

**Firearm Public Awareness Task Force**  
House Resolution 550  
Illinois 97<sup>th</sup> General Assembly  
Representative La Shawn K. Ford, Chair  
Representative Michael Unes, Vice-Chair

The task force is charged with finding and analyzing data from states that have concealed carry laws, especially those states with significant similarities to Illinois; the inquiry and study should include information about the types and number of crimes involving handguns before and after the date that a concealed carry law went into effect in each state and particularly for the following categories: violent gun crimes; suicides by firearm; number of guns, or gun owners, legally registered; number of registered guns stolen or number of guns stolen from registered gun owners; the task force should additionally gather information from similar states with concealed carry laws concerning: the number and nature of serious crimes committed by persons who were lawfully carrying a concealed weapon at the time of the crime; and the number of people killed or injured when a person who was lawfully carrying a concealed weapon used the concealed weapon or made known to the assailant that he or she was carrying a concealed weapon; the task force should also consider, if a concealed carry law is passed in Illinois, how public safety could be maintained, whether a change in the law would create a need for police sensitivity training, and what type of public information campaign about a concealed carry law would be appropriate.

## **Introduction from La Shawn K. Ford, Chair**

Responding to debate concerning the meaning of the Second Amendment and with countless reports of crimes involving guns, I introduced House Resolution 550 in the 97<sup>th</sup> General Assembly on October 12, 2011 to establish the Firearm Public Awareness Task Force. On November 9, 2011 the House adopted the resolution with 112 members voted yes and one member voting no. The Task Force was composed of stakeholders interested in the ongoing debate on the public carry of firearms in Illinois. The Task Force had representation from both sides of the political aisle, community leaders, law enforcement agencies and other stakeholders from all parts of the state. The Task Force also brought together those who enforce and interpret gun laws, those who advocate for the Second Amendment, and those who represent the victims of gun crimes from Illinois and other parts of the country.

With diverse and varying perspectives on this contentious issue, the Task Force and the community heard competing testimonials from experts on constitutional rights, gun crime statistics, and various concealed carry laws and regulations throughout the nation. The members and the community were afforded an opportunity to ask questions following each speaker, and in some cases presented their own materials to the Task Force for review. Overall, we were given an opportunity to see where opposing parties stand on concealed carry and the issues that surround it, and weigh competing evidence supporting arguments for and against certain regulations here in Illinois.

The information below summarizes the information conveyed to the Task Force, and I hope you find it helpful as you consider the public safety impact of various concealed carry licensing systems in Illinois. I would like to thank everyone who contributed testimony and each member of the Task Force for their valuable contributions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'LSK', written in a cursive style.

La Shawn K. Ford  
February 14, 2013

## **Members of the Firearm Public Awareness Task Force**

The FTF assembled representatives from diverse populations and communities throughout Illinois, law enforcement and firearm regulatory authorities, along with gun rights and gun victims' advocates.

The appointed members from the 97<sup>th</sup> General Assembly of the Illinois House of Representatives are as follows:

- Representative La Shawn K. Ford, Chair
- Representative Michael Unes, Vice-Chair
- Representative Mike Bost
- Representative Richard Morthland
- Representative Brandon Phelps
- Representative David Reis
- Representative Ed Sullivan
- Representative Andre Thapedi

The appointed law enforcement officials and gun and victims' rights advocates who served on the FTF are as follows:

- Lt. Darrin Clark, Illinois State Police
- Rob Moon, Cook County Sheriff's Office
- St. Clair County State's Attorney Brendan Kelly, Illinois State's Attorney's Association
- Assistant State's Attorney Tom Mahoney, Cook County State's Attorney's Office
- Ted Street, Illinois Fraternal Order of Police
- Greg Sullivan, Illinois Sheriff's Association
- Assistant State's Attorney Tom Mahoney, Cook County State's Attorney's Office
- Colleen Daley, Executive Director of the Illinois Council Against Handgun Violence
- Todd Vandermyde, National Rifle Association
- Donald Moran, Illinois State Rifle Association
- Pam Bosley, Safety Net Works Coordinator at the Ark of Saint Sabina

## **The Second Amendment: How Far Does the Right to Bear Arms Extend?**

In the wake of recent decisions from the federal courts, the Second Amendment's application to gun control and concealed carry remains a controversial topic in Illinois and throughout the nation. To provide perspective on the constitutionality of concealed carry, or more succinctly put, whether the Second Amendment's right to possess a firearm extends to the public way, the FTF assembled two attorneys with competing interpretations of recent federal case law. While it is clearly established that a right to possess a firearm exists inside the home, the attorneys presented competing views on whether the Second Amendment "right to keep and *bear* arms" grants an individual the right to carry a firearm into public areas.

### The Right to Bear Arms *Does Not* Extend Outside the Home

Professor Steven Schwinn, a constitutional law professor at the John Marshall Law School and regular contributor to the *ABA Preview of United States Supreme Court Cases*, presented first on the Second Amendment's reach into public areas. Professor Schwinn led with language from the majority opinion in *District of Columbia v. Heller*,<sup>1</sup> noting that the right to keep and bear arms is not unlimited. In the words of Justice Scalia, it "is not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose."<sup>2</sup> The *Heller* decision stated that longstanding regulatory measures placed on the eligibility to possess guns, the commercial sale of firearms, or the places that a firearm may be carried or used pass constitutional muster.<sup>3</sup>

Professor Schwinn interpreted *Heller* to secure a limited Second Amendment right to possess a handgun for self-defense within the home, and within the home only. Schwinn argued that Justice Scalia, famous for his meticulously worded opinions, would have made it clear that the Second Amendment also creates a public right to carry if he intended to do so. Professor Schwinn opined that it is not in Justice Scalia's nature to implicitly create constitutional rights. Professor Schwinn argued that the Illinois General Assembly may constitutionally impose firearm regulations that serve an important public interest, including a prohibition on the right to concealed carry with limited exemptions, if it deems it is in the best interest of Illinois citizens. He argued that because, in his view, the Second Amendment does not apply to the carrying of handguns outside the home, the General Assembly's regulations will pass constitutional attacks under intermediate scrutiny if they substantially relate to legitimate public safety interests.

Since the *Heller* decision, several cases have come down throughout the federal courts that mirror Professor Schwinn's view. Right to carry advocates have brought lawsuits in various states throughout the nation challenging laws that grant discretion to authorities to issue concealed carry permits on a case-by-case basis, otherwise known as "may-issue" laws. Often, these regulatory schemes require a concealed carry applicant to show some particular threat to his or her safety that would necessitate a concealed handgun for self-defense. For example, permits may be issued to licensed security guards, individuals who work in a high crime area late at night, or persons under orders of protection who face threats of attack. Several cases upholding discretionary licensing regulations are summarized below.

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<sup>1</sup> *District of Columbia v. Heller*, 128 S. Ct. 2783 (2008).

<sup>2</sup> *Id* at 2816.

<sup>3</sup> *Id* at 2816-17.

Following a Second Amendment challenge to a concealed carry regulatory scheme in New York, a federal district court upheld a law that requires a concealed carry applicant to demonstrate an “actual and articulable need” in order to receive a permit.<sup>4</sup> In short, the applicant must show a threat to his or her safety that is distinguishable from the general public, creating a need to carry a handgun for self-defense. As the regulation is not a complete ban on concealed carry, the court held that it does not implicate the Second Amendment, and further promotes New York’s interest in protecting public safety and preventing crime. This case is now pending before the Second Circuit U.S. Court of Appeals.

A similar law was upheld in California. The San Diego County sheriff requires an applicant to show “good cause” for a concealed carry permit due to the need for additional safety protection.<sup>5</sup> Under this provision, the applicant must demonstrate more than a generalized fear for his or her safety, and show a particular circumstance that places his or her safety at risk.<sup>6</sup> The U.S. District Court for the Southern District of California upheld the statute against constitutional attacks based upon equal protection grounds, the privileges and immunities clause, due process, and fundamental Second Amendment principles. However, that decision was based in part on the availability of an alternative means of carrying firearms; at the time, it was legal in California to carry an unloaded firearm openly and load it if necessary for immediate self-defense.<sup>7</sup> California has since outlawed that practice.<sup>8</sup> This case is now pending before the Ninth Circuit U.S. Court of Appeals.

A New Jersey statewide regulation that requires a concealed carry applicant demonstrate “justifiable need” for a handgun was upheld against a Second Amendment attack based upon First Amendment principles of prior restraint on free speech. The law is narrowly limited to those with “an urgent necessity for self-protection” based upon “specific threats or previous attacks demonstrating a special danger to the applicant’s life that cannot be avoided by other means.”<sup>9</sup> In its opinion, the U.S. District Court explicitly declared that the Second Amendment does not include a general right to carry outside the home. This case is now pending before the Third Circuit U.S. Court of Appeals.

Finally, and most relevant to Illinois, the federal court in Illinois Southern District upheld the state’s outright ban on the public carry of operable handguns.<sup>10</sup> Illinois is the only state in the nation that does not issue concealed carry permits, and only allows individuals to carry handguns outside the home if the guns are broken down, unloaded, and enclosed in a case.<sup>11</sup> In its analysis, the court found that the Second Amendment right to carry did not extend outside the home, and therefore the prohibition on public carry is not presumptively unconstitutional.<sup>12</sup> It concluded, as Professor Schwinn stated before the FTF, that the holding in *Heller* was narrowly written to

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<sup>4</sup> *Kachalsky v. Cacace*, 817 F. Supp.2d 235, 249 (SD NY 2011).

<sup>5</sup> *Peruta v. County of San Diego*, 758 F.Supp.2d 1106 (SD Ca. 2010).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* At 1114.

<sup>8</sup> See Cal, Penal Code § 26350, added by Calif. Stats. 2011 c. 725 (A.B. 144).

<sup>9</sup> *Piszczatoski v. Filko*, 2012 WL 104917 (D.N.J. 2012).

<sup>10</sup> *Shepard v. Madigan*, 2012 WL 1077146 (SD IL 2012)

<sup>11</sup> 720 ILCS 5/24-1

<sup>12</sup> *Shepard*, at 9.

protect a Second Amendment right within the home, and that the right to carry outside the home does not fall within the core of Second Amendment safeguards. This case is now pending before the Seventh Circuit U.S. Court of Appeals.

Under Professor Schwinn's interpretation of *Heller*, and the various cases in Illinois and throughout the nation that have followed similar reasoning, Illinois' ban on the public carry of open or concealed handguns would likely withstand constitutional challenge. Professor Schwinn argued in his closing remarks that the right to publicly carry is not inherent in the Second Amendment, but is rather a tangentially related right. In his opinion, the courts will defer to the legislature to regulate dangerous weapons in the interests of public safety and good public policy.

### The Right to Bear Arms Does Extend Outside the Home.

William N. Howard, an experienced trial attorney and partner with the Chicago law firm of Freeborn & Peters LLP, and Adjunct Professor at Chicago-Kent College of Law, countered Professor Schwinn's argument with his interpretation of the Supreme Court's decision in *Heller*. Howard led with a textual approach to the Second Amendment's "right to *keep* and *bear* arms." Citing Scalia's classic strictly construed analysis of the constitutional text in *Heller*, Howard contends that the framers of the constitution intended the phrase to be read in two separate and distinct parts.

First, the Second Amendment protects all individuals' core fundamental Second Amendment right to *keep* firearms, or possess firearms for the purpose of self-defense within the home.<sup>13</sup> Additionally, a separate and distinct core fundamental right exists to *bear* firearms, or carry a concealed handgun for the purpose of self-defense against others outside the home. Howard calls attention to Justice Scalia's familiar definition of the right to bear arms in *Heller*, as the right to "wear, bear or carry upon a person or in the clothing or in a pocket, for the purpose of being armed and ready for offensive or defensive action in case of a conflict with another person."<sup>14</sup> Based on this definition, Howard contends that if given the opportunity, the Supreme Court will recognize the right to publicly carry a firearm as a core constitutional protection. Any substantial infringement on the right to publicly carry, including Illinois' prohibition on concealed carry in public, would in turn be struck down by the courts.

Shortly after Professor Howard's discussion of the *Heller* decision before the FTF, a Maryland federal district court found that the Second Amendment protects a right to carry outside the home.<sup>15</sup> A Maryland statute required an applicant seeking to carry an open or concealed handgun in public to show a "good and substantial reason" for a permit. In striking down the law, the court found that such a broadly applied standard did not advance any public safety interest or deter crime.<sup>16</sup>

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<sup>13</sup> *Heller*, at 2793.

<sup>14</sup> *Id.*, citing *Muscarello v. United States*, 118 S. Ct. 1911 (1998).

<sup>15</sup> *Woollard v. Sheridan*, 2012 WL 695674 (MD Dist. 2012).

<sup>16</sup> *Id.* at 10.

The court in that case affirmed, that longstanding gun control laws could withstand Second Amendment scrutiny, such as prohibiting criminals or the mentally ill from handling guns, banning guns in schools, churches, and government buildings, or requiring applicants to complete safety courses.<sup>17</sup> As these regulations are tailored specifically to the misuse or criminal use of handguns, they directly influence public safety. Simply limiting the number of handguns carried outside the home does not advance a public safety interest, but instead limits handguns only to individuals *most* likely to use them -- people who are likely to perpetrate a crime.<sup>18</sup> In short, the court concluded that the Second Amendment does not allow the state to force a citizen to show “a good and substantial reason” why he should be permitted to exercise his rights. The right’s existence is all the reason he needs.”<sup>19</sup>

Under Professor Howard’s analysis of *Heller*, and the precedent set forth in *Woollard*, Illinois’ prohibition on concealed carry would not withstand constitutional challenge. Howard called for any law that infringed upon the right to bear arms outside the home to receive the court’s most rigid scrutiny, which would easily strike down an outright ban on publicly carrying a handgun. In *Woollard*, the court applied a lesser standard of intermediate scrutiny, and still struck down the “good and substantial reason” requirement to receive a public carry permit as an overbroad infringement on the Second Amendment right to carry outside the home.

#### Conclusion: The Second Amendment’s Reach Remains Unresolved

Following the Supreme Court’s analysis in *Heller*, it remains uncertain whether an inherent Second Amendment right to publicly carry a handgun exists. The Supreme Court left no doctrinal test as to how Second Amendment rights should be analyzed, and clearly left an ambiguity, subject to contrasting interpretations, as to how far the right to bear arms can reach.

What the courts have made certain is that the right to possess and carry a firearm within the home is fundamental and generally protected from state prohibition. The courts further affirmed that longstanding gun control regulations could withstand constitutional scrutiny. While Scalia did not provide an exhaustive list, he mentioned prohibitions on firearms for criminals or the mentally ill, laws forbidding carrying weapons in sensitive places such as schools or government buildings, or regulations on the commercial sale of firearms.<sup>20</sup> These and other narrowly crafted laws that regulate firearms in the interest of public safety will withstand constitutional attacks regardless as to how far the court ultimately extends or restricts the Second Amendment’s reach.

Given the split among the federal courts and the many cases pending on appeal, the constitutional right to carry in public will remain unclear until a consensus is reached among the circuit courts, or more likely, until the Supreme Court ultimately resolves the issue.

If the courts find a separate and distinct constitutional right to *bear* arms, or carry handguns outside the home for the purpose of self-defense in confrontation with another, it will likely strike down Illinois’ current prohibition on public carry. On the other hand, if the courts find

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<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 11.

<sup>19</sup> *Id.* at 12.

<sup>20</sup> *Heller*, at 2816-17.

that the right to keep and bear arms exists for self-defense within the home, and does not extend to the public way, Illinois' prohibition on the concealed carry of handguns will likely be upheld, along with the discretionary issuance of concealed carry licenses in states like New York and California.

## **Crime Statistics: What is the Effect of Concealed Carry on Violent Crime Rates?**

To provide the General Assembly with an informed picture on the prevalence of concealed carry licensing, the FTF brought in statistical analysts to discuss the national impact of concealed carry laws over the past several decades. Each analyst presented data regarding violent crime rates throughout the nation, and gave his opinion on the variables that contributed to a national decrease in violent crime over certain periods. Since concealed carry laws and licenses have been expanding since the late 1970's, many pro-carry advocates have pointed to a steady drop in violent crimes. Others contend that the drop in crime is due to other factors, and concealed carry has little influence or even a negative impact on violent crime. The following presentations illustrate competing theories on which variables had a causal influence on crime throughout the United States.

### Right to Carry Laws: The Behavior of Permit Holders and Their Impact on Crime Rates

John R. Lott, Jr., a former professor of law and economics at the University of Chicago, has performed extensive research examining concealed carry laws and their relationship to violent crimes. His book, *More Guns, Less Crime*,<sup>21</sup> maintains that an increase in an issuance of concealed carry permits to lawful gun owners effectively lowers the violent crime rate in a given jurisdiction. With updated research based on the increase in concealed carry permits throughout the nation, Mr. Lott concluded before the FTF that the violent crime rates drop even lower the longer that a concealed carry law remains in place. Finally, Lott proposed that under a less-restrictive concealed carry regulatory system an even more significant drop in violent crimes will follow.

Over the past several decades, there has been a significant increase in the number of states with "shall-issue" right to carry laws, where an adult is generally granted a concealed carry permit so long as he or she does not have a criminal history or record of proven mental incompetence. As of 2012, 38 states in the U.S. have implemented "shall issue" provisions.<sup>22</sup> Last year, an estimated 7 million U.S. residents had concealed carry permits, an increase from approximately 4.6 million people with concealed carry permits in 2010.

Using data from over 3,000 counties nationwide with "shall-issue" concealed carry laws, Lott found a significant negative impact on the prevalence of violent crimes. Generally, for each year that a shall-issue concealed carry permit system is in place, the following crimes drop on average every year:

- Murder rates decline by 2%,
- Rape cases decline by 1%
- Robberies decline by 1%, and
- Aggravated Assaults decline by 0.55%

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<sup>21</sup> University of Chicago Press, 2010.

<sup>22</sup> One state (Vermont) neither requires nor issues any permits. Ten states have "may-issue" permit laws. In most of those states, an individual will only be granted a concealed carry permit if he or she can demonstrate an additional need for self-defense, such as threats of attack or a dangerous security job. Illinois remains the only state in the nation with a ban on concealed carry licensing, with concealed carry exemptions for law enforcement, military personnel, or certain types of security personnel.

Over the span of several decades between 1977 and 2005, after passing shall-issue concealed carry permit laws, 89% of states saw a decrease in violent crimes overall. The following crime rates dropped on average in shall-issue states and counties over the 28 year span:

- Murder rates decline by 12.4%
- Rape cases decline by 12.2%
- Robberies decline by 2.1%
- Aggravated Assaults decline by 13.6%

As concealed carry permits remains in place in a particular state, these violent crimes continue to consistently drop. Lott indicated that the deterrent effect of placing concealed weapons into law-abiding citizens' hands is the primary factor for the decline in violence. Simply put, when a criminal suspects that the individual he or she is approaching is possibly armed, the criminal is less likely to confront or attack the potential victim.

While the figures above paint a broad picture of the drop in crime, Lott argued that those who benefit *most* from concealed carry are those who are the *most likely to become victims* of violent crimes:

- Women
- The elderly
- People living or traveling in high-crime, high population density, urban areas

Lott asserted that arming such people will discourage criminals from choosing them as victims, and will allow them to adequately protect themselves if faced with an attacker or threat of force. Lott contended that there is an added benefit in many jurisdictions, where the deterrence of concealed handguns is so great that criminals will move to a jurisdiction that does not allow concealed carry in order to avoid the threat of defensive gun use from potentially armed victims. In fact, concealed carry is an even greater deterrent to criminals than living in a jurisdiction with a high arrest rate.

He further contended that there is not only a public safety benefit from concealed carry, but a financial benefit. Due to the reduction in crime, Lott estimated that the annual gain from the states that adopted concealed carry in 1992 was \$5.74 billion. In practice, for every handgun permit issued to a law-abiding citizen, the fiscal benefit is approximately \$5,000.

For this reason, Lott pointed out that no state has repealed a "shall issue" concealed law. As more states pass concealed carry regulatory laws, permit fees continue to increase, along with the training required to obtain a permit. Despite increased regulations, concealed carry permit holders continue to comply with state and local laws. Lott portrayed concealed carry permit holders as generally law abiding citizens, who are not using their handguns to further criminal activity and who comply with their state's laws and regulations.

In sum, Lott maintained that the right to carry will properly arm lawful citizens to defend themselves in the event of an attack, and directly deters criminals from violently engaging others, under the presumption that the victim may be armed with a concealed handgun. Lott's statistics demonstrated a considerable drop in violent crimes as concealed carry laws went into effect

throughout the nation. More specifically, concealed carry laws will have a significant positive impact on crime rates in urban areas throughout the nation. The Illinois legislature's goal should not be to prevent more guns from entering the hands of lawful gun owners, but to prevent guns from getting into the hands of criminals.

### Concealed Carry in Illinois: A New Look at an Old Question

Bill Jenkins is a current professor of theatre at Dominican University and author of *What to do When the Police Leave: A Guide to the First Days of Traumatic Loss*. The book chronicles Jenkins' grieving process after his son William was shot and killed in 1997. Since his son's untimely death, Jenkins has taken an initiative against gun violence, and asserts that proper regulations need to be put in place to prevent gun deaths and injuries.

Jenkins did not rebut the data that Lott presented. He agreed that there has been a steady decline in violent crime rates over the past several decades. He argued that the decrease in crime was a national trend that had nothing to do with concealed carry, but instead, was due to a range of other factors.

Jenkins pointed to the small number concealed carry permit holders relative to the overall population as an indicator that concealed carry is insignificant on the large scale of factors that deter crime. To demonstrate his point, Jenkins looked to jurisdictions that did not allow concealed carry, yet still saw a similar drop in crime rates. In other words, he argued, there is a long list of factors that contributed to the nation's steady drop in crime, and concealed carry is not one of them.

During his introduction, Jenkins drew attention to data regarding overall firearm deaths and injuries in the U.S.<sup>23</sup> Approximately 30,000 people die in the United States every year from gunshots, and an additional 90,000 are injured. This averages to about 85 gun-related deaths every day. Of these 85 gun-related deaths, an average of 35 are homicides, and an average of 8 involve a person under the age of 19. In Canada, which rarely issues concealed carry permits, and only issues open carry permits in limited circumstances, there are less than 200 gun-related homicides per year. Despite the consistent drop in crime over the past several years, gun-related deaths continue to be a serious issue throughout the United States.

To support his argument about the insignificance of concealed carry on crime deterrence, Jenkins offered data on how few people actually carry concealed handguns. Among the U.S. population, approximately 25% of United States citizens own a gun.<sup>24</sup> Roughly 2% of the U.S. population has obtained a concealed carry permit. Finally, only 0.33% of the United States population has actually used a handgun defensively, and an even smaller fraction fired the handgun in self-defense.<sup>25</sup> Based on these numbers, Jenkins maintained that the population of concealed carry permit holders cannot possibly have a significant impact on violent crime prevention. At the

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<sup>23</sup> National Center for Injury Prevention and Control

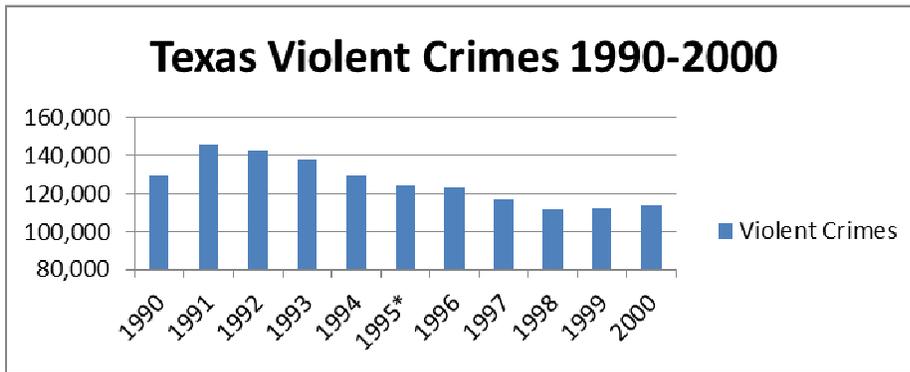
<sup>24</sup> [www.guncite.com](http://www.guncite.com)

<sup>25</sup> Kleck, Gary, Marc Gertz. *Armed Resistance to Crime: The Prevalence and Nature of Self-Defense With a Gun*. *Journal of Criminal Law and Criminology*, vol. 86, no. 1, 1995.

very least, he argued, concealed carry cannot be the sole cause of crime deterrence, as many right to carry advocates claim.

Jenkins then addressed the drop in violent crime rates that many right-to-carry advocates argue is a result of concealed carry laws and less-restrictive gun regulations for the general public. He did not dispute that crime rates have been dropping on a national level since the 1980's, but argued that it is incorrect to attribute the decline to concealed carry.

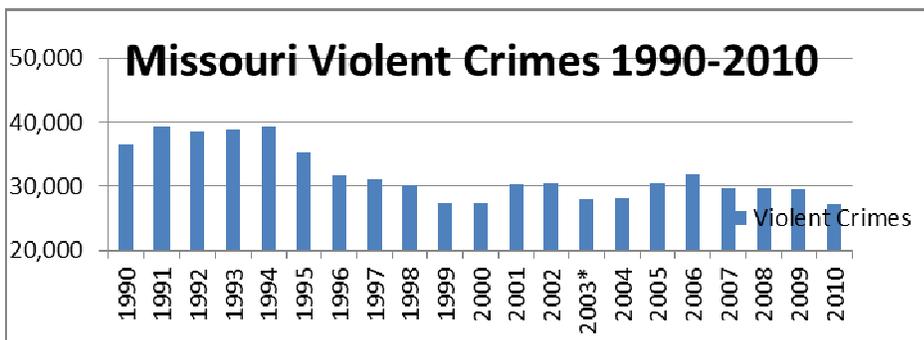
First, Jenkins looked to Texas, which passed a shall-issue concealed carry package in 1995. Violence had certainly decreased following the recognition of a right to carry; however, it had already been steadily decreasing, consistent with the national trend in violent crime reduction:



\*Concealed Carry passed in Texas in 1995

Based on these figures, it is clear that violent crimes were already beginning to decrease in Texas prior to the passage of concealed carry. According to Jenkins, it follows that concealed carry advocates cannot credit the improvement on crime reduction solely to concealed carry.

Looking then to Missouri, Jenkins notes that a similar reduction in crime follows that of Texas through the 1990's, and points out that crime actually *increased* after Missouri passed concealed carry in 2003:

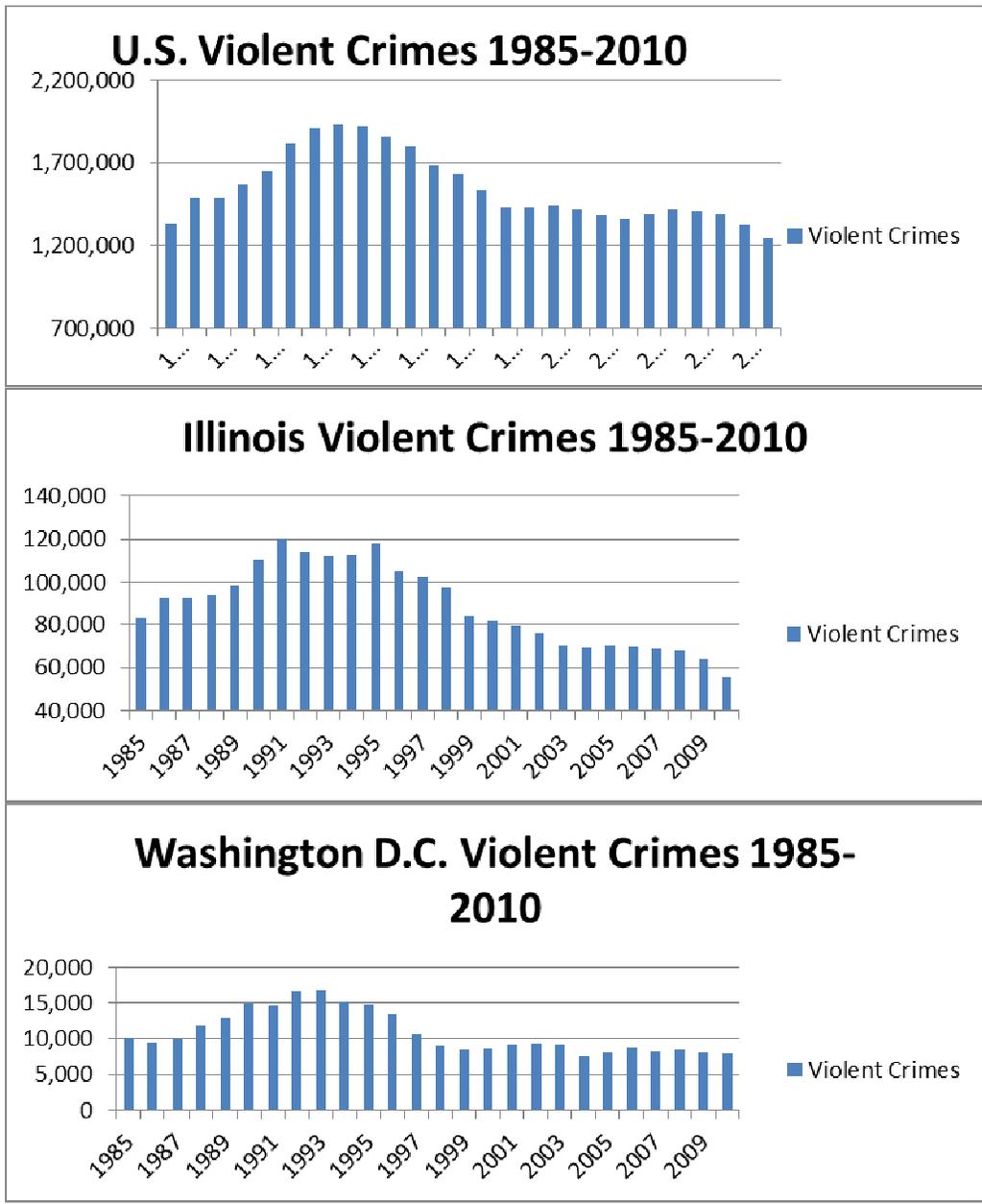


\*Missouri passed concealed carry in 2003

Based on the figures above, Jenkins contended that Missouri's crime rate was dropping consistently with the rest of the national average during the 1990's. Leading up to Missouri's passage of concealed carry in 2003, violent crimes began to level off. Rates then slightly increased following concealed carry's passage in 2003, before dropping again starting in 2007.

Jenkins argued that the data in Missouri demonstrates that concealed carry has no direct impact upon violent crime rates, and certainly cannot be attributed to the reduction in crime over the past several decades.

Finally, Jenkins notes that the national trend in crime reduction has also taken place in Illinois and Washington D.C., two jurisdictions that have never permitted concealed carry. Both jurisdictions have had a consistent overall drop in violent crime each year since the early 1990s.



Jenkins claimed that concealed carry is unfairly credited with the national reduction in crime. If concealed carry were a significant factor in reducing crime, significant difference would have to be present in states with and without concealed carry.

In closing, Jenkins asserts that the reduction in crime is more appropriately attributed to various unrelated factors. Population density, economic conditions, law enforcement, cell phone reporting, drug use, and cultural factors are the most influential determinants of violent crime in a given area. Nothing in the data above indicates that concealed carry directly enhances the public safety. Crime has decreased over the past few decades in Illinois without concealed handguns, and a recent poll shows that the majority of Illinois' citizens continue to oppose concealed carry.<sup>26</sup> Jenkins argued that the General Assembly should therefore focus on placing the proper restrictions on current gun sales and gun ownership laws, rather than adding more guns to the state with the potential to do harm.

### Firearms and Violence: A Critical Review

Assistant Cook County State's Attorney Tom Mahoney also entered into the record a research review that contained a critical analysis of John Lott's data, which criticized some of his research methods and ultimately found his data inconclusive. The piece was published by the National Academy of Sciences, entitled *Firearms and Violence: A Critical Review*.<sup>27</sup> The publication explained the difficulty with producing streamlined results based on the type of study Lott attempted to conduct.

Essentially, the researchers claimed that too many variables are involved to create a causal relationship between concealed carry and violent crime. Minor changes to the data, or "dummy variables," resulted in dramatic changes in the results, indicative of a weak correlation between concealed carry and crime rates. The study further concluded, as Jenkins, that areas without concealed carry saw similar reductions in crime.

During his presentation, Lott did address studies such as the one conducted by the National Academy of Sciences. He did not address the study specifically, but noted that in 177 critical studies of his work, 90 of those studies found that concealed carry *does* reduce crime. 80 found that there was no change in crime as a result of concealed carry laws, while only seven studies found that concealed carry increases crime.

### Minority Ownership of Concealed Carry Permits

At the specific request of FTF Chairman La Shawn Ford, John C. Frazer, research director of the National Rifle Association's Institute for Legislative Action, provided statistics on the prevalence of African Americans' possession of concealed carry permits. The percentage of African Americans with concealed carry permits is slightly lower than their percentage of the population.

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<sup>26</sup> Mellman Group. "2011 Polling Analysis: Illinois Voters Strongly Oppose Concealed Carry." March 31, 2011.

<sup>27</sup> Welford, Pepper and Petrie, *Firearms and Violence: A Critical Review*. The National Academy of Sciences, Committee on Law and Justice. National Academies Press (2004). Pp. 120-151. Panel member James Q. Wilson dissented from this part of the report's findings.

Based on 2010 numbers from Texas, 7.7% of concealed carry permits issued went to African Americans, while the overall Texas population is 11.8% African American.<sup>28</sup> Similarly, Arizona issued 2.2% of its permits to African Americans in 2010, with an overall African American population at 4.1%.<sup>29</sup> However, Frazer noted that African Americans are less likely to own firearms than white Americans, which means the rates of permit issuance would also be expected to be lower.

### Conclusion – Firearms and Violence Section

Based on the data above, it is certainly irrefutable that crime has dropped significantly in the United States throughout the past few decades. During this time, many states began passing concealed carry licensing schemes. The vast majority of states now recognize a right to carry, while others have at least some type of permissive licensing scheme. Illinois remains the only state in the nation that does not grant concealed carry permits to the general public.

Both speakers before the task force presented similar violent crime data, but attributed the decrease in crime to different factors. Lott contends that concealed carry is directly responsible for the reduction in crime through a controlled statistical analysis, while Jenkins argues that concealed carry has an unproven effect on violent crime.

Lott further concluded that the number of concealed carry permits nationwide continues to increase. Over the past few years, millions of individuals have obtained concealed carry permit. Jenkins countered that despite the increase in permit holders, the portion of the population with a concealed carry license remains very small and would, he argues, have an insignificant impact on crime. Finally, Lott demonstrated that concealed carry permit holders are generally law-abiding citizens. Lott showed that it is incredibly rare that a concealed carry license holder illegally misuses his or her handgun, or even fails to meet the registration requirements. Jenkins did not refute this claim, but presented data showing that concealed carry permit holders rarely use their handguns in self-defense.

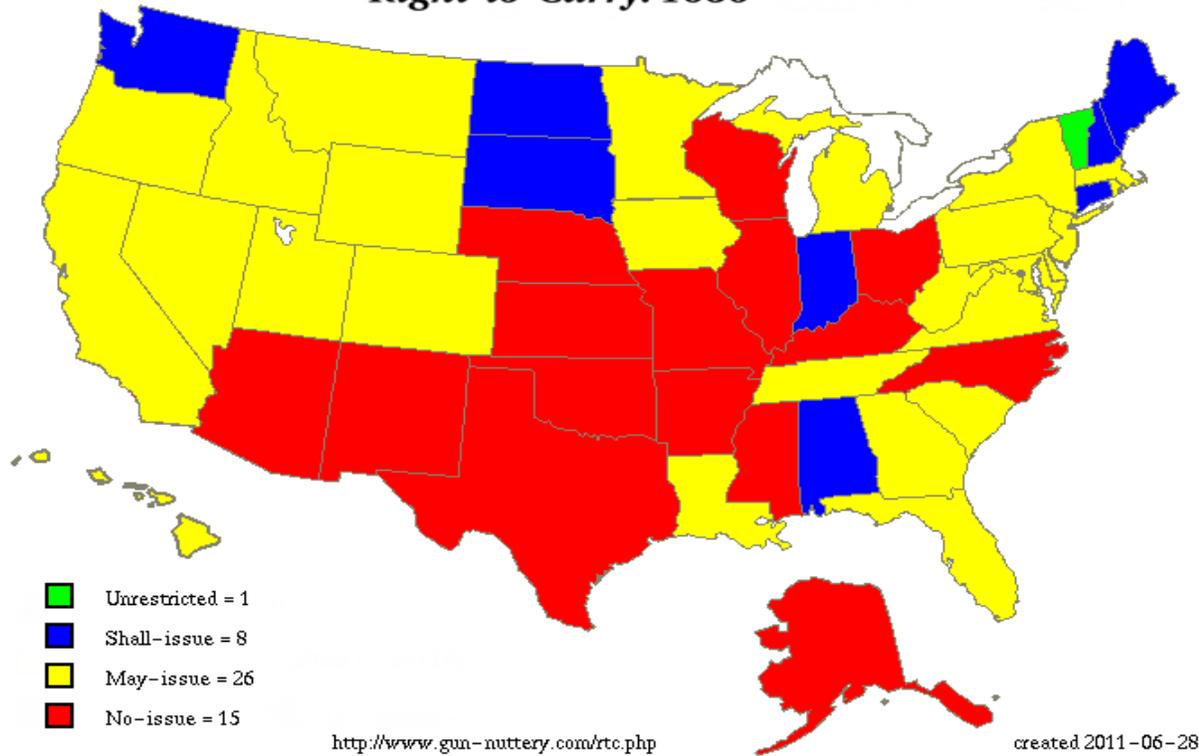
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<sup>28</sup> Texas Department of Public Safety – “Demographic Information by Race/Sex” at [www.txdps.state.tx.us/adminstration/crime\\_records/chl/PDF/2010CAalendar/ByRace/CY10RaceSexLicAppIssued.pdf](http://www.txdps.state.tx.us/adminstration/crime_records/chl/PDF/2010CAalendar/ByRace/CY10RaceSexLicAppIssued.pdf)

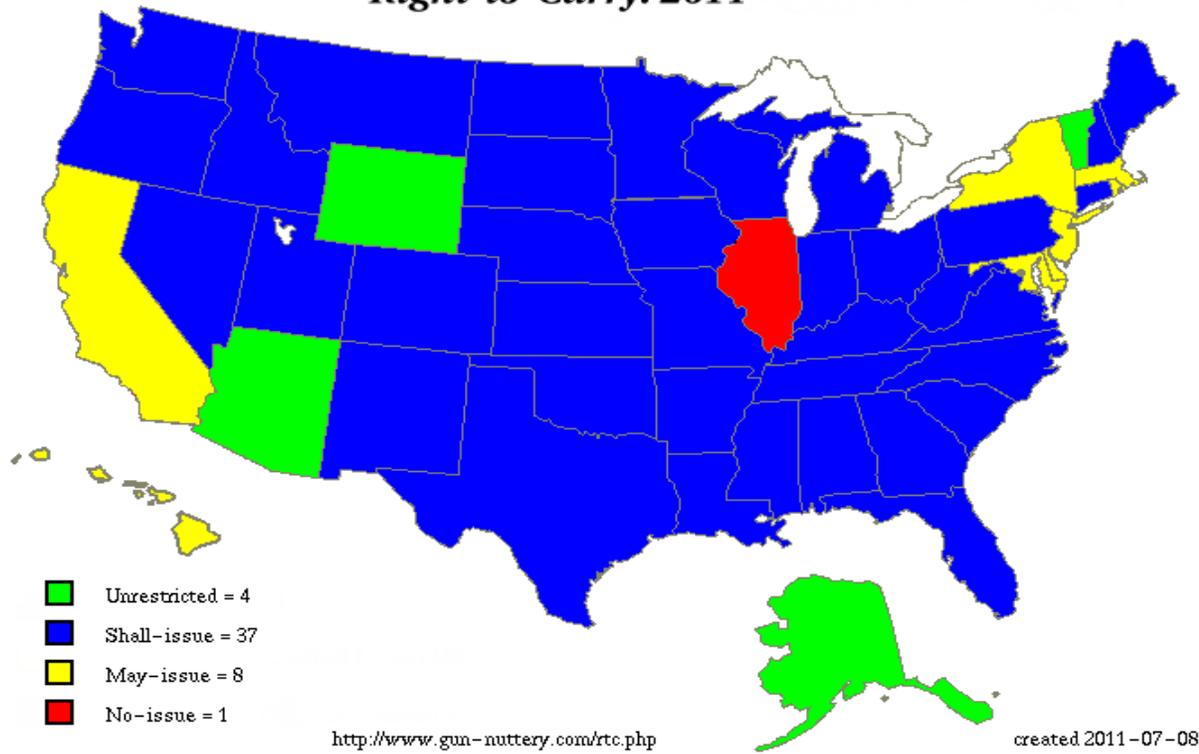
<sup>29</sup> Sourcebook of Criminal Justice Statistics, at [www.albany.edu/sourcebook/pdf/t2602011.pdf](http://www.albany.edu/sourcebook/pdf/t2602011.pdf)

# A 25-year Snapshot: The United States' Movement To "Shall Issue" Concealed Carry

## Right-to-Carry: 1986



## Right-to-Carry: 2011



N.B.: The 2011 map is potentially confusing in light of the numbers cited above. It identifies Alaska, Arizona and Wyoming as "unrestricted" while the text counts them as "shall issue."

## **State to State Licensing: How Other States Implement and Regulate Concealed Carry**

The FTF sought to examine specific types of concealed carry regulations in states similarly situated to Illinois. While only a few major categories of permit licensing generally exist, the states' concealed carry regulations vary widely. Two panelists spoke on the broad categories of licensing schemes that exist in other states, and discussed how Illinois could implement an effective permit system that balances public safety interests and operational oversight. The presenters further compared and contrasted various training requirements, concealed carry restrictions, and other regulations in other states. Finally, the panelists gave their opinions on how the General Assembly's current concealed carry proposal could be amended to best suit the state, based on both geography and population density.

Generally, a state's concealed carry licensing law falls into one of the following categories:

“Shall Issue” States: These states or their local jurisdictions issue permits to any applicant who meets the statutory requirements set forth by law. These requirements generally mirror the prohibitions set forth for possessing a handgun under federal law, such as prohibiting permits to individuals with a criminal history or a legal finding of mental incompetence. Statutory requirements often include firearms training and safety courses, age requirements, and fees. If the applicant meets all the requirements set forth by law, the issuing authority normally has no discretion to prohibit him or her from obtaining a permit; hence the phrase “shall issue.”

Currently, 38 states are shall-issue licensing jurisdictions. There has been a national trend over the past few decades to adopt “shall issue” concealed carry laws, with dozens of states passing similar laws since the 1980s. House Bill 148, Illinois' concealed carry proposal, allows authorities to consider information from local law enforcement about a concealed carry applicant before making a recommendation to the State Police. Once the State Police receive the recommendation, and ensure the applicant has met all requirements set forth by law, it must (or *shall*) issue a concealed carry permit.

“May Issue” States: These states typically require an individual to meet the statutory requirements to obtain a concealed carry permit, but further grant discretion to the issuing authority to determine whether an individual is suitable to conceal and carry. This allows the state to set forth the minimum requirements to conceal and carry a firearm much like a “shall issue” jurisdiction would, but also gives issuing authorities the power to set additional restrictions on concealed carry based on state or local gun control policy. In some states, local jurisdictions can further acquire information about an individual that could not be obtained at the state level, or issuing authorities at either the state or local level may simply require the individual to justify his or her particular need for concealed carry. The additional requirements set forth in “may issue” states vary significantly, both between states and among the policies and practices of diverse localities within states.

In some cases, a state will require the applicant to show “good cause” in order to receive a permit. Generally, the applicant must show some heightened need for self-defense above that of the average citizen. For example, a person may be able to obtain a permit if he or she has received documented threats from another person, or his or her work duties require a firearm for

protection. New York, New Jersey, Massachusetts, Rhode Island, and California generally fall in this category.

Another characteristic of many “may issue” permit systems is a requirement that the applicant demonstrate he or she is of “good moral character,” or “suitable” to carry a firearm. New Jersey and Delaware go as far as requiring an applicant to submit character references. New Jersey requires three references that the applicant has known three or more years, and Delaware requires five references that have a good reputation among the community. Connecticut is unique in that it has a two-phase application system, requiring both the local chief of police and then the State Police to approve a person’s good character. First, the local authority may issue a temporary permit if the applicant can demonstrate suitable character. After receiving a temporary permit, the Connecticut State Police may then issue the applicant a full state permit based on its own investigation, or revoke the applicant’s temporary permit.

Some states, such as California and New York, give practically all discretion to local authorities to issue permits. In practice, the issuance of permits will vary widely within the state based on the particular locality’s gun control policy, crime rate, and population. In New York, rural upstate areas are essentially shall-issue jurisdictions, while New York City rarely issues concealed carry permits.

Permit less Carry States: These states allow an individual to carry a concealed firearm without a permit or license. In other words, so long as the person may legally possess a firearm, the person may lawfully carry a concealed firearm in the state.

Currently, only four states have permit less concealed carry: Alaska, Arizona, Vermont, and Wyoming. However, all of these states, except for Vermont, still have shall-issue concealed carry systems, primarily for purposes of reciprocity so that residents may carry concealed in other states. Wyoming still requires non-residents to obtain permits to carry concealed firearms. Vermont does not issue or require concealed carry permits at all.

“No Issue” States: A few jurisdictions do not issue permits to the general public, and generally only allow law enforcement and military personnel to carry concealed firearms. Illinois and Washington D.C. are the only such jurisdictions remaining in the United States. Illinois prohibits both concealed carry and open carry, and only allows individuals to transport unloaded, properly encased or disassembled firearms.

## **House Bill 148: A Comparative Analysis of Illinois' Concealed Carry Legislation**

John C. Frazer, Director of Research and Information at the National Rifle Association Institute for Legislative Action, broke down several pertinent provisions of Rep. Brandon Phelps' Family and Personal Protection Act (HB 148), the concealed carry legislation pending before the House of Representatives. Mr. Frazer compared the bill to concealed carry laws in other states, focusing particularly on states similar to Illinois both geographically and in population density.

Frazer categorized HB 148 as a relatively mainstream shall issue permit system, generally comparable to most other states. He noted that it was slightly more restrictive in some areas than the national average. HB 148 is substantially similar to shall issue concealed carry laws in states within the same region as Illinois, as well as other states with large metropolitan cities and diverse population demographics.

### “Shall Issue” Midwestern States

- Indiana
- Kansas
- Michigan
- Minnesota
- Missouri
- Ohio
- Wisconsin

### “Shall Issue” States with Major Metropolitan Cities

- Colorado
- Florida
- Georgia
- Pennsylvania
- Texas
- Washington

Issuing Authority. HB 148 requires concealed carry permit applicants to submit materials to their county sheriff. The sheriff must ensure that the applicant has included all of the statutorily required information. If the application is complete, the county sheriff must forward the materials to the Illinois State Police. The sheriff or local police may object to the individual receiving a permit, and may pass along that objection to the State Police. If local law enforcement has no objection, and the applicant meets all other statutory requirements (i.e. background check, mental health records, and firearms training), the State Police *shall issue* a concealed carry permit.

HB 148 incorporates both local law enforcement and state authorities into the application process. The State Police ultimately issue the permit, which Frazer noted makes sense because a statewide background check and application system is already in place for Firearm Owner's Identification (FOID) cards. Of the shall issue states throughout the nation, 21 issue concealed carry permits at the state level, while 17 issue permits through local sheriffs or local police.

Duration. HB 148 would make concealed carry permits valid for 5 years, which is the most common duration for permits among shall issue states. Only 13 states impose a shorter duration, with Kansas, Indiana and Texas as the only comparable states to Illinois with 4 year permit durations. Indiana is unique in that it also issue lifetime permits. Florida is the only state comparable to Illinois, with a 7-year permit duration.

Prohibited Persons. Aside from the “unrestricted” concealed carry licensing system, most states set forth prohibitions on who is eligible to own a handgun, and of course prohibit those people from obtaining a concealed carry permit. The restrictions usually mirror the federal prohibitions set forth in the Gun Control Act,<sup>30</sup> and prevent the following people from possessing, purchasing, or selling a firearm:

- Convicted felons
- Fugitives
- Persons addicted to controlled substances
- Persons adjudicated as mental defectives, or who have been committed to a mental institution
- Illegal aliens
- Persons dishonorably discharged from the U.S. military
- Persons under an order of protection for harassment or threats to an intimate partner, child, or other person with whom he or she shares a domestic relationship
- Persons convicted of a crime of misdemeanor domestic violence

States have added or expanded upon the Gun Control Act, based upon their public policy and treatment of crime, mental illness, and substance abuse.

Frazer noted that HB 148 generally replicates the federal prohibitions listed above, and is fairly typical of the prohibitions set forth in other states. HB 148 also prohibits alcohol abusers from obtaining a permit, as evidenced by two or more convictions for driving under the influence.

Another common element in most states is the requirement for applicants to submit fingerprints for criminal background checks, which is also included in HB 148. Nationally, 29 other states with shall issue permit systems also require applicants to submit fingerprints. Frazer noted that while common, fingerprinting is expensive and time-consuming for the applicant. For this reason, Wisconsin does not require fingerprints in the initial application. If after a name-based background check the applicant is denied a permit, he or she can resubmit an application with fingerprints in order to ensure that the initial background check was accurate. In this case, most individuals avoid the trouble and expense of submitting fingerprints with every concealed carry permit application. Among the other states similarly situated to Illinois, Minnesota and Pennsylvania do not require fingerprinting for criminal history checks.

Confidentiality. HB 148 follows the lead of 30 other shall issue states, and keeps all information submitted in the permit application confidential. Ohio is the only state comparable to Illinois that releases the information of concealed carry permit holders. Frazer pointed out that this has been a controversial issue in concealed carry states, as many permit holders do not want other people to know that they own a gun or are able to carry a concealed firearm, or that they may have obtained permits because previously they had received threats.

Prohibited Places. As many states allow for local regulation of concealed carry, the prohibitions on where a person may or may not carry a concealed weapon vary widely. Like most other shall

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<sup>30</sup> 18 U.S.C. §921-922.

issue state laws, HB 148 would prohibit concealed carry in government buildings, police stations, correctional facilities, mental health facility, bars, gambling areas, airports, schools, stadiums, and college campuses. Further, HB 148 allows any private owner to ban concealed weapons on his or her private residence or place of business, with an exception. A permit holder could store a firearm in a locked vehicle located on a premises that prohibits firearms. Frazer said that this is a reasonable compromise, as it would still allow the person to arm him or herself after leaving the prohibited area.

Firearm Training Requirements: HB 148 requires an 8 hour training course, including scored shooting and an examination. Based on the amount of time required, Frazer would place Illinois' potential training course as one of the most stringent in the country. Of shall issue states comparable to Illinois, only Missouri, Ohio and Texas require an 8 hour course. HB 148 also requires applicants to repeat the training course to renew permits, placing Illinois in a more stringent category of renewal training, as 22 other shall issue states require no training at all to renew concealed carry permits. Most other states allow for reduced training on renewal. Of comparable states to Illinois, only Minnesota, Ohio and Texas require refresher training for a subsequent renewal.

Non-Resident Permits: HB 148 would not recognize permits issued by other states, but would allow a non-Illinois residents to obtain a concealed carry license to carry a firearm in Illinois, if in addition to the requirements set forth for Illinois residents, the individual:

- Is eligible to possess a firearm under federal law
- Agrees to be subject to the jurisdiction of Illinois, and
- Demonstrates an understanding of Illinois law pertaining to firearms

All other shall issue states recognize at least some, if not all, out-of-state concealed carry permits as valid. Nationally, 14 other shall issue states grant permits to out-of-state residents, including Minnesota, Indiana, Florida, Pennsylvania, and Texas. Minnesota issues permits to all qualified non-residents. Indiana only issues permits to non-residents who work or own businesses within the state.

Notification of Firearm Possession to Law Enforcement. If a permit holder comes into contact with law enforcement, HB 148 requires persons carrying a concealed firearm to disclose to an officer that he or she is armed. As Lott did during his statistical presentation on concealed carry violations, Frazer categorized concealed permit holders as law-abiding citizens. In fact, Frazer contends that concealed carry permit holders are overwhelmingly *more* law-abiding than the average U.S. citizen. For this reason, it is more appropriate to leave notification to the discretion of the permit holder. Only 10 other states require a person to immediately notify law enforcement when carrying a concealed weapon, including Michigan and Ohio.

Fees. Frazer said that HB 148's \$100 fee requirement is one of the highest in the country, with only 12 "shall issue" states requiring \$100 or more to obtain a permit. Kansas, Michigan, Texas, Indiana, and Minnesota are the only "shall issue" states comparable to Illinois with a \$100 fee. Under HB 148, Illinois would charge a \$50 renewal fee after 5 years.

In closing, Frazer concluded that “shall issue” permit laws such as HB 148 have been well-received nationwide. He looked to several states geographically similar to Illinois, such as Michigan and Ohio, to demonstrate his point. Frazer cited specific examples of law enforcement officers or state’s attorneys who were adamantly opposed to shall issue concealed carry at the outset, but after several years of issuing permits have not seen any issues. After a detailed explanation of HB 148 and its relation to other Midwestern states and other states with large metropolitan cities, Frazer affirmed that there is no reason to expect a different result in Illinois.

### **Written Testimony from Community Member (Not at Hearing)**

Carl Nyberg from Chicago gave this written testimony, not given at the hearing: The Seventh Court of Appeals has been arrogant in ruling Illinois' ban on “concealed carry” unconstitutional. Based on experience in other states, we know that someone with a “concealed carry” permit will escalate a situation—perhaps a situation where there was no underlying criminal activity—to the point where someone gets killed. The examples from Florida make it pretty clear, the shooter will probably be a middle-aged “White” male and the victim will probably be a Black male between 14-25 years old. Whether George Zimmerman gets successfully prosecuted for murder or not, Trayvon Martin is dead because the firearms industry, through the NRA and ALEC, set firearms policy.

It is deeply offensive to me that federal courts would decide the “rights” of the men who fetishize firearms to carry a weapon trump the rights of young Black men to not be killed by racist cranks who are looking for fights. The Supreme Court's ruling in DC v. Heller is a joke. Just like the Paula Jones ruling was a joke. And Bush v. Gore was a joke. And Citizens United was a joke. The Supreme Court has devolved into “Conservative” ideological hackery. And the public opinion of the court reflects this. Justice Scalia and the majority have erased the first half of the Second Amendment. Like all rights, the right to bear arms is a balancing test. What does it get balanced against? The security of the state, among other things. Scalia and the “Conservative” hacks have decided that the individual gets to decide when the security of the state balances against the right to keep and bear arms.

Doesn't it seem like Congress & the President and the state legislatures and the governors have some role in deciding the security and safety needs of the American people? The Illinois General Assembly may be full of people who aren't particularly clever, courageous or honorable. But they are elected. The federal courts removing the power of the state legislatures to decide criminal justice policy in their states is offensive. The NRA and gun owners know how to participate in elections. Whether Illinois should allow “conceal carry” is a matter for the Illinois General Assembly.

Denying individuals the authority to legally carry firearms concealed is not an offense against individual rights that rises to the level of Jim Crow, literacy tests, school segregation, etc. However, if Illinois is going to allow “conceal carry” it should include these elements. First and foremost, individuals should be required to sign a statement and clearly state in front of witnesses, “Neither possessing a 'conceal carry' permit nor a firearm in any way deputizes me to act as a law enforcement officer. I understand that if I draw my weapon inappropriately, illegally

discharge a firearm or in any way violate the 'conceal carry' rules for the State of Illinois, I will definitely lose my 'conceal carry' permit and I may be subject to prosecution.”

Accidental discharge of a firearm shall be permanently disqualifying for a “conceal carry” permit. A licensed firearms dealer must recommend an individual as part of the “conceal carry” application process. The Illinois Attorney General shall establish criteria for taking action against firearms dealers that recommend “conceal carry” permits for people who abuse “conceal carry” or violate Illinois’ “conceal carry” rules. Every time a “conceal carry” permit holder draws or brandishes his/her weapon, s/he shall be required to submit a report of the incident. This should not be objectionable to the “pro gun” crowd because it will help document all the good that comes from “conceal carry”. Heroic action by “conceal carry” permit holders is not authorized in Illinois. If you want to be a hero, use your cell phone and call 911. These incidents of “conceal carry” permit holders drawing, brandishing or using firearms shall be investigated by law enforcement. The cost of these investigations shall be paid for by fees charged for “conceal carry” permits.

People carry weapons shall avoid conflict and confrontations. If someone is armed with a concealed weapon and initiates a conflict or escalates a conflict s/he shall lose the ability to get a “conceal carry” permit for life. This includes raising one's voice while armed. If someone carrying a weapon finds him/herself in a conflict, s/he should identify him/herself as armed and disengage from the situation. People carry firearms and other weapons in Illinois shall have a duty to retreat. If there is ambiguity in the situation, the ambiguity shall be construed against the armed party. If someone obtains a “conceal carry” permit and expects having conflict or confrontation with specific people, e.g. domestic violence, history of conflict at work, arguments with a neighbor, the person obtaining the “conceal carry” permit shall have an affirmative duty to notify the other party within 72 hours of getting the “conceal carry” permit.

There shall be a place on the web where everyone authorized to carry a concealed firearm in Illinois shall be listed. This will include members of law enforcement, politicians, private security guards and private individuals with “conceal carry” permits. The State of Illinois shall maintain a board that reviews actions by people who have “conceal carry” permits. If someone has reason to believe that someone should not be carrying a firearm, this board shall make it possible to report these concerns and review the competence of individual “conceal carry” permit holders. The activities of this board shall be paid for by the fees for “conceal carry” permits, including the fees on private security and everyone who is not an active law enforcement officer. If “conceal carry” permit holders shoot anyone who would not have been shot had “conceal carry” not been law, “conceal carry” permits shall not be granted or valid in the county where the shooting occurred. If “conceal carry” is revoked in a dozen counties or in counties totaling a third of Illinois' population, “conceal carry” shall be revoked for the State of Illinois.

## **Testimony of the Legal Community Against Violence**

Ms. Laura Cutilletta, an attorney with the Law Center to Prevent Gun Violence (formerly Legal Community Against Violence), gave a broad overview of concealed carry licensing schemes throughout the nation, and her recommendation to the General Assembly on how to properly regulate concealed carry. Ms. Cutilletta asserted that a “may issue” concealed carry law, with deference to authorities to issue permits, increased training requirements, and heightened oversight for potential permit holders is more suitable for Illinois and a more responsible approach to concealed carry. She asserted that House Bill 148 simply does not have sufficient safeguards in place to give discretion to local authorities to properly regulate the distribution of concealed carry permits.

After a detailed presentation on the various licensing categories that exist within the United States, Cutilletta pointed out that there are 18 states that specifically require concealed carry applicants to demonstrate knowledge of firearm use and firearm safety. While John Frazer categorized HB 148’s 8 hour training requirement as relatively stringent compared to other states, Cutilletta contends that the training requirements in the bill should be enhanced. For example, California allows its local issuing authorities to require up to 16 hours of firearms safety training, or in the alternative, a 24 hour community college firearms course. Delaware requires life firing exercises similar to HB 148, and a safety course that includes the following:

- Safe handling of firearms and ammunition
- Safe storage of firearms for child safety
- Safe firearms shooting fundamentals
- Federal and state laws relating to firearms
- State laws pertaining to the use of deadly force for self defense
- Techniques for avoiding criminal attacks or violent confrontations

Cutilletta further compared case studies on concealed carry permit systems and other firearm regulations in other states, especially California and New York, which she considered most comparable to Illinois. She opined on which regulations best serve the interests of public safety, while also permitting the carrying of concealed firearms in public in the appropriate circumstances.

California and New York are both “may issue” states, and give local authorities the discretion to issue permits to applicants. Similar to Illinois’ FOID card system, New York requires a person to obtain a permit just to own a handgun. New York gives significant deference to local authorities, allowing the applicable law enforcement authority to issue a permit to obtain a handgun and a separate authorization to carry concealed. In Illinois under HB 148, both of the permits would be issued through the Illinois State Police. Applicants are also required to meet the statutory requirements to legally possess a firearm and carry concealed. To obtain a permit, the applicant would have to successfully pass a criminal background check, be over the age of 21, have no history of mental illness, and complete the necessary training requirements.

Generally, in a “shall issue” jurisdiction, the applicant would receive a permit after submitting all information required in the application and passing a background check. The distinction in most

“may issue” jurisdictions is that an applicant must also show “good cause” and/or “good moral character” in order to obtain a concealed carry license.

New York allows a local licensing authority to conduct a 6 month investigation of the concealed carry applicant. The applicant must demonstrate his or her good moral character through character references, which law enforcement may follow up with during this time. As for the good cause threshold, this varies by jurisdictional issuing authority. Some upstate jurisdictions in New York will freely issue permits if the applicant meets the statutory requirements, while jurisdictions such as New York City rarely ever issue permits. Cutilletta pointed out that New York allows the issuing authority to limit the permit holder’s use of a firearm. For example, an applicant may be restricted to carrying a firearm concealed only while going to and from a shooting range, or while on his or her way to hunt or fish.

Cutilletta, a resident of California, advocated for the common sense concealed carry regulations that her home state has in place. California’s “may issue” concealed carry regulations are very similar to New York’s. In addition to mandating good cause and good moral character, the issuing authority is further authorized to limit the specific types of guns that a person can carry. The local jurisdictional authorities can interview the applicant, and subject the person to psychological testing to assess his or her mental condition. Local California police may also put time, place and manner restrictions on a license holder, limiting when and where the person can carry concealed. Finally, California places stringent registration requirements on firearm purchases and transfers, and even on the design and manufacturing of firearms. For example, though implementation has been delayed, California plans to require gun manufacturers to install “microstamping” technology on every handgun, which uses a laser to engrave a unique code on the two parts of the firearm in such a way that the code is transferred to the cartridge case when a round is fired. When this law is implemented, it will allow authorities to trace cartridge cases recovered at a crime scene to the registered owner.

To provide an example of irresponsible firearm regulation, Cutilletta outlined some of the general provisions in Arizona’s concealed carry laws. Arizona does not require any permit at all to carry a concealed weapon. Concealed carry permits are still available on a voluntary basis and allow a person to carry concealed into bars and restaurants. Arizona does not substantially limit firearms dealers, firearm sales, or other firearm activity. The state completely preempts local regulation of firearms. It specifically declares the state of Arizona as the sole regulatory authority over in-state gun manufacture, sale or transfer, and declares itself exempt from federal regulation of guns kept in the state.

While she acknowledged that the “shall issue” provisions set forth in HB 148 were common, Cutilletta characterized the pending legislation as lacking in proper oversight and public safety measures. In closing, she asserted that adequate local law enforcement discretion as well as training and screening requirements must be put in place in order to place meaningful safeguards into a concealed carry licensing package. Because Illinois has the third largest city in the nation behind New York and California, she argued that Illinois should follow the lead of these two states and defer to local authorities in order to properly manage concealed weapons in high crime, high population density areas in Chicago and other jurisdictions throughout the state.

**\*DISCLAIMER: The Firearm Public Awareness Task Force (FTF) did not take a formal vote to finalize and publish the information set forth. It merely contains a draft summary of the hearings that took place before the FTF, with comments and edits from several task force speakers and members. With the recent Supreme Court ruling the Task Force will now pass its findings to the House Judiciary Committee, as it begins its work to respond to the demand of the US Supreme Court. Most notably, the portion conveying testimony on the 2<sup>nd</sup> Amendment as applied to carrying firearms in public does not include any perspective from Task Force members on the 7<sup>th</sup> Circuit Court of Appeals opinion *Moore v. Madigan*, as the Task Force was unable to convene prior to its expiration in order to discuss the impact of this decision.**