

No. 20-843

In the
Supreme Court of the United States

NEW YORK STATE RIFLE & PISTOL ASSOCIATION,
INC., ET AL.,
Petitioners,

v.

KEVIN P. BRUEN, IN HIS OFFICIAL CAPACITY, ET AL.,
Respondents.

**On Writ of Certiorari
to the United States Court of Appeals
for the Second Circuit**

**BRIEF OF AMICUS CURIAE CRIME
PREVENTION RESEARCH CENTER IN
SUPPORT OF PETITIONER**

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TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES.....	ii
INTEREST OF AMICUS CURIAE.....	1
SUMMARY OF ARGUMENT	1
ARGUMENT.....	4
I. Permit Holders are Extremely Law-abiding	5
II. A Review of Regression Literature.....	13
III. Discriminatory Nature of May-Issue Laws.....	29
IV. The Impact of Concealed Handgun Permit Fees and Training Requirements on The Type of People Who Get Permits	31
CONCLUSION	35

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INTEREST OF AMICUS

The Crime Prevention Research Center (CPRC) is a research and education organization dedicated to conducting academic quality research on the relationship between laws regulating the ownership or use of guns, crime, and public safety; educating the public on the results of such research; and supporting other organizations, projects, and initiatives that are organized and operated for similar purposes. It has 501(C)(3) status, and does not accept donations from gun or ammunition makers or organizations such as the NRA or any other organizations involved in the gun control debate on either side of the issue.¹

Our goal is to provide an objective and accurate scientific evaluation of both the costs and benefits of gun ownership as well as policing activities.

SUMMARY OF ARGUMENT

The debate surrounding the Second Amendment sometimes includes a simplistic, false dichotomy which can be summarized as: Guns versus safety. Concealed handgun permit holders are extremely law-abiding, with a lower conviction rate of misdemeanors or felonies than even police officers, suggesting that

¹ The parties have consented to the filing of this brief. *See* Supreme Court Rule 37.3. Pursuant to Supreme Court Rule 37.6, the undersigned affirms that no counsel for a party authored this brief in whole or in part, and no person or entity other than *amicus curiae* or its counsel, made a monetary contribution specifically for the preparation or submission of this brief.

there are not well-founded public interest reasons to require proof of “special need” or “proper cause” for a concealed carry permit, or to impose other undue burdens on obtaining one. Indeed, Right-to-Carry states appear to have even lower revocation rates than May-Issue states.

A survey of the empirical academic regression literature finds that 25 studies have found that Right-to-Carry laws reduce violent crime, 15 studies find no significant effect, and 12 find that Right-to-Carry laws increase violent crime.

Additionally, the 12 studies that find increases suffer a systematic error to varying degrees: they tend to focus on the last 20 years, and fail to consider that the states which passed concealed carry laws in that time period have stricter rules and less permit growth than other states that they are being compared to. So their findings that crime rose in such states is consistent with permit holders reducing crime.

A survey of academics who publish empirical peer-reviewed research on guns also finds that most believe that Right-to-Carry laws reduce crime.

Finally, we provide evidence that May-Issue in Los Angeles County, California, discriminates against giving permits to women, blacks, and Hispanics. And that the places forced to adopt Right-to-Carry laws via court orders adopt high fees and difficult training rules that greatly limit the number of people who get permits and disproportionately keep minorities from obtaining permits.

Research also shows that the most likely victims of violent crime benefit the most from carrying a concealed handgun, and making permits costly to obtain disproportionately prevents these very people from obtaining a permit.

States with lower costs of obtaining permits have greater reductions in crime because they not only have more people carrying, but they have those who are the most likely victims carrying.

ARGUMENT

Do permit holders commit crimes with their guns? There are two ways of approaching this question. The first simple way is to see the rate that permit holders lose their concealed handgun permit. While they can lose their permit for committing a crime, including accidentally discharging their gun in a public place, they can also lose their permit for many other reasons, such as even moving out of state. Yet, permit holders turn out to be extremely law-abiding, facing convictions for misdemeanors or felonies at a fraction of the rate that even police are convicted.

The May-issue rules, where people have to provide a justification for having a permit, appear to discriminate against the very people who are the most likely victims of violent crime – poor minorities who live in high crime urban areas. When courts forced places to adopt Right-to-Carry laws, as New York would be if the plaintiffs prevail, alternative restrictions have been enacted to prevent people from obtaining permits. The unusually high fees, long training requirements, and other regulations adopted by these places have disproportionately prevented the poor and minorities, the very people who benefit the most from having guns for protection, from getting permits. This underscores why the Court needs to clearly reaffirm the fundamental nature of the right, to prevent states from engaging in regulations to limit the effect of the Court's decisions.

I. Permit Holders are Extremely Law-abiding

It is very rare for concealed handgun permit holders to violate the law. In order to appreciate how incredibly rare these violations are, one needs to remember that last year there were over 19.48 million permit holders in the US.²

To get an idea of just how law-abiding concealed handgun permit holders are, we need only compare them to police. According to a study in *Police Quarterly*, police committed an average of 703 crimes per year from 2005 to 2007.³ 113 of these involved firearms violations. This is likely to be an underestimate, since not all police crimes receive

² John R. Lott, Jr. and Rujun Wang, “Concealed Carry Permit Holders Across the United States: 2020,” *Social Science Research Network*, September 21, 2020 (https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3703977)

³ Phil Stinson, J Liederbach and TL Freiburger, “Exit Strategy: An Exploration of Late-Stage Police Crime,” *Police Quarterly* December 2010 13: 413-435. Data on the number of full-time law enforcement employees is available from the FBI Uniform Crime Reports from 2005 to 2007, Federal Bureau of Investigation, 2005 Crime in the United States, US Department of Justice, Table 74: Full-time Law Enforcement Employees (https://www2.fbi.gov/ucr/05cius/data/table_74.html); Federal Bureau of Investigation, 2006 Crime in the United States, US Department of Justice, Table 74: Full-time Law Enforcement Employees (https://www2.fbi.gov/ucr/cius2006/data/table_74.html); and Federal Bureau of Investigation, 2007 Crime in the United States, US Department of Justice, Table 74: Full-time Law Enforcement Employees (https://www2.fbi.gov/ucr/cius2007/data/table_74.html).

media coverage. The authors of the study may also have missed some news media reports.

With about 685,464 full-time police officers in the U.S. from 2005 to 2007,⁴ we find that there was a yearly rate of 103 crimes per hundred thousand officers. For the U.S. population as a whole, the crime rate was 37 times higher -- 3,813 crimes per hundred thousand people.⁵ They are convicted of firearms misdemeanors or felonies at a rate of 17 per hundred thousand officers.

Perhaps police crimes are underreported due to leniency from fellow officers, but the vast crime gap between police and the general populace is indisputable.

Even given the low conviction rate for police, concealed carry permit holders are even more law-abiding than police. For Florida, between October 1, 1987 and December 31, 2011, there were 168 revocations for firearms related violations in Florida (after January 2011, Florida stopped breaking out the firearms related violations by themselves).⁶ With Florida

⁴ Ibid.

⁵ Federal Bureau of Investigation, 2007 Crime in the United States, Table 1: Crime in the United States, US Department of Justice (https://www2.fbi.gov/ucr/cius2007/data/table_01.html).

⁶ Florida Department of Agriculture and Consumer Services Division of Licensing Concealed Weapon or Firearm License Summary Report October 1, 1987 - February 28, 2011 (viewed on March 11, 2011). The current version of the page is available at https://www.fdacs.gov/content/download/7499/file/cw_monthly.pdf and that shows the total revocations for firearm utilized violations by January 2011 as 168.

averaging 260,651 permits over those 23.3 years, the yearly revocation rate is 2.8 per 100,000 permit holders – 1/6th the rate of police officers.⁷ For Texas, which provides detailed breakdowns on what permit holders are convicted for, the rate is similar, 2.4 per 100,000 officers.⁸

For Texas from 2016 to 2020, they had a total of 810 convictions for misdemeanors or felonies and a yearly average number of permits of 1.37 million.⁹ That implies a revocation rate for these offenses of 11.9 per 100,000 permit holders – 1/9th the rate for police officers. From October 1, 1987 and June 30, 2021, Florida had revoked 15,753 for a variety of reasons beyond committing misdemeanors or felonies, so this

⁷ Florida Department of Agriculture and Consumer Services Division of Licensing Number of Valid Florida Concealed Weapon Licenses As Reported at the End of Each Fiscal Year (June 30) Since Program Inception in October 1987 (https://www.fdacs.gov/content/download/7504/file/NumberOfValidCWLicenses_FiscalYearEndSince1987-1988.pdf).

⁸ Crime Prevention Research Center, “Updated: Comparing Conviction Rates Between Police And Concealed Carry Permit Holders,” Crime Prevention Research Center, February 19, 2015 (<https://crimeresearch.org/2015/02/comparing-conviction-rates-between-police-and-concealed-carry-permit-holders/>).

⁹ Conviction Rates, Texas Department of Public Safety, annual reports from 2016 to 2020 (<https://www.dps.texas.gov/section/handgun-licensing/conviction-rates>). Active License and Instructor Count Reports Calendar Year Reports, Texas Department of Public Safety, annual reports from 2016 to 2020 (<https://www.dps.texas.gov/section/handgun-licensing/reports-statistics-1>).

is not directly comparable to the police data.¹⁰ With a yearly average of 706,846 permit holders over 34.75 years,¹¹ that is a revocation rate of 64 per 100,000 permit holders, significantly less than the rate of misdemeanor or felony convictions for officers.

But there's no need to focus on just Texas and Florida. Table 1 has the most recent revocation rate data for twenty states. For Texas in 2019, the overall revocation rate was 3.4 times the rate that permit holders were convicted of misdemeanors or felonies.

¹⁰ Florida Department of Agriculture and Consumer Services Division of Licensing Concealed Weapon or Firearm License Summary Report October 1, 1987 – June 30, 2021 (viewed on July 8, 2021). https://www.fdacs.gov/content/download/7499/file/cw_monthly.pdf.

¹⁰ Florida Department of Agriculture and Consumer Services Division of Licensing Number of Valid Florida Concealed Weapon Licenses As Reported at the End of Each Fiscal Year (June 30) Since Program Inception in October 1987 (https://www.fdacs.gov/content/download/7504/file/NumberOfValidCWLicenses_FiscalYearEndSince1987-1988.pdf).

¹⁰ Eric Gaffney, Records & Licensing Supervisor, Criminal Records & Identification Bureau, Department of Public Safety (907) 269-5634

¹⁰ https://www.azdps.gov/services/public/cwp?qt-cwp_menu_=11#qt-cwp_menu_ 8, 2021). https://www.fdacs.gov/content/download/7499/file/cw_monthly.pdf.

¹¹ Florida Department of Agriculture and Consumer Services Division of Licensing Number of Valid Florida Concealed Weapon Licenses As Reported at the End of Each Fiscal Year (June 30) Since Program Inception in October 1987 (https://www.fdacs.gov/content/download/7504/file/NumberOfValidCWLicenses_FiscalYearEndSince1987-1988.pdf).

Table 1: Revocation Rates for permit holders in 2019	
State	Rate
Right-to-Carry permit system	
Alaska ¹²	0.102%
Arizona ¹³	0.005%
Connecticut ¹⁴	0.911%
Florida ¹⁵	0.059%
Louisiana ¹⁶	0.067%
Michigan ¹⁷	0.373%
Montana ¹⁸	0.126%

¹² Eric Gaffney, Records & Licensing Supervisor, Criminal Records & Identification Bureau, Department of Public Safety (907) 269-5634

¹³ https://www.azdps.gov/services/public/cwp?qt-cwp_menu_=11#qt-cwp_menu_

¹⁴ Imisa Rivera, Unit Supervisor, Special Licensing & Firearms Unit (860) 685-8011

¹⁵ https://www.fdacs.gov/content/download/7499/file/cw_monthly.pdf

¹⁶ http://www.lsp.org/pdf/2019_CHP_Annual_Legislative_Report.pdf

¹⁷ https://www.michigan.gov/documents/msp/CPL_Annual_Report_2018-2019_Final_675899_7.pdf

¹⁸ John Barnes, Attorney General's Office, Montana Department of Justice (406) 444-2031

New Mexico ¹⁹	0.029%
North Carolina ²⁰	0.146%
Ohio ²¹	0.132%
Oklahoma ²²	0.038%
South Carolina ²³	0.212%
Tennessee ²⁴	0.147%
Texas ²⁵	0.051%
Utah ²⁶	0.073%
Virginia ²⁷	0.149%

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²⁰ Shannon Hanes, Business and Technology Application Analyst, North Carolina State Bureau of Investigation (919) 582-8600

²¹ [https://www.ohioattorneygeneral.gov/Files/Reports/Concealed-Carry-Annual-Reports-\(PDF\)/2019-CCW-Annual-Report](https://www.ohioattorneygeneral.gov/Files/Reports/Concealed-Carry-Annual-Reports-(PDF)/2019-CCW-Annual-Report)

²² <https://osbi.ok.gov/publications/self-defense-act-statistics>

²³ <https://www.sled.sc.gov/cwp.html#stats>

²⁴ <https://www.tn.gov/content/dam/tn/safety/documents/handgun/HandgunCarryPermitsReport2019.pdf>

²⁵ https://www.dps.texas.gov/RSD/LTC/Reports/2019Calendar/byRace_Gender/4LicensesRevoked.pdf

²⁶ <https://bci.utah.gov/firearm-transfers/history-overview-statistics/firearm-transfer-concealed-firearm-permit-statistics/>

²⁷ Michael S. Matthews, Manager of Firearms Transaction Center, Va. State Police (804)674-2210 (Virginia resident concealed handgun permits data only)

Washington ²⁸	0.108%
Wisconsin ²⁹	0.250%
Average	0.17%
May-Issue permitting system	
Maryland ³⁰	1.091%
Massachusetts ³¹	0.051%
Average	0.57%

Listed above are the recent revocation rates in 20 states – 18 with Right-to-Carry permitting rules and two May-issue states. While some claim that it is important to have discretion in issuing permits for safety reasons, the average revocation rate for the Right-to-carry states is actually lower than the revocation rate for either of the May-issue states that we have data for.

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Most of these rates include revocations for any reason, including people moving out of the state, and for the states where the revocation rates are higher than hundredths of a percentage point are due to residency revocations. People can also lose their permits for some types of traffic violations, for forgetting to have their permits with them, or for being charged with or convicted on a violent misdemeanor or felony. In Ohio, most of these revocations were apparently a result of handgun course teachers not spending the required number of hours teaching their classes.³²

Since permit holders commit so few crimes, it is difficult to see how Right-to-Carry laws can increase violent crime rates.³³

³² “Concealed carry instructor allegedly gave out 170 invalid training certificates,” *The News-Herald (Ohio)*, May 25 2015 (<http://www.news-herald.com/general-news/20150525/concealed-carry-instructor-allegedly-gave-out-170-invalid-training-certificates>); “About 50 gun permits invalid after two instructors accused of forgery,” *The Columbus Dispatch*, July 15 2016 (<http://www.dispatch.com/content/stories/local/2016/07/14/Concealed-carry-permits-bad.html>); Lynn Thompson, “Silent Justice for gun permits,” *Bryan (Ohio) Times*, February 4 2015 (http://www.bryantimes.com/news/local/article_35d9b7bd-10c7-5d86-b9fe-a56843d73d91.html); “CCW Instructors get jail for cutting class short,” *Lima (Ohio) News*, November 25 2014 (<http://limaohio.com/archive/18890>);

³³ A detailed discussion of these numbers and how the percentages are calculated is available here: *Crime Prevention Research Center, The Flawed And Misleading Donohue, Aneja, & Weber Study Claiming Right-To-Carry Laws Increase Violent Crime*, Crime Prevention Research Center, July 9, 2017 (<https://crimeresearch.org/2017/07/badly-flawed-misleading-donohue-aneja-weber-study/>).

II. A Review of the Regression Literature

A comprehensive review of literature that uses regression analysis is provided in Table 2, and the majority of those studies find that Right-to-Carry laws reduce violent crime.

Table 2: Studies on the effect of Right-to-Carry laws on crime

Reduce violent crime	
Refereed Academic Publications	
	(1) Lott & Mustard, <i>J. Law & Economics</i> , 1997
	(2) Bartley & Cohen, <i>Economic Inquiry</i> , 1998
	(3) Lott, <i>J. Legal Studies</i> , 1998
	(4) Bartley, <i>Economics Letters</i> , 1999
	(5) Benson & Mast, <i>J. Law & Economics</i> , 2001
	(6) Moody, <i>J. Law & Economics</i> , 2001
	(7) Mustard, <i>J. Law & Economics</i> , 2001
	(8) Olsen & Maltz, <i>J. Law & Economics</i> , 2001
	(9) Plassman and Tideman, <i>J. Law & Economics</i> , 2001

	(10) Marvell, <i>J. Law & Economics</i> , 2001
	(11) Lott & Whitley, <i>J. Law & Economics</i> , 2001
	(12) Lott & Whitley, <i>J. Quantitative Criminology</i> , 2003
	(13) Helland & Tabarrok, <i>B E J. Econ. Analysis & Policy</i> , 2004
	(14) Wilson, <i>National Research Council</i> , 2005
	(15) Lott & Whitley, <i>Econ. Inquiry</i> 2007
	(16) Moody & Marvell, <i>Econ J. Watch</i> 2008
	(17) Kendell & Tamura, <i>J. Law & Economics</i> , 2010
	(18) Lott, University of Chicago Press, three editions, 1998, 2000, 2010
	(19) Gius, <i>App. Econ. Letters</i> , 2014
	(20) Moody, et al, <i>Rev. Econ & Finance</i> , 2014
	(21) Barati, <i>Intl. Rev. Law & Econ.</i> 2016.
	(22) Sabbath, et al, <i>Am. J. Pub. Health</i> , 2020

Non-refereed publications by Academic	
	(1) Bronars & Lott, <i>Am. Econ. Rev.</i> 1998
	(2) Plassmann & Whitley <i>Stanford Law. Rev.</i> 2003
	(3) Lott & Landes, 2000
No discernable effect on violent crime	
Refereed Academic Publications	(1) Black & Nagin, <i>J. Legal Studies</i> , 1998
	(2) Ludwig, <i>Intl. Rev. Law & Econ.</i> , 1998
	(3) Donohue & Levitt, <i>Quart. J. Econ.</i> , 1999
	(4) Hood & Neeley, <i>Soc. Science Quart.</i> , 2000
	(5) Duggan, <i>J. Pol. Econ.</i> , 2001
	(6) Duwe, Kovandzic & Moody, <i>Homicide Studies</i> , 2002
	(7) Kovandzic & Marvell, <i>Crim. & Public Policy</i> , 2003
	(8) Dezhbakhsh & Rubin, <i>Intl. Rev. Law & Econ.</i> , 2003
	(9) National Research Council, <i>National Academies Press</i> , 2005

	(10) Kovandzic, Marvell & Vieraitis, <i>Homicide Studies</i> , 2005
	(11) Durlauf, et al <i>Eur. Econ. Rev.</i> 2016
	(12) Gius, <i>App. Econ. Letters</i> , 2018
	(13) Hamill, et.al., <i>J. Am. Coll. Surg.</i> 2018
	(14) Moody & Marvell, <i>Econ J. Watch</i> , 2019
Non-refereed publications by Academics	
	(1) Ayres & Donohue, <i>Am. Law & Econ. Rev.</i> , 1999 (Book review)
Increase violent crime	
Refereed Academic Publications	
	(1) Aneja, Donohue & Zhang, <i>Am. Law & Econ. Rev.</i> , 2011
	(2) Zimmerman, <i>Intl. Rev. Law & Econ.</i> , 2014
	(3) Donohue, Aneja, & Weber, <i>J. Empirical Legal Studies</i> , 2019
	(4) Doucette, et al, <i>Am. J. Public Health</i> , 2019
	(5) Gius, <i>Int. Rev. Law & Econ.</i> 2019

	(6) Knopov, et al, <i>Health & Social Work</i> , 2019
	(7) Siegel, et al, <i>J. Gen. Int. Med.</i> , 2019
	(8) Siegel, et al, <i>J. Rural Health</i> , 2020
	(9) Crifasi, et al, <i>J. Urban Health</i> , 2018
Non-refereed publications by Academics	
	(1) Ayres & Donohue, <i>Stanford Law Rev.</i> 2003
	(2) Ayres & Donohue, <i>Econ J. Watch</i> , 2009
	(3) Donohue, Aneja, & Weber, <i>Econ J. Watch</i> , 2019

Since the original article by Lott and Mustard in 1997, there have been 52 academic empirical studies of the effect of Right-to-Carry laws on various kinds of violent crime. Of these, 25 have found that these laws reduce violent crime while 12 find that Right-to-Carry laws increase violent crime. The remaining 15 studies find no significant effect. Thus 40 out of 52 studies find that the laws do not increase crime. Restricting the evidence to refereed articles only, 22 find crime reduction and 9 find that Right-to-Carry laws increase crime. The preponderance of the social science evidence therefore supports the crime reduction hypothesis.

The largest surveys of academics – criminologists, economists, and public health researchers -- who have published peer-reviewed empirical research on guns show a similar pattern. One survey of criminologists and economists found that 46% believed that concealed handgun laws reduced the murder rate, 27% said it had no effect, 7% said that it increased it, and the remaining 21% were not sure (Lott and Mauser, “Researcher Perceptions of Lawful, concealed carry of handguns,” *Regulation*, Summer 2016, pp. 26-30). By a 65% to 15% ratio, these academics agreed that “concealed handgun permit holders are much more law-abiding than the typical American.” Another survey showed that while criminologists and economists favored getting rid of gun-free zones as their top proposal for reducing mass public shootings, public health researchers were strongly opposed to that idea (Berg, Lott, and Mauser, “Expert Views on Gun Laws,” *Regulation*, Winter 2019-2020, pp. 40-47).³⁴

³⁴ There are a few other surveys, but they all are very heavily weighted towards public health researchers who are more favorably disposed towards gun control than either economists or criminologists. In a widely discussed pair of articles from 2017, the New York Times examined how well public opinion on gun control corresponded with the opinions of a panel of experts that the New York Times had selected. The first article examined the effectiveness of a variety of policies at preventing “gun deaths” (Quoctrung Bui and Margot Sanger-Katz, “How to Prevent Gun Deaths? Where Experts and the Public Agree,” *New York Times*, January 10, 2017), and the second focused on the effectiveness of gun control in reducing “mass shooting deaths” (“How to Reduce Mass Shooting Deaths? Experts Rank Gun Laws,” *New York Times*, October 5, 2017). The Times said that its academic panel

However, since 2010, 10 refereed academic studies have found that Right-to-Carry laws reduce or have no effect on violent crime while 9 find that Right-to-Carry laws increase violent crime. The preponderance of evidence is not so firmly on the side of the deterrence hypothesis for the more recent studies. But this result arises because many of the more recent studies have a problem, as shown below.³⁵

consisted of 32 “experts on gun violence,” including criminologists, economists, and public health academics. “Only five said they oppose [gun control policies],” according to the Times, and those who opposed them “tended to particularly oppose blanket policies.” The Times survey included only three economists. The Rand Corporation surveyed researchers but only included six economists compared to 80 public health people (Andrew Morral, Terry Schell, and Margaret Tankard, “The Magnitude of Disagreement Among Gun Policy Experts,” The Rand Corporation, 2018). Similarly, out of an average of 105 respondents, the Harvard Injury Control Research Center’s survey averaged just eight economists answering their questions and they included people who had not done any empirical research in peer-reviewed journals (Harvard Injury Control Research Center, “Expert Survey 2: Relative Number of Self-Defense and Criminal Gun Uses,” Firearm Researcher Surveys, May 2014). By contrast, the survey by Berg, Lott and Mauser (2019-2020) had a response from 120 researchers (32 economists, 38 criminologists, and 50 public health researchers). The other surveys by the New York Times, Rand, and Harvard also tended to go beyond including just those who had done empirical research on guns.

³⁵ Donohue, Aneja, & Weber, 2019 use something called a “synthetic control analysis,” which was developed when panel data wasn’t available (Donohue, J.J., Aneja, A., Weber, K.D. 2019. Right-to-carry laws and violent crime: A comprehensive assessment using panel data and a state-level synthetic control analysis. *Journal of Empirical Legal Studies* 16: 198-247). But that is clearly not the case here. Using this approach is a second-

The time when a state adopts Right-to-Carry laws is closely related to how difficult it is to get permits and thus the growth in the number of permits that will be issued. Early-adopting states that were most eager to adopt Right-to-Carry laws imposed the fewest restrictions on obtaining a permit. States that adopted Right-to-Carry in later years were often dragged, reluctantly, into doing so. When people, especially government authorities, are dragged into doing something, they often find ways of limiting what they are being forced to do.

For a comparison, let's take the regulations in place to obtain a permit during 2005, the middle of the period being examined. As shown in Tables 3 and 4, the late-adopting states tended to impose much more restrictive regulations -- higher fees, longer training requirements, more restrictions on where people could carry, and slightly higher age restrictions. The relation holds both in 2005 and 2021. Over time permitting rules generally become more liberalized for all states, including the early adopting states. So the early adopting states continue to make it easier for people to get a concealed handgun permit, and this further works to increase the number of permits that they issue.

best approach because it doesn't allow you to account for factors that you can control for with a panel analysis. This approach also introduces an additional degree of arbitrariness into the specifications and small changes in their specifications have been shown to eliminate or reverse their results (C.E. Moody and T.B. Marvell. 2019. Do Right to Carry Laws Increase Violent Crime? A Comment on Donohue, Aneja, and Weber, *Econ Journal Watch*, 16(1): 84-96).

Tables 3 and 4 provide comparisons of means, but let's illustrate with the extreme examples of Illinois and Washington, DC. Illinois started issuing permits only in 2014, only because it was forced to do so as a result of an Appeals Court decision. Illinois requires a permit fee of \$150 for a five-year permit and 16 hours of training. The fees for 16-hour training classes typically run around \$250 to \$300. Washington, DC was also forced to start issuing permits in 2008 as a result of court decision. Its costs were even greater, with \$110 for a two-year permit (the equivalent of \$275 on a five-year basis) and also 16 hours of training.

Generally, as shown in Tables 3 and 4, the longer it took states to adopt Right-to-Carry laws, the more restrictive their permitting rules. For Table 3, the pre-1977 Right-to-Carry states have permit fees that are just one fourth the average yearly fee for states that adopted after 2000, and their training requirements are just 7% as long. The long training requirements run hundreds of fees, not to mention the opportunity costs of an individual's time. While fees and training requirements have declined considerable between 2005 and 2021, the pattern remains the same in 2021, with later adopting states having higher fees and longer training requirements (Table 4).

The more costly it is to obtain a permit, the fewer people we expect to obtain one and the smaller the growth in the number of permits that you are likely to observe over time. Hence relatively few people in the later states obtain permits (Lott, 2010, 178-184 and

chapter 10) and those later states have relatively smaller drops in violent crime rates (Lott, 2010, 276-277).

Furthermore, by the late 1990s, Right-to-Carry laws had been adopted in 31 states. Another 12 states had so-called "May-Issue" laws where local authorities (e.g., judges or sheriffs) determined whether an applicant had legitimate reasons for a permit. In those discretionary states, rural areas were relatively liberal in granting permits while urban areas were very restrictive. By 1999, only seven states still completely banned the legal carrying of concealed handguns.

What's more, in some of the already Right-to-Carry states there were changes in the law during the period 1999 to 2010, changes that made their regulations more liberal. In 2003 Alaska went from a 12-hour training requirement and a \$91.50 fee to no training and no fee. Arizona in mid-2010 likewise went from 8-hour training and a \$60 fee to no training and no fee. Other early-adopting Right-to-Carry states also made reductions in training and fee rules, or expanded the number of places where permitted concealed handguns are allowed.

Table 3 shows the requirements to obtain a permit in 2005. The late-adopting states tended to impose much more restrictive regulations -- higher fees, longer training requirements, more restrictions on where people could carry, and slightly higher age restrictions. Table 4 shows that the pattern persists into 2021.

Those who examined states over this later period are comparing these late adopting states to the states that already had very liberal Right-to-Carry laws. These studies assume that any state that adopts a Right-to-Carry law is having a relatively large increase in the percent of the population that is carrying a concealed handgun, but the opposite is in fact the case. So their coefficients actually mean the opposite of what they are assuming. This wouldn't be a problem if these studies accounted for the number of permits issued in each state, but the only study to do that was by Lott (2010).

Table 3: Criteria for permits based on the Right-to-Carry laws during 2005

Year law adopted	Average permit fee per year	Average training hours	Average qualifying age
Before 1977	\$5.81	0.63	19.13
1980s	\$11.21	2.83	20.00
1990's	\$15.13	6.12	20.59
2000's	\$22.09	9.50	20.88

Note: see Lott (2010, 256-7).

Table 4: Criteria for permits based on the Right-to-Carry laws during 2021

Year law adopted	Average permit fee per year	Average training hours	Average qualifying age
Before 1977	\$3.89	0.00	18.43
1980s	\$9.82	1.50	20.40
1990's	\$5.31	2.56	20.44
2000's	\$13.61	6.00	20.38

Note: see Lott and Wang (2020) and the appendix in that paper.

As might be expected, the difficulty in acquiring permits to carry concealed weapons is reflected in the rate of growth of permits, which is slower in late adopting states.

Table 5: the change in the percent of the adult population with Right-to-Carry permits

	Percentage point change in permits from 1999 to 2015	Percentage point change in permits from 2007 to 2015	Percentage point change in permits from 1999 to 2017	Percentage point change in permits from 2007 to 2017	Percentage point change in permits from 1999 to 2019	Percentage point change in permits from 2007 to 2019
States that adopted right-to-carry laws after 1999	3.1% (8)	3.1% (11)	3.9% (8)	4.3% (11)	4.3% (8)	4.8% (11)
All other states	4.2% (19)	3.7% (35)	5.3% (19)	5.0% (35)	6.0% (19)	5.8% (35)

Notes: number of states in parentheses; <https://crimeresearch.org/tag/annual-report-on-number-of-concealed-handgun-permits>.

Between 1999 and 2019, the number of permits increased 4.3 percentage points in late adopting states, compared to 6 percentage points in other states. The difference is even larger if we drop those states that have adopted constitutional carry laws, therefore providing no reason to apply for a permit, except to carry a weapon in a Right-to-Carry state

with reciprocity. Dropping constitutional carry states, between 1999 and 2019 permits increased by 4.5 percentage points in late adopting states while increasing 7.2 percentage points in all other states.³⁶ As expected, there is evidence that crime drops as the percent of the adult population with permits increases (Lott 2010, pp. 178-184).

Consider two neighboring states: Illinois and Indiana. Given that the total costs of obtaining a permit is over \$400 in Illinois and is only \$12.95 in Indiana, it is not surprising that in 2019 Illinois had 3.4% of the population holding permits while Indiana had 20% (Crime Prevention Research Center, 2020). Correspondingly, Indiana had a lower violent crime rate than Illinois (373.5 vs 414.4 per 100,000) and a lower murder rate (6.2 vs 7.1 per 100,000).^{37, 38}

Besides very high total cost, Illinois has other restrictions that made it difficult for the poor to get a permit, such as effectively prohibiting training facilities in Chicago until a Circuit court decision in 2017, banning permitted concealed handguns on public transportation, and creating gun-free zones that may prevent people from carrying in urban

³⁶ Lott and Moody, Do right to carry laws still reduce violent crime? Social Science Research Network, 2021, p. 5.

³⁷ FBI Uniform Crime Reports 2019 <https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/topic-pages/tables/table-4>

³⁸ States that make permits more costly have few permits issued and a small reduction in violent crime. John R. Lott, Jr., *More Guns, Less Crime: Understanding Crime and Gun Control Laws*, University of Chicago Press, 2010: 177-178, 255-277.

areas.³⁹ The costs of obtaining a permit affect the mix of people who get permits as well as capping the number of them. Lower costs, both monetary and other, imply that poor people who live in high-crime urban neighborhoods are more likely to get a permit. In that case, one might expect an even greater reduction in crime because criminals who practice in poor neighborhoods with more crime would be more likely to encounter potential victims in those same neighborhoods who are able to defend themselves. This is another factor that tends to raise crime rates in the late-adopting states relative to all the other states.

To summarize: A major problem with the more recent studies is that many of them confine themselves to more recent data. These later empirical analyses of the impact of Right-to-Carry laws all assume that these laws are the same across states and over time. However, the laws are not the same because states differ widely as to the ease with which permits can be obtained. Failing to take these differences into account results in biased measurement of the laws' impact on crime. The late adopting states, like Illinois, have fewer permits and less crime reduction than early adopting states, such as Indiana. In other words, late adopting states have higher crime rates relative to early adopting states. When you look at data from say 1999 to 2015, you are comparing the change in crime rates for the states that change their laws during that period to all other states as a control group. People just assume that if a state is adopting a Right-to-Carry law

³⁹ *Ezell v. City of Chicago*, No. 14-3312 (7th Cir. 2017).

during that period, it is having a relatively large increase in the number of its permits. So they interpret a positive coefficient as meaning that more permits mean more crime. But the reverse interpretation is more accurate as the control group states had a bigger relative increase in the share of their population with permits.

For example, Lott and Moody (Social Science Research Network 2021) using panel data consisting of 50 states from 1970 to 2014, find that for states adopting Right-to-Carry laws before 1999, there is a statistically significant 6.6% reduction in the murder rate (the violent crime with by orders of magnitude the highest victim cost), while for states adopting after 1999 there is a statistically insignificant 1.1% reduction in the murder rate.⁴⁰

Also, the Lott and Moody study finds that Constitutional Carry states have an even higher reduction in murder, compared to states like New York without Right-to-Carry laws. They find that constitutional carry laws reduce murder by a highly statistically significant 15.5%.

⁴⁰ Restricting the same analysis to post-1999 data, results in the late adopting states apparently experiencing a 2.8% increase in murder. In fact, as the first result indicates, the late adopting states experienced a small reduction in murder. The apparent increase in murder comes from limiting the data to years after 1999, causing the early adopting states, with more permits and lower murder rates, to be omitted. The late adopting states, in comparison, have fewer permits and relatively higher murder rates.

Overall, the weight of social science evidence is clearly on the side of Right-to-Carry laws reducing violent crime, including murder. Constitutional carry laws, where people can carry without permits so we expect even more people are carrying, is apparently even more effective than Right-to-Carry with permits. Finally, states forced to initiate Right-to-Carry permitting, are very likely to do everything in their power to abridge the right to carry concealed weapons, blunting the positive impact of the constitutional right.

III. Discriminatory nature of May-Issue Laws

In 2013, LA Weekly obtained a list of the 341 concealed carry permit holders in Los Angeles County, California.⁴¹ That is only about 0.0045% of the 7.7 million adults living in the county in 2013.⁴² LA Weekly pointed out that the people given permits were judges, reserve deputy sheriffs, and a small group who gave campaign contributions or gifts to then-Sheriff Lee Baca. Something that LA Weekly didn't do was look at the list to determine the race of those lucky few getting permits. In Los Angeles County in 2013, about

⁴¹ Gene Maddaus, "Who's Packing Heat In L.A. County? Sheriff Lee Baca's Gun Permit List Includes Many Personal Friends," LA Weekly, February 14 2013 (<http://www.laweekly.com/news/whos-packing-heat-in-la-county-sheriff-lee-bacas-gun-permit-list-includes-many-personal-friends-4174664>).

⁴² QuickFacts, Los Angeles County, California, United States Census, viewed June 15, 2015 (<https://www.census.gov/quickfacts/fact/table/losangelescountycalifornia/PST045219>).

48.1% of the people living there were Hispanic, 9% were black, and 50.7% women.

Just 22 of the 341 people could be Hispanic (6.5%), a number dramatically lower than their share of the population.⁴³ Only 5% of the permit holders were black, and only 26 of the 341 permit holders are women (7.6%).

By comparison, this is dramatically lower than 29% of the permit holders being women that we found for eight states with more accessible permitting rules in 2012. Eight states that had similar information on race showed that 11% of permit holders were black, which is also higher than Los Angeles permit recipients.⁴⁴ Asian permit holders were roughly equal

⁴³ A discussion of how this list was checked and other details is available here: John R. Lott, Jr. and Rujun Wang, "Concealed Carry Permit Holders Across the United States: 2020," Social Science Research Network, September 21, 2020 (https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3703977)

⁴⁴ After the 2010 McDonald decision, Chicago was forced to allow people to own handguns, but the fees that they imposed put the permits beyond the reach of poorer citizens. For Chicago, there is a \$100 city license fee plus another \$15 per gun. Illinois adds another state license, though that only costs another \$10. Then there is the five-hour training classes that frequently cost around \$150. While gun ownership nationally varies very little with income, there is a huge difference in Chicago: zip codes with a median family income of \$120,000 have twice the handgun ownership rate as those with a median family income of \$60,000 and those families are in turn twice as likely as those at \$30,000. John R. Lott, Jr., "Can poor people be trusted with guns?" Fox News, March 12, 2013 (<http://www.foxnews.com/opinion/2013/03/12/can-poor-people-be-trusted-with-guns.html>).

to their share of the population and white males were clearly overrepresented.

In other data, it is shown that in other parts of the country with May-Issue rules there are many examples where permits are provided to wealthy, politically connected individuals, while those who face serious threats of violence are denied.⁴⁵

IV. The Impact of Concealed Handgun Permit Fees and Training Requirements on The Type of People Who Get Permits

As noted previously, there are dramatic differences in the costs of concealed handgun permits across states. That has two effects: it determines the number of people who get permits and the type of people who get them. That has important implications for how much concealed handgun laws reduce crime. Empirical research shows that the people who are the most likely victims of violent crime – poor blacks who live in high crime urban areas – are the ones who benefit the most from having concealed handgun permits.⁴⁶ Yet, higher fees and longer training periods prevent poor people from getting permits.

⁴⁵ John R. Lott, Jr. and Rujun Wang, “Concealed Carry Permit Holders Across the United States: 2020,” Social Science Research Network, September 21, 2020: 39-40 (https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3703977).

John R. Lott, Jr., *More Guns, Less Crime: Understanding Crime and Gun Control Laws*, University of Chicago Press, 2010: 16.

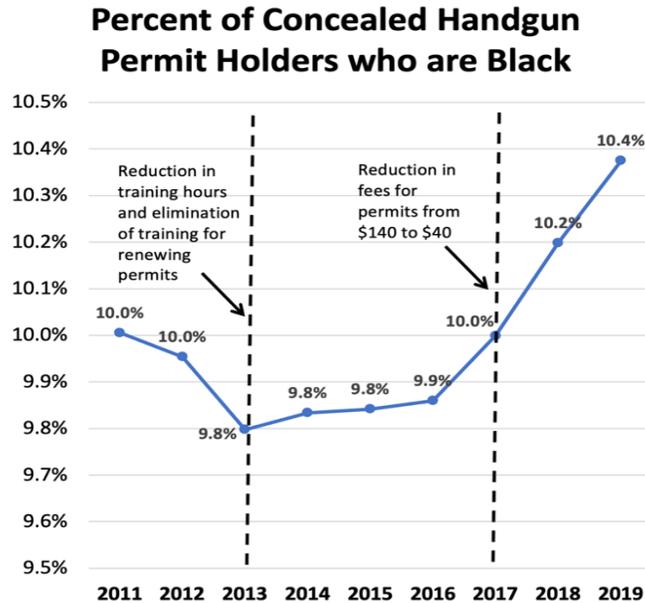
⁴⁶ John R. Lott, Jr., *More Guns, Less Crime: Understanding Crime and Gun Control Laws*, University of Chicago Press, 2010.

Illinois and Washington, D.C. are the two places that courts have previously forced to move from either no issue or May-Issue to Right-to-Carry rules (*Moore v. Madigan*, 702 f.3d 933 (7th Cir 2012) and *Wrenn v. District of Columbia*, 864 F.3d 650 (D.C. Cir. 2017)). But while 9.2 percent of American adults outside of California and New York have concealed handgun permits, only 3.37 percent of adults in Illinois and 0.79 percent in D.C. have permits. With only one exception, these rates are lower than all the May-Issue states and a few of the Constitutional Carry states where permits are not required. When courts forced Illinois and D.C. to adopt Right-to-Carry rules, they made it as difficult as possible. As previously mentioned, the total cost of a permit with fees and training in Illinois is over \$400. In D.C., it is about \$570.⁴⁷

Texas provides unique information on the race of permit holders as well as having significant changes in both the permit fees and training requirements. On September 1, 2013, Texas reduced the training requirement to obtain a permit from ten hours to four hours and eliminated the training requirement for renewing the permit. On September 1, 2017, Texas reduced permit fees for a five-year permit from \$140 to \$40. The question is: do higher costs of getting a permit differentially impact blacks and other minorities? The answer appears to be clearly yes.

⁴⁷ John R. Lott, Jr. and Rujun Wang, "Concealed Carry Permit Holders Across the United States: 2020," Social Science Research Network, September 21, 2020: 39-40 (https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3703977). John R. Lott, Jr., *More Guns, Less Crime: Understanding Crime and Gun Control Laws*, University of Chicago Press, 2010: 16.

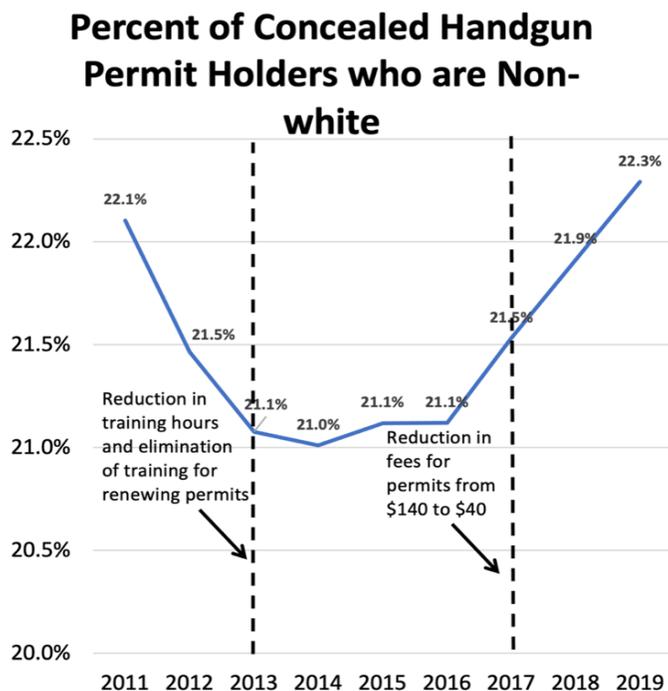
Figure 1



The graphs show a common pattern: the percentage of concealed handgun permits held by blacks and non-whites fell before Texas reduced the training requirement in 2013. Reducing both the costs of training and fees quickly increased blacks' and minorities' share of the permits. Blacks' share of permits fell to 9.8% in 2013 and then rose to 10.4% in 2019.⁴⁸ While permits increased dramatically from 691,475 in 2013 to 1,416,698 in 2019, permits for blacks and non-whites were growing faster than for whites.

⁴⁸ All the data for Texas is available in Reports and Statistics, Texas Department of Public Safety (<https://www.dps.texas.gov/section/handgun-licensing/reports-statistics-1>).

Figure 2



This discussion raises the concern that requiring New York to issue concealed handgun permits on a Right-to-Carry basis will result in them adopting rules that make permits very costly and prevent many of those who need permits the most from obtaining them. This prevents poor minorities, the very people who benefit the most from owning guns, from having them. This underscores why the Court needs to clearly reaffirm the fundamental nature of the right, to prevent states from engaging in regulations to limit the effect of the Court's decisions.

CONCLUSION

By definition, those individuals most impacted by firearm carry laws are those left defenseless because of their compliance. Simply ordering states to adopt Right-to-Carry laws still leaves them a lot of latitude in making it very difficult for the poor and minorities to protect themselves. If past experience is an indicator, the states that are forced to adopt Right-to-Carry laws, as would be true if the plaintiffs in this case prevail, will adopt restrictions that will ensure that it is primarily wealthy whites who live in the suburbs obtain permits. Empirical research overwhelmingly also shows that Right-to-Carry laws do not increase crime and that permit holders themselves do not commit significant crime.

Respectfully submitted,

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