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## FIREARMS RELATED VIOLENCE, BRADY, AND RIGHT-TO-CARRY LEGISLATION

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The prevalence and incidence of firearms related violence reached epidemic proportions during the later half of the 1980's and the first half of the current decade. In 1992 a record 931,000 violent crimes were committed by armed offenders (Rand, 1994). Handgun crime constituted 13 percent of all violent offenses which were reported to law enforcement officials in 1992. Of the two million violent crimes which were reported in 1993, a firearm was present in 582,000 (29%) of these episodes (Zawitz, 1995). Hospital records and victimization surveys reiterate the severity of firearm violence during this period.

Commenting on a Centers for Disease Control study, Zawitz (1996) noted that 99,000 firearms related injuries were treated in U.S. hospital emergency rooms between June 1, 1992 and May 31, 1993. Fifty-eight percent of these were a direct result of criminal assault. Hospitalization was required in sixty percent of these assaults. National Crime Victimization Survey (NCVS) data indicate that in 1992 the rate of nonfatal handgun victimizations, 4.5 crimes per 1,000 people age 12 and over, reached an all time high. It exceeded the prior 1982 record of 4.0 per 1,000 (Rand, 1994). Crime related firearm injuries and deaths cost the nation \$ 63.4 billion dollars in 1992 (Zawitz, 1996).

Discussions surrounding the access to, and availability of, firearms flourished during this period. Gun control proponents argued for tighter control over gun ownership and legislation that enforced strict control over gun purchases and sales. Opponents argued for less governmental intervention citing the Second Amendment to the Bill of Rights and the value of gun ownership as an effective means of deterring crime (Cramer and Kopel, 1994). NCVS statistics for the period of 1987-1992 reveal that 83,000 crime victims per year used a firearm

to defend themselves or their property. Of these victims 75 percent reported that they defensively used their firearm after being subjected to a violent attack (Rand, 1994).

This SystemStats addresses two diametrically opposed policies for resolving, or at least containing, the epidemic of firearms related violence. The substantive provisions of the Brady Handgun Violence Prevention Act will be highlighted. The salient results of a recent national study, which sought to assess the impact of the Brady legislation, will also be presented. Research on the efficacy and impact of right-to-carry concealed weapons legislation will be discussed with an emphasis on examining the deterrent value of this type of legislation. Findings from an exploratory research study, conducted by the North Carolina Criminal Justice Analysis Center of the Governor's Crime Commission, are offered in order to present basic statistical and demographical information on North Carolina's right-to-carry concealed weapons legislation. Recommendations for strengthening and improving this law will be presented.

### **Brady Handgun Violence Prevention Act**

#### *Substantive Provisions*

The Brady Handgun Violence Prevention Act, or the Brady Bill, (P.L. 103-159) was enacted in November of 1993 and became effective in February of 1994. The law mandates that all firearm dealers must request that presale background investigations be conducted on every individual who desires to purchase a handgun. These requests are responded to by the Chief Law Enforcement Official (CLEO), usually the county sheriff, who forwards the

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individual's eligibility status<sup>1</sup> back to the firearms dealer. Interim provisions of Brady specify that the dealer must wait five business days before carrying out any sales transactions. Thirty-two states and Puerto Rico were identified as Brady states, i.e., states which were directly subject to this interim five day provision. States with automated criminal history record systems and/or pre-existing gun control legislation or strict presale review procedures were given the option of using alternatives to the five day waiting period.<sup>2</sup> Typically, these Brady alternative states conduct either instant, or point of sale, background checks or require a permit prior to purchasing firearms.

These interim provisions will be in place until November of 1998 when all states will be required to conduct instantaneous background checks on all individuals who wish to purchase firearms. Implementation of this instantaneous background checking process will be accomplished through the FBI's National Instant Criminal Background Check System (NICS) which was established as a permanent provision in the Brady Bill. The provisional five day waiting period will be eliminated once NICS becomes operational in 1998.

Successful NICS implementation, and continued system operation, is contingent upon the accuracy, completeness, and availability of each state's criminal history records. The Brady Act authorized \$200 million to establish the National Criminal History Improvement Program (NCHIP)

with its primary objective being to assist states in developing and improving their automated criminal history record systems. NCHIP funds will ensure that state records are complete and accurate and will consequently enable states to confidently share their records with each other by accessing, and interfacing with, the FBI's national system. North Carolina has received \$1,805,205 in NCHIP funds and has also received \$244,250 under the NCHIP Advanced States Award Program (NCHIP-ASAP) which recognizes states with model or exemplary automated criminal history records systems.

### *Impact Assessment*

The Firearm Inquiry Statistics Tracking Program (FIST) was initiated under NCHIP as a statistical reporting system for determining the impact of Brady presale firearm background checks on identifying and prohibiting ineligible persons from legally acquiring a firearm. Findings from a recently conducted Bureau of Justice Statistics' analysis, of this FIST data, indicate that during Brady's first 28 months 4.2 million background checks were requested. As a result of these requests 86,000 ineligible over-the-counter gun sales were prevented (Manson and Lauver, 1997).

Data for the first six months of 1996 reveal that the nation's gun dealers requested more than 1.3 million background investigations during this period. Of this number 34,000 were returned by the CLEO with the potential customer being identified as ineligible to purchase a handgun. This represents a 2.6 percent rejection rate, a rate which is nearly consistent with the 2.8 percent rejection rate which was found within the original 32 Brady states. As Manson and Lauver (1997) report, the most common reasons for denying a purchase request were the presence of a prior felony conviction and/or a current felony indictment. Seventy-two percent of the ineligible customers were denied for these reasons.

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<sup>1</sup> Federal law prohibits firearm sales to individuals currently under indictment for a crime punishable by imprisonment of a year or more or who have been convicted of such a crime; fugitives; users of controlled substances; persons who have been adjudicated as mentally defective or have a prior mental institution commitment; persons who were dishonorably discharged from the military; persons who have renounced their U.S. citizenship; persons who are under court restraining orders for harassing or stalking a child or intimate partner; and persons possessing prior domestic violence convictions.

<sup>2</sup> North Carolina enacted legislation in December of 1995 which enabled the state to be reclassified as a Brady alternative state.



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### Right-to-Carry Concealed Weapons Legislation

#### *Impact and Deterrence Research*

Empirical research on the impact and deterrent value of permitting citizens to legally carry concealed weapons can best be described as mixed or inconclusive. While some studies demonstrate a positive effect, an equal number of studies can be cited in which either no effect or negative consequences occurred when states enacted the right-to-carry legislation. The majority of these research studies compare county or statewide crime rates before and after the legislation was enacted or draw comparisons between states with right-to-carry legislation and similar states which do not permit its residents to legally carry concealed weapons.

Cramer and Kopel (1994) found a significant difference in the violent crime rates of states which permitted citizens to carry concealed weapons and the rates for those states which did not. Their research suggests that carrying concealed weapons substantially deters murder and deters robbery and aggravated assault to a lesser degree, yet has no effect on deterring rape. Lott and Mustard (1996) analyzed U.S. county crime rates for the period of 1977 to 1992 and concluded that 1,570 murders and 60,000 aggravated assaults could have been prevented each year if all states had enacted right-to-carry legislation. McDowall, Loftin, and Wiersema (1995) refute these studies and report no deterrent value in allowing citizens to legally carry concealed weapons. In fact, this research documented an increase in firearms-related homicides in several urban areas of Florida, Oregon, and Mississippi, after these three states authorized right-to-carry legislation.

#### *North Carolina's Right-to-Carry Concealed Weapons Legislation*

The North Carolina General Assembly enacted a concealed handgun law during its 1995 session which allows qualified individuals to obtain a permit to carry a concealed handgun (G.S. 14-415.10). This law became effective on December 1, 1995 and requires each applicant to undergo a

thorough criminal history background check<sup>3</sup>, which is performed by the local sheriff's office, and successfully complete an approved firearms safety and training course.

The General Assembly directed the Governor's Crime Commission to investigate the effects of this legislation. Specifically, the Commission was instructed to report basic statistical data on the number of permits which have been issued and denied. The Commission was asked to review any available data on situations in which persons legally carrying a concealed weapon prevented a crime, accidentally injured another person, or used their handgun inappropriately. The General Assembly also requested general information on how this law has affected crime and public safety across the state. The following section highlights the most salient findings from the Crime Commission's final report, which was compiled by surveying all sheriffs' offices and by analyzing application data obtained from the State Bureau of Investigation.

From December 1, 1995 to November 6, 1996 22,514 concealed weapon permit applications were filed with the state's sheriffs' offices. Of those for which data on the applicant's eligibility are available, 20,690 were approved (99%) and only 219 were denied (1%).<sup>4</sup> As Table 1 depicts survey respondents reported that the most common reasons for denying a permit request were the presence of an existing criminal history (39.2%) and

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<sup>3</sup> Eligibility to obtain this permit is denied to any applicant who cannot pass all of the Brady background screening requirements and to applicants who possess any of the following: a guilty conviction or a prayer for judgment continued for a misdemeanor act of criminal violence; is free on bond or personal recognizance pending trial, appeal, or sentencing for any offense which would disqualify them from obtaining a permit; or a conviction for an impaired driving offense within the past three years.

<sup>4</sup> At the time of this writing, (March of 1997) 26,069 applications had been filed with 22,798 being approved (99%) and 251 being denied (1%). The remaining number were pending further investigation or the final results had not been reported to the State Bureau of Investigation.

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a prior history of mental health disorders (15%) on the part of the applicants. Of the 107 specific denial reasons, reported by the survey respondents, prior felony convictions (12.1%) and previous substance abuse histories (11.2%) were relatively common (Hayes, 1997). Many sheriffs explained that the small number of denials was a direct result of self screening by the applicants. In essence, once applicants became aware of the background check requirements those with criminal histories or other disqualifying conditions simply chose not to apply.

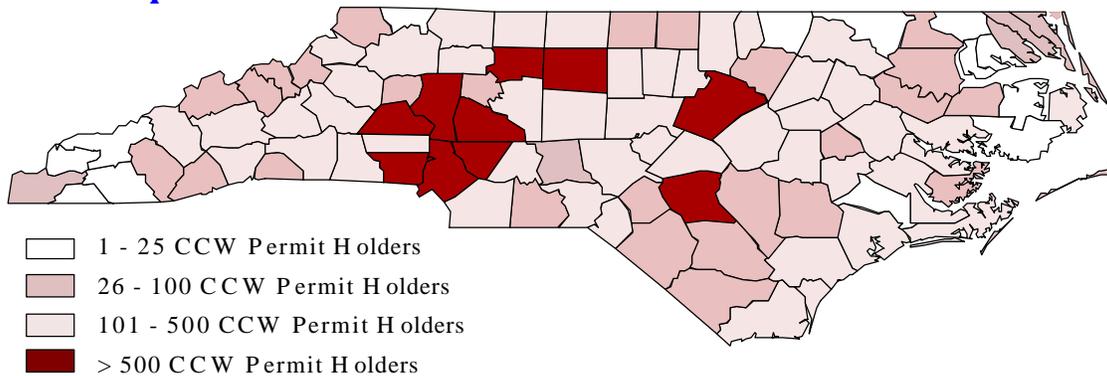
The overwhelming majority of concealed permit applicants were white males. White males constituted 80 percent of the application cases in which racial and gender attributes were provided. Females represented 15 percent of the applicants with 97 percent of these women reporting their race as white (Refer to Table 2). The largest number of applicants were between the ages of 36 and 65. Geographically, most of the permit applicants resided in the western portion of the state with a particularly high concentration residing in an area outlined by Interstate Highways 85,77, and 40 (Refer to Figure 1).

**Table 1:**  
**Reasons for Denying Concealed Weapon Permit Applications**

Reasons Permits Were Denied	Number Reported
Prior Criminal History	42
Mental Health Disorders	16
Prior Felony Convictions	13
Substance Abuse	12
Assaults	5
DWI	5
Applicant is Illiterate	3
Provided False Information	3
Less Than Honorable Discharge	2
Disorderly Conduct	2
Communicating Threats	2
Failed to Complete Training	2
<b>Total</b>	<b>107</b>

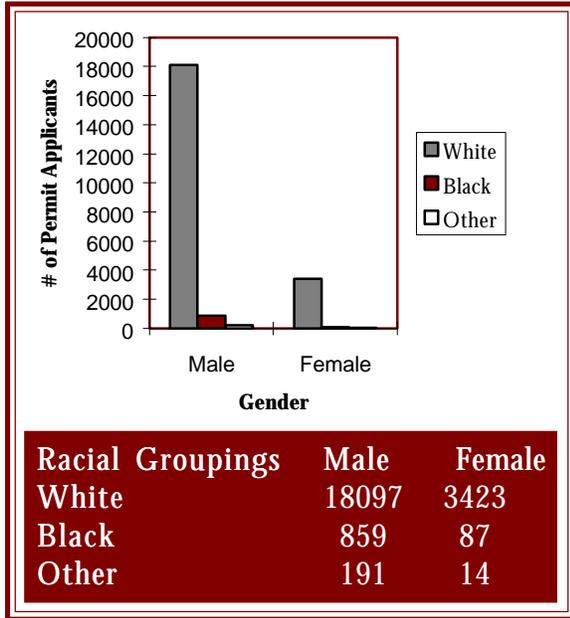
In order to control for differences in county populations it is important to compare the counties in a standardized fashion by calculating a per capita rate. Figure 2 presents the number of concealed weapon permits which were issued per 10,000 persons over the age of 20. (State law specifies that all permit applicants be at least 21 years of age). These permit holder per capita rates ranged from a low of 7.9 in Alleghany County to the state high rate of 73.7 permits in Cabarrus County. At the time of the survey the statewide rate was 36.8 permit holders for every 10,000 adults over the age of 20. The unshaded counties had the lowest permit holder rates which fell below the statewide rate. The shaded counties represent those counties with the highest rates. These counties issued more permits, on a per capita basis, than the statewide rate. This rate based comparison supports the geographic distribution pattern discussed above.

**Figure 1:**  
**Concealed Weapon Permits Issued**

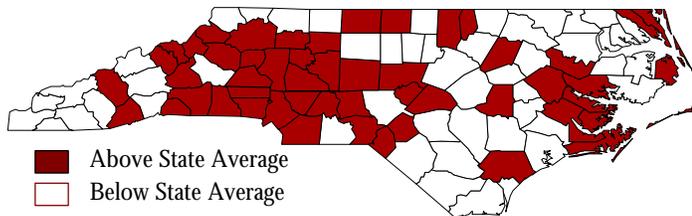


Source: State Bureau of Investigation, Division of Criminal Information, CCW Permit Data through November 6, 1996

**Table 2:  
Race by Gender of Permit Applicants**



**Figure 2:  
Number of CCW Permits Per Capita  
Compared to Statewide Average**



Even when population is considered, the largest rate of permit holders can be found in the northwestern and south central parts of the state. The lower rates of permit holders are distributed more evenly within the northeastern and southeastern regions of North Carolina.

Further analyses indicate that there are no significant differences between the permit rates of urban and rural counties. Individuals in small, rural counties are equally likely to obtain concealed

weapon permits as are their neighbors in larger, urban counties.

Of the 81 counties that responded to the survey: four incidents were reported in which a crime was prevented by a person who possessed a permit to carry a concealed weapon. No incidents involving the accidental injury of a child or other person by a permit holder were reported. Three sheriffs reported episodes in which a firearm was used inappropriately by a concealed weapon permit holder. These involved carrying the weapon on school grounds or in other inappropriate areas designated “as no handgun zones.” At the time of the survey one case was pending in which a store owner pursued, and shot at, an individual who had just robbed the store. Respondents indicated that deterrence and inappropriate use episodes are impossible to ascertain unless the act is reported to, or observed by, law enforcement officials (Hayes, 1997).

When queried on how this legislation has specifically affected crime and public safety, the respondents provided a variety of answers which echo the mixed findings of the academic literature discussed above. Common responses included:

- “Too early to notice any significant impact.”
- “The general public seems to feel that there is a deterrent effect when criminals are unsure if a potential victim has a gun.”
- “Citizens are now feeling more secure in their homes and jobs.”
- “I do not feel the law will have an effect on crime in the future.”
- “I do not feel it is a good law and I continue to have concerns for the safety of officers.”
- “Potential for permit holder reacting and injuring an innocent person.”

Clearly a more detailed research study, which adheres to a rigorous methodological design, is needed in order to determine the specific impact that this legislation has had on the state’s and/or the counties’ crime rates.

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### Recommendations

Survey respondents were asked to freely comment on the state's new right-to-carry legislation and to offer any specific recommendations for improving the permit process at both the state and local levels. These recommendations have been summarized and are presented below in Table 3.



**Table 3:**

#### Sheriffs' Recommendations to Improve North Carolina's Concealed Handgun Law

- Require a picture ID on the permit.
- Incorporate the process into the NC Driver's License (same as motorcycle endorsement).
- More access to mental institution records.
- Create an information network for background checks into mental health and substance treatment.
- Clarify mental health diagnosis.
- Faster fingerprint response.
- Revamp application for more resident history (additional spaces for previous addresses).
- Application should have a place for the name and address of the person's place of employment.
- Make technical changes to the law requiring new permits when address changes.
- Sheriff's office should receive more compensation for their efforts in the permit process.
- A sheriff's reason for denial should be final, without a hearing before a District Court judge.
- Lengthen the application time beyond the current 90 days.
- Do away with fingerprint requirements.
- Make handgun classes more accessible to the public.
- Misdemeanor drug violations and breaking and entering should be disqualifying.
- Allow for more local discretion and flexibility, such as with handgun purchase permits.
- Notification by courts when a permit holder has pending criminal charges and/or conviction.
- Upgrade SBI ability to provide current county concealed weapon permit totals.



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