scared off, shot at, wounded, or captured by an armed victim?**

No: 66%

Yes: 34%

**3. Think now about other criminals you have ever 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: 11%<sup>69</sup>

Again, these data are very hard to reconcile with claims that defensive gun use is either rare or ineffective.

One obvious question remains, though — if defensive gun use is both relatively common and relatively effective, why do statistical studies not definitively demonstrate its impact in reducing crime? One possible answer is that criminals thwarted by an armed victim simply move on to the next victim, hoping he or she will not be armed, too. By this logic, the criminal will succeed in committing the desired crime eventually, as soon as he finds an unarmed victim. Accordingly, crime is simply deferred a bit, but is not diminished.

Another possibility is that the impact on crime from concealed weapons permitting is a positive one, but is simply too small to be detected in econometric studies. For example, in Michigan in 2004, there were roughly 11,000 robberies. Imagine, though, that the number would have been 11,025 were it not for Michigan's concealed-carry law. That is, imagine that concealed weapons holders either thwarted or deterred 25 robberies. The difference between 11,000 robberies and 11,025 is only about .2 percent. An impact that small might not show up as statistically significant in econometric research.

### How often do defensive gun use incidents “go bad”?

Another objection, presented in the *Milwaukee Journal-Sentinel* editorial, was that, “Unless a person has years of training, practice and experience in dealing with criminals, it is just as likely that guns will be taken away and used against their owners or used carelessly by them, endangering the innocent.” Unfortunately, we do not have data on “careless uses” by concealed weapons permit-holders during defensive gun uses. (Note that “we” here includes the *Milwaukee Journal-Sentinel* editorial board, which appears to be engaged in blind speculation.) The best we can do on that score is look at data on permit suspensions and revocations, which were presented above.

The *Journal-Sentinel* also claims, however, that “it is just as likely that guns will be taken away and used against their owners.” This is simply false. Again, based on national surveys of crime and gun use, Gary Kleck concluded the following:

It has often 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. This type of incident is in fact virtually nonexistent. In the 1992-1998 NCVS 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). Only .2 percent of incidents involving defensive gun use also involved the victim losing a gun to an offender – there was only a single sample case of such a thing happening in the NCVS dataset.<sup>70</sup>

### Is there a deterrent effect of civilian weapons-carrying?

The *Journal-Sentinel* editorial also cast doubt on the idea that concerns about potential victims carrying arms would have a deterrent effect: “And a suspicion that a victim is armed may result less in deterrence than in criminals shooting first and checking for weapons — to steal — later.” Once again, the data on this point are imperfect but informative. The National Institute of Justice felon survey, referred to above, included a number of questions on the deterrent effects of victims' carrying of firearms. The following questions and results are those most directly applicable to the question of deterrence:

1. **A criminal is not going to mess around with a victim he knows is armed with a gun.**

Strongly agree:	25%
Agree:	31%
2. **Most criminals are more worried about meeting an armed victim than they are about running into the police.**

Strongly agree:	21%
Agree:	36%
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:	8% <sup>71</sup>

While hardly dispositive, these survey results — particularly the last question — provide persuasive evidence of the deterrent effect of civilian weapon-bearing. However, as noted above, they may simply indicate that criminals bypass potential victims that they know or believe to be armed, and instead choose victims they believe to be unarmed. Or, as also discussed above, concealed weapons permitting may deter crime, but not by an amount large enough to achieve conventional levels of statistical significance in econometric studies.

**ARGUMENT #4: LAW ENFORCEMENT OPPOSES SHALL-ISSUE LEGISLATION,  
SO THE REST OF US SHOULD, TOO**

**Introduction**

Finally, some opponents of shall-issue legislation argued that passage runs counter to the recommendations of Wisconsin law enforcement officials and organizations, and that the legislation should have been rejected on those grounds. A few examples of this objection follow.

- The *gunguys.com*: “[B]oth the Wisconsin Sheriffs and Deputy Sheriffs Association and the Wisconsin County Police Association remain in opposition to this unnecessary and dangerous bill. A few police might have been taken in by the gun lobby, but the majority of police in Wisconsin still know the truth: that this bill would make their streets less safe.”<sup>72</sup>
- The *Milwaukee Journal-Sentinel*: “It’s the proliferation of guns, among other concerns, that bother (sic) law enforcement officials, including state Attorney General Peg Lautenschlager, Milwaukee Police Chief Nannette Hegerty and the Wisconsin Chiefs of Police Association. Yes, some officer associations have backed the bill, but this, we believe, is about politics, not safety.”<sup>73</sup>
- The National Association of Social Workers, Wisconsin Chapter: “Police officers and sheriffs from around the state oppose the carrying of hidden, loaded guns in public. Law enforcement is our ‘front line’ in dealing with gun crime. We should listen to law enforcement instead of the gun lobby on this issue.”<sup>74</sup>

We should note, first of all, that opposition to shall-issue legislation among police organizations is not universal in Wisconsin. The Milwaukee Police Association and the Wisconsin Troopers Association, for example, supported the legislation. But significant opposition by law enforcement groups has been the norm prior to passage in most states where shall-issue legislation has been considered.

Rather than looking at what law enforcement officials fear *could* happen if a shall-issue law passes, perhaps we should look at what they say *did* happen in states where shall-issue laws *did* pass. Consider, for example, the following “change of heart” stories from officials in states with shall-issue legislation.

- “Glenn White, president of the 2,350-member Dallas Police Association, said he lobbied against the (shall-issue) law in 1993 and 1995 because he thought it would lead to wholesale armed conflict. ‘That hasn’t happened,’ he said. ‘All the horror stories I thought would come to pass didn’t happen,’ said Senior Cpl. White, a patrol officer who works the 3-to-11 p.m. shift. ‘No bogeyman. I think it’s worked out well, and that says good things about the citizens who have permits. I’m a convert.’”<sup>75</sup>
- “Some of the public safety concerns which we imagined or anticipated...have been unfounded or mitigated.” — Fairfax County, Virginia Police Major Bill Brown.<sup>76</sup>
- “The concerns that I had — with more guns on the street, folks may be more apt to square off against one another with weapons — we haven’t experienced that.” — Charlotte-Mecklenburg, North Carolina Police Chief Dennis Nowicki.<sup>77</sup>
- “The Kentucky Association of Chiefs of Police opposed the bill, saying that more guns would mean more incidences of gun-related injuries. Craig Birdwhistell, executive director of the association, said so far that hasn’t happened. ‘No, we haven’t experienced the problems that some of our chiefs of police have anticipated,’ he said.”<sup>78</sup>
- “‘I have changed my opinion of this (program),’ Campbell County (Kentucky) Sheriff John Dunn said. ‘Frankly, I anticipated a certain type of people applying to carry firearms, people I would be uncomfortable with being able to carry a concealed weapon. That has not been the case. These are all just everyday citizens who feel they need some protection.’”<sup>79</sup>
- “. . . Lt. William Burgess of the Calhoun County (Michigan) Sheriff Department said ‘to the best of my knowledge, we have not had an issue.’ Burgess admitted he is surprised. ‘I had expected there would be a lot more problems,’ he said. ‘But it has actually worked out.’”<sup>80</sup>
- “As you know, I was very outspoken in my opposition to the passage of the Concealed Handgun Act. I did not feel that such legislation was in the public interest and presented a clear and present danger to law-abiding citizens by placing more handguns on our streets. Boy was I wrong. Our experience in Harris County, and indeed statewide, has proven my initial fears absolutely groundless.” — John B. Holmes, District Attorney, Harris County, Texas (which includes Houston).<sup>81</sup>

- "...Louisiana Sheriffs Association Executive Director Bucky Rives, who expressed concern about the law before it passed, said he hasn't heard anything about the effect of the law — good or bad. 'So far, I guess, so good,' Rives said. 'I cringed when they passed the law, but I stand corrected thus far.'"<sup>82</sup>

These quotes should not be surprising. As seen above, states that have adopted shall-issue laws have had very few problems with them. At least some law enforcement officials in those states who expected the worst have instead been impressed by how uneventful the policy change has been. A number of them, commendably, have admitted that they were wrong — or if not wrong, then at least pleasantly surprised.

Of course, "conversions" among officials in other states do not necessarily indicate that Wisconsin law enforcement officials will end up re-thinking their positions if and when shall-issue legislation passes. And yet, there is ample reason to believe that this is exactly what will happen.

Why? Police work, by its very nature, exposes police disproportionately to the negative aspects of firearm use. Police are called when criminals are threatening victims with a gun, or have already injured or killed them with a gun. When police show up at a crime scene, they may themselves be threatened with a firearm, or be shot at. Police are sometimes the first responders to victims with gunshot wounds. They may have suffered such wounds themselves, or may even have lost a fellow officer to gunfire. When a gun-bearing victim tries to defend himself against an assailant and ends up being injured or killed, the police are almost always called.

If this were *your* everyday experience, you, too, might conclude: "Guns are a BIG problem. More guns, therefore, will result in an even BIGGER problem." But police officers' everyday experience with guns and gun crime is not representative. Police are almost never called, for example, when someone successfully uses a gun for self-defense. No one notifies the police when a gun owner maintains a firearm for decades at a time without an accident or episode of violence (as most do). Police are not informed when a criminal decides to forego an opportunity to commit a crime because he/she fears that the potential victim might be armed.

Gary Kleck has referred to this failure to recognize the non-threatening aspects of gun ownership as "the police chief's fallacy." The fallacy is that law enforcement officials' everyday experience with guns — as a deadly instrument in the hands of an undesirable element — accurately reflects the total picture. But there is a whole world of safe, responsible, non-threatening, self-defensive gun ownership and use that police rarely see, simply because it is not their job to see it.

Even in shall-issue states, law enforcement does not have much contact with that world on a day-to-day basis. But law enforcement in those states *can* see that allowing civilians to carry concealed weapons does not render the negative aspects of gun usage worse.

## CONCLUSION

Gun policy is notoriously difficult to discuss calmly and rationally. Why? Because among their other uses — for sport; as collectibles; and for personal, home, and business security — guns are also used by criminals as instruments of violence. When used maliciously or carelessly, guns can inflict great emotional and physical harm — even death. They can evoke uncomfortable emotions, such as fear and worry. And when things go bad with a gun, they can go very bad; for example, the accidental shooting of a child, as rare as it is, makes a devastating and indelible impression.

Faced with these aspects of gun ownership and use, some people arrive at a simple formulation: "guns are bad." The logical extension of this is that gun ownership and use should be severely restricted. Naturally, this upsets the tens of millions of Americans who own firearms, use them responsibly, and have never had an incident or an accident. The "guns are bad" formulation does not describe their experience; they are offended by suggestions that their freedom to own and use firearms should be constrained.

Pitted against each other in this way, both sides find it difficult to look objectively at evidence that does not support their position. At times, too, advocates for one side or the other rely on data and analysis that are suspect, sometimes *highly* suspect. This does not facilitate trust, dialogue, or compromise between the two sides.

All of this makes it unlikely that shall-issue opponents like Governor Jim Doyle, the *Milwaukee Journal-Sentinel*, and assorted Wisconsin law enforcement organizations will ever admit that that they are (mostly) wrong about the impact of concealed weapons laws. Yet, as demonstrated in the preceding pages:

- there is no evidence that the proposed concealed weapon training requirements in Wisconsin were inadequate;
- there is no evidence that passage of shall-issue legislation would result in an increase in crime; and
- there is no evidence that self-defensive gun use is either rare or ineffective.

With that, the case against shall-issue legislation collapses.

But what about the case *for* such legislation? If that case hinges on a reduction in crime in the wake of passage, there is not much of an argument there, either. Looking at both the econometric evidence and the actual experience of shall-issue states, there is little reason to believe that concealed weapons permitting will have a measurable crime-reducing effect.

But if the case hinges on the right of Wisconsinites to defend themselves, using firearms if they choose, that case is unassailable. In fact, the Wisconsin Constitution explicitly guarantees that right: “The people have the right to keep and bear arms for security, defense, hunting, recreation or any other lawful purpose.”<sup>83</sup> State law ought to allow for the fullest expression of this right (or any other), as long as that expression does not produce unacceptable costs or consequences. According to the analysis in this paper, the undesirable consequences of extending firearms freedom to encompass concealed weapons would be trivial. Lawmakers should, therefore, trust Wisconsin gun-owners to make appropriate choices about their personal security — including the bearing of concealed weapons — consistent with their constitutional rights.

## NOTES

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25. Another concern is that criminals, acting out of fear of armed victims, will adopt a more physically aggressive and violent posture toward them. I will address that possibility below in the section on defensive gun use.
26. I am assuming that some of the individuals involved in the traffic incidents will be carrying concealed weapons. If that assumption is incorrect, shall-issue opponents would have no cause for concern that the incidents will escalate to gun violence.

27. Kentucky also passed shall-issue legislation in 1996. I have excluded it from this analysis, though, both because of missing data and the questionable reliability of the Kentucky data that do exist.
28. The data on weapons used in murder is specific enough to break out handgun use versus other types of weapons. With aggravated assault crimes, we cannot look at handguns specifically; all firearms used in aggravated assaults are lumped together.
29. The data points in each figure below were calculated from the annual Federal Bureau of Investigation publication, *Crime in the United States*, which is based on Uniform Crime Reporting program data. Specifically, the percentages of aggravated assaults involving a firearm and the percentages of homicides involving a handgun were tallied for each state for each year from 1991 to 2004.
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## ABOUT THE INSTITUTE

The **Wisconsin Policy Research Institute** is a not-for-profit institute established to study public-policy issues affecting the state of Wisconsin.

Under the new federalism, government policy increasingly is made at the state and local levels. These public-policy decisions affect the life of every citizen in the state. Our goal is to provide nonpartisan research on key issues affecting Wisconsinites, so that their elected representatives can make informed decisions to improve the quality of life and future of the state.

Our major priority is to increase the accountability of Wisconsin's government. State and local governments must be responsive to the citizenry, both in terms of the programs they devise and the tax money they spend. Accountability should apply in every area to which the state devotes the public's funds.

The Institute's agenda encompasses the following issues: education, welfare and social services, criminal justice, taxes and spending, and economic development.

We believe that the views of the citizens of Wisconsin should guide the decisions of government officials. To help accomplish this, we also conduct regular public-opinion polls that are designed to inform public officials about how the citizenry views major statewide issues. These polls are disseminated through the media and are made available to the general public and the legislative and executive branches of state government. It is essential that elected officials remember that all of the programs they create and all of the money they spend comes from the citizens of Wisconsin and is made available through their taxes. Public policy should reflect the real needs and concerns of all of the citizens of the state and not those of specific special-interest groups.