

# CONCEALED WEAPONS

## WHY ARE THEY STILL ILLEGAL IN WISCONSIN?

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In a few minutes of last-minute parliamentary maneuvering, the Personal Protection Act died in the Wisconsin Senate. It took only hours to pass the bill in the Wisconsin State Assembly in February, while the Senate disposed of it without even taking a vote. Passage of the Personal Protection Act would have allowed Wisconsin residents to apply and receive permits to carry concealed weapons in public — bringing state law into line with 44 other states that provide for such permits.

Even though concealed carry laws are so widespread, the issue in Wisconsin continues to inspire overwrought rhetoric.

State Representative Antonio Riley (D-Milwaukee), for example, argued against the bill by calling it some stereotypes. “Joe-Bob, Jim-Bob stuff. This is nuts.”<sup>1</sup> Attorney General Jim Doyle declared: “This is just common sense that if everyone is walking around with a gun in their pocket there is going to be more shootings.”<sup>2</sup>

### The New Wave

The Personal Protection Act (or the Concealed Carry Weapons Bill) represents the



latest generation of gun legislation in this country. Usually, landmark legislation involving gun control stems from external events, such as assassinations or mass shootings. Most of the new laws resulted in more controls on gun dealers and potential gun owners. The 1980s and 1990s saw more controls over the types of ammunition that can be produced and the types of guns

that can be sold. All these pieces of legislation were debated at the national level by politicians and the media and were highly visible to the public. At the same time, however, a different debate was taking place at the state level, much of it centered on whether law-abiding citizens should be permitted — under certain circumstances — to carry weapons for their self-protection.

There are basically four types of concealed carry laws. Thirty-two states have “shall issue” laws which require that citizens pass the stated criteria before they are issued a permit. Eleven other states have “may issue” laws giving law enforcement officials the option of issuing per-

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mits to citizens who meet certain criteria. Six states make it illegal to carry concealed weapons, and one state does not require its citizens to apply for a permit before they carry a concealed weapon.

It is interesting to note that all states that make it illegal to carry concealed weapons are located in the Midwest. In addition to Wisconsin, only Illinois, Missouri, Nebraska, Kansas, and Ohio have laws making it illegal to carry a concealed weapon. However, Ohio may be on the verge of passing a bill to allow its populace to apply for permits to carry concealed weapons, reducing the number of states prohibiting concealed weapons to five.<sup>3</sup> During the late 1980s and 1990s, many states passed concealed carry laws, but some states have had these laws in effect for decades, including Washington, Indiana, Pennsylvania, and Vermont. In fact, Vermont has never required a permit to carry concealed carry weapons for any of its citizens since 1791.

Of no small significance, no state has repealed any of the concealed carry laws that have been passed by their legislatures. There was a move in the late 1980s in Florida to repeal the concealed carry weapons law, but it failed by a large margin. And in 1907, there was a movement in Vermont to modify the constitution regarding its concealed carry weapons law. It was also defeated.

### **Demographics of Permit Holders**

According to the Wisconsin Concealed Carry Association, approximately 2 to 3.5 million active permits have been issued nationwide. Compared to the total population, few people apply for a permit and fewer receive one.

The demographics of permit holders are not surprising. For example, in Texas males hold 81% of the concealed carry permits, and whites hold 91% of the total number of permits. Moreover, almost 3 out of 4 permit holders are white men ranging in age from the mid 40s through the 50s.<sup>4</sup> In Florida, males hold 85% of the 285,417 permits.<sup>5</sup>

Revocation of concealed carry permits is rare in all states once a permit is issued, but if revocation is deemed necessary, it is usually quick and unforgiving. According to the Wisconsin Concealed Carry Association, since 1996 Oklahoma has revoked only one-tenth of one percent of the licenses it has issued. Revocation can occur for obvious reasons, such as any infraction that would prevent original issuance of a permit. Some reasons are not so obvious, such as failure to pay student loans and credit card abuse. The death of a permit holder is also included in these revocation reasons. Texas also revokes permits for those individuals who fail to identify their status as a concealed weapons carrier to a police officer if stopped for a violation, such as a traffic violation or a domestic dispute.<sup>6</sup>

Under current Wisconsin law, only peace officers can carry concealed weapons, but Senator Zien and Representative Gunderson introduced bills in their respective houses that would allow citizens passing a stringent set of requirements to be issued a permit to carry a concealed weapon on their person. Identical bills were introduced during the previous legislative session where they died in committee. With the passage of this bill, qualifications and criteria would be set up and passed in order to acquire a permit to carry a concealed weapon. Not all persons applying for a permit will be eligible. To be eligible for a permit, residents:

- Must be 21 years of age
- Must not have a physical disability which would prevent the safe use of a firearm
- Must be eligible to possess a firearm under federal law
- Must not be prohibited from possessing a firearm due to a number of reasons, including but not limited to a felony conviction, juvenile delinquency adjudication, or an order issued in a mental commitment case
- Must not have been committed to a drug dependency program within the last three years

- Must not have been convicted of an offense relating to controlled substances within the last three years
- Must not chronically or habitually use alcohol or drugs which impair normal human faculties
- Must have successfully completed a firearms training and safety course
- May not have been involuntarily committed to a mental facility during the last five years, found not guilty of a crime due to mental defect or disease, or have been found to be mentally incompetent
- Must not have been convicted of any specified violent misdemeanors within the last three years
- Must be a Wisconsin resident

In addition, the county sheriff would conduct a background check on any individual who is not a law enforcement, correctional, or parole officer. Persons applying for a permit would also need to pay shooting range fees and law enforcement excellence fund fees, which are used by the county sheriff to improve law enforcement services in that county.

Despite those strict requirements, opponents suggest that their neighborhoods will turn into the Wild West with daily shoot-outs. Criminologist Gary Kleck explains that this fear is typical. "Alarmist results . . . serve to frighten people, and frightened people are not reasonable people, prone to supporting well-reasoned solutions to social problems. . . . Battered by a decade of research contradicting the central factual premises underlying gun control, advocates have apparently decided to fight more exclusively on an emotional battlefield, where one terrorizes one's targets into

submission rather than honestly persuading them with credible evidence."<sup>7</sup>

### The Research

Statistics are cited on both sides of the debate. Oftentimes, these statistics are massaged to show certain conclusions. This became such a problem for the Texas Department of Public Safety that many of its concealed carry weapon statistics were taken off its website. Department of Public Safety officials found that both conservative and liberal advocacy groups were manipulating their data. Unlike most states, Texas residents with concealed carry weapon permits are subject to open records law. Other states have laws that protect the identity of permit holders.

Advocacy groups such as the Violence Policy Center and the National Rifle Association tend to rely on FBI data and U.S. Department of Justice data to present their viewpoints. Most of the time these statistics do not represent the same story, and these conflicts are the result of widely varying definitions of variables. In addition, it is many times easier to find

statistical information supporting laws allowing the concealed weapons to be carried. The National Rifle Association has a large membership and is extremely organized with its lobbyists and volunteer organizations. The advocacy groups that oppose concealed carry weapons have their own lobbyists and volunteer organizations, but they are not focused around a central organization.

In an example of conflicting statistical data, the Violence Policy Center (VPC) claimed in an August 2000 study that from 1996 to 1999, Texas concealed handgun license holders were arrested for weapon-related offenses at a rate 66 percent higher than that of the general adult population of Texas.<sup>8</sup> But critics argued

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that the authors of the study defined and regrouped some of the data categories. As Dick Baker, Treasurer of the Wisconsin Concealed Carry Association explained, "60% (525 out of 873) of the arrests were for incidences that were only related to permit holders: unlawfully carrying a weapon, and failure or refusal to display permit license." He further explained that the "VPC used arrests and not convictions which did result in a lower number."<sup>9</sup>

In the popular and best-selling book, *More Guns, Less Crime*, John Lott, Jr., a senior research scholar in the School of Law at Yale University, presents a thorough and interesting study on the effects of concealed carry weapons laws and crime rates. Lott compiled crime data from 1977-1994 at state and county levels, developing his main hypothesis that guns in the hands of law-abiding citizens will deter violent crime. In his analysis he found that, in states that adopted shall-issue laws, violent crime was reduced by 4.4%, murder was reduced by 10%, rape was reduced by 3%, and aggravated assault decreased by 5.7% with an increase in property crime of 0.6%.<sup>10</sup> He theorized that criminals move from committing crimes against people who may be armed to property crimes because there is less chance of a potential armed situation.

When looking at crime rates in relation to population density, Lott's statistics are noteworthy. "The most densely populated areas are the ones most helped by concealed-handgun laws."<sup>11</sup> Lott found that in states with discretionary or shall-issue licensing, law enforcement was more reluctant to issue handgun permits in densely populated areas compared to rural ones. When nondiscretionary laws were subsequently passed, more individuals were able to obtain handgun permits lowering the violent crime rate more so than in the less-populated areas.<sup>12</sup>

Lott's work has been praised by the NRA and gun proponents and summarily dismissed by gun control advocates. Ian Ayres and William Townsend, Professors of Law at Yale Law School and John Donohue III, Professor of Law at Stanford Law School conducted an inde-

pendent review of Lott's study and other reviews of Lott's work, and determined "that Lott's thesis that concealed weapons laws reduce violent crime [should] be taken seriously. . . . Because Lott's book has had such a high-profile and controversial impact on this important policy issue, and because Lott has graciously shared his data, critics have subjected his work to a type of strict scrutiny that is rarely found in social science."<sup>13</sup>

Ayres, Townsend, and Donohue's study reviewed the numerous conclusions in Lott's thesis that having more guns in the hands of law-abiding citizens prevents violent crime while shifting it to property crime. They replicated his study using his data and determined that some of Lott's conclusions could be validated. For example, Lott determines "that no relationship exists between concealed-handgun laws and suicide rates."<sup>14</sup> "While much is made in the press and the popular debate about the effect of handguns on accidental shootings, Lott provides regression evidence that the passage of concealed handgun laws has had little effect on either accidental deaths or suicide."<sup>15</sup>

However, other conclusions had potentially serious flaws. Lott "has no explanatory variable to control for the violence-inducing influence of the local crack trade (no one else does either), there may well be a serious omitted variable bias problem in his regressions."<sup>16</sup> Ayres, Townsend, and Donohue conclude their study by saying that this is a good starting point with which to gather and analyze more data to determine the true effects of these conceal carry laws.<sup>17</sup> In a separate study funded by the Centers for Disease Control and Prevention and authored by members of the Violence Research Group at the University of Maryland, the easing of concealed firearms laws and the effects on homicide rates in Florida, Mississippi, and Oregon were analyzed. The study concluded "there are no grounds to believe that crime might increase, decrease, or remain the same after a shall issue law is passed . . . we do not firmly conclude that shall-issue licensing leads to more firearms murders."<sup>18</sup>

## Law Enforcement and Concealed Carry Laws

Law enforcement in this state is divided on this issue. Milwaukee Police Chief Arthur Jones along with the Wisconsin Police Chiefs Association have come out against the bill. On the other hand, Waukesha County Sheriff William Kruziki said he saw no problem with the proposal since the permit holders would be trained and there would be local control over the issuances of permits.<sup>19</sup> In addition, the Milwaukee Police Association has endorsed the ability of citizens to carry concealed weapons, saying in a memo to Senator Zien, "good law-abiding citizens deserve every opportunity to defend themselves against persons committing heinous crimes."<sup>20</sup>

The president of the Dallas Police Association, Glenn White, was a staunch and adamant opponent of the concealed carry weapons bill in Texas, testifying in front of the state senate about the horrible things that were going to happen with the passage of the bill. It passed in the mid-1990s and with it, Glenn White's opinion of the bill changed completely after a couple of years. "I was wrong. What I thought would take place, didn't. It hasn't happened. It just hasn't happened." He went on to explain that "even my biggest concerns were unfounded. Only a handful of incidents took place over the years where persons carrying concealed weapons were involved. In those incidences, the gun was used properly in self-defense." He finished by saying, "it's a shame that other states don't use Texas as a model. This is solid legislation."<sup>21</sup>

## Wisconsin and Concealed Carry Laws

Even though hunting is extremely popular, Wisconsin has never been on the cutting

edge when it comes to gun legislation. Comfortable with reform advocacy in the areas of education and welfare, Wisconsinites seem to prefer to take a wait-and-see attitude on this issue.

The Wisconsin Policy Research Institute (Jan 91, Sept 93, July 94) and the Milwaukee based Public Policy Forum (Oct 98, July 99) conducted surveys of Wisconsin residents opinions regarding concealed weapons. The questions were similarly worded and asked whether the respondents favored or opposed a law in Wisconsin making it a crime to carry a concealed weapon. Similar and consistent results were gathered. The majority of respondents opposed a law allowing concealed weapons, ranging from 79% to 83%.<sup>22</sup>

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A different audience and a different wording of the concealed carry weapons question resulted in drastically different results. The Conservation Congress conducted a statewide survey of pertinent topics at its public hearings in early April. One of the topics was concealed weapons, which was presented as a question along with a

brief description of how the legislation would be implemented if passed. Public hearings occurred in all counties and were attended by a variety of people: environmentalists, hunters, fishermen, trappers, outdoor enthusiasts, and other interested citizens. Out of 11,064 attendees, 64% supported legislation allowing concealed weapons, 9% opposed it, and the remaining 27% did not answer the question. All 72 counties had results that supported concealed carry weapons legislation. A more accurate depiction of residents' attitudes would be a statewide poll with a more precisely worded question like the one in the Conservation Congress survey.<sup>23</sup>

This wait-and-see attitude can be advantageous because it gives time to study other states' experiences with concealed carry laws. Wisconsin residents should be using this time to discover and debate this issue — free of the sensationalistic rhetoric that has dominated this issue for too long.

### Notes

1. Dennis Chaptman, "Assembly Approves Concealed Weapons Bill," *Milwaukee Journal Sentinel*, Feb. 27, 2002.
2. "Concealed-weapon bill would lower crime, retailers say," *Milwaukee Journal Sentinel*, Tom Kertscher, Feb. 19, 2000.
3. Interview with Dick Baker, Treasurer of the Wisconsin Concealed Carry Association, March 20, 2002.
4. Texas Department of Public Safety; Demographic Information of Concealed Hangers By Age, Race & Sex.
5. "Concealed Weapon/Firearm License Holder Profile: Active Licenses by Age and Sex," <[http://licgweb.dos.state.fl.us/stats/cw\\_holders.htm](http://licgweb.dos.state.fl.us/stats/cw_holders.htm)> Latest update on March 21, 2002.
6. Telephone interview with Glenn White, President of the Dallas Police Association, April 3, 2002; the purpose of instituting these reasons for revocation is to protect both the officer and the civilian and has worked well.
7. Gary Kleck, "Reasons for Skepticism on the Results from a New Poll on: The Incidence of Gun Violence Among Young People," *The Public Perspective*, Sept/Oct 1993; The Roper Center for Public Opinion Research, p. 6.
8. <<http://www.vpc.org/press/0008ltk.htm>>
9. Telephone interview with Dick Baker, Treasurer of the Wisconsin Concealed Carry Association, April 4, 2002.
10. John Lott, Jr., "More Guns, Less Crime: Understanding Crime and Gun Control Laws," University of Chicago Press, 2000, p. 90.
11. *Ibid.*, p. 63.
12. *Ibid.*, pp. 28 and 62.
13. Ian Ayres, William Townsend, Professor of Law, Yale Law School and John Donohue III, Professor of Law, Stanford Law School, "Nondiscretionary Concealed Weapons Laws: A Case Study of Statistics, Standards of Proof, and Public Policy. Reviewing: John R. Lott, Jr., "More Guns, Less Crime," University of Chicago Press, 1998, p. 9-10.
14. Lott, p. 113.
15. Ayres, p. 7.
16. *Ibid.*, p. 12.
17. *Ibid.*, p. 22 "Lott has started us on the journey and substantially advanced the process of data creation and analysis. Now that years have transpired and 13 more states have passed these laws since Lott's data period ended, they are likely to be considerable benefits from further study to explore the implications of the potentially serious omitted variable problem that the crack hypothesis poses and the difficult issue of heterogeneity among states enacting shall issue laws. This effort to determine the true effect of these laws will not only inform the substantive policy debate, it can also illuminate the circumstances under which we can rely on statistical studies of crime and other public policy matters."
18. David McDowall, Colin Loftin, Brian Wiersema, "Easing Concealed Firearms Laws: Effects on Homicide in Three States," *Journal of Criminal Law & Criminology*, Vol. 86, No. 1, 1995, p. 195, 203.
19. "Sponsors Say the Law Would Make Criminals Think Before Acting," Dennis Chaptman, *Milwaukee Journal Sentinel*, Nov. 13, 2001.
20. Memo to Senator Zien from the Milwaukee Police Association, March 11, 2002; <<http://www.legis.state.wi.us/senate/sen23/news/Milwaukee%20Police%20Association%20supports%20concealed%20carry.pdf>>
21. Telephone interview with Glenn White, President of the Dallas Police Association, April 3, 2002.

22.

WPRI	Would you favor or oppose a law making it a crime to carry a concealed and loaded handgun?	Jan 91 F-82%	Sep 93 F-83%	July 94 F- 79%	Oct 98 n/a	Jul 99 n/a
PPF	In general, do you favor or oppose laws in WI that would allow citizens of WI to carry concealed weapons?	n/a	n/a	n/a	O -79%	O- 78%

23. Interview with Al Phelan, Department of Natural Resources; April 10, 2002.

A current proposal before the Wisconsin Legislature would make Wisconsin the 44th state to license citizens to carry a concealed weapon for the purpose of self-defense. Under the proposal citizens over 21 years old who pay a fee, pass a background check and complete an approved firearms safety course could receive a license to carry a concealed firearm. Carry would not be allowed in places such as taverns and schools. For every license sold, \$15 would be placed in a Shooting Range Development Fund to be administered by the DNR to ensure the availability of ranges throughout Wisconsin. It is estimated this fund would receive \$450,000 in the first year under the law. This law would create a mechanism to allow trained, qualified and licensed sportsmen and women to avoid technical violations of firearms carry laws while hunting.

***Would you support legislation allowing law-abiding citizens who have undergone proper training to receive a license to carry a concealed weapon and providing funding for the development of shooting ranges that allow the public the opportunity to become proficient with firearms?***