

America Caught in the Crossfire

How Concealed Carry Laws Threaten Public Safety



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A Publication of

Legal Community Against Violence

expertise, information & advocacy to end gun violence

Concealed Weapons, Concealed Danger

In the summer of 2009, many Americans were shocked to see images of gun-toting protestors at town hall meetings across the country, and even more shocked to learn that this outrageous behavior was perfectly legal. The scary truth is that 32 states allow a person to openly carry a loaded handgun without a permit.¹ But while open carrying has received widespread media attention, there are significant numbers of guns in public that we don't see. Hidden in plain sight, rising numbers of Americans are carrying concealed, loaded handguns in public places.

Thanks to a relentless campaign by the gun lobby, state concealed carry laws (commonly known as "CCW" laws) aren't just bad; they're getting worse. Over the past two decades, state legislatures across America have removed law enforcement discretion from the permitting process, significantly expanded the places in which permit holders may carry concealed firearms, and otherwise made permits dangerously easy to acquire.

The gun lobby continues to push legislatures to expand carrying, despite the fact that public opinion polls confirm that Americans feel less safe when their fellow citizens carry concealed guns.² Americans overwhelmingly do not want concealed carry permits to be easier to acquire, with 73% opposing easing permit requirements,³ and nine-out-of-ten respondents stating they do not want average citizens to be able to carry guns into places like restaurants, college campuses, sports stadiums, bars, hospitals, or government buildings.⁴ In fact, more than 40 percent of Americans support a nationwide ban on the carrying of concealed firearms.⁵

Americans want solutions to our nation's gun violence epidemic – which kills more than 30,000⁶ and injures almost 70,000⁷ each year – and understand that widespread carrying of concealed weapons isn't the answer; it's part of the problem.

In this publication, LCAV examines the laws that facilitate the widespread carrying of guns within our midst. As discussed below:

- State concealed carry laws vary widely. In some states, individuals must demonstrate a justifiable need to carry a concealed weapon. The vast majority of states, however, do not require "good cause," and mandate the issuance of a license to anyone who meets minimal requirements.
- Most existing CCW permitting schemes are full of dangerous gaps, allowing too many people to carry weapons in too many public places.
- Contrary to the claims of the gun lobby, research shows that permissive CCW laws do not decrease crime. In fact, these laws may increase crime.



- Federal legislation to require states to recognize out-of-state CCW permits would force states to allow carrying by persons who would not meet the requirements for in-state permits.
- The Second Amendment presents no barrier to strong regulation of concealed weapons.
- States that choose to permit the carrying of concealed weapons may adopt common sense policies to reduce the risks created by permissive CCW laws.

How States Regulate Concealed Weapons

Whether and to what extent individuals may carry concealed weapons in public are primarily questions of state law.⁸ Different states have very different laws, and many states have significantly changed their laws over time. Although laws prohibiting the carrying of concealed weapons date back to the early 1800s,⁹ states began to grant law enforcement discretion to issue CCW permits in the first few decades of the 20th century.¹⁰ It was not until the 1990s, however, that, at the behest of the gun lobby, large numbers of state legislatures began to enact laws removing law enforcement discretion from the permitting process and otherwise significantly weakening CCW laws.¹¹

“SHALL ISSUE” VERSUS “MAY ISSUE”

Today, thirty-four states are “shall issue” states—meaning law enforcement officials are required to issue a permit to anyone who meets minimal statutory requirements (e.g., that the applicant is over the age of 21, has not been convicted of a felony, and is a United States citizen).¹² Twelve states are “may issue” states, and give discretion to the issuing official to grant or deny a permit application based on various statutory factors, such as whether the applicant has “good cause,” i.e., a justifiable need to carry a concealed weapon.¹³ Two of those states – Delaware and New Jersey – require court approval of CCW permit applications.¹⁴

Illinois, Wisconsin, and the District of Columbia prohibit the carrying of concealed weapons, and no permit is required to carry a concealed weapon in Alaska or Vermont.¹⁵

CONVICTED CRIMINALS: TREATED DIFFERENTLY STATE BY STATE



In every state that issues CCW permits, an applicant may not receive a permit if he or she is prohibited from purchasing firearms due to a disqualifying criminal conviction. In some states, a person will become prohibited after being convicted of a felony or one of a number of misdemeanors;¹⁶ in others, the number of disqualifying misdemeanors is far more limited.¹⁷

Several studies of CCW permitting systems have identified flawed application processes that have allowed numerous persons prohibited from possessing firearms to receive CCW permits. In Florida, for example, more than 1,400 individuals who had pled guilty or no contest to felonies, 216 individuals with outstanding warrants, 128 people with active domestic violence injunctions against them, and 6 registered sex offenders held CCW permits in the first half of 2006.¹⁸ Unfortunately, Florida is hardly alone in issuing permits to convicted felons: reports have also documented flawed processes in Indiana, Tennessee and Texas.¹⁹

GETTING A PERMIT:

MORE THAN JUST FILLING OUT AN APPLICATION?

Eleven states do not require a CCW permit applicant to complete a firearm safety course.²⁰ Moreover, states that do require applicants to take safety courses rarely articulate the important elements that a course should contain, including education about federal and state firearms laws, demonstration of proper firearm handling and safe storage techniques, instruction in non-violent dispute resolution, and participation in live firing.²¹ Even more troubling, a recent Virginia law actually allows applicants to satisfy their required safety instruction through an online program.²²

GUN-FREE ZONES:

THE IMPORTANCE OF LOCATION LIMITS ON CCW PERMITS



CCW permits generally entitle permit holders to carry hidden, loaded firearms in any public place except where explicitly prohibited. Most states, unfortunately, do not prohibit carrying at many locations where large numbers of defenseless people congregate, or where interpersonal conflicts are commonplace. The majority of states prohibit concealed weapons on school property and in courthouses and other government buildings.²³ Significantly fewer, however, prohibit concealed weapons in locations where liquor is served, places of worship, sports arenas, public parks, medical facilities, sites where gambling is permitted or polling places.²⁴ At any of these locations, the accidental or intentional use of a gun could seriously jeopardize public safety.

Although the gun lobby has, since 2007, made more than 30 attempts to expand CCW laws across America to allow carrying on college campuses — arguing that concealed weapons could prevent a tragedy like the Virginia Tech massacre — efforts to bring concealed weapons into classrooms have been unsuccessful.²⁵ Fortunately, state legislatures have recognized that concealed weapons on college campuses would needlessly place college students at an increased risk for accidental shootings, drug- and alcohol-related violence and suicide, and are overwhelmingly opposed by the American public.²⁶



BUYING A GUN, NO BACKGROUND CHECK NEEDED

Many state CCW permit holders receive an extra benefit from their permits under federal law: if their permits qualify, they do not need to undergo background checks before purchasing new firearms.²⁷ Under federal law, a CCW permit holder is exempt from a background check if the permit was issued within the last five years and the permit application included a background check using the National Instant Criminal Background Check System.²⁸ Without a check with each firearm purchase, however, a firearms dealer is unable to confirm that a buyer has not been convicted of a crime or otherwise become ineligible to possess firearms since the date his or her CCW permit was issued. For this reason, some states do not seek the exemption, and require background checks for firearm purchases by permit holders.²⁹

Concealed Carry and the Myth of Self-Defense

Claims that permissive CCW laws lead to decreases in crime — by helping permit holders fight off criminals and sending the message to would-be attackers that any potential victim might be packing heat — are simply not true. No credible statistical evidence exists to show that permissive CCW laws reduce crime.³⁰ In fact, the evidence suggests that permissive CCW laws may actually increase crime.³¹ Important research confirms the common sense conclusion that more guns create more opportunities for injury and death, not fewer.³²

The gun lobby's outrageous claim that guns are used defensively 2.5 million times every year has been widely discredited. The claim is based on a study that suffers from several fatal methodological flaws, including its reliance on only 66 responses in a telephone survey of 5,000 people, multiplied out to purportedly represent 200 million American adults.³³

Even when a gun is used in self-defense, which is rare, the research shows that it is no more likely to reduce a person's chance of being injured during a crime than various other forms of protective action.³⁴ One recent study suggests that carrying a firearm may actually increase a victim's risk of firearm injury during the commission of a crime.³⁵

Moreover, studies show that much of what is claimed to be self-defense is actually criminal gun use that creates or exacerbates interpersonal conflicts. In one study, after individuals were asked to provide detailed descriptions of their alleged defensive gun use, a group of criminal court judges anonymously evaluated the responses and concluded that at least half of the uses were probably illegal, including, for example, the conduct of a man who threatened to shoot an unarmed acquaintance who interrupted him while he was watching a movie at home.³⁶

Although legislatures continue to enact laws to expand concealed carrying, more research is needed regarding the impact of permissive CCW laws. One comprehensive study strongly supports the contention that more carrying makes society less safe. It found that Texas CCW permit holders were arrested for weapons-related crimes at a rate 81% higher than that of the state's general adult population.³⁷ Additionally, recent research has identified CCW permit holders who killed at least 43 private citizens and 7 law enforcement officers in incidents that ended in criminal charges or the shooter's suicide between May 2007 and April 2009.³⁸

State Authority in Jeopardy

As part of its never-ending quest to expand the carrying of concealed weapons, the gun lobby has begun to attack state control over CCWs. In 2009, Senator John Thune introduced an amendment to federal legislation that would have required every state that issues CCW permits to recognize all permits issued by other states.³⁹ “Forced reciprocity” eviscerates every state’s right to determine the requirements for carrying a concealed weapon within the state, and threatens the small number of states that have strong permitting schemes, since they would be forced to recognize permit holders who would have not met the requirements for in-state permits. Although Senator Thune’s amendment was narrowly defeated in July 2009, new legislation to force reciprocity will likely emerge in the future.⁴⁰



Photo: KTVU

The Danger of Open Carrying

Open carrying laws around the country are also far too permissive.⁴¹ In total, 32 states allow the open carrying of loaded handguns without a permit or license;⁴² 15 states allow the open carrying of loaded handguns with a permit or license;⁴³ and only 3 states, Florida, Illinois, and New York, and the District of Columbia prohibit the open carrying of a handgun.⁴⁴ Openly carried guns distract law enforcement officers tasked with maintaining safety at public events. Moreover, individuals who openly carry guns at political gatherings also convey an implicit threat to those who do not share their views: express yourself at your own risk.

The Second Amendment: No Barrier to Sensible CCW Regulations

Despite the gun lobby’s rhetoric, the Second Amendment presents no barrier to strong regulation of concealed weapons. In *District of Columbia v. Heller*, the Supreme Court held for the first time that the Second Amendment guarantees an individual right to possess a firearm in the home for self-defense.⁴⁵ The Court struck down Washington, D.C.’s decades-old ban on handgun possession, and the requirement that firearms in the home be stored unloaded and disassembled or bound by a locking device (which had no exception for self-defense).

The *Heller* Court emphasized, however, that the right protected is “not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose.”⁴⁶ *Heller* also noted that laws prohibiting firearm possession in “sensitive places” (including schools and government buildings) were presumptively valid.⁴⁷

Supreme Court precedent holds that the Second Amendment does not apply to state and local governments, although the Court has agreed to review that rule in a pending case.⁴⁸ To the extent that post-*Heller* courts have heard Second Amendment challenges to CCW laws, they have rejected those challenges.⁴⁹ In any event, because strong CCW laws do not affect an individual’s right to self-defense in the home – the core of the Second Amendment as interpreted in *Heller* – those laws should not conflict with the Second Amendment.

Moving Forward: Reclaiming Control over Concealed Carrying



In recent decades, the gun lobby has succeeded in systematically weakening concealed carry laws across the country. States that choose to permit the carrying of concealed weapons can reverse this trend by adopting the following common sense policies:

- A license or permit must be required in order for an individual to lawfully carry a concealed weapon.
- Law enforcement should have discretion to issue permits based upon a showing of a justifiable need. Persons convicted of a wide variety of weapons-related or violent misdemeanors should be prohibited from receiving CCW permits.
- In addition to background checks, applicants must be required to undergo safety training and to pass written and hands-on tests demonstrating knowledge of firearm laws and safety.
- Permits must be of limited duration (e.g., one or two years) and renewed only upon satisfaction of all application requirements, including a background check.
- Carrying concealed weapons should be permitted in only a limited number of public places. Carrying should be prohibited in at least the following locations: school property, establishments which serve liquor, places of worship, polling places, sports arenas, medical facilities, sites where gambling is permitted, public parks, and courthouses and other government buildings.
- A CCW permit holder should not be exempt from a background check when purchasing a firearm, despite a federal law that allows states to seek exemptions for qualifying permits.

LCAV is available to provide advice on legislation to implement any of these recommendations.

**HELP US KEEP THE PUBLIC SAFE BY FIGHTING TO ENACT
COMMON SENSE CONCEALED CARRY LAWS.**

This publication, including endnotes, is available at: www.lcav.org/concealedcarry.

About Legal Community Against Violence

HISTORY AND MISSION

LCAV is a national public interest law center dedicated to preventing gun violence and is the country's only organization devoted exclusively to providing free legal assistance for policy reform to reduce gun violence. Founded on July 1, 1993 in response to the tragic shooting at a San Francisco law firm, we focus on policy reform at the state and local levels, marshaling the expertise and resources of the legal community to transform America's gun policies.

OUR SERVICES

LCAV conducts legal research, analyzes existing and emerging policy strategies, reviews proposed legislation, generates model regulations and develops legal and analytical materials to help governments and nonprofit organizations achieve their policy goals. Our website, www.lcav.org, is the most comprehensive resource on U.S. firearms regulation in either print or electronic form and provides in-depth summaries of federal, state, and local firearms laws.

JOIN LCAV'S MEMBERSHIP PROGRAM TODAY

LCAV is only as strong as those who stand behind our mission. In 2004, we launched our national membership program to unite the gun violence prevention community and broaden our base of support, in both financial and human terms. Since then, 900 people have joined LCAV. And while many of our members are attorneys, a growing number are professionals from a wide range of fields.

LCAV welcomes all who support our work to prevent gun violence. Members receive a range of benefits including: regular LCAV communications; invitations to educational events on critical issues in the gun violence prevention movement; participation in forming regional LCAV chapters; and more. Members who wish to become more involved in LCAV's work may inquire with us about opportunities for pro bono work or participating in member committees.

You can make an immediate difference by joining or renewing your membership today at www.lcav.org/join.



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ENDNOTES

AMERICA CAUGHT IN THE CROSSFIRE

- 1 LCAV research on open carrying, available at www.lcav.org/content/open_carrying.pdf. For more information about the topics discussed in this publication, including discussion of relevant laws in all 50 states, please visit www.lcav.org/concealedcarry.
- 2 David Hemenway, Deborah Azrael, Matthew Miller, *National Attitudes Concerning Gun Carrying in the United States*, 7 *Inj. Prevention* 282, 283 (2001), at www.pubmedcentral.nih.gov/picrender.fcgi?artid=1730790&blobtype=pdf.
- 3 Peter Hart and Robert Teeter for NBC News/Wall Street Journal (Apr. 17-19, 1999), available at www.pollingreport.com/guns2.htm.
- 4 In a 1999 survey, respondents opposed individuals being allowed to carry in restaurants (88%), college campuses (94%), sports stadiums (94%), bars (93%), hospitals (91%), and government buildings (92%). David Hemenway et al., *supra* note 2, at 283.
- 5 ABC News Poll (Apr. 22, 2007), available at www.pollingreport.com/guns.htm.
- 6 U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Injury Prevention and Control, Web-Based Injury Statistics Query & Reporting System (WISQARS), WISQARS Injury Mortality Reports, 1999-2006 (2009), at webappa.cdc.gov/sasweb/ncipc/mortrate10_sy.html.
- 7 U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Injury Prevention and Control, Web-Based Injury Statistics Query & Reporting System (WISQARS), WISQARS Nonfatal Injury Reports (2009), at webappa.cdc.gov/sasweb/ncipc/nfirates2001.html.
- 8 Federal law provides that certain law enforcement officers and retired law enforcement officers may carry a concealed firearm. 18 U.S.C. § 926B; 18 U.S.C. § 926C. Federal law also creates a background check exemption for certain CCW permit holders, discussed later in this brochure.
- 9 Saul Cornell, *The Early American Origins of the Modern Gun Control Debate: The Right to Bear Arms, Firearms Regulation, and the Lessons of History*, 17 *Stan. L. & Pol'y Rev.* 571, 584 (2006).
- 10 In 1911, for example, New York enacted a law requiring an individual to acquire a permit in order to possess or carry a handgun. See *People ex rel. Darling v. Warden of City Prison*, 139 N.Y.S. 277, 280 (N.Y. App. Div. 1913) (discussing the statutory changes implemented by the 1911 law).
- 11 See Dennis A. Henigan, *Lethal Logic* 125-126 (2009).
- 12 Arizona, Arkansas, Colorado, Florida, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Maine, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, and West Virginia are “shall issue” states. Some “shall issue” states, including Indiana and Pennsylvania, require that a CCW permit applicant be a person of “good character.” See Ind. Code § 35-47-2-3(e); 18 Pa. Cons. Stat. § 6109. In Indiana, a newspaper investigation found that this requirement does not disqualify significant numbers of applicants from receiving permits. Mark Alesia, Heather Gillers, Tim Evans & Mark Nichols, *Should these Hoosiers have been allowed to carry a gun in public?*, *Indianapolis Star*, Oct. 11, 2009 (noting that “State law says a person must be of ‘good character and reputation’ to obtain a permit, but the State Police have not denied a request based on that legal requirement since at least the 1980s.”).
- 13 Alabama, California, Connecticut, Delaware, Hawaii, Iowa, Maryland, Massachusetts, New Jersey, New York, Rhode Island, and Wyoming are “may issue” states.
- 14 Del. Code Ann. tit. 11, § 1441(a)(1)-(3); N.J. Rev. Stat. § 2C:58-4(d).
- 15 720 Ill. Comp. Stat. 5/24-1(a)(4); Wis. Stat. § 941.23; D.C. Code § 22-4504. Alaska Stat. § 11.61.220; Vt. Stat. Ann. tit. 13, § 4003. Although a permit is no longer required to carry a concealed weapon in Alaska, the state retains its “shall issue” permitting system. Alaska Stat. § 18.65.700.
- 16 In California, for example, many misdemeanors disqualify a person from possessing a firearm for life, and therefore prevent the person from ever being able to receive a CCW permit. Additional misdemeanors disqualify Californians from possessing firearms for ten years following conviction.
- 17 The concealed weapon permitting statute in Arizona, for example, only specifies that persons with felony convictions are prohibited from applying for CCW permits. *Ariz. Rev. Stat. § 13-3112(E)*. State law, however, also prohibits the possession of a firearm by any person serving a term of probation following a conviction for a domestic violence offense. *Ariz. Rev. Stat. § 13-3101(A)(7)(d)*. Federal law also prohibits any person from possessing firearms if he or she has been convicted of a federally-defined “misdemeanor crime of domestic violence.” 18 U.S.C. § 922(g)(9).

- 18 Megan O'Matz & John Maines, *In Florida, It's Easy to Get a License to Carry a Gun*, South Florida Sun-Sentinel, Jan. 28, 2007, at 1A.
- 19 See, e.g., Mark Alesia, Heather Gillers, Tim Evans & Mark Nichols, *Should these men have been allowed to carry a gun?*, Indianapolis Star, Oct. 11, 2009; Brad Schrade, *Law lets thugs pack heat*, The Tennessean, Aug. 16, 2009; William C. Rempel & Richard A. Serrano, *Felons Get Concealed Gun Licenses Under Bush's 'Tough' Gun Law*, L.A. Times, Oct. 3, 2000, at A1 (discussing similar problems in Texas).
- 20 The following states do not require some form of firearm training: Alabama, Georgia, Idaho, Indiana, Maryland, Mississippi, New Hampshire, New York, Pennsylvania, South Dakota, and Washington.
- 21 Delaware's firearm safety training requirement, in contrast, is particularly strong, and specifies that the training course must include instruction in safe handling and storage of firearms and ammunition, child safety, safe firearm shooting fundamentals, ways to develop and maintain firearm shooting skills, federal and state firearms laws, state laws on the use of deadly force in self-defense, techniques for avoiding a criminal attack and managing a violent confrontation (including conflict resolution), and participation in live fire shooting exercises conducted on a range (including the expenditure of a minimum of 100 rounds of ammunition). Del. Code Ann. tit. 11, § 1441(a)(3).
- 22 See Va. Code Ann. § 18.2-308(G)(7), as amended by S. 1528.
- 23 LCAV, *Regulating Guns in America: An Evaluation and Comparative Analysis of Federal, State and Selected Local Gun Laws* 211 (2008), available at www.lcav.org/library/reports_analyses/regulating_guns.asp.
- 24 Nebraska, in contrast, prohibits a CCW permit holder from carrying a concealed weapon in any police station, jail or prison, courtroom, polling place, meeting of a governing body, financial institution, athletic event, school, place of worship, emergency room or trauma center, political rally or fundraiser, or establishment that derives over one-half of its total income from the sale of liquor. Neb. Rev. Stat. § 69-2441.
- 25 For more information about recent guns in schools legislation, see the Brady Campaign's *Guns on Campus Legislation in 2009*, available at www.bradycampaign.org/stateleg/publicplaces/gunsoncampus/statebattles.
- 26 With one limited exception, however, Utah prohibits the governing board of a university or college from restricting the lawful possession of firearms by CCW permit holders on a college or university campus. Utah Code Ann. § 53B-3-103(2)(ii)(A). Additionally, some states allow CCW permit holders to store their firearms in motor vehicles in school parking lots.
- 27 18 U.S.C. § 922(t)(3); 27 C.F.R. § 478.102(d).
- 28 Office of Enforcement Programs and Services, Bureau of Alcohol, Tobacco and Firearms, U.S. Department of the Treasury, *Permanent Brady Permit Chart*, available at www.atf.gov/firearms/bradylaw/permit_chart.htm. According to the chart, last updated on July 3, 2008, certain permits in 19 states qualify for the permit holder for a background check exemption.
- 29 States like California, for example, could qualify for the exemption, but have not sought it.
- 30 Ian Ayres & John J. Donohue III, *Shooting Down the "More Guns, Less Crime" Hypothesis*, 55 Stan. L. Rev. 1193, 1285, 1296 (Apr. 2003); Ian Ayres & John J. Donohue III, *The Latest Misfires in Support of the "More Guns, Less Crime" Hypothesis*, 55 Stan. L. Rev. 1371, 1397 (Apr. 2003).
- 31 Ayres & Donohue, *supra* note 30, at 1202.
- 32 States with higher rates of household firearm ownership have significantly higher homicide victimization rates. Matthew Miller, Deborah Azrael & David Hemenway, *Rates of Household Firearm Ownership and Homicide Across US Regions and States, 1988-1997*, 92 Am. J. Pub. Health 1988, 1991-92 (2002).
- 33 David Hemenway, *Policy and Perspective: Survey Research and Self-Defense Gun Use: An Explanation of Extreme Overestimates*, 87 J. Crim. L. & Criminology 1430, 1432 (1997).
- 34 David Hemenway, *Private Guns, Public Health* 78 (2004).
- 35 Charles C. Branas, Therese S. Richmond, Dennis P. Culhane, Thomas R. Ten Have, and Douglas J. Wiebe, *Investigating the Link Between Gun Possession and Gun Assault*, 99 Am. J. Pub. Health 2034 (2009).
- 36 David Hemenway, Deborah Azrael, & Matthew Miller, *Gun use in the United States: results from two national surveys*, 6 Inj. Prevention 263, 265 (2000).

- 37 Violence Policy Center, *License to Kill IV: More Guns, More Crime* 5-6 (June 2002), at www.vpc.org/graphics/ltk4.pdf.
- 38 Violence Policy Center, *Law Enforcement and Private Citizens Killed by Concealed Handgun Permit Holders: An Analysis of News Reports, May 2007 to April 2009* (July 2009), at www.vpc.org/studies/ccw2009.pdf.
- 39 S. Amdt. 1618 to S. 1390, 111th Cong. (2009).
- 40 The amendment was defeated 58-39 on July 22, 2009 (the Senate had previously agreed that 60 votes would be needed for passage).
- 41 LCAV research on open carrying, available at www.lcav.org/content/open_carrying.pdf.
- 42 The 32 states that allow the open carrying of loaded handguns without a permit or license are: Alabama, Alaska, Arizona, Arkansas, Colorado, Delaware, Georgia, Idaho, Kansas, Kentucky, Louisiana, Maine, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, Ohio, Oklahoma, Oregon, South Dakota, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and Pennsylvania.
- 43 The 15 states that allow the open carrying of loaded handguns with a permit or license are: California, Connecticut, Hawaii, Indiana, Iowa, Maryland, Massachusetts, Minnesota, New Jersey, North Dakota, Rhode Island, South Carolina, Texas, Tennessee and Utah. California, North Dakota, and Utah allow open carrying of an unloaded handgun without a permit, but require permits for loaded handguns.
- 44 The District of Columbia authorizes a person with a registration certificate to openly carry a firearm "while it is being used for lawful recreational purposes." D.C. Code § 22-4504a. Forty-five states allow the open carrying of a rifle or shotgun without a permit or license, including every state except Florida, Illinois, Massachusetts, Minnesota, and New Jersey. California, Iowa, Tennessee and Utah all require that the openly carried rifle or shotgun must be unloaded. Massachusetts and New Jersey require a permit or license to openly carry a rifle or shotgun, while Florida, Illinois, and Minnesota prohibit it entirely (although they likely allow limited open carrying related to hunting with a valid permit).
- 45 *District of Columbia v. Heller*, 128 S. Ct. 2783 (U.S. 2008).
- 46 *Id.* at 2816.
- 47 *Id.* at 2816-17, 2817 n.26.
- 48 *NRA v. Chicago*, 567 F.3d 856 (7th Cir. 2009), *cert. granted in McDonald v. Chicago*, 174 L. Ed. 2d 632 (U.S. Sept. 30, 2009) (No. 08-1521).
- 49 See *Young v. Hawaii*, 2009 U.S. Dist. LEXIS 28387, at *13 (D. Haw. Apr. 1, 2009) (finding *Heller* inapplicable to plaintiff's challenge to the denial of his application for CCW permit, given that the statute "pertains only to the carrying of weapons on one's person and does not constitute a complete ban to the carrying of weapons or pertain to possessing weapons in one's home"); *Brown v. United States*, 979 A.2d 630, at *31 (D.C. Aug. 27, 2009) (concluding "that District law did not afford appellant license to carry a pistol...did not infringe appellant's rights under the Second Amendment"); *People v. Flores*, 169 Cal. App. 4th 568, 575 (Cal. App. 4th Dist. 2008) (stating that "[g]iven [the Supreme Court's] implicit approval of concealed firearm prohibitions, we cannot read *Heller* to have altered the courts' longstanding understanding that such prohibitions are constitutional.").