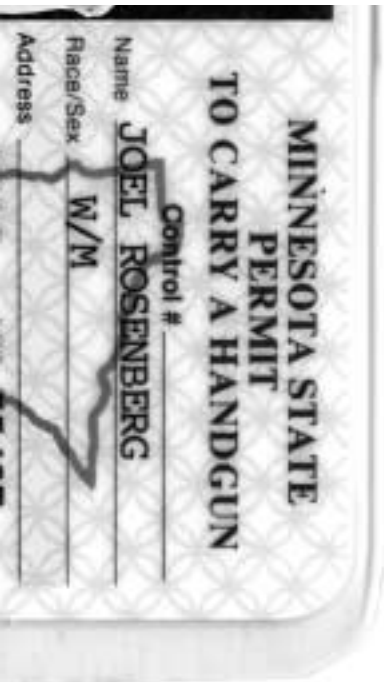
Everything You Need to Know About (Legally) Carrying a Handgun in Minnesota



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EVERYTHING YOU NEED TO KNOW ABOUT (LEGALLY) CARRYING A HANDGUN IN MINNESOTA

published by

THE
A*MERICAN*
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C*ERTIFIED*
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INTRODUCTION

What This Book Is All About

So, you want to carry a handgun in Minnesota?

Are you sure?

Don't be too quick to decide.

There are lots of reasons not to, after all—particularly if you listen to the often well-intentioned people who bandy about phrases like "there's already too many guns on the street," "every fender-bender will turn into a gunfight," "what if there's a pistol in that parka?" Even if you listen to people in the self-defense-rights movement, you'll hear that getting a carry permit may not be right—for you.

Because that's what you've got to decide.

Not: *is allowing citizens to get carry permits a good idea?*

Not even, yet: *Do I want to carry a handgun in public?*

But:

Should I *get a carry permit?* After you decide that, then you have other decisions to make.

The Minnesota Citizens Personal Protection Act of 2003 changed the law in Minnesota about what's formally known as a "Minnesota State Permit to Carry a Handgun," and usually just called a "carry permit."

Until it was passed, Minnesota was one of the minority of "may-issue" states—those states where handgun carry permits *may* be issued at the discretion of government officials. In some Minnesota counties, permits were issued to any adult who applied for one; in some cities, they were issued only to security guards, or to nobody at all.

Minnesota is now part of the majority: it's a “shall-issue” state, where any objectively qualifying adult can get a carry permit simply by taking and passing the appropriate training, filling out and filing a form with the local sheriff, and paying a fee. It's like a driver's license—if you qualify, you can receive a carry permit.

And it's like a driver's license in another way: a driver's license allows you to drive a car; it doesn't require you to.

There's an important distinction between getting a carry permit and carrying a handgun in public. Some people who don't ever plan on carrying a handgun may well get a carry permit—a permit gives you a choice about carrying a handgun, not an obligation. But, just as with a driver's license and driving a car, having a carry permit and carrying a handgun is a responsibility you should take very seriously.

It wouldn't be accurate to say that it's easy to get a handgun permit in Minnesota, just as it wouldn't be accurate to say that it's easy to get a driver's license: you have to train and qualify for either. There's work involved, and some expense—although not a lot—and there should be some careful thought, as well.

And about the only thing we can promise you about carrying a handgun is this—and it's a theme we'll return to regularly in this book:

A gun never solves problems.

Really.

At best, the *proper* use of a handgun can substitute lesser—but very real—problems for more serious ones. If you so much as brandish a handgun in public—even in an unambiguous circumstance, where your only other choice is to be the victim of assault, rape, or murder, and where you've got abundant witnesses to that effect—you can expect to be arrested[1]. If you are one of those rare permit holders who actually fires a handgun anywhere off the range, you're likely to be sued, as well as arrested, and quite possibly prosecuted.

Yes, that's better than being assaulted, raped, or murdered. But it's better to avoid the whole problem in the first place—and yes, we'll be returning to that, too.

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1. This is particularly true in the city of Minneapolis. While it's nowhere in any city ordinance or Minneapolis Police Department regulation, the actual policy in Minneapolis is, and has been for years, to “arrest the gun,” which means to “arrest the person with a gun, no matter who appears to be at fault.” If a firearm is displayed or used by a civilian, no matter what the facts appear to be, the police are instructed to arrest the person displaying or using the firearm.

Who this book is for

While there are quite a few very good books on issues of the carrying of handguns, *Everything You Need to Know about (Legally) Carrying a Handgun in Minnesota* is different: it's about carrying a handgun in *Minnesota*.

Most of the principles involved apply anywhere; staying alert in Minnesota isn't different than staying alert in Oregon, after all. But Minnesota is different from every other state. “Minnesota Nice” is part of our culture, and this book was written with that in mind. Even more importantly, the Minnesota statutes and case law involving the carrying of handguns and of the use or threat of deadly force are different, in significant ways, than those of other states.

Just to take one minor example, Minnesota law—unlike that of most states—doesn't distinguish between “open” carry, where a handgun is worn visibly, and “concealed” carry. If you're going to carry a handgun in Minnesota, you should know both what's sensible—which is pretty much the same, from state to state—and what's legal.

And it's not just the law as written in the statutes, or the “case law”—the way that the laws are interpreted by courts. See the footnote about “arresting the gun” in Minneapolis. That's hardly the only issue. We'll get to them.

If you've been reading about the changes in the permit law in Minnesota and wonder what they mean, this book is for you—whether or not you decide to apply for a carry permit. That's particularly true if you've been wondering what's involved in getting a permit, and carrying a handgun, both in legal and practical terms.

If you already have a personal safety concern—a stalker, say, or an abusive ex-spouse, or work or live in a bad neighborhood—this book is for you.

If you’re considering taking a job where you may be required to carry a handgun as a civilian—a security guard, for example—this book is for you.

If you've been wondering about what kind of training and equipment you'll need, you'll learn that in these pages.

Even if you haven't been wondering about all the other issues—the legal, moral, and practical ones—you'll learn about those, too.

You *don't* need to be an experienced gun owner, or even have ever so much as held a firearm, in order to benefit from this book. You don't have to like guns, or any other tools and machinery.

If you're an experienced gun owner, this book is for you, too; many people who have owned guns for most of their lives have yet to deal with either the laws or details of day-to-day carrying of a handgun.

If you're a police officer, wondering whether or not you should be worried about the changes in the law, and what it means to you, this book is for you, as well. For now, think about this: while there are millions of permit holders in the US, there's not been one—*not one*—reported incident of a permit holder so much as pointing a handgun at a police officer, although there are numerous reports of permit holders saving police officers' lives. Short form: you don't need to worry about permit holders; they're the good guys.

Even if you're a passionate gun control advocate—even if you think that all handguns should be banned—this book is for you, too. You should know about the issues involved, as somewhere upwards of 100,000 Minnesotans will eventually have carry permits. If you're worried about that, that's fine, for now. By the time you're finished reading this book, we hope you'll be reassured that it's going to be okay[2].

If you're somewhere in the middle, this book is for you, as well. Regardless of how you feel about firearms, or about people carrying handguns in public, there are some changes that have been made, and you should know about them.

This book is also for those people—a small number, we hope—who think that carrying a handgun around in public is fun and cool, who think that the change in Minnesota's permit laws means that they can now strut around in public, pushing people around, not taking any nonsense from anybody, because, well, they've got a gun.

We hope to, and we expect to, talk them out of that.

Who we are

The American Association of Certified Firearms Instructors (AACFI) is dedicated to providing outstanding training in firearms safety, storage, and basic firearms handling, as well as permit to carry and advanced defensive carry instruction.

This book and the AACFI training materials and courses were written by Tim Fleming Grant, Joseph E. Olson, and Joel Rosenberg.

Joseph E. Olson, the President of AACFI, is Professor of Law at Hamline University, as well as a longtime political activist involved in 2nd Amendment issues, and a former national Board member of the National Rifle Association. A former federal prosecutor and experienced defense

2. If not, you could consider moving to the shrinking number of states and cities where carry permits are difficult or impossible to get. The bad news, though, is that places where carry permits are difficult-to-impossible to get, like New York, Chicago, or Washington DC, top the list of high-crime destinations.

counsel, he's licensed to practice law in Minnesota and California. In addition to being a NRA Certified Firearms Instructor since 1985, Olson is a graduate of Judicious Use of Deadly Force Course, the Lethal Threat Management for Civilians Course, and the LFE Refresher Course at the Lethal Force Institute; the Tactical Pistol course at Gunsite Training Center; the Urban Rifle Course at Thunder Ranch Training Center; the Advanced Pistolcraft Course at Chapman Academy; the Arizona Concealed Carry Course at the Urban Firearms Institute; and the Nevada Concealed Carry Course at Armed and Safe, Inc. Olson has been issued carry permits in Arizona, Florida, Maine, Massachusetts, Minnesota, New Hampshire, and Washington state. Olson is the President of the American Association of Certified Firearms Instructors, an organization dedicated to training civilians not only on the law and technicalities of carrying a handgun for personal protection, but on strategies and tactics for avoiding any necessity of the use of a handgun for personal protection. He holds Counselor, Certifier, and Instructor ratings from AACFI.

Joel Rosenberg is a professional writer of nonfiction, science fiction, fantasy, and mysteries, and, as one of the very few Minneapolis residents ever granted a carry permit under the previous law "for personal safety, as needed," has been licensed to carry a handgun for more than five years. He holds both Certifier and Instructor ratings from AACFI.

Tim Fleming Grant, the Vice President of AACFI, is a political activist and marketing professional. Grant's interest in firearms and self-defense began in February of 1996 when his cousin was killed in a drive by shooting in Golden Valley Minnesota. After four years of committed part-time work on the leadership team of CCRN, Grant left his position as National Sales Manager for Norstan and Siemens to focus more time on changing Minnesota's carry laws. As CCRN's lead strategic planner and elections manager, Grant played a key role in developing and guiding the Minnesota Personal Protection Act through the Minnesota Legislature. Grant holds an MBA from the University of St. Thomas, graduate credits from St. Paul Seminary and a Bachelor of Arts degree in Political Science and Economics from the University of Minnesota. He also holds both Instructor and Certifier ratings from AACFI.

Between the three of them, they own a few firearms.

None of them has ever so much as pointed a firearm at another human being—much less shot one—and all three of them like it that way.

Our orientation

Let's start at the beginning. When developing both the AACFI training courses and this book, we did a lot of reading and research. One of the things that we found irritating about much writing on handgun self-defense matters is that it assumed a lot of familiarity with the issues, and with firearms themselves.

Transportation and cars aren't only for roadway design engineers, mechanics, and automotive hobbyists; medical care isn't just for doctors and nurses; self-defense and personal safety aren't just for people who already know a lot about firearms.

Whether or not you should apply for a carry permit has a lot more to do with your own personality and situation than it does with whether or not you know a lot about firearms, or want to know a lot about firearms. A carry permit isn't a necessary accessory for a firearms hobbyist. Contrariwise, it's entirely reasonable to have no interest at all in firearms beyond personal protection and choose to take out a carry permit.

While we've not skimped on the needs of more experienced people, our recommendations—where we give them—are largely for people new to the possession and particularly the carrying of handguns.

And not just for people new to firearms, either. While we have nothing against other legitimate uses of guns—hunting, target shooting, etc.—the focus of both AACFI's Minnesota training courses and this book is on the day-to-day and emergency issues of people carrying handguns, usually concealed handguns *in Minnesota*. That's an important distinction, we think—and not just because Minnesota law is different, in significant ways, from the laws of other states, although that's certainly part of it.

Even many people who have owned guns for years may never have carried one in public at all, much less on a daily basis. They haven't had to think through the many issues involved—and there are a lot of them, from day-to-day matters of how to carry a handgun, to routine encounters with police, to the thankfully rare situations where a handgun must be taken out in public.

And far too many people—including some who have owned guns all of their lives—have picked up a lot of misinformation from television and newspapers. Very few people—even very experienced gun owners—have more than the vaguest idea of what the laws involving self-defense are, or practical matters involving the carrying of a handgun as a civilian.

That's what this book is all about.

A carry permit and handgun are insurance

Probably the best place to start is this: the vast majority of people who carry a handgun will never have an occasion to take the gun out in public.

That's a good thing.

A carry permit—and the accompanying training, and equipment—should be thought of as something like the fire insurance you carry for your home. When you buy fire insurance, you hope that you never have to use it, you expect that you'll not have to use it, but you also know—or should know—that, should your house burn down, a good insurance policy will make what will be a horrible incident at least a little less horrible than it otherwise would be. And fire insurance is only one of the things a prudent homeowner buys in order to protect himself—or herself—and family: smoke detectors are every bit as important, and so are good locks on the door.

And so it is with handguns and carry permits. Taking out a permit and buying a handgun for carry are only a small part of seeing to your personal protection.

Which is as it should be.

Humor

While carrying a handgun in public is a serious matter, and must be taken seriously, that doesn't mean that a little humor, every now and then, is a bad idea—in fact, we think it's essential, and we hope that the occasional touches of humor in this book will be appreciated, and not misunderstood.

There are, however, things we don't joke about, and among them is pointing a handgun at a human being. Among the other issues that we find utterly unfit for jokes are safety issues involving handling of firearms.

Keeping it simple

Another part of our orientation is this: we believe in keeping things simple, whenever possible. There are sound psychological, legal, and physiological reasons for that when it comes to life-threatening encounters—before, during, and after.

That doesn't mean that we've tried to oversimplify issues, honest. Some of the matters we touch on in here are complicated, and while we've tried to boil them down, the simple truth is that anything involving law or human behavior isn't simple. We've tried to strike a balance here.

What a permit changes

Even before you decide whether or not to take training and apply for a carry permit, you should understand what it does and doesn't change.

Legally speaking, it changes one thing and one thing only: *a carry permit allows you to carry a handgun in public in some situations where it would otherwise be unlawful to do so.*

Period.

It doesn't change the law of self-defense—in or out of the home. It doesn't change whether or not you're allowed to own firearms—although people who aren't lawfully entitled to possess firearms aren't eligible for permits. It doesn't change the laws involved in keeping handguns at home, or at your place of business.

Let's look at it in tabular form. (It's not quite as simple as this, granted, but it's a close approximation.)

Rights	**Non permit holders**	**Permit Holders**
Owning firearms	Yes	Yes
Carrying loaded/unloaded firearms at home	Yes	Yes
Carrying loaded/unloaded firearms at place of business	Yes	Yes
Carrying firearms, unloaded, in a case in the trunk of the car	Yes	Yes
Use of lethal force in self-defense	Yes	Yes
Performing citizen's arrest	Yes	Yes
Carrying a firearm in most public places	No	**Yes**
Carrying a firearm in the passenger compartment of a car	Sometimes	Yes
Carrying firearms into schools	No	No
Carrying firearms into state prisons, hospitals, jails, Federal buildings, airport security areas	No	No
Acting as a police officer	No	No

The important thing to note is that the *only* significant thing that a permit changes is the right to carry a handgun in public. It doesn't change the existing right, under Minnesota law, to carry a loaded handgun at home, on land you own or possess, at your place of business, or when traveling between your home and place of business[3]—see Minn. Stat. 624.714, Subdivision 9.

It isn't a "junior G-man badge."

It doesn't change—one way or another—the legal right that people have to self-defense under Minnesota law.

The only important thing it changes, legally, is the right to carry a firearm in public.

Period.

Of course, it's not quite as simple as that. If it was, you wouldn't need to read on.

And remember: a gun never solves problems.

3. Throughout this book, we'll be referring to various laws and court decisions, using their usual abbreviations. "Minn. Stat. 624.714, Subdivision 9," for example, means "Subdivision 9 of Chapter 624.714 of the Minnesota Statutes." While this book is intended for a general audience, rather than just for lawyers, we decided to do that because some of the things we say here about the law aren't generally known, and we want to make it easy for you to check it, or to show it to your attorney and have him or her do it for you.

CHAPTER 1
Why Would Anybody Want a Carry Permit?

Across the United States, millions of people in more than forty states have handgun carry permits.

The reasons vary as much as the people do.

Some have them because they need to be able to carry a firearm in order to protect other people, or other people's money: bank guards, for example. Some people have permits in order to protect their own money; many permit holders are small business owners, who want to protect both their bank deposits and themselves during the sometimes harrowing trip to the bank at the end of the day. In rural areas, in many states, some people have carry permits because it enables them to lawfully keep their rifles or shotguns in the passenger compartment of the car or truck, rather than locked in the trunk.

But most people who have carry permits have them for personal protection.

Some have a specific threat that they're worried about—a stalker, say, or an abusive ex-spouse. Others are in risky jobs—clerks at convenience stores, pizza deliverers, or cab drivers. Others have them without any specific worry—but just as insurance. People who carry guns lawfully are far less likely to be assaulted or murdered than people who don't[4].

We emphasize *carry*. Most permit holders will go through their entire lives without taking their handgun out except to put it on or put it away,

4. A very good website on personal risk assessment is www.rateyourrisk.org, which gives an online scored test, compiled by Captain Ken Pence of the Nashville Police Department, based on known risk factors. We recommend that you take this test regularly—and note that your risk score drops *dramatically* if you answer that you lawfully carry a handgun.

other than at the shooting range. Very few will ever have to produce it to either deter or stop an attack, and of those who do, very few will actually have to fire a shot, ever.

Many people who have carry permits don't regularly carry a handgun in public. That's understandable. One of the few universal truths about a handgun is that it never, ever gets lighter as the day goes by, and is utterly useless—or worse than useless—in every kind of ordinary situation. A Swiss Army knife, for example, is a tool that can be used for opening envelopes and wine bottles, trimming fingernails, tightening and loosening screws, or removing splinters. A handgun is useful only in a life-threatening situation, and not even all of those. The rest of the time, it's nothing more than a pound or more of metal to carry around.

The burden of carrying a handgun isn't just the problem of hauling a hunk of metal around. It's also necessary, both for moral and liability reasons, to keep the handgun under control, whether on the body or secured somewhere. If, say, the weight of a Palm Pilot in the shirt pocket becomes annoying as the workday goes on, it's reasonable just to put it in the drawer of the desk. If it gets stolen, that's certainly annoying, but it's not dangerous.

It's obviously very different for, say, a revolver left on a desk.

There are other issues. While Minnesota law doesn't make it unlawful for a permit holder to carry a handgun openly, most permit holders keep the handgun concealed—we think that's a good thing. Accidentally exposing the handgun can not only frighten somebody innocent, but also can easily result in the police being summoned to a "man with a gun" call—and that can be not only annoying, but potentially dangerous.

The problems don't stop there.

People carrying handguns have to worry about forgetting that they're doing it and unintentionally violating the law about where the handgun can be carried. While it may be forbidden to, say, take a pair of nail scissors or a pocket knife through the security checkpoint at an airport, somebody who forgets to do that really doesn't have anything to worry about beyond losing the contraband item. A permit holder who forgets that he or she has a handgun—either on the person or in a briefcase—*will* be arrested. In Minnesota, a permit holder going to pick up his or her children at school has to remember to lock the handgun up in the car if it's necessary to go in.

"I forgot" isn't a legal defense[5].

Even ordinary social situations can become difficult at times.

Take drinking, for example. While we certainly recommend against drinking and driving, most normal-sized adults can have several drinks over

5. Neither is, "oops!"

the course of a social evening and still be able to drive lawfully—but in Minnesota, the legal limit for blood alcohol content (BAC, as it's called) less than half for people carrying handguns than it is for drivers. A permit holder is committing a crime if his or her BAC is .04; a driver of a motor vehicle isn't guilty of DUI until his BAC reaches .10.

All in all, a lot of the time, carrying a handgun in public is often an annoyance and inconvenience and just plain nuisance.

So why would any reasonable person ever want to?

Simply because, on those rare occasions where a handgun is necessary in self-defense, there's no good substitute.

Less violent means—like pepper spray, or stun guns—require letting an attacker get very close, and often don't work. Karate and other self-defense training are fine in theory, but in practice, most martial arts are useful in real life only for the most proficient and healthy people, if then. Improvised weapons—car keys, a heavy flashlight, The Club™—work much better in theory than in practice, as well.

Statistically, the single most effective way to deter or stop a determined attacker is to produce a handgun, and be willing to use it, if necessary—although most of the time it won't be necessary to actually use it. While we *strongly* caution against producing a handgun if you're not lawfully entitled and willing to use it, the surveys of Gary Kleck of the University of Florida, probably the most prominent academic studying these issues, show that a tiny percentage of defensive gun uses result in the defender shooting the attacker.

More generally, there's the overall crime issue. Enough people taking out permits lowers violent crime rates. John Lott's repeated studies have shown that one of the few things that can reliably drive down violent crime rates is the issuance of carry permits.

How this happens isn't quite clear. Those states, like Minnesota, with progressive carry laws, don't seem to see a significantly increased rate of shootings, even justified ones[6]. Since most successful self-defensive handgun uses don't involve shooting at all, and are not reliably reported, it's hard to argue that that's the cause.

Besides, the decrease in violent crime rates typically seriously outstrips the number of civilians who have even taken out carry permits—generally about 2-4%—much less those permit holders who carry regularly.

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6. As the experience of the more than thirty "shall-issue" states have shown, all the talk about "blood in the streets" and "fender-benders turning into shootouts" and "turning [our state] into Dodge City" have turned out to be the real-life equivalent of Chicken Little crying, "the sky is falling!"

Research by criminologists confirms that's what's happening is that criminals are responding to information about their own risk[7]. The fact that there may be armed civilians present—either as the criminal's would-be victim or as bystanders—persuades some criminals, some of the time, to make different choices, because of their increased perception of risk to themselves. In all of Minnesota, there are generally around two thousand police officers on duty at any given time, most of them in uniform. Having to worry about 200,000 lawfully-armed civilians increases a violent criminal's chance of a bad result at least 100 times. The mugger may decide that either moving away or switching to breaking into unoccupied cars is less risky. The abusive ex-spouse may worry more about the possibility of being shot while trying to beat up his ex than he does of violating an Order For Protection.

Still, regardless of *why* "shall-issue" laws lower violent crime, the important point is that they do.

Beyond this, we come to a more controversial matter. We think that permit issuance is a good thing for society in general, and not just because of its effect on violent crime, just for ordinary civility.

As Robert A. Heinlein wrote, "an armed society is a polite society." Granted, Heinlein was writing about fictional societies. Still, in real life, incidents of permit holders so much as brandishing a firearm because somebody has been verbally rude or abusive are just this side of impossible to find, but it's possible that the *fear* of such things has caused some loud and rude people to behave better in public[8].

No permit holder should ever do anything to encourage that fear, but it's possible that the anti-reform groups, like "Citizens for a Safer Minnesota," have unwittingly ended up making for a politer Minnesota by scaring some ill-mannered, boorish people into behaving better.

Permit holders, by and large, help to raise the average level of civility. As you'll see, if you're carrying a handgun, you must take more—not fewer—precautions to avoid confrontations that could escalate.

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7. We promise not to drown you in references and statistics in this book, but this one is important. *Armed and Dangerous*, by James D. Write and Peter H. Rossi (Aldine de Gruyter: New York; ISBN 0-202-30331-4), was the result of a study of over 2,000 convicted felons. Of these, two-thirds admitted having been "scared off, shot at, wounded, or captured by an armed victim," and two-fifths of them had "decided not to do a crime because they knew or believed that their intended victim was armed."

8. Again, to be clear: we're *not* advocating either showing or threatening to show a handgun in order to quiet down a rude or obnoxious person—and, in fact, we *very* strongly advise against doing that. It's not only morally wrong, but it's a dangerous thing to do—and it's a quick ticket to jail, as it should be.

Getting a carry permit because of a safety concern

It's at least theoretically possible, both under present and previous Minnesota law, to get a carry permit issued within hours because of an immediate threat. And it's certainly possible to get a carry permit, and keep it current, and then make day-to-day decisions should a threatening situation happen.

This will be discussed in more detail in a later chapter, but it's important to note that while carrying a handgun may be an important part of personal protection in such circumstances, it *never* is the only part of it. Those people who have specific personal safety concerns—a stalker, a physically abusive ex, a criminal one may be testifying against in court—should consult both the local police and other safety and legal professionals as to what else needs to be done. An Order For Protection (OFP) or the equivalent order for stalkers is not terribly difficult to get; while it is, in one sense, just a piece of paper, it's a piece of paper that can be very useful in dealing with both the police, if summoned, or in helping to establish the elements of self-defense, if that becomes necessary.

The most important thing in personal safety under stressful situations is constant personal awareness.

Why somebody would not want to have a carry permit

It's simply a fact that the majority of eligible adults don't—and won't—get carry permits. We've gone into some of the reasons already, but they're hardly the only ones. There are both good reasons and bad reasons why somebody would not want to take out a carry permit, or even own a firearm for self-defense at all.

Some bad reasons:

"My gun might be taken away and used against me"

That's a very serious problem—for police officers. 14% of police officers who are killed are shot with their own firearms. Police have very different exposure to that sort of threat than civilians do. They carry their firearms openly—something we caution against for civilian permit holders—and frequently have to get into close contact with criminals, often needing to fight with criminals in order to subdue and arrest them, in the enforcement of the general criminal law. That, as you'll see, is also something you shouldn't do, as someone who is not a licensed peace officer.

That said, the notion of civilians drawing guns in self-defense and having their own gun turned on them is an urban myth. It happens on TV shows a lot—but in real life, a search of Lexis/Nexis reports no incidents of that happening. This is understandable: when an attacker is confronted by a firearm, he almost always flees.

Realistically, it's a non-issue—except on television.

"There's all those accidental gun deaths"

Every accidental fatality, no matter what the cause, is tragic. But, realistically, firearms accidents are one of the *least* common causes of accidental fatalities in the United States. The National Safety Council, a nonpartisan organization, consistently reports fewer than a thousand accidental firearms deaths per year—about a fourth as many as accidental drownings, and about the same number as deaths from falling out of bed[9]. Over the twenty years that the NSC has been measuring causes of accidental death, gun accidents have been an almost invisible cause; and the number has dropped, despite the increase of both the population and the number of guns owned in the United States. We don't advocate taking gun safety casually—quite the opposite—but if you make a habit of always following the basic, simple rules for firearms safety, your chance of accidentally or negligently injuring—much less killing—yourself or somebody else are zero.

Safety is no accident.

"Guns are used in suicide more than in self-defense"

Well, no, they're not.

Gary Kleck, the foremost academic researcher on the subject, has done studies that show that there are roughly 2.5 million gun defense uses every year. (Most of those, as we do keep repeating, involve either showing a firearm or referring to one; few involve actual shooting.) There are, roughly, 16,000 times every year when somebody in the US commits suicide with a firearm. The experience in both Canada and the UK shows that when handguns become effectively unavailable, the suicide rate is unchanged: people who would have chosen to commit suicide with a firearm simply substitute other means, like jumping off of buildings.

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9. See www.nsc.org/lrs/statinfo/odds.htm.

"Guns are a lousy way to settle personal disputes"

You bet: that's *absolutely* correct.

They're not just a lousy way—they're an *illegal* way to settle any kind of dispute. The only proper reason to point a gun at another human being is because of an imminent threat of either death, or great bodily harm. Using guns to settle heated arguments with family, neighbors, and strangers—no matter how serious the arguments are—isn't just unlawful, but it's thankfully rare, at least among permit holders.

Of the millions of permit holders across the nation, it's almost impossible to find the example of one who has used a firearm—even by brandishing it—in such an irresponsible way, and there have been, to date, not a single example, anywhere, of a permit holder lawfully carrying a handgun being convicted of murder.

Not one.

Beyond the bad reasons

Probably the primary reason most eligible people don't get carry permits is that it's not on a lot of folks' personal radar screens; it's just not something that they think about. While we don't have an opinion as to whether or not you should get a carry permit, we do think that it is worth thinking about, no matter which way you decide.

Beyond that, those people who believe that they're incapable of controlling their temper would be foolish to provide themselves easy access to a tool that can do a lot of damage in one uncontrolled moment. We think they're making a good choice, all in all. Our search of newspaper reports has been unable to find a single incident—ever—of a permit holder lawfully carrying a handgun who has shot somebody in such a moment. Ever.

The same is true for those who have reason to doubt their own mental stability, even if it hasn't reached the point where they've been committed. The myth of the deranged permit holder shooting down innocent bystanders is anti-gun propaganda, and nothing more than that—it just plain hasn't happened. Let's keep it that way.

Still, a carry permit isn't right for everybody.

Is it right for you?

We *can't* decide that for you. What we can say is that qualifying for and getting a carry permit does give you some options that you wouldn't otherwise have. While neither the training nor the recommended equipment are free, they're not terribly expensive, and—and this is the key point—they give you a choice.

Some personal safety problems come on unexpectedly. If, say, you find that you're being stalked, or if muggings outside your place of work become a problem, carrying a handgun may, for you, be a sound part of your personal protection strategy. If you wait until that happens, it will probably take you more than a month to be able to get a permit[10].

If you make it a point to take the training and apply for a carry permit in advance, you'll be able to decide whether or not to carry on a day-to-day basis.

Our recommendation is to read about it, think about it, and if you think it might be right for you, take a good training course from AACFI or some other training organization whose accreditation must be honored by Minnesota sheriffs. After that, you might consider applying for a carry permit. But remember that a carry permit makes it lawful for you to carry a firearm in public; it doesn't make it obligatory.

It's up to you.

And remember: a gun never solves problems.

10. Under the Minnesota Personal Protection Act, it is possible, at least in theory, to get a permit issued on an emergency basis because of an immediate threat—but that's entirely at the discretion of the local sheriff.

CHAPTER 2
Staying Out of Trouble

Probably the most important thing for a permit holder, or anybody else, to do is to stay out of trouble in the first place.

The advantages of that are obvious: a violent confrontation that you don't get into won't get you injured, or killed, or prosecuted, or sued. Many people who have survived lethal confrontations—even without being injured themselves—suffer from all sorts of psychological damage: depression, anxiety, Post-Traumatic Stress Disorder.

On television, the effects are usually understated, or solved just before the last commercial. That's fine in fiction, but that's not the way it works in real life.

Even when lethal violence is utterly justified—legally, morally, practically—it has strong, important, and lasting consequences. While the television myth of the deranged veteran is about as accurate as much television entertainment is—not very—it does point to a real thing: violence, even when entirely legal and state-sanctioned, has negative effects on everybody involved.

Bob—not his real name—shot and killed a robber in his store twenty years ago. The Grand Jury returned a “no bill;” they said that there wasn't any reason to believe that he was guilty of a crime. While he was sued by the robber's family, his insurance company settled.

Twenty years later, he still takes drugs for depression and anxiety.

Joel Rosenberg, one of the authors of this book, went through a much less traumatic handgun self-defense against robbers in his own home just over a decade ago. No shots were fired. Nobody—neither he, his family, nor the robbers were injured—but it was many months before he could sleep

through the night, and he subsequently moved. The house just didn't feel safe after that.

The short form is this: being involved in a situation where lethal force is used—even justifiably—is an awful thing, and going to some trouble to avoid it is a good idea for everybody, particularly those who choose to carry handguns in public.

Alertness

The key to avoiding problems is maintaining a reasonable level of alertness, particularly while in public. This is particularly true for avoiding being the victim of street crimes: mugging, assault, robbery, rape. Being alert has two advantages: it helps you avoid trouble, and appearing to be alert helps to persuade trouble to avoid you. Generally speaking, criminals are opportunists. As trainer Clint Smith puts it, "If you look like prey, you will be eaten."

Many years ago, Colonel Jeff Cooper developed a simple color code for one's level of alertness, dividing it into Condition White, Yellow, Orange, and Red.

In *Condition White*, you're unaware of your surroundings and any possible threat; that's a perfectly reasonable state to be in when you're at home, with the doors locked. The ultimate example of Condition White is when you're asleep—it would take some serious effort to gain your attention. There's nothing wrong with Condition White; it's a perfectly appropriate level of awareness in safe circumstances.

Condition Yellow is the next step up: it's not paranoia, or even worry, but a deliberate awareness of your surroundings. In Condition Yellow, you make it a habit to pay attention to what's going on around you; you're calm, relaxed, and not concerned about an immediate threat, but looking for things out of the ordinary. When you're waiting at a bus stop, you watch the folks around you, rather than burying yourself in a newspaper or a book; when you're driving, you make a habit to look in the rear view mirror and notice if you're being followed. It's not a matter of making major changes in how you live your life; it is a matter of being constantly aware what's going on around you.

It's perfectly possible—and a good idea—to make a habit to keep yourself in Condition Yellow whenever you're out in public. And it's not just a matter of personal safety—although awareness is the key to that. Life is just more interesting when you're paying attention to what's going on around you.

Condition Orange is the next step up. Instead of just being aware, you're *concerned*—there's a possible problem. It may be something you're consciously aware of—say, somebody approaching you in an otherwise empty parking lot late at night. Or it may be just a feeling: *something's wrong*.

Don't ignore those feelings. Human beings are complicated creatures, and a feeling that there's a problem could easily be something that you've noticed subconsciously. Or it could be nothing; it could be something you ate. So you pay even more attention. Condition Orange is the time to figure out what the problem could be, and how to handle it, if there is one. Perhaps you're concerned about the person who just got on the elevator you were waiting for—it's not like he's brandishing a knife; you just have a bad feeling. So, you just take the next elevator; Condition Orange isn't a time to panic. It's a time to take reasonable steps to make sure that you don't have to go to the next step: Condition Red.

Condition Red is something we sincerely hope you never find yourself in: you're under attack, and you have to protect yourself, whether it's by defending yourself with anything you have on hand, by running away, by calling for help—or all of the above, at the same time.

We'll get into some of the physiological and psychological implications of Condition Red later on. For the time being, let's just leave it that the best time to figure out how to handle a problem is before it happens, because you're likely to be thinking more clearly, more able to make a plan and act on it—and because it gives you time to avoid the problem, if at all possible.

Avoiding conflict

"Alternative Means of Conflict Resolution" can be looked at as a fancy way of saying, "Don't escalate an argument into a fight." It's probably a good idea to cultivate a thick skin in any case, but it gets even more important if you're carrying a handgun.

Consider an ordinary stressful situation: a fender-bender. Some idiot has just backed into you, doing serious damage to your car. You're understandably angry, and the other person is, perhaps less understandably angry, but even more so.

The temptation is to leap out of the car and go shout at the idiot. It's an understandable temptation—but don't. If he or she is angry and starts shouting at you, you'll find the temptation to shout back almost irresistible—but let it be *almost* irresistible. Just keep calm, stay aware, and make sure that the police have been summoned.

Note that this is good advice for everybody—but it's even more important for permit holders. "Road Rage" shootings by permit holders are another one of those myths; and you don't want to be accused of being the first one.

That doesn't mean, of course, that you shouldn't be immediately in Condition Orange. You should be. You should be constantly evaluating the situation: is the idiot just blowing off steam by shouting and swearing, or does he intend to attack you? Can you calm him down with words, or is it safer just to let him shout for awhile? Will holding up your cell phone and saying, "Let's wait until the police get here—they're on their way," calm him down, or do you need to throw your car into reverse and drive off to get away?[11] Even if, say, he takes a tire iron out of his trunk and starts to approach you, you're much better off backing away—even if your car is already damaged, you can probably back away faster than he can run—than trying to dissuade him by drawing a gun.

Let's assume that you do it differently: that you leap out of the car, and the idiot leaps out of the car, and words turn to blows, and it gets to the point where you honestly, truly, reasonably believe that he's going to kill you, as he stands over you, prepared to stomp or bash you to death.

You draw your handgun...

Congratulations. With good luck, he'll back down, and you'll probably both be arrested. You'll both be charged with assault, and you'll be charged with "intentionally pointing a gun at a human being" under Minnesota Statute 609.66, Subdivision 1. If you're very lucky, your attorney will be able to persuade the prosecutor or the jury that every single one of the elements of self-defense was there, at every moment.

On the other hand, your attorney may point out to you that you weren't a "reluctant participant"[12] in the fight, and that you're guilty, and try to work out a plea bargain with the prosecutor, which will leave you without a handgun permit, and with a conviction on your record.

Or consider another scenario. You're in a shopping center, with your children, and you accidentally bump into a woman who begins shouting

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11. Although, you must consider that it is your obligation to stay at the scene of the accident and to trade identification information and insurance information; leaving the scene can lead to concerns of "hit and run." On the other hand, if your choice is to run away from a threat, even at the risk of being accused of "hit and run," or letting it escalate into a situation where you need to produce your handgun, you're probably better off running away and *immediately* calling the police for assistance.

12. This is a legal term, which we'll get to on page 39. For the time being, just take our word for it that if you voluntarily get into a fight, you're in serious legal trouble if you end it by threatening somebody with a gun, and in even more trouble if you actually shoot him.

expletives at you, using a whole scad of four-letter words—definitely not "Minnesota Nice."

You could yell back. You could ask her, more or less politely, to watch her language in front of children, and just maybe she'd immediately realize the error of her ways, apologize, after which you would then apologize for having bumped into her in the first place, and you'd both go merrily on your way.

Care to bet thousands of dollars and at least a night in jail that that's the way it would go?

So: don't. Just take your children and walk away.

Beyond being aware of what's going on around you, staying out of avoidable trouble is, fundamentally, a simple, three-step thing:

1. Be Minnesota Nice. If you have to have an unpleasant argument with somebody, do it over the phone.
2. If others aren't being Minnesota Nice, ignore them if you can.
3. If others aren't being Minnesota Nice, and you can't ignore them, leave.

Avoid the conflict, and avoid the consequences

It's really that simple.

And remember: a gun never solves problems.

CHAPTER 3
Lethal Force, in Law and Practice

First of all: relax. We're not going to bury you with a lot of legal jargon in this chapter. That said, when it comes to the lawful use of force, there's just no way around getting into some of the nitty-gritty of the legalities, and we have to deal with those.

Please understand, though, that we're not giving you "legal advice" here. The law is never simple. Even when principles are clear and well-developed, the exact facts of each situation (at every moment, even as they change) can cause the legal answer to vary as tiny changes occur. This book discusses principles. Only your own legal counsel, armed with specifics of the law and the facts of your own situation, can give you "legal advice" that you can depend on.

Another thing you'll notice is that in the court cases cited, most of the people accused and convicted were, all in all, pretty bad and stupid people, as were the deceased. Most—not by any means all—criminal prosecutions involve such folks. Most ordinary, law-abiding citizens, with or without carry permits, manage to go through their whole lives without ending up in a criminal court, either as a defendant or as somebody testifying against an attacker.

If you do your best to stay out of trouble, and are lucky enough to be successful, you'll never need to know the law about the use of lethal force.

So why bother?

Well, for one thing, learning the law about the use of lethal force is required to get a carry permit in Minnesota. More importantly: you can control your behavior, of course—but not your luck.

Self defense

As we've said, the possession of a carry permit doesn't change the law about the use of force, one way or another.

Minnesota Statute 609.06 authorizes the use of force:

> 609.06 Authorized use of force.
>
> Subdivision 1. When authorized. Except as otherwise provided in subdivision 2, reasonable force may be used upon or toward the person of another without the other's consent when the following circumstances exist or the actor reasonably believes them to exist:
>
> (1) when used by a public officer or one assisting a public officer under the public officer's direction:
>
> (a) in effecting a lawful arrest; or (b) in the execution of legal process; or
>
> (c) in enforcing an order of the court; or
>
> (d) in executing any other duty imposed upon the public officer by law; or
>
> (2) when used by a person not a public officer in arresting another in the cases and in the manner provided by law and delivering the other to an officer competent to receive the other into custody; or
>
> (3) when used by any person in resisting or aiding another to resist an offense against the person...

For our purposes, the key phrase is that last one: "when used by any person in resisting or aiding another to resist an offense against the person." You can use force to "resist an offense"—to protect yourself against somebody trying to commit a crime against you, for example. But your right to do that is limited, particularly when it comes to *lethal* force, force that is likely to kill somebody.

Minnesota Statute 609.065 restricts the use of lethal force:

> The intentional taking of the life of another is not authorized except when necessary in resisting or preventing an offense which the actor reasonably believes exposes the actor or another to great

> bodily harm or death, or preventing the commission of a felony in the actor's place of abode.

As complicated as that all seems, it still seems more straightforward than it is. In the United States, "the law" is a combination of two kinds of law: statutory law—laws explicitly written by both state and federal legislatures—and case law. Case law is, to oversimplify, what courts decide.

This gets, well, more than a little complicated, and we've tried to simplify things here. That said, it's still complicated, particularly in Minnesota. In part, this is because Minnesotans are a generally law-abiding bunch of people, and the sorts of detailed case-by-case legal decisions on self-defense[13] and the use of lethal force that have happened in other states just haven't happened here to the same extent.

Still, some of the same principles apply.

The first one is this: *self-defense doesn't just mean that you're defending yourself.*

In order to use—or threaten to use—lethal force in self-defense, four things must apply:

1. You must be a "reluctant participant."
2. You must be reasonably in immediate fear of "death or great bodily harm."
3. No lesser force will serve, making deadly force necessary.
4. Retreat is not practical.

All of these factors must be present in order to lawfully use, or threaten to use, deadly force.

Think of your right to use lethal force in self-defense as a chain that you're desperately trying to hang on to, as you're dangling over a prison cell that, obviously, you don't want to fall into. The chain has exactly four links, and if any *one* of those links is missing—or if, at any time, any one of them breaks—your right to use or threaten lethal force ends at that very moment, and if you continue to do so, you fall.

Let's take these one at a time.

Reluctant participant

The classic example of a reluctant participant in a violent confrontation is a mugging victim. You're minding your own business, walking down the

13. When we write "self-defense," most of that applies to the defense of somebody else, as well—although there are some special issues that we'll get into on page 51.

street, and somebody shoves you up against the wall and brandishes a knife. Forgetting, for just a moment, what the best way of handling that confrontation is—although we'll return to it—you are, in law and in fact, a reluctant participant. You weren't looking for a confrontation, and have not taken any action that would indicate otherwise.

Compare that to, say, a stereotypical loud bar confrontation[14]. Somebody says something offensive to you; you respond with harsh words, and words turn to pushing and shoving, which turns to him pulling a knife and you pulling a gun.

Neither the police nor the courts are going to think of you as a reluctant participant. You've voluntarily engaged in this confrontation, and while it's escalated far beyond what you've wanted or intended, you haven't tried to avoid it. You're not a reluctant participant, and you're in legal trouble, even if the person who pulled the knife backs down.

And if he doesn't, it's worse—for both of you.

There is a way out. In the example, when he shoves you, instead of shoving back, you raise your hands and say, “I don't want any trouble,” and then back away, you've demonstrated that you're trying to avoid a conflict, that you are a “reluctant participant”. It's not just a legal thing, either; you're trying to stay out of trouble, because you'd much rather avoid a fight than win it.

If you turn to the bartender and say, loudly enough for everybody in the bar to hear, “I'm going to leave now; could you get him to stay here, please?” you've made a further demonstration that you're not only not looking for trouble: you're actively trying to avoid it, even at the cost of inconvenience, embarrassment, and even humiliation.

Odds are, you'll be able to get away, without having had to show a gun. Yes, it will be annoying, and embarrassing, and perhaps even humiliating—but that's all it will be; live with it.

Still, if he comes chasing after you after that, then you are, demonstrably, a reluctant participant—you've tried to avoid trouble, and in fact have gone to some effort to get out of a confrontation.

And that's, as we keep repeating, the key to both avoiding the necessity of lethal force, and of avoiding committing a crime if you can't avoid the necessity: desperately avoid violent confrontations. If it's necessary to get involved in an angry argument—and sometimes it can be—just do it over the phone, with everybody out of sight and out of reach of each other.

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14. We strongly recommend against getting involved in loud arguments in bars, whether or not anybody's armed. Alcohol and loud arguments don't mix.

This isn't just a matter of rights. If, for example, you've taken out an Order For Protection (OFP) against your ex-spouse, and you see him walking toward you down the street, legally speaking, it's the ex-spouse, rather than you, who has the legal obligation to cross the street and move away. After all, the court has told him to stay away from you, not the other way around.

So cross the street yourself, anyway.

That has two benefits: it lowers the chances of there being an immediate confrontation, and should one be unavoidable, it helps to demonstrate that you've gone to some trouble to avoid it.

If you're going to be involved in a violent confrontation—and we hope you aren't—do it only as a reluctant participant.

Reasonably in immediate fear of "death or great bodily harm"

All of those words are important, both individually and put together.

The law often uses the "reasonable person" test, which is mostly simply common sense. Would a reasonable person, knowing what you knew at the time, be seriously afraid of getting killed or badly hurt right then and there?

Even though it's common sense, it's still something to worry about: would a *jury*—a bunch of people who weren't there, and have only heard evidence in the cold, quiet, safe environment of a courtroom—think that you were in danger of "death or great bodily harm"?

It's best not to find out in the first place.

The threat *must* be immediate. "I'm going to go home and get my shotgun and kill you," may be a serious threat. It should be taken seriously. But it's not an *immediate* threat.

The threat must be of "death or great bodily harm." Fear of being embarrassed or humiliated does not qualify—you're not entitled to use lethal force over words, no matter how offensive the words are. Words only help to justify the use of lethal force when they indicate an immediate action.

And make a note of the "great" part. You can't use lethal force to stop somebody from hitting you with a pillow, say. You can't use lethal force to stop even "substantial" bodily harm—broken bones, for example. You can only use lethal force to prevent death or "great bodily harm:" injuries that make it likely that you'll die; be seriously and permanently disfigured; or crippled for life, or a long time.

Fear of loss of property or damage to it never qualifies. You may not use lethal force to prevent somebody from stealing your stereo, your car, or your life savings, or to stop him from throwing a rock through your window, but only to prevent "death or great bodily harm."[15]

Let's take a couple of examples.

You may well resent somebody throwing a snowball at your car, and even be afraid of the damage that it might do to your windshield, or worried that it might cause you to lose control of the car. But it's hard to argue that a reasonable person would think that, even if there's some rocks in it, a snowball thrown at your car is going to kill you or injure you seriously, and you are not entitled to use or threaten deadly force to protect property.

A twelve-year-old boy threatening to throw a punch at a healthy adult is unlikely to kill or seriously injure, even if he connects. Put a machete in his hand, and it's a different matter. If you're a healthy, two-hundred pound man, it's not reasonable to think that a punch from a one-hundred-pound woman would kill you or cause great bodily harm, but it's entirely possible that a one-hundred-pound woman could be afraid of being badly hurt or killed by even an unarmed attack by a man twice her size.

Weapons aren't necessary. An attacker doesn't have to have as much as a nail file in order to be able to kill his victim. But that's a factor, and juries and courts look at all the factors, both alone and together.

State v. Sanford (450 N.W.2d 580, Minn.App., 1990), is a particularly good example of somebody claiming self-defense who did just about everything wrong, and was convicted, but a large part of it was that the jury didn't believe that his three unarmed attackers were presenting a threat of death or great bodily harm—at the time that he shot and stabbed them.

The Appeals Court summed up the case this way:

> In March 1988 Victor Sanford was introduced to Charmine Deschl and Michael Rodaker, who were involved in selling drugs. The next month, Deschl and Rodaker began renting a room from Sanford. Sanford's mother, the owner of Sanford's triplex, ordered Deschl and Rodaker to vacate the premises by May 11, just 30 days after they had moved in. They did not do so.

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15. Minn. Stat. 609.02 defines harm this way: "Bodily harm" means physical pain or injury, illness, or any impairment of physical condition.... "Substantial bodily harm" means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member.... "Great bodily harm" means bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.

On May 12 Sanford had the locks changed. He saw Deschl and Rodaker early in the morning of May 13 and told them his mother, not he, had changed the locks. He talked to them again around 5 a.m. and told them their belongings had been moved from their rented room.

About 7 a.m. Deschl, Rodaker and George Linehan knocked on Sanford's door and yelled from the side of the triplex. The three went into the garage and noticed that some of Deschl's belongings had been put into Sanford's car. Sanford eventually woke up, came down the stairs and let them in. The three rushed past him up the stairway and Sanford followed. The tenants below testified that a heated argument began immediately. They heard loud thudding noises "like heavy objects being pounded on the floor." There were screams, calls for help and a "pop" sound. They heard Linehan run down the back stairs, calling for help.

There is some dispute as to what happened in the apartment. Sanford claims the three attacked him and that Linehan hit him in the back of the head. Police, however, were unable to find any visible signs of injury to him. He shot Linehan in the face with a .22 rifle. He stabbed Rodaker six times and then shot him in the back of the head at close range with a .41 magnum pistol, causing instantaneous death.

Sanford stabbed Deschl a total of 19 times. She also suffered a severe blow to her forehead that fractured her skull. Expert testimony established that this injury was caused by a moving object impacting Deschl's stationary head and could have been caused by the butt of the .22 rifle. The stock of this rifle broke sometime during this fight. Neighbors testified that they heard Deschl repeatedly cry out, "Oh my God, help me, oh, my God, help me, someone help me, oh, my God."

After the killings, Sanford told a neighbor to call the police. He then walked outside and waited. When the police arrived, Sanford said to them, "Thank God you're here. I had to shoot them." He led them to Linehan, who identified Sanford as the one who had shot him. Sanford told the police that he had to shoot Linehan because "they were assaulting me." He was arrested and taken to the station, where he willingly gave a statement. He told of his

> discharge from the service and his collection of firearms and described the incident.
>
> A blood test showed that Sanford had a blood alcohol content of .12 that morning. A toxicological examination of Rodaker's and Deschl's urine revealed the presence of several other drugs and suggested that they had ingested cocaine shortly before their deaths....
>
> Sanford normally kept his firearms unloaded and in his bedroom closet. On the morning in question, however, he had a loaded shotgun on his bed, a loaded .22 rifle against the wall, a second loaded .22 rifle behind his bedroom door, and Rodaker's loaded .41 magnum revolver which Sanford had taken earlier that day from Rodaker's room.
>
> A friend of Rodaker testified that one month before the killings, Sanford told him his beliefs about self-defense. Sanford, who worked as a delivery person, stated that he made sure he did not enter anyone's home because they could then kill him in self-defense. He told Rodaker's friend that if you ever want to kill somebody, get them into your house and then it will automatically be self-defense.
>
> Sanford claims he was extremely afraid of Rodaker and Deschl. Several weeks before Sanford killed him, Rodaker had pointed his .41 magnum revolver at Sanford and said he was going to kill him. Deschl owned and often carried a .25 automatic pistol which Sanford had sold her.
>
> The three victims were unarmed when they went to Sanford's apartment. Sanford knew that Rodaker did not have his .41 magnum revolver that morning. He admitted that he did not see any of the victims with a weapon at his home that morning....
>
> Sanford pled not guilty, claiming self-defense...
>
> He received a total aggregate sentence of 468 months in prison.

Besides everything else he did wrong—bragging that he could kill anybody who came into his home (untrue in law and stupid to say); getting drunk on a day where he had reason to believe that he was in danger; letting

in people who he had good reason to believe intended him harm[16]—Sanford flunked the "fear of death or grievous bodily harm" part of the self-defense test. It's not just a matter of what the defendant actually felt—or said he felt—but what the jury decided a reasonable person in that situation would have felt.

The court went on to say that for a killing to be self-defense, the following conditions must apply:

> (1) The killing must have been done in the belief that it was necessary to avert death or grievous bodily harm.
>
> (2) The judgment of the defendant as to the gravity of the peril to which he was exposed must have been reasonable under the circumstances.
>
> (3) The defendant's election to kill must have been such as a reasonable man would have made in light of the danger to be apprehended.

Given that Sanford showed no signs of injury, and knew that his attackers were unarmed, he was left to persuade the jury that he reasonably feared death or great bodily harm from the three people he ended up shooting, beating, and stabbing.

He failed.

We'll return to the Sanford case shortly, but for the moment, it's worth noting that among his problems was that the jury apparently didn't believe that he, while armed, was really in danger from even as many as three unarmed people. The court also pointedly noted that the threat that Sanford had received from Rodaker—which involved Rodaker pointing a pistol at Sanford, the same pistol that Sanford eventually shot Rodaker with in the back of the head—had happened weeks before. It wasn't immediate.

Can a person be reasonably in fear of "death or great bodily harm" from an unarmed person, or several? Sure—but if lethal force is used, and the prosecutor has any doubt, juries get to decide that.

As the court wrote, "once a defendant has claimed self-defense, the state must prove...the nonexistence of *any* [our emphasis] of the elements." Even absent the rest of what Sanford did wrong, if the jury believed that he wasn't in serious danger, he was guilty. What it finally comes down to is the question of reasonableness, and the jury decided—among other things—that

16. One of his attackers had pointed a gun at him a couple of weeks before.

even though faced with three supposed assailants, Sanford hadn't been in enough danger to make it reasonable for him to stab and to shoot them.

That said, it all depends on the specifics. Had Sanford been walking down the street, minding his own business, and been surrounded by three even unarmed assailants, he might have been able to persuade the jury that he reasonably feared for his own life, particularly if he'd taken some damage in advance of that.

This *doesn't* mean that you have to let somebody beat you up before you use or threaten lethal force. It does mean that, if you do use lethal force, you have to be able to persuade a jury, among other things, that a reasonable person in your situation would have been afraid of being killed or grievously injured in just that situation.

Still, an important principle of the law is that the perpetrator of a criminal act is required to take the victim as he finds him.

If, say, you're a hemophiliac or have a serious heart condition, it may be reasonable to fear that a single blow might kill you, and it's not legally necessary that your attacker know this in advance—that's *his* problem. If you're confined to a wheelchair, an immediate threat to dump you into the street in front of a passing car could easily cause a reasonable person in your situation to fear death or great injury.

And what you know or reasonably believe to be true—at the time—is what counts. You don't have X-ray vision, and as a reluctant participant, you're not required to take the attacker as he is, but as he reasonably appears to be—to you, at that time. If it turns out that the machete that the apparent maniac is trying to hack you to death with is really just a toy sword, you're not required to have known that, nor do you need to know that Crazy Bob just likes to scare people with his chainsaw, but never really hurts anybody.

The issue is how it would appear to a reasonable person in that same situation, not what the reality is.

In the Sanford case, it's not impossible that, absent everything else he did wrong, that a jury could have decided that his fear of being killed was reasonable—it was, most likely, the totality of the evidence that persuaded them that his victims had more to fear from him than vice versa.

No lesser force will serve

This is actually one of the simpler concepts. If you can handle a threat by some lesser means than deadly force, you're required to. Again, the rea-

sonable person test applies: if all you have to do to avoid the machete-wielding madman is, say, to shut the door in his face or step on the car's accelerator, you're not entitled to use or threaten to use deadly force.

You *are* obligated to consider alternatives, even if only to dismiss them instantly as being insufficient.

And this also means that once you've used enough force to stop the attack, you must *immediately* stop using force. After the attack is stopped, force you use is retaliation, not self-defense, and the law does not permit retaliation.

In the Sanford case, both the appeals court—and apparently the jury—were not overly impressed with Sanford having stabbed one attacker six times and then shooting him in the back of the head, while he stabbed another of his attackers nineteen times, and then broke her skull with the butt of a rifle[17].

It is, of course, possible that six or nineteen stabs from a knife—or as many shots from a handgun—may not be sufficient to stop a determined attacker. But when it is sufficient—not in theory, but in the actual situation—then the attack has ended, and so does the right to use force in self-defense.

We'll come back to this issue later, but imagine a situation where the hypothetical person standing around the corner hears you shout, “Stop! Stop! Drop your weapon! Drop your weapon!” followed by a flurry of *bang-bang-bang-bang*, a thirty-second pause, and then another *bang*. Police, the prosecutors, and a jury might find it quite possible to believe that those first four shots were what were necessary to stop the attacker, decided that the fifth one was excessive, and decide that—regardless of whether or not you were justified up to that point—that final shot was murder, not self-defense.

What was happening during that thirty seconds? If you were fighting with your attacker for the gun, that's one thing. If you were standing over him as he lay on the pavement, waiting to see if he'd move and then decided to give him one final shot, that's another thing.

Retreat is not practical

Again, common sense prevails. If you can solve the problem by retreating, you must. Close the elevator door; walk—or run, or drive—away.

That doesn't mean that you're always obligated to retreat—only if it's practical and safe. You're not required to back away from one attacking gang member into the arms, or knife, of another. You're not obligated to run

17. We’re not overly impressed, either.

away from a knife-wielding attacker and leave your child behind to face his knife, nor are you required to assume that the carjacker that says he only wants your car will see that the infant in the car seat is safely returned later on, even if he says so. As with using lesser force, you have to seriously consider retreat, if only to reasonably and instantly dismiss it as impractical, and you—in practice, you'll probably do it through your lawyer—must be able to explain *why* retreat was impractical.

Retreat is *not* cooperation with an attacker. If somebody attempts to force you into a car, you're not obligated to consider that going along with him is retreat—you have every reason to believe that you're being forced into the car to be taken to what the police call a "secondary crime scene," and it would be foolish to go along[18].

When the right to use lethal force ends

As we've said, the requirements for using lethal force in self-defense should be thought of as a chain. If any one of the links isn't there, or breaks, the chain no longer works, and the use of lethal force must end, even if all the requirements were met up until that moment.

Again, see the Sanford case. While it wasn't necessary for the court to get into all of the requirements, it was very clear that if the prosecution can show that even one is missing, the use of lethal force isn't self-defense anymore.

Remember that chain? Again: if one link breaks, it's useless.

The obvious case in which the right to use lethal force ends is where the attacker either shows that he's chosen to stop attacking, or is unable to continue the attack. No matter how scared and adrenalized you are, if the reason to fear immediate death or serious injury ends, so does the right to use force to prevent that.

Again, it doesn't matter what the reality is, but what it appears to be to a reasonable person.

You're not required to know that the attacker has just changed his mind and is now trying to run past you, or that the third shot that you've already fired is going to cause him to collapse in the next half second.

The right to use lethal force must be present at every moment that lethal force is used or threatened.

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18. A simple rule: don't *ever* go to a secondary crime scene. As bad as the present threat may be, it's going to be worse when your attacker controls every aspect of the situation. As one police officer puts it, "the secondary crime scene is where we usually find a dead body."

This is one of the more difficult concepts. A court looks not just at the whole incident in context, but at each moment in isolation. If you fail any test, you're guilty.

Consider a hypothetical attempted knifing. You're walking down the street, minding your own business, and somebody you didn't notice leaps out of an alley, and comes at you with a knife, screaming that he's going to kill you.

So far, so good—to the extent that an attack can be "good.[19]" You're a reluctant participant; you're reasonably in fear that he'll kill you; nothing short of deadly force will stop him, and he's running faster than you can, and you've every reason to worry that if you try to run away backward, not only will he catch you, but you could easily fall, leaving you even more vulnerable. Retreat isn't a sensible option.

Shouting, "Stop! Stop! Drop your weapon! Drop your weapon!" you draw your pistol and fire, one shot, to his center of mass, but he keeps coming, still attacking, so you—still entitled to use deadly force—keep shooting.

Your second shot doesn't stop him, but your third shot, in this hypothetical scenario, hits him in the kneecap, and he falls to the ground three feet away from you, crawling toward you, knife in hand, still apparently intent on knifing you, perhaps even saying so.

Can you continue to shoot?

Absolutely *not*.

Your obligation to retreat, if practical, has never gone away. It wasn't practical up until this moment, as he was running at you, and turning your back or running backward would have been foolhardy. Now, even though he still intends to kill you, and nothing less than lethal force can stop him if you stay there, you do have the ability to retreat, and you're legally required to.

You don't have to like it. You just have to do it.

What isn't required

A reluctant participant, as mentioned above, isn't required to have X-ray vision, or to actually *have* been harmed in order to justify the use of lethal force. In fact, the issue of *actual* harm—real or potential—is not relevant; what justifies the use of lethal force is the reasonable *fear* that you are about to suffer death or great bodily harm.

In the example of the hemophiliac, somebody who has been struck is not entitled to use lethal force if the attacker appears to be breaking off the attack—if the threat ends, no matter what damage has been done, so does

19. Which isn't very good at all.

the justification for the use of lethal force in self-defense. Lethal force isn't allowed in retribution.

It's not necessary to have actually been physically harmed in order to be reasonably in fear of death or great bodily harm, and while the threat must be immediate, "immediate" is a term with a little bit—a *very* little bit—of flexibility in it.

The attacker who has, for example, dropped his handgun on the floor but is lunging for it in order to try to continue the attack, is making a credible threat. So is the one who has momentarily turned his back without breaking off the attack; despite the Sanford case, there is no legal requirement as to which direction an attacker must be facing.

Further, there is no specific space limitation. You are not required to wait until an attacker actually comes into close enough proximity to cause harm—it's the immediate *threat* that justifies the use of lethal force. It's a standard part of both police and advanced self-defense training to demonstrate—using mock guns and a rubber knife—what's called the "Tueller Drill," named after a former Utah Deputy Sheriff, Dennis Tueller, who would regularly demonstrate that even with advance warning, a healthy attacker with a knife in hand is regularly able to reach and strike even an alert victim if he begins within twenty-one feet.

Demonstrating the Tueller drill—with a rubber knife and a toy gun—is a useful thing to try. Have a friend take up a "low-ready" position with a *toy*[20] gun. (A "low-ready position" is where he's holding it, with both hands, with his finger off the trigger, and the barrel pointed generally down, and to the front.) Pace off twenty-one feet, rubber knife in hand. Your friend's goal is to shoot you with the toy gun the moment you start moving—but not before— before you touch him or her with the rubber knife.

Few, if any, will be able to do it.

Immediate doesn't necessarily mean "within reach."

You are also not required to stop until the threat has stopped. As we'll see in a following chapter, a single shot may not actually stop the attack, and the reasonableness of continuing to shoot doesn't end until the attacker either demonstrates that he's chosen to stop attacking, or is observably unable to[21].

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20. *Don't* use real firearms for this sort of thing, even if you're absolutely sure that they're unloaded. *Please.* Use a toy gun. If you want to make the Tueller Drill more exciting, it can be done with paintball guns—and full paintball safety equipment. That's probably not necessary—as it is, the Tueller Drill is very persuasive, anyway.
21. If you do continue to shoot after either of those two things happens, you're committing a crime. Don't do that.

If you are entitled to use lethal force—if you're entitled to shoot somebody—you are entitled to do so until the threat stops, no matter how many shots it takes until the threat stops.

Defending others

Lethal force is legally justified in the defense of an innocent other, and most of the same principles apply, although the practical requirements for using—or threatening the use of—lethal force are even more stringent when it's used to defend somebody else. The person being defended must be a reluctant participant, as well, according to the information available at the time to the person using or threatening lethal force.

For example: you witness two people rolling out of a doorway, fighting.

You have no way of knowing how the fight started, and who—if either—is a reluctant participant, and you have no right to make an assumption that because one is black and the other white, one is a man and the other is a woman, one is well-dressed and the other scruffy-looking, that one person is a reluctant participant, while the other isn't. The scruffy-looking one may be an undercover police officer, attempting to subdue a suspect. For that matter, for all you know, the scruffy-looking one may be a police officer using unjustified force on somebody who hasn't done anything wrong at all. How can you know which one is the attacker, and which the victim? You can't.

Police have to get involved in such things—it's part of their job. Permit holders are not police officers.

You do have the right to whip out your cell phone and dial 911, though.

Do that, instead.

Defense in the home

While the changes in the Minnesota laws about carry permits haven't changed anything at all about possession of firearms in the home, or the laws surrounding self-defense in the home, we would be neglectful if we didn't mention that there is a different standard for the use of lethal force in the home.

Sanford, of course, was wrong. You can't kill somebody just because they're in your home. You can't kill somebody just because they're *trespassing* in your home. Really.

But there is a different standard for self-defense in the home, which in Minnesota legal terminology is called "defense of dwelling."

First, it's not necessary to fear "death or great bodily harm." What's required, instead, is to reasonably believe that the use of force is necessary to prevent a felony from being committed *in* the home. But note the word "felony."

Trespass is not a felony. Minnesota Statute 609.605 defines the crime of trespassing, and even the most egregious kind is a "gross misdemeanor," not a felony.

Besides, somebody trespassing[22] in your home may be innocent of anything other than a mistake. The stranger in the bathroom or the hallway could be your teenaged daughter's boyfriend who she let in without mentioning it; the man who entered your unlocked front door[23] and is standing in your darkened living room might be an Alzheimer's patient who's gotten lost and confused, or he could be a drunken former occupant of the home who has forgotten where he lives. Somebody running in through your front door could be fleeing from an attacker.

Again: simply because somebody is in your home without permission doesn't mean that they're committing a felony, and without a reasonable belief that a felony was about to be committed in your home, you can't claim "defense of dwelling," just as without a reasonable belief that you were about to be killed or suffer great physical harm, you can't claim self-defense.

Even more serious crimes may not apply. Burglary *can* be a felony, but it may not be. Burglary in the fourth degree (the least serious form) isn't a felony. Minnesota Statute 609.582, subdivision 4, defines burglary in the fourth degree this way:

> Whoever enters a building without consent and with intent to commit a misdemeanor other than to steal, or enters a building without consent and commits a misdemeanor other than to steal while in the building, either directly or as an accomplice, commits burglary in the fourth degree.

Imagine a situation where you shoot a burglar—somebody who actually intended to commit a felony burglary. You're still not off the hook. Can you prove that he intended to steal something?

Maybe not.

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22. Actually, in the examples we give, the person isn't even trespassing in a legal sense. In Minnesota, what turns what we ordinarily think of as "trespassing" into a misdemeanor is the refusal to leave if told to do so, not the coming in in the first place. In none of the examples we give has the "trespassers" been told to leave.

23. No, it shouldn't have been unlocked. But do you always lock your doors? You should—but do you?

"Defense of dwelling" isn't a license to shoot trespassers in general, or even burglars. It is, in effect, an alternative defense that your lawyer can use when you shoot somebody in your home in self-defense.

If the felony has already been committed—say, a robbery—and the robber is attempting to flee, it's not lawful to use lethal force to prevent his escape or to apprehend him on the charge of the completed crime. (It's also stupid to do so. Let him go.)

The big difference, in practice, between self-defense and "defense of dwelling" is that the legal obligation to retreat is absent. You're not legally required to retreat, even if it is practical, inside your own home.

This *isn't*, however, a hunting license for burglars or robbers: all other obligations remain the same, particularly the "reasonable person" test, and if there's any doubt in the prosecutor's mind, the place he can test whether or not your fear or use of force was "reasonable" is by putting you in front of a judge and jury, with your liberty at risk.

In State v. Carothers (cited as 594 N.W.2d 897 Minn.,1999), the Minnesota Supreme Court summed it up this way:

> "A duty to retreat does not attach to defense of dwelling claims. So long as a person claiming defense of dwelling meets *all* [our emphasis] of the criteria for making his or her claim—that the killing was done in the belief that it was necessary to prevent the commission of a felony in the dwelling, that the person's judgment as to the gravity of the situation was reasonable under the circumstances, and that the person's election to defend his or her dwelling was such as a reasonable person would have made in light of the danger to be apprehended—the person need not have attempted to retreat from his or her home."

Note that the court used the word "reasonable" repeatedly. If you've been charged with a crime, a jury gets to decide what's reasonable, and they might not agree with you.

See State v. McCuiston (514 N.W.2d 802 Minn. App., 1994). McCuiston, a small black man, was being threatened by a drunk, six-foot-tall white neighbor. He retreated to his home—which demonstrated that he was a reluctant participant—sent his son upstairs, and locked the door. He retrieved his shotgun when he heard the neighbor trying to kick his door in, and shouted for his neighbors to call the police. When his attacker tried to force his way into the house, McCuiston shot him, killing him.

At the trial, he described the final moments this way:

> A. Then Mr. Fontaine [the victim]—I said—I told him—I tried to bluff him, I said, 'The police on their way, man. You better go home.' He said, 'Fuck the police and fuck you black motherfuckers and get the fuck out of my way.' And, when he said that, he came at me with both hands.
>
> Q. Did you feel threatened at this point?
>
> A. Yes, sir.
>
> Q. Okay. Exactly how did you feel when you saw Mr. Fontaine coming at you?
>
> A. I had a decision to make. I wasn't about to be no statistic or my child's life wasn't going to be put in danger. I had a decision to make. Either let him in my house for coffee and doughnuts or keep him from coming in.

At trial, the judge refused to instruct the jury on "defense of dwelling." Despite what appears to the writers of this to be a pretty clear case of somebody being reasonably in fear of being badly hurt or killed, the jury didn't agree. They convicted him of second degree felony murder, and he appealed.

The Court of Appeals court seemed unhappy with the law as it is:

> "... the notion that a person may kill to prevent a felony inside the home may exceed what most people would think permissible under the law. But it is not our role to debate the wisdom or parameters of the statutory language. McCuiston was entitled to an instruction on the use of deadly force to prevent the commission of a felony in his home."

But it is still the law. McQuiston won his appeal.

Or look at State v. Pendleton (567 N.W.2d 265 Minn.,1997). The Minnesota Supreme Court summed up the case this way:

> In December 1994, the defendant Akeem Pendleton and his fiance Lorraine Wilson were living with Wilson's children in a duplex in Minneapolis. On December 10, a Saturday, at about 5:00 p.m., Wilson's cousin Tony Caine came to the apartment to visit. When Caine arrived, Pendleton let him in. Also present in the apartment were Doug Buckanaga, a friend of Pendleton's

from work, and Buckanaga's girlfriend, Angela Bellanger. Pendleton, Buckanaga and Bellanger were socializing in the kitchen while Pendleton prepared a meal. Caine and Wilson were talking to each other at the dining room table.

Wilson testified that she had been having conflicts with her family over various issues, including her relationship with Pendleton and her family's expectation of financial and other support from her. Earlier on the day of the crime, she had asked Caine not to come to her home anymore. On the evening in question, she and Caine were arguing about these problems, as well as Wilson's complaints that Caine took money from her and used her telephone. She described their argument as becoming heated. She eventually got up from the table and went into the bathroom.

At that point, Caine went into the kitchen looking for Pendleton. According to Buckanaga's testimony, Caine made a comment to Pendleton about his needing to keep his fiance in line and shoved Pendleton. Caine then punched Pendleton in the face a couple of times causing Pendleton to bleed beneath his eye. Pendleton started to fight back, but Buckanaga interfered and pulled Pendleton away. At the time Caine started hitting him, Pendleton had a knife in his hand, which he had been using in his cooking. Buckanaga took this knife away and set it down. Pendleton then went into the bathroom to clean the blood off his face.

According to testimony at the trial, Pendleton came out of the bathroom and asked Caine to leave. By this time, they were both standing in the front room, as were Buckanaga and Wilson. Caine refused to leave the apartment and tried to hit Pendleton again. Pendleton jumped up and grabbed a shotgun out of the ceiling tiles. As Pendleton was taking the gun out of its case, he kept telling Caine to leave. Caine rushed at Pendleton, they struggled with the gun, and Pendleton shot Caine in the shoulder. The struggle continued until Pendleton wriggled free, ran, and drove away with Buckanaga and Bellanger in Buckanaga's truck.

Pendleton and his fiance Wilson both testified that when Caine lunged at Pendleton in the front room, Caine had a knife in his hand. Buckanaga, who was standing in the same room, testified that he never saw Caine with a knife, although he did say that

> immediately before Caine lunged at Pendleton, Caine was standing with his hand behind his back. The police did find a knife at the scene, but did not seize it, so it was never tested for fingerprints. In his testimony, Caine denied attacking Pendleton and claimed instead that Pendleton had started the fighting.
>
> At trial, Pendleton argued that he acted in self defense because Caine lunged at him with a knife. In the alternative, he argued that he acted to prevent the commission of a felony, either second- or third-degree assault, in his home[24]....

The important point here is in the Court's footnote: while both second- and third-degree assault are felonies, neither involves "great bodily harm." Pendleton was convicted, and appealed; the Appeals Court upheld the conviction, but the Minnesota Supreme Court reversed it.

The Court wrote (the emphasis here *is* ours):

> ...it is clear that one does **not** have to fear great bodily harm or death to justify the use of deadly force to defend against the commission of a felony in one's home....a defendant asserting "defense of dwelling" is **not** required to show that he or she feared death or great bodily harm to justify the use of deadly force in preventing the commission of a felony in the defendant's place of abode.

In both law and practice, the requirements for the use of lethal force in self-defense are lower in the home than outside—but somebody using lethal force in the home is still *very* much in danger of having to persuade a jury that, as the court put it, that his decision was reasonable, with the real possibility that the jury might disagree.

Since the sad but real truth is that in most cases of serious violence the victim and the attacker know each other—usually well; a huge proportion of violent attacks are between spouses or domestic partners, with men and women being the victim and perpetrator just about half the time—it's important to note that the right to self-defense, and the lack of an obligation to retreat in the home, also apply when both attacker and victim live there. "Defense of dwelling" doesn't apply only to intruders.

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24. Second-degree assault is assault with a dangerous weapon, Minn. Stat. 609.222 (1996), and third degree assault is assault resulting in substantial bodily harm, Minn. Stat. 609.223 (1996). Great bodily harm is more severe than substantial bodily harm. Minn. Stat. 609.02, subds. 7a & 8 (1996).

In State v. Glowacki, (630 N.W.2d 392, Minn., 2001), the Minnesota Supreme Court again ruled that somebody does not have a duty to retreat in his own home. In this case—during an altercation with his girlfriend that she had, so Glowacki claimed, started—Glowacki "kicked her, placed his hands around her throat, and threatened to kill her."

At Glowacki's trial, the judge had instructed the jury that Glowacki had a duty to retreat, to leave the room, or even the house, rather than defend himself.

Glowacki was convicted, and the case was appealed, eventually landing in the Minnesota Supreme Court. The Supreme Court ruled that the trial judge had been wrong, that Glowacki didn't have any obligation to retreat in his own home.

This didn't help Glowacki, though.

While the Supreme Court ruled that while he didn't have a duty to retreat, and the judge had been wrong in that, it also ruled that the force he had used was unreasonable under the circumstances, and that the wrong instruction by the judge was "harmless error." The jury had convicted Glowacki of fifth-degree domestic assault, fifth-degree assault, and disorderly conduct, and the convictions and sentence stood. Force—whether with a handgun, a baseball bat, or bare hands—is *not* the way to settle domestic disputes.

In practical terms, self-defense in the home, as elsewhere, should be avoided if at all possible. Think of it as labelled "use only if necessary."

Joel Rosenberg, one of the authors of this book, had an instance of a firearm self-defense in the home, and while it was not perfectly done, there are a few points that are instructive. His account of it, written a few months later, is this:

> On July 15th, 1991—five days after my daughter's first birthday—at just about four in the morning, the burglar in our bedroom reached a hand under the covers, on my wife's side. Felicia came awake instantly, and shouted— "There's somebody in the room!" and I snapped awake and shot out of bed, shouting—bellowing, Felicia says—something to the effect of how I was going to get my gun and kill the bastard.
>
> I think the burglar was already fleeing when I yanked open the drawer. I remember thinking, as I pulled out my then newly-acquired 9mm Ruger P-85—yes, the same model that Colin Ferguson had recently used to kill a bunch of unarmed commuters—that I had to get a good view of him before I shot

him, because our one-year-old daughter was across the hall in her room, and for all I knew, he was holding her. And I remember thinking that if he *was* holding her, I'd have to shoot low and hit him in the legs, or high, and shoot him in the head.

Or both.

But we had a trigger lock on the Ruger, and in the dark I couldn't find my keys, so I ran to the bureau and ripped open the locked bag with the .22 target pistol in it, fumbled in the dark until I found its magazine (a politically incorrect 13-round magazine, by the way) and slammed it into the pistol, racking the slide as I ran to check on Judy—who, thankfully, slept through the whole thing.

I remember thinking that the slide had worked too easily, so I wasted a round by racking it again, dumping a cartridge on the carpet, and then I carefully pushed the safety switch off, toward that little F for Fire—

— and took a deep breath.

I couldn't do simple math. I knew that there had been thirteen rounds in the magazine, and that I'd dumped one on the carpet, and chambered another, and that left, as far as I could decide, "many" rounds in the magazine, rather than eleven.

But I was aware of the important thing: my wife and daughter were safe, and they were behind me, and there was no sense in gambling, chasing a burglar or burglars off into the night.

So I just crouched at the top of the stairs, no doubt very unromantic looking in my jockey shorts with the potbelly hanging over the waistband in front, thinking that if one of them came up the stairs I'd put three rounds in his chest, and one in his head. (Actually, I distinctly remember thinking, "I'll put three *warning* shots in his chest, and one *warning* shot in his head." It didn't seem funny then.)

And I also remember reminding myself not to put my finger on the trigger until I had a target to shoot at, and I never did end up putting my finger on the trigger that evening, because they had all run away, and when the police arrived—I'm told it was less than

five minutes; it felt like a couple of years—we were dressed, and went downstairs to look at the damage.

At least three of them, probably four—it would take at least two people lift our large-sized TV set, and it looked like one of them was working on the VCR and another was emptying out Felicia's purse while the third came upstairs. There's some reason to believe it was the gang known as the Nokomis Bandits, who we read about a few days later, a gang of four who had steadily ratcheted up their level of violence; if so, we got off a lot easier than most of their victims.

As such things go, it wasn't all that bad.

They got: Felicia's Banana Republic bag; her credit cards and wallet, containing about $30 cash; about $20 in a container of quarters we keep—kept—for change; our huge Sharp TV set; my answering machine; her keys, credit cards and ID; a TV cable; my business card case; a few other odds and ends.

And they took our sense of security. Our home didn't seem to be the safe place it was before.

Oh—and they got another thing, something I only noticed a couple of days later, when I went to carve a roast: they took a butcher knife from the kitchen.

I sat down and shook for a few minutes. And I didn't mention it to Felicia for a number of months. A butcher knife.

Neither Felicia nor I slept through the night for many months, and even now I wake quickly at the slightest sound. And I wonder—I'll never know—what he and his friends would have done if instead of bellowing, “I'm getting my gun and killing the bastard?” I'd said, “Please don't hurt us, please?”

Fled anyway? (And where *was* that butcher knife?)

Maybe.

First, look at the very serious mistake that Rosenberg made.

While his self-defense weapons were secured, they were locked up in a way that made it impossible for them to be accessed rapidly. The gun box

that he subsequently added is a much better solution to the problem of keeping a gun simultaneously locked and available, as it isn't necessary to find keys in the dark, in a stressful situation. (There will be more on storage on page 169.)

It's also worth noting that Rosenberg suffered some of the typical immediate physiological/psychological consequences of a life-threatening experience: he was unable to do simple math, and his time sense was seriously distorted.

Beyond that, the encounter went about as well as such things can.

While Rosenberg would have been legally permitted to go chasing off into the rest of the house after them and using lethal force to prevent the theft—the intruders were, at the very least, committing Burglary in the Third Degree, a felony, and it was reasonable for him to conclude that under the circumstances—it would have been foolish to do so, and he was right not to have. “Defense of dwelling” is a legal defense; that doesn’t make it a good idea.

Rosenberg and his family were safe; chasing off after the perpetrators would have been stupid.

There are tactics for what is called “clearing” a house—going from room to room to make sure that there are no intruders there, and dealing with the threat if they are—but these are advanced issues, require lengthy and careful training, and they're always risky.

Even then, Clint Smith, a nationally known trainer and proprietor of Thunder Ranch, a well-known training center, says, “The more you know about tactics, the less you'll want to use them.”

The best and simplest procedure, in the case of a home invasion, is to retreat with your family to a relatively safe location, call 911, and wait there for rescue to arrive, following the 911 operator's instructions to the letter. The only time that you should even *consider* confronting the invaders is if you have to do that to see to the safety of one of your family members.

That exception aside, if it's necessary to “clear” the house, to be sure that intruders have left, let the police do it. They've got the training and the body armor, and it's their job.

The aftermath

Even assuming that you are entirely on sound legal and moral grounds after having shot somebody, your troubles aren't over. You've got to deal with the aftermath of it all, and it's going to be pretty stressful, even at best.

And that's the subject of the next chapter.

And remember: a gun never solves problems.

CHAPTER 4
Lethal Force and its Aftermath

If the law about how limited the right to use lethal force is hasn't frightened you yet, read on.

Lethal force, in real life, doesn't work the same way as it does on television and in the movies. Somebody who is shot isn't thrown backwards several feet, or even several inches; bullets don't go precisely where the shooter wants them, even under the best of circumstances—and even when they do hit their target, a single handgun bullet often doesn't stop somebody.

And, most importantly, the use of lethal force may—and should—end the immediate threat, but it doesn't end the problem.

Again, we refer to the introduction: *a handgun does not solve problems, ever*.

The aftermath of even a justified self-defense shooting can be dangerous, both in terms of physical risk, and very serious dangers of both prosecution and lawsuit. It's vital that you understand all that, before you even think about carrying a handgun in public.

We strongly recommend that anybody who is considering getting a carry permit have a relationship with a good criminal lawyer, as a form of insurance. The odds of you having to actually make an urgent call to your lawyer are small, but in the unlikely event that you need to either threaten or use lethal force, you will need the services of an attorney, and having a number or business card in your wallet is just plain sensible.

That's not just true in the rare possibility where you find yourself standing, firearm in hand, over the dead body of an attacker—it's true in the event where you have to take our your handgun and *successfully* deter an attack.

Doing that, we hope, will solve the immediate problem of being beaten, raped, or killed.

But...

Threat of force—is it enough?

Maybe. We hope so.

But that doesn't mean that it solves all of your problems.

While you should never take out a handgun in a situation where you are unwilling to use it if necessary, statistics show that the vast majority of armed confrontations do end without a shot being fired, much less an injury or fatality. The most detailed research on this subject has been performed by Gary Kleck of the Florida State University School of Criminology and Criminal Justice, who estimates that roughly 2.5 million defensive handgun uses every year. Even if every one of the one hundred thousand domestic gunshot injuries of all sorts every year were the results of defensive gun uses—and, of course, they're not; most are the result of criminal activity—that would mean that fewer than five percent of armed confrontations result in somebody being injured.

In practice, the vast majority of the time, should you actually draw or display a gun, that will end the immediate confrontation; your attacker will, most of the time, either surrender or, more likely, flee[25].

Both possibilities, as well as the possibility of having to actually fire a shot, must be addressed—we'll get to them shortly. But before that, let's talk about what you say, as well as what you do.

Talking yourself into trouble

From the moment you begin to act in self-defense, you have to protect yourself not only from the immediate consequences of being the victim of a violent crime, but from the legal system, as well, and everything that you say and do is of vital importance.

Attempting to stop an attacker by saying something out of the movies is yet another way to cause yourself trouble. Clint Eastwood's Dirty Harry character can say, “Go ahead; make my day,” when attempting to persuade somebody not to attack him—he's both a police officer, and fictional, and the scriptwriter will keep him out of trouble. You're not either fictional or a police officer, and you can’t depend on the scriptwriter.

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25. It’s happened twice to one of the co-authors of this book. To you, the defender, the attacker’s flight *is* a successful defensive gun use.

The general rule is to not only assume but *hope* that anything that you say can and will be repeated later, and repeated accurately, whether by witnesses that you can see, or ones out of sight.

So keep it short and simple; make it easy for witnesses to get it right. The longer the sentence is, the more likely it can be misheard, misunderstood, and misinterpreted.

Sentences should be kept short, and repeated, loudly. “Drop your weapon! Drop your weapon! Don't hurt me! Don't hurt me!”

Ideally, anything you say when confronted with an assailant is something you would *want* to be repeated later, even if it's overheard by somebody around the corner or next door.

Keep it loud, and simple, and hope that it's overheard.

Instead of, for example, “Go ahead; make my day,” somebody attempting to deter an attack would be much better off shouting, “Stop—don't kill me!” If you shout that while holding a handgun, it's going to be understood to mean, “Don't attack me or I'll kill you,” but it's the sort of thing that is much less likely to cause trouble later. What if that hypothetical person standing around the corner misses the first part of the sentence and only hears, “I'll kill you”?

Keep it short, and repeat it. Loudly. Hope that people overhear it. Imagine that there's a video camera trained on the scene, and *want* it to record each and every thing you say and do.

Trying to be too clever is a mistake. To call for the police while asking the attacker to stop—”Police, stop!”—might be misconstrued by the attacker as a claim that you are a police officer (of course, you're not claiming that—you're merely attempting to summon a police officer while telling your attacker to stop attacking you) and the combination of that and producing a handgun is likely, although not guaranteed, to deter him, but also likely to get you into trouble later. Do you want the hypothetical person around the corner saying that you claimed to be a police officer?

No.

So don't do that. Instead: “Drop your weapon! Drop your weapon! Don't hurt me! Don't hurt me! Somebody call 911! Somebody call 911!” and hope that any witnesses hear just what you've said.

Running into trouble

In the case of flight, as mentioned before, an attacker's decision to flee the scene ends the immediate threat, and also ends the right to use or threaten lethal force in self-defense. (A retreat, as previously mentioned, is

different from moving away from you to resume the attack—say, by retrieving a dropped weapon, or seeking cover to continue the attack.)

While the temptation to chase somebody might be understandable, don't do it—if you're unlucky enough to actually catch up with your attacker, you are no longer a "reluctant participant," and any use or threat of force will be treated as though it were an attack, not a defense. That breaks the "reluctant participant" chain of the self-defense argument.

Besides, remember that hypothetical person around the corner? Do you want him seeing you chasing your attacker? What if a police car pulls up just as he rounds the corner, running away from you—and you have a drawn handgun? What's the police officer going to think?

So: don't chase him.

If your attacker flees, he's no longer an immediate threat, either—that breaks another link in the chain. A threat must be immediate in order to justify lethal force. A fleeing attacker saying, "I'm going to come back and kill you"—while it should be taken seriously—is not an *immediate* threat, no matter how seriously it may be meant or understood. Fleeing ends the immediate threat.

It does not, however, end the implications of a confrontation.

One of three things will happen when you produce a handgun in a self-defense situation: your attacker will flee, he'll surrender, or he'll continue to attack.

Each of these is different, but each has much in common. Let's look at them one by one.

When the attacker flees

As we've said: let him.

More than that: encourage him. A fled attacker is the easiest situation to handle, and the one that's least likely to cause you serious danger or legal trouble.

You can encourage him to leave without saying something that you may not want repeated. Shout "Run away!" rather than "Run or I'll shoot you." Throw him your extra wallet[26]—see Appendix A—and if he keeps it, let him explain to the police, later on, how he came to have it, and why he fled the scene.

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26. One of the writers of this book has made it a policy to carry an extra wallet, with cancelled credit cards and a little cash, just in case he is confronted by a mugger. Throwing it in one direction, shouting "Take it—it's all I have," and running in the opposite direction would probably work.

Don't place yourself between him and the nearest exit from the situation. If you happen to find yourself there, move aside, and let him go. Again, this is the easiest situation for you to handle, and you owe it to yourself to make it as easy on you and your family as possible.

Still, you can't just consider it all over. You've threatened deadly force (you've likely pointed a gun at another human being) and both that person and any witnesses may tell the story very differently from how you do, or how it happened.

The temptation to just walk away—or run away—will be strong, but it's risky. What if your cry of "Drop your weapon! Drop your weapon!" drew the attention of somebody from a nearby house, and the only thing that somebody saw from a window was you pointing a gun at your attacker, just after he'd stopped, and before he fled? Who threatened whom, from that observer's point of view? When he called 911, what do you think he said?

So you've got to take action. You've defended yourself from a life-threatening event, and now you've got to defend yourself from the legal system. This is particularly true if your local police department has the policy of "arresting the gun." If so, you're definitely going to be arrested, and it's a lot better for you if it happens without you fleeing, and with you having made a quick phone call to 911.

So immediately call 911—"I need a police car at Fourth and Bloomington; I've been attacked"—and then immediately get off the phone and call your attorney, since you've had to produce your handgun, even though you've not fired a shot.

If there's going to be a police report—and the odds are there is going to be one—your attorney will make sure that what you need to say, and nothing more, is on the record.

Naturally, common sense has to apply. When the police arrive, they should find you with your ID and permit in hand, and your gun holstered. Your story should be very short, and entirely factual: "a man attacked me, here's his description and license plate, I defended myself and he ran away, I'm very scared and upset, and, finally, I need to talk to my attorney."

Why? They'll ask. "You were the victim, right? All you have to do is talk to us. Let's just clear this up right away."

"I need to talk to my attorney," is all you need to say at that point, although you may have to repeat it. And, then, you say nothing at all, until you've talked to your attorney.

When the attacker surrenders: citizen's arrest

Ideally, the attacker flees, and we very much recommend letting him, or even encouraging him to do so. Let him explain why he fled—and if he's never located (odds are, he'll go to some trouble to avoid that), your attorney will have that fact to work with when talking to the prosecutor, in an attempt to get your charges dismissed, if you've been charged.

That said, the attacker may surrender, forcing you to hold him for the police, perhaps at gunpoint.

Minn. Stat. 629.37 makes citizen's arrest possible:

> "A private person may arrest another:
>
> "(1) for a public offense committed or attempted in the arresting person's presence;
>
> "(2) when the person arrested has committed a felony, although not in the arresting person's presence; or
>
> "(3) when a felony has in fact been committed, and the arresting person has reasonable cause for believing the person arrested to have committed it."

The relevant statute is Minnesota Statute 609.06:

> "Except as otherwise provided in subdivision 2, reasonable force may be used. when the following circumstances exist or the actor reasonably believes them to exist...when used by a person not a public officer in arresting another in the cases and in the manner provided by law and delivering the other to an officer competent to receive the other into custody."

Theoretically, this would suggest that citizens' arrest is fine, even if you use force.

It isn't. That qualifying clause: "in the manner provided by law" is the stickler. Exactly what *is* "the manner provided by law" for a citizen's arrest?[27] Do you know? Police take long training in both the legalities and practicalities of arrest—have you?

And how can you do it safely? You have to tell the person why, most of the time, and as quickly as possible deliver him to the police, but consider how easily it can get complicated. Imagine that you're in your living room, holding a would-be robber at gunpoint, and he surrenders—can you give

him your full attention and talk on the phone at the same time? What if the phone's in another room?

And "reasonable force?" Whether or not force is "reasonable" is determined by a jury—and you and don't want to be in the position of having such decisions made by a jury. What's "reasonable" for a police officer may or may not be the same as for a private citizen, either legally or in practice. Legal issues aside, prosecutors have strong reasons not to be overly aggressive in prosecuting police for excessive force that don't apply to civilians.

Further, take a look at the situation from the police officers' viewpoint. They come on the scene with two people—perhaps without any other witnesses—and one of them is, perhaps, pointing a gun at the other. Their temptation to arrest everybody and let others sort it out later is going to be great, even if the local department doesn't have a policy of "arrest the gun."

Further, remember what we said in the introduction: a carry permit is not a "Junior G-man badge."

The most important principle remains: even a lawfully-armed civilian is not a police officer, and takes huge risks—legal and physical—when using or threatening force to arrest somebody.

Should an assailant stop attacking, your right to use or threaten lethal force has ended *at that moment* and that you must immediately summon the police to arrest the attacker—even if doing so permits the attacker to flee. Police are protected by both law and custom when they use and threaten force to effect an arrest; civilians aren't.

Nor are civilians required to engage in all the other things police do, both in fiction and in reality, when they arrest somebody. It's not necessary

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27. Part of the problem is addressed in Minn. Stat. 629.38 and 629.39.

629.38 Requiring a private person to disclose cause of arrest.
Before making an arrest a private person shall inform the person to be arrested of the cause of the arrest and require the person to submit. The warning required by this section need not be given if the person is arrested while committing the offense or when the person is arrested on pursuit immediately after committing the offense. If a person has committed a felony, a private person may break open an outer or inner door or window of a dwelling house to make the arrest if, before entering, the private person informs the person to be arrested of the intent to make the arrest and the private person is then refused admittance.
629.39 Requiring private person making arrest to deliver arrestee to judge or peace officer.
A private person who arrests another for a public offense shall take the arrested person before a judge or to a peace officer without unnecessary delay. If a person arrested escapes, the person from whose custody the person has escaped may immediately pursue and retake the escapee, at any time and in any place in the state. For that purpose, the pursuer may break open any door or window of a dwelling house if the pursuer informs the escapee of the intent to arrest the escapee and the pursuer is refused admittance.

to advise the surrendered attacker of his Constitutional rights, nor is it necessary—or safe—to attempt to search him for other weapons or contraband. The way to think of such a situation is not as an arrest—although, technically speaking, it is—but as simply asking him to stay until the police arrive.

If he attempts to flee, it's not lawful for a civilian to use lethal force in order to prevent that, although it's not necessary to mention it, if—against our advice—you've chosen to hold your attacker at gunpoint until the police arrive.

Since we hope you'll take our advice, the one situation where you're likely to actually have to deal with the problem is when your attacker forces it on you.

Say, you've deterred an attack by producing your handgun, and your attacker, a career criminal who has been arrested many times, "knows the drill." Instead of running away, he surrenders: he raises his hands, clasps them behind his head, and kneels down. "Don't shoot me," he says. "I give up."

You're kind of stuck with him at that point.

While under most circumstances it would illegal to hold somebody at gunpoint, in both theory and practice it is reasonable to—with the finger off the trigger—point a gun at the former attacker, and it most certainly is reasonable to require him to stretch his arms out to the side, to kneel down, and to move off to one side so that you are facing him directly, but he has to turn in order to face you.

The thing not to do is go beyond that.

One of the most dangerous things that police do is actually gaining physical control of a suspect[28].

It requires, among other things, holstering the gun—the suspect might grab it—and getting intimately close, well within range of grasping hands or a hidden knife. This is why police do almost anything that they can to avoid doing that by themselves—there's always one officer out of grabbing range, with a gun in hand, while the other moves in to handcuff the suspect. Most police officers have special holsters that make it difficult for somebody to snatch the gun out, and those who do train extensively in using them; few holsters for concealed handguns have such features.

Remember the Tueller Drill. The sort of close proximity that police move to when affecting an arrest is necessary for them to be able to secure the suspect; it is neither necessary nor wise for a civilian who is simply holding the attacker for the police to do any such thing.

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28. If you're holding an attacker at gunpoint, you're likely to see that in person very shortly, both for your attacker and for yourself. It won't be fun.

While there's nothing illegal about a civilian carrying handcuffs—it's considered a bit strange, but it's not a crime—trying to put them on the surrendered attacker is just asking for trouble. Massad Ayoob, a nationally recognized self-defense trainer, recommends that his students carry handcuffs routinely, and if it becomes advisable to handcuff a suspect, just tossing the cuffs toward the former attacker, and say, “Put them on; you know how.”

Again, while it may be possible to detain an attacker for the police, we recommend keeping things simpler: if an attacker has surrendered, make sure that you are not between him and an escape route—the door, say—and if he chooses to run, let him. Let the police chase him down, and let him explain why he fled.

Meanwhile, unless you're very lucky, you'll be on your way to the police station, in handcuffs, and need to call your lawyer.

More about that later.

When the attack continues

The last, and most dangerous—and, thankfully, the least likely—possibility is when its necessary to actually use deadly force: to shoot an attacker in order to prevent him from killing or seriously hurting you.

It doesn't work in real life the way it does on TV.

The physics of a lethal confrontation

As previously mentioned, in real life, Newton's Laws apply. Firing a shot sufficient to lift an attacker off his feet and knock him back several feet would have a similar effect on the shooter. In Hollywood, the effect is accomplished by a harness attached to the actor being shot, and several burly grips yanking on the rope attached to it.

In real life, this simply doesn't happen. Newton's Laws are not repealed on the street. Even if your first shot stops the attack—and it might—it won't be anything as dramatic as your attacker flying backward. He might appear to stumble, or to fall—almost certainly forward. It’s possible that your first shot will physically incapacitate him immediately—unlikely, but not impossible—and it’s certainly possible that it will change his mind.

More likely, he'll simply continue with his attack.

The physiology of a lethal confrontation

Adrenaline has both physical and psychological effects, and the threat of a violent confrontation is almost certain to cause a massive adrenaline dump, with a huge complex of effects—effects on both the attacker and the victim.

Vision tends to narrow—the so-called "tunnel vision" effect—where it becomes difficult or impossible to see anything besides the threat. Pain diminishes, as does the ability to do complex tasks. More than a few people who have been shot have not even noticed that they have been wounded until later.

Strength goes up. This is why we recommend against light triggers on self-defense weapons, as what feels like simply resting a finger on the trigger may be something entirely different. It's also why we say that you *must* keep your finger off the trigger until you're ready to shoot. Tapes of real-life shootings—usually involving police officers and bank guards—almost always show the shooter with an almost spastic grip on the firearm, something the shooter is probably not aware of at the time, or maybe even later[29].

Dexterity drops—this is why we recommend easy-to-operate handguns for self-defense—as does the ability to do complex tasks.

The perception of time also changes, in what's known as the tachypsychia (literally: *speed of mind*) effect. Things may seem to happen in slow motion, or speeded up. (This is one of the many reasons not to be too quick to talk to police after—you might honestly say that a confrontation took two or three minutes when it really only took a few seconds. Police officers and prosecutors aren't always very sensitive to the difference between an honest mistake and a lie.)

Auditory exclusion is also common. Most hunters will report not being bothered by the loud report of a rifle when they've shot at game, even though that same *bang* will often be uncomfortable even when wearing hearing protection on the range. The same is even more likely to be true during a violent confrontation. The sound hasn't gotten any quieter—it's just that your mind is processing it differently.

The ability to feel pain drops—as most hunters who have fired a high-powered rifle at a deer can tell you; they usually don't notice the strong kick of the rifle's butt against the shoulder.

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29. There are cases of people who have been involved in self-defense shootings who have had such a spastic grip on the handgun that they've been unable to release it, even later, and have had to have it pried out of their hands.

Other things that can happen include “psychological splitting” or an “out of body” sensation, where you have the perception of your body moving faster than your mind can, or vice versa, or even of watching the whole incident from outside yourself.

And the aftermath of a violent confrontation can bring out more than a little ugliness, particularly if the attacker was a member of a different racial or ethnic group from the victim. Even people who would never consider using an ethnic or racial epithet normally may find themselves thinking—or saying—such things. People who even rarely use such words almost certainly will, in the heat of the moment, and that's asking for trouble, later on.

All of these effects apply to both the victim of the attack and the attacker, and must be taken into account. The sort of pain that would normally stop somebody in their tracks may well have no immediate effect on a determined attacker—this is why defensive measures like pepper spray are much more effective on volunteer test subjects than they are in real life.

It's entirely possible for either the attacker or the defender—or both—to continue fighting even after being seriously, perhaps even fatally wounded. One video, available on the World Wide Web, shows a bank robber struggling with a guard for several long seconds after being shot in the heart, only to flee and drop dead, outside, in the parking lot outside the bank—and, again, he had been shot in the *heart*.

This is why the legal principle that lethal force is justified until the threat ends is so important.

If the attacker continues the attack—even if the wounds he has already received will later prove fatal—it is not only lawful to continue shooting, but it's necessary.

The right to use lethal force ends when the attack stops, but it does not end *until* the attack no longer represents a threat of death or great bodily injury. If it becomes necessary to shoot an attacker, it's necessary to continue shooting until the attack stops, and then immediately stop.

It may take one shot for that to happen; it may take many shots for that to happen.

And you may not even see the shots landing. On a well-lighted pistol range, a sharp hole against a target will be easily visible at close range, but violent confrontations rarely take place in well-lighted areas, and never with paper targets—and even in good light, a wound may be hidden by the pattern of the attacker's clothing, even if it immediately starts bleeding.

The physical effects of a shooting

There's no way to discuss the effects of a shooting without discussing some awful facts.

The most important one is that shooting somebody in order to physically stop an attack requires doing a lot of damage to another human being, damage that is entirely likely to be lethal. We wish this weren't so; it would be very nice to have a Star Trek phaser pistol, which could simply and reliably stun an attacker. But such things are, at least at present and for the foreseeable future, artifacts of science fiction, not of reality.

Handgun bullets are not as effective as the fictional phaser, and they're more damaging—but they are not necessarily immediately incapacitating. If the first shot stops the attacker, it's likely that it's because he's changed his mind, not because he's unable to continue.

The only time that a single shot can reliably counted on to immediately stop an attacker is in the unlikely event that it severs the spinal cord. If that happens, the nerves will be unable to carry information below the cut or break, and the attack will stop; the attacker will simply collapse, as his brain will no longer be able to send information to his muscles.

But, that said, the spinal cord is less than an inch across, and in the case of a frontal attack, it's protected by the rest of the body in front of it, and is simply too small to be a realistic target. Even the sort of person who, at the range, can put as many rounds as he cares to in a target's bull's-eye won't be able to reliably hit such a small target during an attack.

The brain, as a target, is not much better, in practice. Sufficient damage to an attacker's brain will, of course, end his ability to continue the attack, but the skull itself is thick, and the head is a small target under the best of circumstances, much less during a frightening confrontation where the person being attacked will be literally unable to concentrate on his handgun's sights, being focused instead on the attacker, and the head may be moving from side to side.

This is why most trainers teach that defensive shots should be aimed—or, most likely, pointed—at the attacker's Center of Mass (COM), roughly speaking, the spot on the chest just about four inches above the bottom of the breastbone, and that the defender should continue to fire until the threat ends.

There's a lot of important body parts in the chest—the heart and lungs, for example. But, as actual videos have shown, even a shot to the heart may take a long time to actually stop an attacker.

Some gun writers talk about “double-taps”—firing twice, then re-evaluating. Some police officers are trained to do that, and there have been cases

of police officers firing twice, hitting twice, and then reholstering their handguns only to find that they're still under attack.

The reason why most police—like most well-trained civilians—are taught to keep firing until the attack ends is that that is precisely what is necessary. And then—and *only* then—the shooting must stop.

After the confrontation, it's important for your attorney to be able to assert that you fired only as long as it was legally permissible, and then immediately stopped. One shot *may* stop the attack; three may be insufficient.

"Why *did* your client shoot his attacker four times?" the prosecutor might ask your attorney.

"Because the first three shots didn't stop the attack," will be the answer. "The fourth did—that's why he didn't shoot five or six times."

The only reasonable thing to do, should shooting be necessary, is, again: to keep shooting toward the center of mass until the threat has ended, and then immediately stop.

You don't want the hypothetical witness around the corner to hear *bangbangbang*, followed by a thirty-second pause, and then a final *bang*. Your lawyer is much more likely to be able to defend *bangbangbangbang*.

Firing toward center of mass also has other advantages. On the range, with a handgun of decent accuracy, it's easy, after very little training, to make tight little groups in targets at self-defense ranges. When adrenaline is pumping, your eyes are inexorably fixed on the attacker, you're literally unable to focus on the sights, and your hands are shaking, it becomes much more difficult, even in good light—which is absent in most defensive shootings.

A center of mass shot permits you to miss the attempted point of aim by the maximum possible, and still hit the attacker, and not have the bullet go beyond the attacker.

It's hard to think about this while scared for your life, but you do have to consider where your bullets might go if you miss—and a missed shot can travel a long way, and can easily hurt or kill somebody innocent.

And there's another reason to keep firing: most self-defense shots miss.

Statistics bear this out. Depending which study one reads, shots fired on the street by presumably well-trained police miss the intended target as much as 92% of the time.

In the much-publicized Amadou Diallo shooting in New York City, in which four *very* highly-trained police officers fired forty-one shots, at close range, at a man they mistakenly believed was shooting at them, fewer than half the shots actually hit their intended target. These were carefully-selected police officers, who had gotten out of their car fully prepared, both

in terms of training and intention, for the possibility that they might be involved in a violent confrontation. The reason that they fired more than forty shots wasn't, as far as could be determined, out of some ill intent, but because they didn't believe that the threat had ended before that.

And, again: these were highly-trained police officers, members of an elite squad, with hundreds of hours of training and many years of street experience, who had gotten out of their car ready for trouble, and were shooting at somebody who, as it turns out, wasn't even shooting at them—and still, at close range, *more than half of their shots missed*.

All four of them were charged, and were acquitted. Many people believe that one of the reasons that they got off was because at least one of them was overheard shouting "Gun!" While there was no gun found on the unfortunate Mr. Diallo, who was reaching for his wallet containing his identification, what that made clear was that the police honestly *believed* that they were facing a criminal with a gun in his hand, who was about to shoot them. They were wrong—he didn't have a gun—but that's what they thought, and that's why they were acquitted.

This leads to the key point: when a life-threatening confrontation is unavoidable, it's necessary to first survive it on the street, and then be prepared to survive the investigation that will start immediately after.

The physical consequences of a successful self-defense shooting are just the beginning of the victim's problems. While still recovering from the trauma of the experience, it will be necessary to deal with the police, just as it will be if the attacker flees or surrenders.

It's going to be long and uncomfortable, and there's just no way around it.

After a lethal confrontation

The immediate problem of being killed by the attacker ends after he either flees, surrenders, or is no longer able to attack because he has been sufficiently damaged, but other problems are just beginning.

From the moment that you have taken out a firearm in a confrontation—much less actually pulled the trigger—you have become a suspect, and are going to remain one at least until the investigation is concluded. You may be a defendant in a criminal case, or in a civil lawsuit—or both.

Your immediate concern should be to call the police and an ambulance. Even if you have injured or killed somebody in self-defense, there is an obligation to see that aid is rendered, and any failure to do so will not be looked on favorably by the police, the prosecutors, or the courts.

The next concern should be to avoid being shot by the police when they arrive on the scene. After that, it's necessary to see both to your defense from both prosecution and, if at all possible, a successful lawsuit.

Let's take each of these in turn.

Firstly, *don't* run away, except if necessary for safety—that's true when the attacker flees, and it's just as true if you've had to shoot him. Running from the scene of a shooting will be taken by police, prosecutors, and courts as a sign of guilt, and should be avoided, just as an attempt to conceal any evidence will be. Let the attacker run away, if he can—you stay put.

Further, modern forensic science is increasingly good, and gun shop advice to "if he drops outside your front door, just drag him back in" should be politely ignored. Don't plant a weapon in the attacker's hand, either. Messing with evidence of any sort is not only illegal and immoral—it's bad strategy, too. Leave the evidence alone.

The first thing to do is call 911, or have somebody else do so.

This conversation should be kept short. "We need the police and an ambulance at the following address..." is ample, and after that, it's best just to get off the line. There's no need to have your excited reporting of the details of the shooting preserved as evidence on the 911 recording.

This requires a firm intention—the 911 operator will instruct you to stay on the line, and keep talking. That's what they are trained to do, which is understandable. The more information police and emergency services have, the better they can do their job—but an important part of the job of the police, in practice, is to obtain evidence for a prosecution.

When the police arrive

There are several principles involved in being prepared for the arrival of the police.

The most important one is this: *after using or threatening deadly force, the police are not your friends.*

They won't see themselves as your friends—although it may suit an investigator to portray himself as sympathetic—as they'll be coming into the situation cold, possibly knowing nothing more than that they've been summoned to the scene of an attack. In high-crime urban areas in particular, police see the aftermath of many shootings, and few of them are done in self-defense.

Physicians have a saying: "when you hear hoofbeats, think horses, not zebras."

That works for police, as well—when they hear reports of a shooting, they think about assault and attempted murder, not a justifiable case of self-

defense. Same for when they hear about somebody pointing a gun at somebody. It's understandable—from a police officer's point of view, assault, robbery, attempted murder, and murder are the “horses,” and self-defenses are the “zebras.”

Which is one of the reasons that it's important to be as non-threatening to the police as possible when they arrive on the scene. If it's safe to do so—if the attacker is unable to resume the attack, or has fled—the gun should be holstered. If not, it's important to remember to keep it pointed in a safe direction, with the finger away from the trigger. If possible, somebody else should be sent to meet the police when they arrive, to tell them that there is no present danger, and to describe the defender—”She's a small, black woman wearing a white coat, and she's the victim—the attacker is lying on the floor”—and repeat that there is no present danger.

And remember your hands. Police officers like to see hands, and at this point, your hands should be visible and empty, if at all possible. Remember the unfortunate Mr. Diallo—he went for a wallet that the police officers honestly mistook for a handgun.

Most of what you should do is just common sense. Follow police directions as to what to do. Cooperate immediately but without any sudden movements that can be misinterpreted.

What is also true—but needs to be thought about, as it isn't obvious—is to be verbally cooperative: say, specifically, what you are doing. “I'm putting my hands behind my head, as you've told me,” for example.

When it comes to action—as opposed to discussion—complete compliance is mandatory. Be as calm as you can be, and utterly polite and cooperative. After all, you've called the police to come to preserve evidence in your defense.

Beyond that, it's necessary to protect yourself from the legal system, and that largely consists of two things: saying as little as possible, and consulting with a good attorney who is experienced in criminal matters.

A four-part strategy

Massad Ayoob, a police captain and well-known trainer of both civilian permit holders and police officers, recommends a four-part strategy: “He attacked me,” followed by “I will sign a complaint,” “there's the evidence,” and finally—and most importantly—”I need to talk to my lawyer before I say anything else,” after which you should say nothing more, except to repeat that last. (As a matter of law, a demand to consult with an attorney can't be used as evidence of guilt. Don't expect that the police will treat it that way, though.)

With one modification, which we'll get to shortly, this is what we recommend, *if you are sure that you can stay with it*. Giving police favorable information concerning your exercise of self-defense,[30] and other objective information that they're going to find out anyway, won't do any harm, and may—*may*—prevent an arrest[31].

Let's take these each in turn.

1. "*He attacked me.*" It's not a problem to say that you were attacked—that doesn't in and of itself admit the use of deadly force, but it's an important part of the justification for it. Justification is what is called in law an "affirmative defense." In this case, it assumes that the accused has used deadly force—something that otherwise needs to be proven beyond a reasonable doubt. Absent the—likely, granted—ability to prove that lethal force was used, the issue of justification never needs to come up.

Going beyond "he attacked me" to "so I shot him" is an admission that, if you need to make it, you can make it later, on advice of an attorney.

Realistically, though, there's no major disadvantage to admitting that you've shot somebody, if you have. Your gun is there, the person you shot is there, with the bullet or bullets in him, and the paraffin tests that the police will perform will prove that you fired handgun. The only reason why you might want to say it is if you're in that—rare—situation where you think that you may not be immediately arrested. By admitting that you've actually shot your attacker, you make it possible for the police to let you go home, if they want to, rather than having to hold onto you until they can get proof.

Still, they probably won't let you go home; they'll almost certainly arrest you, and part of their job is to try to get you to talk to them.

Don't.

There is no advantage[32], and much disadvantage, to discussing any of the details of the incident then and there.

Anything you say about the exact details of the attack can and will be both examined for possible vulnerabilities and compared with later statements, and can easily be used to suggest that you have changed your story, rather that you've said the same thing in different ways. If you tell what happened then, but leave out an important element, it's likely that you'll be accused of "conveniently" remembering it later—that you're lying.

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30. "Exculpatory information," as the lawyers say.
31. Although not in Minneapolis. Given the present policy in Minneapolis, if you're involved in the use or threat of lethal force within the city limits, just skip to Step Four—you *are* going to be arrested, so there's no point in saying anything. We hope that policy will change, and if it does, it will be prominently featured in the Updates section of the AACFI website. Still, more than likely, whoever is still standing starts off in the police officer's mind as the attacker, and the officer's focus is likely to be on finding evidence of guilt.
32. We repeat: this is *no* advantage to discussing this then and there.

Just to make it worse, any normal and innocent inconsistency can and likely will be used to suggest that the victim is lying. You could honestly say, then, that the whole thing took two minutes, when a witness might say it took three seconds—that can be used against you. Your immediate memory might not be accurate—it's entirely possible that, focused as you were on the attack, you could think that you shot twice, but actually shot six times. That could be interpreted as lying, and trying to—foolishly—mislead the police about the number of shots you fired.

As can any understandable statement about emotions.

"I'm very upset," could be interpreted to mean either, "I'm very upset because I had to properly use deadly force in self-defense," or "He upset me, so I shot him."

The simple way to avoid any possibility of either misinterpretation or being accused of lying is to say as little as possible.

What you *don't* say *can't* be used against you, because of the Fifth Amendment right against self-incrimination.

"He attacked me" is all that you need to say on that subject before talking to your lawyer[33]. That will, you hope, get the police on the right track.

2. "*I will sign a complaint*" doesn't really mean what it says. Writing out and signing a complaint needs to wait for the advice of your attorney. If the police officer responds by saying, "Fine, just write down what happened," the only safe response is, "I'll be happy to, just as soon as I've talked with my attorney," and repeat that, if necessary, as many times as necessary.

Saying "I will sign a complaint" *isn't* a commitment to talk further. What it does, however, is permit the police, if they choose to do so, to see you—the victim of the attack—as the victim, and not arrest you. It doesn't force them to—there is no way to force them to do so, and trying too hard is counterproductive.

If they don't want to arrest you, this helps to give them justification for it.

Realistically, most of the time they *will* arrest you. The only thing they know for sure is that there has been a shooting, and they have every reason to believe that the victim has shot somebody. Whether or not it was a justified shooting or self-defense is something they are likely to leave to others. But there's no reason, after all, to insist on being arrested.

3. "*There's the evidence.*" Police officers are humans, and humans can make mistakes. Shell casings from the attacker's handgun can be stepped on; a knife can be overlooked[34]; a baseball bat, tire iron, or claw hammer

33. Although if you want to add, "and I acted in self-defense," that probably wouldn't be a bad idea. But leave it at that, and go on to the next step.

might not even be seen as a weapon, and not taken into evidence—the attacker's fingerprints on it can be very important. It's vital from your point of view that none of the evidence be overlooked or damaged. Gathering evidence is what the police do.

Evidence isn't just physical evidence—it's perfectly reasonable to point to witnesses, or to suggest that somebody in a nearby building might have overheard the confrontation.

What you want to project—without going into detail—is that you were defending yourself, and that you expect that the evidence will support it.

But that doesn't mean to keep talking. You need to immediately go to the next step:

4. *"I need to talk to my lawyer, and I do not consent to a search,"* is the most important part of the formula, and you're likely to need to repeat it. As you can see, we're recommending a slight variation on Ayoob's four-point strategy: explicitly saying that you don't consent to a search.

This fourth step is the part that can't be skipped, and those who are concerned that if they start talking, they even *might* have trouble stopping, should just skip right to this step, and stop there.

Again:

"*I need to talk to my lawyer, and I do not consent to any search.*"[35]

Why not talk?

Ayoob, who among other things trains police officers who investigate police-involved shootings, recommends that any interview with the officer take place at a later time, for fear that an officer who has been involved in a justified shooting will say something—perhaps something innocuous in context, or a heated exclamation at how angry the officer is—that can be used later on to suggest that he acted improperly[36].

Ayoob isn't alone in this. IACP, the International Association of Chiefs of Police, strongly recommends that police officers *not* be interviewed immediately after a shooting, if possible:

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34. This does happen. Look at the Pendleton case, again, on page 56: "The police did find a knife at the scene, but did not seize it, so it was never tested for fingerprints."
35. There are many situations, arrest being one of them, that police can search you without your permission. Don't physically resist a search, but don't give consent, either.
36. Somebody skeptical might suggest that this gives the police officer the time to get his story straight, even if that means "remembering" things that didn't quite happen. We're not skeptical—we know that immediate reports can be inaccurate, and that it's important to quietly work things out, rather than saying the first thing that comes to mind—whether or not you're a police officer.

> ...the officer can benefit from some recovery time before detailed interviewing begins. This can range from a few hours to overnight, depending on the emotional state of the officer and the circumstances. **Officers who have been afforded this opportunity to calm down are likely to provide a more coherent and accurate statement**[37]. [our emphasis]

Not only is a later statement likely to be "more coherent and more accurate," but it's likely to be less harmful for the officer involved. The IACP also recommends that police officers involved in a shooting have a few paid days off on administrative leave ("Make sure the officer understands this is an 'administrative leave,' not a 'suspension with pay'") as a way of helping to cope with the great stress and trauma of having been involved in a shooting. It *is* stressful, which is why the IACP adopted a whole series of guidelines to avoid creating what the IACP calls a "'second injury'...created by insensitively and impersonally dealing with an officer who has been involved in a critical incident."

The entire list of recommendations that the IACP adopted is included in this book, starting on page 205. As you'll see, the police chiefs' association acknowledges how incredibly stressful and horrible it is to be involved in a shooting.

And since that's true for professional police officers, how could it be less so for civilians?

By way of contrast with the IACP's recommendations for officer-involved shootings, police officers are trained that in civilian shootings, their goal is to get the putative perpetrator—that would be you—talking, and to keep him talking, in order to gather evidence that can, if necessary, be used to prove that the shooting was improper. You're unlikely to be offered the same gentle and considerate treatment that police officers are.

"Arrest 'em all; let the prosecutors sort it out," as one police officer puts it.

Realistically, there is nothing that you can do to avoid the likelihood of being arrested after a shooting, and what you need to focus on is minimizing the damage.

This is not something that is likely to be mentioned, much less emphasized, by the police, either at the scene or the detectives who will investigate

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37. From "Officer-Involved Shooting Guidelines," adopted by the Police Psychological Services Section of the International Association of Chiefs of Police in 1998. The entire set of guidelines are included in this book, starting on page 205, to show you how very seriously the police chiefs, across the country, see the stress of being involved in a shooting is for their officers.

the shooting later. One common investigative technique is for an officer to portray himself as somebody sympathetic to the suspect—again, that's you—who only needs a few questions cleared up before closing the whole matter. It's a simple play to the victim's need for security and certainty in a stressful, strange, and uncertain situation.

In the wake of shooting, this is almost certainly not true, and talking to a policeman before consulting with an attorney is, whatever police assurances one receives to the contrary, a risky proposition of dubious possible benefit.

So don't do it.

Just repeat "I want my lawyer, and I don't consent to any search," and see what they do. Try to figure it out—but regardless of what you've figured out, just keep saying, "I want to speak to my attorney, and I don't consent to any search."[38]

A common technique is the "good cop, bad cop," technique popularized on television, where one officer appears to be actively hostile, while the other affects to be sympathetic, and eager to hear the suspect's "side of the story." Standard police procedure is, in most cases, not to record such conversations, and should the matter come to court, the officer's recollection of the exact words may not be accurate—either through error or "testilying".

Do you want to bet your freedom that any inaccuracies are going to be in your favor?

As the late Darrell Mulroy, a Minnesota self-defense trainer, put it: "There are two kinds of witnesses in court: prosecution witnesses, and defense witnesses. Guess which ones the cops are?"

What the police will do

While physical abuse and some forms of intimidation are illegal and rare—but not unknown—there are forms of intimidation and influence that courts have not only said are completely legal, but which are part of the training of police officers.

And these are the sorts of thing that a law-abiding citizen has probably not run into before.

David Kopel, a leading civil rights attorney specializing in advocacy for self-defense issues, points to the research of Richard A. Leo, Ph.D., J.D., Associate Professor of Criminology, Law and Society and an Associate Professor of Psychology and Social Behavior at the University of California, Irvine.

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38. Think of it as a mantra.

Leo's research shows that police routinely use "techniques of neutralization" in an attempt to get you to talk, and to keep you talking.

These can involve telling you that the interrogator thinks you haven't done anything wrong; that the attacker deserved what happened; that you have committed a crime, but only a minor one; that, say, your attacker was just lightly injured and is, even at this moment, being booked—and that all the investigator needs is for you to write out and sign a complaint.

Any or all of that could be true.

Any or all of that could be false.

You don't know.

You shouldn't talk.

The investigator could think that you've committed a murder, and wants to get more evidence; he may believe that the person you shot deserved it in a moral sense, but you're still guilty of a crime for having shot him; and it's entirely possible that the hypothetical attacker, instead of now being booked, is lying dead in the morgue, and the police are gathering evidence that will be used to prosecute you, and would love for you to help them with that.

There's no way to know, and until your lawyer tells you otherwise, you simply should not say anything, except "I want to speak to my attorney, and I don't consent to any search." If you find that you have to keep repeating that, that's fine. If you shorten that to "lawyer," that's fine, too.

The relationship between police and suspects is not symmetrical—while civilians are not permitted to lie to the police, the police, in fact, *are* permitted to lie to suspects, and frequently do. They can, with utter impunity, say that if you talk to them you will not be arrested, and then arrest you after you talk.

They can—and likely will—explain that it's in your interest to get your side of the story on the record without getting lawyers involved—"It'll look bad if you don't talk now, Bob[39]"—and that instead of calling a lawyer, explaining what happened is something they're doing as a favor to you, even though they know that it isn't. They can say that you're not under arrest, but still have to accompany them to the police station[40]. They can take a statement under an explicit or implicit promise that there will be no arrest, then immediately arrest you.

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39. They'll probably use your first name a lot. They might either ask you to use their first name—by way of suggesting that you're just friends, talking over a problem—or insist that you call them by their rank, as a means of gaining a psychological edge.

40. That's untrue, by the way. If a reasonable person in your situation would think that you can't leave, or have to go with them—as opposing to "volunteering" to stay, or go with them—then you *are* "under arrest."

There's all sorts of things they can do—if they have two suspects, they can put both of them in the back of a police car, and leave them alone to talk to each other, with the hidden video camera in the front of the car taping the conversation.

Again: it's the job of police investigators is to get as much information as possible to support a charge and conviction, and then let the prosecutor sort it out later.

And there's another asymmetry to the whole thing.

To the extent that an interrogation is a battle of wits, the opponents aren't equal.

The police investigator is experienced at this: he interrogates people on a daily basis, and may have been doing that for, literally, decades.

You've gone through your entire life without being the subject of a police interrogation at all. Most likely, the closest you've been to one is watching a fictional one on television.

Getting involved in that is like somebody who has never picked up a tennis racket—but maybe watched some matches on TV—going out on the court with a professional tennis player, except, in the case of a police interrogation, there's a lot more to lose than in a tennis game.

It's worse, actually—when you go into a tennis game, you're not frightened half out of your wits. Those minutes and hours after you've been the victim of a life-threatening situation aren't the time when you can coolly and calmly answer questions, or explain yourself, and they're certainly not the time when you'll be thinking about all the implications of the various laws involved.

Realistically, anybody involved in a handgun self-defense *will* need the help of an experienced criminal attorney, and must not talk with the police, except as above, before consulting with one.

If it turns out—and it might—that a police interview is in your interest, the attorney can and should supervise the interview. Many criminal attorneys will simply refuse to have their clients take an interview at all, and submit a sworn statement instead.

After a shooting, trying too hard to avoid being arrested is just asking for trouble.

When are you under arrest?

If police officers have said, “I'm placing you under arrest,” it's fair to guess that you are—but even if they haven't formally made that statement, you might be.

Take a hypothetical case: you're sitting in a room at a police station, behind a table, with two plainclothes detectives on the other side of the table between you and the door, and a third, uniformed officer standing in front of the door, glowering at you. Are you under arrest? Or are you simply voluntarily chatting with the police, free to leave at any time?

Asking, "Am I free to leave?[41]" is the obvious thing to do, but it won't do any good. Feel free to try it.

"Why *should* you be under arrest? Have you done something wrong?" is the standard comeback—and both an attempt to change the subject, and an invitation to talk, and, as the police say during the standard "Miranda" warning, "Anything you say can and will be used against you."

If you're under arrest, you have the right to talk to your lawyer, and the police must make a telephone available for you to call him or her, and can't question you further after you've demanded to talk to your lawyer, unless you choose to waive that right—something they will be only too happy to let you do.

But if you're not under arrest, you still have all those rights, of course, but the police don't have to do anything to help you, as you are—at least in theory—free to walk out the door and go wherever you want, and the court will take anything you say as a voluntary admission.

Can you walk out that door?

There's only one way to make your custodial status clear: try to leave.

In that situation, if you get up—slowly—and quietly but firmly say, "I'm going to leave now," and walk toward the door, perhaps saying, "excuse me; I need for you to step aside so I can leave" to the officer standing in front of the door, glowering at you, one of two things will happen: either you'll be allowed to leave—in which case your first task is to contact your attorney—or you'll be informed that you're under arrest, in which case you still must continue to demand to speak to your attorney, and never consent to any search.

And did we mention that you must not talk to *anybody* before talking to your attorney[42]?

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41. Do ask "Am I free to leave?" rather than "Am I under arrest?" Whether or not you're free to leave is a question of fact; whether or not you're "under arrest" is a legal conclusion. You should take legal advice and ask for legal conclusions from your attorney, not from a police officer.

42. That particularly applies to whoever the police lock you in the cell with. It's common practice to put a "snitch" in the cell with a suspect, to try to get him to talk. If you find that your cellmate is a good listener, talk about football, say. *Don't* talk about your case or your situation.

Not talking isn't just for you

Not talking to the police doesn't just apply to you—you think of yourself as the victim; the police think of you as the suspect. It applies to your family, as well.

If the victim and the shot perpetrator knew each other, the police will proceed on the assumption that there was some previous history of problems between the two, and attempt to find out details about it. Anything said by a family member—say, that you and your attacker once had harsh words with each other—can easily be used as evidence against you. Family members should be instructed, in advance, that they are not to open the door to policemen who do not have warrants, and to always explain:

1. that they will be happy to have a conversation with any investigators as soon as they've talked to their attorney, and
2. that they do not consent to any search.

And then, simply, they must not talk further, until their attorney tells them otherwise.

Yes, this all sounds paranoid.

Most of the time, if you're a law-abiding citizen, the police are, in practice, allies. They're the folks you call when you hear a suspicious sound in the alley outside your house at night, and when you encounter a policeman working overtime at the local supermarket, you know he's there to protect you as well as everybody else, and you probably give him a smile and a nod. Even when a police officer stops you for having a turn signal out or a minor traffic violation, he's doing his job, and it's just not a big deal. You may not be happy about that, but you don't treat the police officer as somebody who is endangering your freedom.

And you're right not to.

But after using or threatening deadly force, *everything* changes. To the police officer, you're no longer an ordinary citizen—you're a suspect, and, again:

After the use of a gun in self-defense, the police are not your friends.

This may sound paranoid, but for anybody who is the subject of a police investigation, paranoia of this sort is simply good policy. The risks of talking are huge, and the benefits—while a competent police investigator will try his or her best to make it appear otherwise—are minimal, at best.

We do keep repeating this, and we hope we're not boring you, but this is so important that it probably can't be repeated too often:

In the aftermath of the use of a gun in self-defense—particularly in a shooting—the most important thing to do is to repeatedly request an attorney, and make no other statements, regardless of the temptation. If you're utterly sure that you can follow the four-point plan, go ahead. But do remember that the fourth point—the request for the lawyer, the refusal to consent to any search, and not talking after—is the most important part of it.

An alternate strategy

That said, there is at least an argument for talking, at least a little, but in order to use this strategy, it's necessary to have a degree of self-control beyond what most people have at all, much less after having just been involved in a terrifying situation.

If you're not sure that you've got such self-control, it's best to just repeat demands for a lawyer, and leave it at that.

Most people should just leave it at that.

Still, many people will—whether it's wise or not—choose to talk to the police after an attack, but if you're going to ignore our advice and do that, do so only using the following principle: give only objective facts that the police are going to discover anyway, and ignore other questions.

"I live here" is an objective fact. "This is my garage," ditto. "He attacked me," or even, arguably, "I shot him." Even "I said, 'Stop attacking me!' and 'Drop your weapon!'" are objective facts, if that's what you said.

When it goes beyond reporting objective, verifiable facts to answering subjective questions ("Were you angry at him?"), or other matters ("Have you had arguments with him before?") then it's time to shut up, and stay shut up. Those are lose-lose questions. If say you were angry at him, it can be argued that you shot him because you were angry—rather than in fear of being killed. If you say that weren't, then it can be argued that you killed him in cold blood, or are lying—if you were actually in fear of death or great bodily injury from this guy's attack, how could you *not* be angry?[43] If you admit having had arguments with the attacker before, that can be used as evidence that you killed him because of a longstanding feud; if you deny it, and somebody else says that you had, you can be accused of lying in an attempt to hide that longstanding feud.

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43. "Of course I was angry with him!" you'd want to say. "That son-of-a-bitch put me in a situation where I was forced, necessarily, to decide whether I was going to let him kill me, or whether I was going to live and he was going to die. You can't *not* be angry at that situation and the person who forced it on you!" *Don't.* This is not the time for a philosophical discussion or argument.

Just about the only thing you say that can't be used against you is, "I want to talk to my attorney, and I do not consent to any search."

Again: *in the wake of the use or threat of deadly force, the police are not your friends.*

The risk of this strategy is that, once you start talking, you will keep talking, and, as they say, "anything you say can and will be used against you in a court of law."

The one exception

Having painted the standard picture—and tried to talk you out of talking to the police—it's important to note that there is one time, and *only* one time, when it is definitely in your interest to talk to the police, although you won't have to say much.

That's when you've got a situation where all of the following elements apply:

1. You haven't hurt, much less killed, anybody.
2. You have a police officer who appears sympathetic. That, in and of itself, isn't terribly important; appearing sympathetic can easily be part of an hostile interrogation—but it's necessary.
3. The police officer has made it abundantly clear that all he wants is a simple "yes" to a detailed, sympathetic question that establishes each and every one of the elements of self-defense.

This will only happen, if it happens at all, in an utterly unambiguous situation, and very few examples of the use or threat of lethal force will appear so very clear to police officers. If—as is very likely—the questioning goes beyond that single request for a simple yes to a sympathetic question, the only safe answer is "I want my lawyer."

A real-life example is worthwhile.

Tim and Serena live in a high-crime neighborhood, where muggings are common. One night, Serena heard the sounds of a struggle outside, and went to the window to find Tim on the ground, surrounded by a pack of muggers, who were apparently attempting to kick him to death.

This sort of thing, alas, wasn't rare in their neighborhood.

She retrieved their shotgun from the closet while she called 911, and, thinking it likely that Tim wouldn't be alive by the time the police arrived, she pumped a round into the chamber, and stepped outside, screaming at them to stop.

They didn't. She fired a single shot in the air, and the kicking instantly ceased, and the attackers fled. (Contrary to the myth, they didn't try to take the gun away from her. They just ran away.)

When the police arrived, the sergeant in charge listened to Tim's statement while the paramedics treated him and loaded him into the ambulance, and the sergeant made some notes on his report, and turned to Serena.

"Let me see if I've got this straight," he said, nodding his head. "Fearing that your husband, who you knew to be a reluctant participant in this confrontation, was in immediate danger of death and/or great bodily injury—as indeed he was!—you may have fired one shot in the air in an attempt to deter the perpetrators from murdering him, and then ceased firing the moment that they ended the attack?" He kept nodding as he talked. "Is that correct, Ma'am?"

"Yes, sir," she said.

He smiled, and stopped nodding. "Thank you, Ma'am; have a good night," he said, as he handed her back the shotgun.

While, perhaps, Tim's talking to the police and the paramedics could be criticized, Serena's action was spot on. She gave a simple yes to an unambiguous, friendly question, and the encounter ended there.

If the question had been less detailed—"So you shot because you thought your husband might be hurt?" —or if the police sergeant had asked for a further statement, the only sensible thing for her to do would have been to say, as many times as necessary, "I want to talk to my lawyer, and I do not consent to any search[44]."

If he'd been really sympathetic to her situation, he would have understood why. If not, then she didn't want to be talking to him at all.

After a nonlethal confrontation

The same principles apply to the majority of defensive handgun uses, in which no shot is fired. If anything, these can be more complicated, because while in the case of a successful defensive shooting, the attacker is either dead or seriously injured and unlikely to be able to immediately or ever spin the situation to his advantage, if the attacker has simply fled—or is still on the scene, uninjured, when the police arrive—he won't be at that disadvantage.

Another actual case—the names have been changed—is worth looking at.

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44. Yes, we know that this sentence is becoming repetitive. However, it is your lifeline—burn it into your brain.

Bob had a carry permit for some years under the previous Minnesota law, and daily carried a handgun to protect the large sums of cash that his business requires that he carry about with him.

One day, he was involved in a small traffic accident, in which the driver of another car backed into him, causing no serious damage to his car, but jamming him up against the curb. The other driver came out of the car with a tire iron, saying, "I'm going to beat your head in," and added some colorful expletives, as he moved toward Bob.

Believing, reasonably, that he was in immediate danger of having his head beaten in, and retreat not being practical, Bob drew his handgun, and pointed it at the attacker, at which point the attacker broke off the attack, retreated to his own car, and drove off.

Bob, thinking that the incident was over, simply drove home. There was, shortly, a knock on his door, and two uniformed police officers asked if they could come in to talk to him, which he agreed to. They asked him some details about the incident, which he answered thoroughly and honestly, if somewhat heatedly, at which point they asked if he could produce the gun that he had been carrying, and the carry permit under which it was legal for him to carry it.

He produced both; the policemen seized both, and promptly arrested him on felony charges, at which time he finally contacted an experienced criminal attorney. After some negotiation with the prosecutor's office, his attorney managed to get the charges reduced to a misdemeanor, provided he pled guilty, surrendered his carry permit, and made no attempt to have his handgun returned to him.

Bob made several mistakes, and was fortunate enough to have gotten off so easily.

His first mistake was not in immediately calling the police. It's an understandable reluctance—after all, he had done something unusual, and potentially serious: he had drawn a gun and pointed it at somebody. But that reluctance permitted the aggressor to get in the first complaint to the police. It's called "the race to the courthouse," and he let his attacker win it by default.

His second mistake was in not calling his lawyer.

Beyond that, he let the police in, and talked to them. This was a particularly bad idea. If an interview with the police had been in his interest—and, all in all, it might have been—that interview should have been conducted under the supervision of his attorney.

He had no obligation to open the door to the police[45], or to answer their questions at all—much less produce his handgun and permit while at home,

in an interview that he shouldn't have granted in the first place—and his attorney could have advised him to that effect.

Again: after an armed confrontation, the most important thing to do is to ask for a lawyer, refuse to consent to any search, and then to say nothing more until after talking with your attorney.

If you remember nothing else from this book, do remember that.

Getting sued

As if being almost certainly arrested and quite possibly charged with a crime isn't bad enough if you use your handgun in self-defense, there's also the risk of being sued.

That said, for once, we do have some good news: Minnesota law protects victims against being sued by criminals who have attacked them. Section 611A.08 of the Minnesota Statutes was written specifically to protect victims:

> 611A.08 Barring perpetrators of crimes from recovering for injuries sustained during criminal conduct....
>
> Subd. 2. Perpetrator's assumption of the risk. A perpetrator assumes the risk of loss, injury, or death resulting from or arising out of a course of criminal conduct involving a violent crime... and the crime victim is immune from and not liable for any civil damages as a result of acts or omissions of the victim if the victim used reasonable force as authorized in section 609.06 or 609.065.
>
> Subd. 3. Evidence. Notwithstanding other evidence which the victim may adduce relating to the perpetrator's conviction of the violent crime involving the parties to the civil action, a certified copy of: a guilty plea; a court judgment of guilt; a court record of conviction as specified in section 599.24, 599.25, or 609.041; an adjudication as a delinquent child; or a disposition as an extended jurisdiction juvenile pursuant to section 260B.130 is conclusive proof of the perpetrator's assumption of the risk.
>
> Subd. 4. Attorney's fees to victim. If the perpetrator does not prevail in a civil action that is subject to this section, the court

45. No, of course, refusing to open your door to somebody and talking to them through it isn't "Minnesota nice." But after using or threatening lethal force, it's more important to protect yourself than to be Minnesota Nice.

> may award reasonable expenses, including attorney's fees and disbursements, to the victim.
>
> Subd. 5. Stay of civil action. Except to the extent needed to preserve evidence, any civil action in which the defense set forth in subdivision 1 or 2 is raised shall be stayed by the court on the motion of the defendant during the pendency of any criminal action against the plaintiff based on the alleged violent crime.....

All in all, the law is favorable for those who have to use force in defending themselves against a criminal attack. A conviction of the attacker is, as the law says, "conclusive proof"[46] of the attacker's "assumption of risk,"[47] and if your attacker sues you, you may even be able to get court costs and attorney's fees. If he sues you while his criminal case is pending, your lawyer can have the action "stayed"—put on hold—until it's decided.

That said, there are a few traps in there. First, if your attacker isn't charged and convicted, you don't have that "conclusive" proof, and may be forced to provide that "other evidence" that the statute talks about, and have a judge or jury decide if it's good enough proof.

Also, notice that what's allowed is "reasonable" force—and remember, that if there's any real question about what's reasonable, a jury gets to decide it.

On the other hand, consider the criminal's problem in trying to get a lawyer to take the case. He's either got to come up with thousands of dollars for lawyer's fees, or get a lawyer to take the case "on spec"—where the lawyer doesn't get paid unless his client does. Both are going to be difficult, more than likely. Few criminals have thousands of dollars to throw away on lawsuits, after all, and getting a lawyer to take a case "on spec" usually means that the lawyer thinks there's a good chance of either winning in court or getting a large settlement—and the chances of the criminal winning the case are likely going to be small[48].

It's not impossible that—even if he can find a lawyer to take the case—your lawyer could persuade the judge that no sensible jury possibly could

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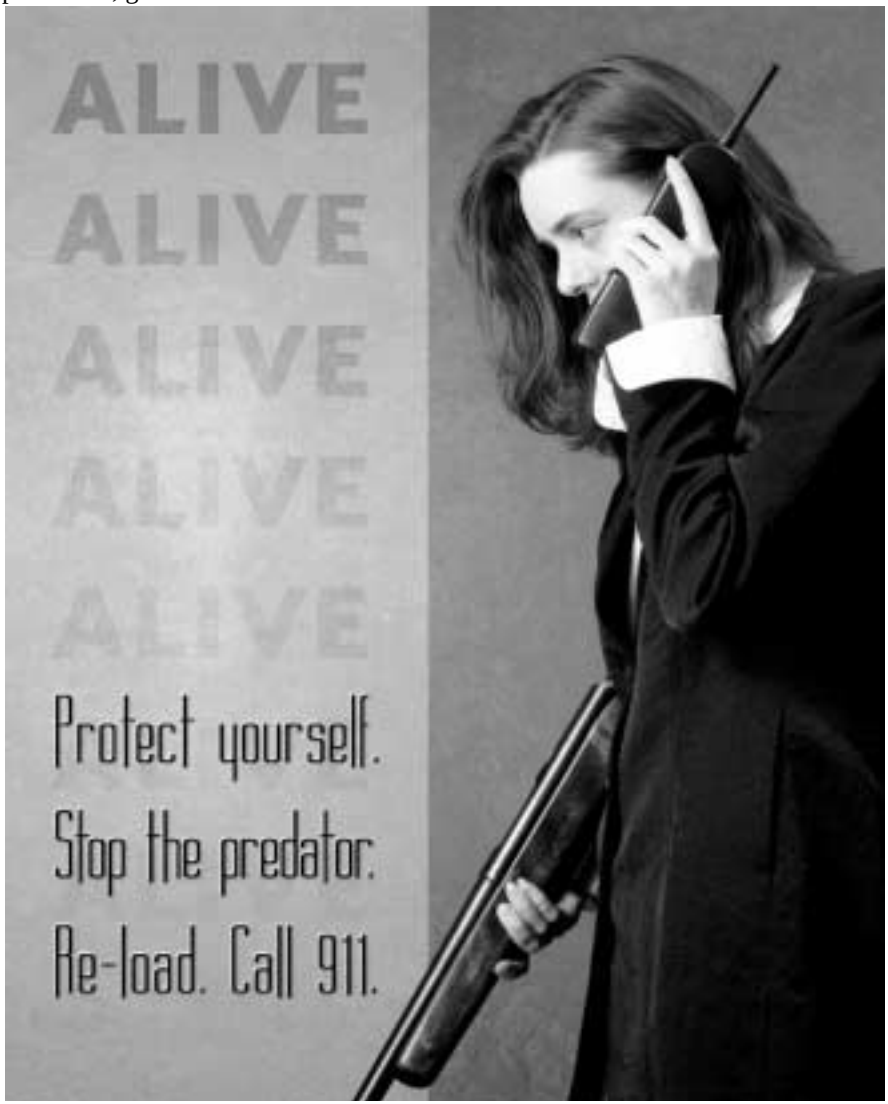
46. And, from a legal standpoint, proof just plain doesn't get a whole lot better than "conclusive."
47. When the law talks about "assumption of risk" here, it's just a fancy legal way of saying that getting hurt or killed is the attacker's problem. If he didn't want to take the risk, he could have skipped attacking you.
48. But not necessarily zero. After being acquitted of attempted murder in New York, in the famous "subway vigilante" case, Bernard Goetz was successfully sued by his attackers. While New York State doesn't have as strong a legal protection for victims as Minnesota does, the jury in that case found that the force that Goetz used was "unreasonable." Part of what worked against Goetz was that he had talked—for hours—with the police, without a lawyer.

decide that the force you used wasn't reasonable, and the case could be dismissed.

Still, all in all, the same principle applies to worries about lawsuits as it does to worries about being arrested: if you really *do* need to show or use your handgun to prevent you from being killed or badly injured, at that moment you'll almost certainly be thinking about survival, rather than about legal repercussions.

If you don't survive the confrontation, you won't have any of those problems, granted. It's better to survive.



And then, *call your attorney*.

And remember: a gun never solves problems.

CHAPTER 5
Routine Police Encounters

Most people who carry a handgun will, in practice, never face a situation where they encounter a deadly threat, or be involved with the police on a serious criminal matter. Realistically, outside of the range, most permit holders will never take their guns out other than to put them on and put them away, and that's as it should be. And that is, of course, a good thing.

Still, most permit holders will encounter police officers on a routine basis, as everybody does, whether it's the police officer on overtime at the local drugstore, or the one who has pulled you over for an out-of-order turn signal. This chapter deals with ordinary police encounters, ones where issues of deadly force, a police investigation, and the threat or reality of arrest are *not* involved.

In cases where *any* of those are, it's necessary to immediately switch to "I want to speak to my attorney, and I don't consent to any search" mode.

It's important to know that the Minnesota Personal Protection Act does provide for a statewide, computerized registry of permit holders. It's tied to the driver's license database, and will come up if and when the police run your driver's license.

And not just then. If your car is registered in your name, when the police run your plates—something that they routinely do before coming over to talk to you or write a ticket, if they've stopped you—they can easily find that you have a permit, too, from the same database. They won't know, of course, if you are armed, but they may well assume that you are.

This is important not only for you as a permit holder to know, but for anybody who happens to be driving your car—if, say, a husband of a permit holder is driving his wife's car, the police may assume that he is armed.

Police officers who are not familiar with the exemplary record of permit holders are likely to be nervous. Your task is to get through ordinary encounters without getting into trouble.

The rules are generally straightforward:

Don't argue

There are few times and places to argue with police. The roadside isn't one of them, nor are other routine encounters. Not arguing doesn't mean agreeing—that you're not going to argue with the officer about, say, whether or not you were speeding doesn't mean that you need to admit that, say, you were traveling ten m.p.h. above the speed limit. "I don't want to talk about that," is a perfectly legitimate thing to say. The time to correct the officer in his or her misunderstanding of either facts or the law is later, at leisure, and with witnesses, if at all.

Don't volunteer unnecessary information

Under the MPPA, a permit holder has no general obligation to inform a police officer that he or she is armed, *unless* asked. While people new to carrying a handgun assume that everybody has X-ray vision and can spot the gun immediately, that's simply not the case. If the policeman doesn't ask, there's no reason at all to tell him or her that one is carrying in a routine encounter, and every reason not to.

The obvious exception to this occurs if the policeman is, shortly, going to see the gun.

If, say, you're carrying your handgun in a strongside holster, and you've been asked to produce identification, and to get out your wallet will reveal your gun, it's a good idea, if not legally required, to inform the officer of that beforehand, and ask for instructions.

"My driver's license and my carry permit are in my right hip pocket; my handgun is on my right hip. What would you like me to do?" for example.

(Remember to keep your hands visible. Police officers love to see hands.)

Even better, in a traffic stop, would be to have your driver's license, registration, insurance card in hand before the officer arrives at your window, and your permit in your shirt pocket. If the issue of being armed doesn't come up, don't mention it—just hand over your license, registration, and insurance card when asked, and leave the permit in your pocket. If the issue

does come up, you can say, "My permit is in my shirt pocket—would you like to see it?"[49].

Still better is to be sure that you can, if needed, produce identification without revealing that you're armed. Those people who carry handguns on a hip holster can learn to carry their wallet on the side opposite the handgun. Getting used to this can take a week or so, but it can save you from potential grief. Even if the wallet is on the same side, or if you're carrying a spare magazine on the side opposite the gun, it's perfectly possible to retrieve a wallet from a hip pocket by reaching behind and under the hem of the jacket, without sweeping the jacket aside, and with a bit of practice, that action can both seem and become natural.

If the subject of your being armed doesn't come up, there's no need to raise it.

On the other hand, the MPPA does require that a permit holder who is presently carrying a firearm must show the card and ID to a police officer "upon lawful demand." You should assume that, any time you're out in public while carrying, that any demand is lawful; for practical purposes, that means that if a policeman asks to see your ID and carry permit, you must produce it.

Be polite

Consider the problem that a police officer has—particularly during the early months of the MPPA, where he or she has rarely if ever encountered a permit holder. Some officers are going to be nervous, and while there's no need to be overly familiar, simple politeness—particularly in something like a traffic stop—will help to reassure the officer that you're not going to be a problem, whether the handgun issue comes up or not.

Don't lie

Generally speaking, there is no legal obligation to talk to police, but there are various statutory and practical penalties for lying. If an officer asks if you are armed, answer honestly. This is one of the few times when you should volunteer information: before admitting that you are armed, men-

49. In the case where you're driving your own car—a car that's registered to you—the moment that the police run your plates through the state computer system they'll be able to get your name and address, and be able to find out from the database that you have a carry permit. In that case, be sure to have your carry permit and ID out, w*hether or not you've got your handgun with you,* with your hands clearly in view, before they reach the car. They may well assume that if you're registered as having a permit, you're armed.

tion that you have a carry permit. “I have my carry permit in my wallet, and yes, officer, I am carrying a handgun on my right hip.”

Obey all instructions promptly

Again, obvious. If you're confused, politely ask for clarification. When you're obeying instructions, *say* what you're doing. “I'm getting my wallet out now, as you've told me,” for example. Make it utterly clear that you're cooperating with the officer's commands.

Don't produce your handgun except on instruction

Almost invariably, when a police officer decides to take possession of somebody's handgun, the officer will choose to retrieve it himself. That's what they're trained to do. Realistically, those officers who don't choose to do that won't bother to retrieve your firearm. In the unlikely instance that a police officer asks you to produce the firearm yourself: obey the instruction, *say* that you're obeying the instructions, and do so promptly, but without quick or jerky motions, and, of course, being sure to point the gun in a safe direction at all times, with your finger away from the trigger.

Don't offer to turn over your handgun before the officer asks you to do so, because you don't want to give up your Fourth Amendment rights by “consenting” to a search.

Keep your hands in plain sight

Again, largely common sense. The idea is not to make the police officer nervous, and they can, even in ordinary confrontations, become very nervous about things like quick movements and hands in pockets. As they say, “cops love to see hands.”

Don't consent to a search

Police officers will, from time to time, ask your permission to search you, or your car. Just say no. Be polite, but firm.

Consenting to a search is one of those break-even-or-lose propositions. There's nothing to gain, after all. It's also humiliating—and there's no reason to volunteer to put up with being humiliated.

That doesn't mean, of course, that you won't be searched—just don't consent to one. And we mean *never, ever* consent to *any* search. There is no possible good outcome for you.

Legally speaking, a full search is different from being "patted down" or a "pat down search." A "pat down search" is just what it sounds like: the police officer pats on your clothes, attempting to see if you have a weapon. They don't get to stick their hands inside your clothes, or pockets—they just pat you some.

In Terry v. Ohio (88 S.Ct. 1868 U.S.Ohio 1968) and in subsequent cases, the United States Supreme Court gave police broad latitude in conducting pat down searches. They have much more latitude in "pat downs" than conducting full searches, but even pat-down searches are not something that a police officer can do just because he or she feels like it.

Minnesota law is the same. As the appeals court ruled in State v. Varnado (582 N.W.2d 886 Minn.,1998):

> During a routine stop for a minor traffic violation, a pat-down search is improper unless some additional suspicious or threatening circumstances are present.

But, often, police officers want to search people they stop—even for minor traffic offenses. But, if there's "no additional suspicious or threatening circumstances[50]," they can't even pat you down —

—unless they ask you for permission, and you say yes.

So don't. Just politely say, "No," and be prepared to repeat it. Don't consent to a search of your car, either. One of the authors has refused consent several times, and the police officers simply turned to other matters; they knew that he could say no, and it didn't offend them that he did that.

If you do consent to a search, anything that a police officer suspects might be contraband in your car—whether or not it is—is likely to result in you being arrested. Anything that is contraband in the car—whether or not it's yours, whether or not you put it there, whether or not you had the slightest idea that it was there—*will* result in you being arrested and charged.

A real-life case in point—and, as usual, the names have been changed:

Bill was stopped for a minor traffic violation—he was traveling about ten miles per hour above the speed limit—and the police officer asked permission to search his car.

Bill didn't like the idea of having his car searched, and shook his head.

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50. While there's yet to be a court decision on this, having a permit and handgun on your person isn't likely to be considered a "suspicious or threatening circumstance" by the courts.

"Well, if you don't have anything to hide, you won't have a problem," the police officer said, and asked again. This time, Bill agreed, and the officer searched his car.

He came up with a small bag of marijuana hidden under the front seat. It wasn't Bill's—Bill doesn't use illegal drugs—but he had, several weeks before, lent his car to his younger sister, who did, and who had forgotten that she had left the bag of marijuana under the seat.

Bill was arrested, and it took quite a long time—and a lot of money spent on lawyers—to clear it all up. If his sister hadn't been willing to swear out an affidavit that the marijuana was hers, he would likely have been convicted.

Even if you don't lend your car to drug-using relatives, you really don't have any way of knowing, for sure, that there's nothing in there that could cause a problem. Has something fallen out of the pocket of a passenger? Did the parking valet at the restaurant forget something in the car?

Are you sure? Are you willing to bet thousands of dollars and your freedom on that?

No.

It's the same for rental cars—even though the rental companies clean them, anybody who regularly rents cars has found things in it that weren't his.

If you're asked to consent to a search, and you say no, granted, the officer may not be happy. He may tell you that he can make you wait there until he gets a search warrant. Most likely, he's just bluffing—the fact that you don't give permission for him to search your car isn't evidence that will persuade a judge.

Instead of arguing with him, it's best just to say that you need to call your attorney—"My cell phone is in my pocket, and I need to call my lawyer." Why? He'll ask. "Because I need to talk to my attorney, since you're not letting me leave."

Most likely, if you call his bluff, he'll finish writing the ticket, and send you on your way. And if he does get the warrant, and doesn't turn anything up—and, if you're right about there being no contraband in the car, he won't—he'll look foolish.

Importantly, not consenting to a search is a very different thing than physically resisting. We shouldn't have to say it, but we will, anyway: *don't offer physical resistance to police.*

If they've asked permission to pat you down, and you've said no, they might decide to do it anyway. Don't say yes; say, "I'm *not* consenting to any search, but I'm not going to offer any resistance at all."

When a routine encounter becomes something else

As mentioned above, it is not unknown for what was a routine encounter to become something else, and this can happen without any warning, and without you necessarily having done something wrong, or done anything at all. You could be minding your own business driving down the street at a time when a somebody with a similar description driving a similar car has just robbed a bank, say.

When a routine encounter becomes non routine, it's necessary to immediately transition into a defensive mode, and behave just as you would after a situation where you'd used, or threatened to use, deadly force, and for that, go back to the chapter on *Lethal Force and its Aftermath* on page 63.

And remember: a gun never solves problems.

CHAPTER 6
Choosing a Handgun for Carry

If the law about how very limited the right to use lethal force is—including the lethal force represented by a carried handgun—and the advice as to how awful even a confrontation you "win" is going to be hasn't frightened you off yet, read on.

Perhaps you already own a handgun that you're considering as your carry gun. Your trainer—see *Training*, starting on page 185—should be able to advise you. Or perhaps you have a knowledgeable friend to give you some good advice.

But do think about it carefully.

The necessary characteristics of a handgun carried for personal protection are different than one used for target shooting, or even for home defense. A good home defense gun can be a lot larger and heavier than one a reasonable person can carry, and while target shooting is most often done with careful use of sights, almost all self-defensive shooting—regardless of how you've been trained—is what's called "point shooting," where the gun is thrust out at the attacker. Very few people who are in a life-threatening situation are able to look at anything except the threat—you'll look at, say, the knife-wielding attacker, not the sights.

A carried self-defense gun should have the following characteristics:

Reliability

The reason for this is obvious. There are two horrible ways that a self-defense handgun can fail: it can fire without putting a finger on the trigger, or it can fail to fire when the trigger is pulled. Guns that can go off when dropped aren't acceptable; neither are ones that won't fire reliably, each and every time the trigger is pulled.

Concealability

While, as we'll get to shortly, a permit holder in Minnesota can legally carry a handgun openly or concealed, as a matter of good sense and sound practice, most permit holders will carry their handgun concealed almost all of the time. Particularly over the next few years, until the occasional sight of a civilian-carried handgun becomes common, an inadvertent showing of it might cause some panicky person to make a 911 "man with a gun" call.

That can—and probably will—change. But, even so, there are many advantages to carrying concealed, and few to carrying openly. One of the reasons that uniformed police officers are all-too-often shot with their own handguns is that they must carry openly[51]. Civilian permit holders have the option, and should almost always carry concealed, both in their own interest, and in everybody's interest. Widespread deterrence depends on criminals not knowing who is carrying, so that they have to be concerned about everyone.

How concealed is "concealed" depends on your situation—how you dress, and how bad you think an inadvertent display would be, in your situation. There'll be more on that in *The Mechanics of Everyday Carry*, starting on page 141.

Luggability

One of the few absolute truths about carrying a handgun around is that it never, ever gets lighter as the day goes by.

It doesn't get smaller, either. Accounts abound of permit holders who start off carrying, say, a full-sized .45, and eventually give up on carrying their handgun at all. In an emergency, even the smallest handgun in the hand is going to be much more useful than a .44 Magnum left at home. As

51. The main reason, of course, is that police officers have to involve themselves in dangerous situations that civilian permit holders don't. A permit holder who is told, "Hey, I think there's a gangbanger making trouble in that alley," will call 911 as he walks away; a police officer may have to go in, and find himself or herself in a dangerous and ambiguous situation.

many wags have said, “the first rule of a gunfight is, ‘have a gun.’” (They’re wrong, of course. The first rule of a gunfight is, “avoid it if at all possible.”)

Pointability

The sights on a self-defense handgun, as we've said, will almost certainly not be used in a real-life defensive situation—your eyes will be locked on the attacker. For that reason, we feel that a self-defense handgun must naturally point well for you—whether or not it does so for anybody else. At realistic self-defense ranges, the bullet should go where you're pointing, without you having to think about changing your grip or using the sights. This requires careful selection, and possibly some modification of the grips—just because a handgun points well for your instructor, your wife, your husband, or your best friend doesn't mean that it points well for you.

Caliber

While almost all successful handgun defenses don't require any shots being fired at all—and since most permit holders will never have to take their handgun out in public at all, much less shoot anybody—it could be argued that caliber isn't important, and in most cases, it won't be. Most attackers, when faced with a .22 pistol, won't care to find out what getting shot with even a small bullet feels like.

That said, forget the myths about “stopping power.” Even the largest, most powerful handguns cannot reliably be counted on to stop an attacker with a single shot—even if it hits. That's even more true for smaller caliber handguns, simply because they make smaller holes, and the bullets carry less energy. The consensus among trainers is to recommend .32 ACP as the smallest caliber suitable for carry, and many think that's insufficient.

Trade-offs, and our recommendation

Obviously, there's trade-offs between concealability, luggability, and caliber. Bigger caliber handguns are generally larger and heavier than smaller caliber ones. Smaller handguns are much easier to conceal.

Our recommendation is this: carry the largest-caliber, most powerful

handgun that you can reliably control and reasonably conceal, and that isn't heavy enough to be an annoyance. If it's too much of a problem hauling it around, you will leave it at home. There's nothing wrong with deciding to leave your handgun at home—when you have a carry permit, it's up to you whether or not to carry, on a day-to-day basis—but that should be a decision based on some better reason than "it's just too heavy and bulky."

Revolvers vs. semiautos

In the gun community, the discussion of the revolver vs. the semiauto often resembles a religious argument. We're agnostic on the issue; there are real advantages to either.

Let's start with basic definitions: a revolver is a handgun having a revolving cylinder that holds the ammunition. Each time that the hammer is cocked back, the mechanism inside rotates, bringing a new cartridge in line with the firing pin and barrel. Revolvers can be single-action, double-action, or double-action only.

In a single-action revolver, it's necessary to manually pull the hammer back in order to rotate the cylinder. Only after that will a pull on the trigger cause the revolver to fire. Single-action revolvers are not good choices for self-defense.

A double-action revolver, like the one at right, can be fired in one of two ways: either the hammer can be pulled back, and the revolver fired with a fairly light pull on the trigger—just like with a single-action revolver—or simply pulling on the trigger, which requires a stronger pull, will rotate the cylinder and cock the hammer, and then release it, firing the round. From 1890 through 1990, the double-action revolver was the predominant police tool for dealing with deadly encounters.

A double-action-only (DAO) revolver can *only* be operated that way—the only way to fire it is to pull on the trigger, rotating the cylinder as it cocks the hammer and then releases it, firing the round.

A semiautomatic pistol works on a different principle. A round is first chambered in the pistol, and when it's fired, the recoil or gas pressure created by the firing the round causes the slide of the pistol to move backwards rapidly, which also cocks the hammer. When the slide comes forward, it strips off another round of ammunition from the pistol's magazine, and automatically chambers it. The reason that it's called a "semiautomatic" pis-

tol rather than an "automatic" is that, as with the revolver, each shot requires a pull on the trigger. Semiautos, as they're usually called, can come in either single-action, double-action, or double-action only, although those terms mean slightly different things with semiautos than they do for revolvers.

The mechanism of a single-action semiauto requires that the hammer be manually cocked—pulled back—before the first shot[52].

After that, when the pistol is fired, the slide automatically recocks the hammer before it comes forward to chamber a round.

A double-action semiauto has two kinds of trigger pulls. Like the double-action revolver, firing the first round requires a fairly firm pull on the trigger—this cocks the hammer and releases it. As with the single-action semiauto, the firing of the first round recocks the hammer, and enables the pistol to fire with a less firm trigger pull on second and subsequent shots.

A DAO semiauto works, in practice, similarly to a DAO revolver: every shot requires exactly the same, fairly firm, trigger pull, which both cocks the hammer and fires the round[53].

The whole question of semiautos gets very complicated not just because of the firing mechanism, but because of the safety systems, which vary. All modern firearms have safety mechanisms—frequently more than one—that are intended to prevent the gun from firing if there is no finger pulling the trigger back.

Where it gets complicated is with that "more than one" safety mechanism. Many semiauto pistols have external safety switches, which must be put into the correct position before the pistol can fire. That's particularly true for single-action semiautos, which are typically carried, when they are carried, "cocked and locked:" with a round chambered, the hammer pulled back, and the safety switch in the "safe[54]" position, preventing the pistol from firing until the switch is moved to the "fire" position. Just to make things more complicated—and anything involving firearms tends to be—

52. This can be done either by pulling the slide all the way back—"racking" the slide—or, if a round has already been chambered and the hammer lowered, by manually pulling the hammer all the way back.

53. There are all sorts of hybrid and specialty actions. The Glock pistols, for example, have what they call a "Safe Action," where the internal hammer is cocked whenever a round is chambered, but where the trigger pull is stiff enough to feel like a DAO semiauto—and the same trigger pressure will always fire the round. While, technically, they're not DAO—because the internal firing mechanism is cocked by the slide going back—in practice, they operate in the same way that true DAO semiautos do.

54. We're using "scare quotes" around the word "safe" deliberately. As we discuss in *Gun Safety, On and Off the Range*, starting on page 163, it's horribly *un*safe to rely on a "safety" switch to prevent a gun from firing, for two reasons: you might be wrong about the position that the switch is in, or the switch might fail. Whatever can be said good about external safety switches, they are in no way, form, or manner a substitute for safe gun handling. Ever.

some semiautos have safety switches that are “safe” when pushed up, and others when pushed down.

And if that isn't complicated enough, there are additional safety mechanisms in some pistols. Some have what are called “magazine safeties” which—at least in theory and usually in practice—will prevent the pistol from being fired, even if a round is chambered and the trigger is pulled, when the magazine is removed.

We'll get back to the discussion of safety switches shortly, but we do want to emphasize two things. First, you must be completely familiar with the features, including the safety features, of any handgun you carry for self-defense. Secondly, and most importantly, we need to repeat what we put in the footnote here, and what we discuss further in *Gun Safety, On and Off the Range*, starting on page 163:

A safety mechanism, no matter how reliable you think it is, is never, ever a substitute for safe gun handling.

The case for revolvers for self-defense

There's lots that's good to be said about revolvers for self-defense. Revolvers are reliable, simple to operate, and, by and large, less expensive than equivalent-quality semiautos.

Because almost none have external “safety” switches, there's no danger of the revolver failing to fire because the switch is in the wrong place, as there is for some semiautos. While semiautos need more frequent maintenance and oiling in order to reliably function, revolvers need very little. In the event that a round fails—and this can happen, even with high-quality, modern ammunition—all that you need to do with a revolver is to pull the trigger again, bringing a new round underneath the hammer, and firing it.

Small, or “snubby” revolvers also carry well in a pocket, with or without a pocket holster—they're relatively nose-heavy; they tend to stay in the proper position, with the barrel down and the butt up, and are easily reached. When you reach your hand in your pocket for a pistol, you want to immediately grab the butt of it, not the barrel. While most revolvers suitable for daily carry hold five or six rounds, civilian self-defense shootings rarely involve more than one or two rounds being fired—although they certainly can.

We've been unable to find a case of a civilian dying in an otherwise survivable self-defense shooting because five rounds wasn't enough.

Another advantage to revolvers involves the grips. Aftermarket grips of various sizes and shapes are available for almost all revolvers, causing them to point differently in different folks' hands.

The odds are very good that, even if the original manufacturer's grips don't cause a given revolver to point well for you, there is an aftermarket grip that will. While there are aftermarket grips for many semiautos, generally they don't affect how semiautos point nearly as much, simply because the shape of the grip is constrained by the butt of the semiauto having to hold the magazine.

When it comes to making a handgun safe, double-action and DAO revolvers are easy. If you simply release the cylinder latch and swing the cylinder out, the revolver simply can not fire until the cylinder is closed—and that's easily visible, even to an untrained eye. If you remove the cartridges, and leave the cylinder open, it's easy to see that the revolver not only can't fire now—because the cylinder is open—but is unloaded, as well.

The case for semiautos for self-defense

With all that said for revolvers, you might wonder why anybody would want to carry a semiauto[55]. As good as revolvers are, there are some real advantages to semiautos.

For one thing, semiautos tend to be flatter than revolvers, and therefore tend to conceal more easily. For another—for some people—some semiautos point better. And, as we've said, for a handgun you're going to carry for self-defense, after reliability, the single most important necessary feature is that it point reliably—for you.

Revolver enthusiasts point to the fact that many semiautos have external safety switches. And that's true, and it's also true that under the stress of a life-threatening attack, people can—and have—failed to put the safety switch in the right position. But it is perfectly possible to find a semiauto without an external safety switch.

We recommend that, if you choose a semiauto, it be simple to operate—no external safety switch that can be left in the wrong position during a stressful, life-threatening situation. In such a situation, you'll have enough trouble remembering that you in fact are carrying a handgun, and don't need to worry about whether or not a switch is in the correct position. You'll have more than enough to think about at the time.

Still, some semiautos with safety switches can be—and often are—safely carried with the safety switch off. The only thing that's necessary, in that case, is to remember to leave it alone.

The other advantage to semiautos is ammunition capacity. While civilian self-defense shootings—again: defensive shootings are much rarer than

55. Revolver enthusiasts often wonder the same thing.

defensive handgun uses—rarely involve many shots being fired, there's no disadvantage in and of itself to having more rounds available, or being able to reload quickly. Even some very small semiautos can carry upwards of seven or eight rounds, compared to the typical five or six of revolvers. And reloading a semiauto is something that can be done much more quickly than reloading a revolver.

The big advantage, though, is that for some people, a given semiauto will point better for a given user than any revolver. One of the authors of this book prefers his Kimber Pro Carry .45—despite its complicated manual of arms—simply because he finds that it points better for *him* than any other firearm he's tried. Then again, he's spent many, many hours practicing with it, and believes—and sincerely hopes—that the proper operation of it would be second nature to him.

Let's hope he never has to find out.

The case against revolvers

While revolvers fail more rarely than semiautos do, generally speaking, on the rare occasions that they do, fixing the problem is a job for a gunsmith, and not something that can be done by an ordinary permit holder, particularly not quickly, or under the stress of an immediate threat.

Further, some people find that, no matter how much they try to find the right set of grips, they simply can't find one for a given revolver that makes it point well for them.

It can also be argued that the capacity of a suitable carry revolver is less than ideal. And that's true enough—all other things being equal, it's better to have eight or ten rounds than five or six, although how much better isn't at all clear.

The case against semiautos

The main case against semiautos comes down to a question of reliability, particularly under stress. In order to fire more than one round from a semiauto, it's necessary that the slide go far enough back to strip off another round of ammunition from the magazine, then slide forward fast enough to properly chamber it.

There's a lot that can go wrong with that process. If the slide is dirty or rusted, friction may prevent that from happening. If, as the slide is going back, something interferes with it—say, a misplaced thumb, or the body of the shooter, that can interfere, too. There's also the phenomenon known as

"limp-wristing," where the shooter's arm doesn't maintain a steady enough position for the slide to function properly—when the shooter's wrist gives, it soaks up some of the energy that the slide needs to strip off and chamber the next round.

And then there's the magazine itself. If the magazine isn't quite right—if it's been damaged, or hasn't been properly inserted, or doesn't fit the pistol quite properly—all sorts of jams and failures can happen.

And then there's the ejector. The ejector is the small mechanism in the pistol that, after a cartridge is fired, is intended to fling the spent case away. Most of the time, with a quality pistol that's properly maintained, it does just that. Still, the phenomenon known as a "stove-pipe," where the spent cartridge manages to get trapped in the ejection port, isn't unknown, and anybody carrying a semiauto should be able to clear such failures quickly, without more than half-thinking about them.

Making sure that a semiauto is reliable is more time- and ammunition-consuming than it is for a revolver. If you put a few cylinders worth of ammunition through a given revolver, you can be reasonably confident that it will function reliably. Because a semiauto's operation is dependent—among other things—on the interaction between the gas pressure and recoil that the cartridge generates and the physical technique of the human operator, it's vital to put at least a couple of hundred rounds of ammunition through your semiauto before you should trust your life to it. And it shouldn't just be any ammunition, but the ammunition that you're going to carry for self-defense. If, say, you've decided on 115-grain Winchester Silvertips as your personal protection ammunition for your Glock 26, you really should put at least four or more boxes of that very ammunition through the Glock—with the same magazines that you're going to carry it in—and then clean, lightly oil, and retest the pistol before trusting it.

Specific choices

We're not in the business of endorsing or condemning manufacturers. That said, if we're going to try to tell you everything you need to know about carrying a handgun in Minnesota, some advice about kinds and models of handguns we think are and aren't suitable has to be part of it.

Let's take the different kinds in turn.

"Mouse guns"

This is the somewhat derisive term often used to describe small-caliber semiautos. There was a time when guns that could easily be concealed in a hand or a pocket were limited to .25 ACP and .22, but that's no longer the case.

The Kel-Tec P-32 at right, for example, in .32 ACP, is small, lightweight and flat, and can easily be concealed in a hip pocket, most shirt pockets or, if necessary, a hand. It weighs only 6.6 ounces unloaded, and about 9.4 ounces with a fully loaded magazine.

While more expensive and less easy to find, the Seecamp LWS and NAA Guardian, also in .32 ACP, are of similar size, although somewhat heavier.

The advantages of such guns are that they are small and easily concealable; the disadvantages include that they aren't intimidating to look at, and that in an actual shooting, it's likely that most, if not all, of the rounds the gun carries would need to be used to stop a determined attacker.

But, that said, the concealability may be a very large factor for some people. Many people whose mode of dress makes concealing a larger handgun difficult or impossible will find one of these diminutive firearms easy to carry, and they'll conceal very well in a pocket holster. And while no handgun ever gets lighter during the day, less than ten ounces really isn't a lot to haul around.

Small revolvers

Small revolvers—such as the Smith & Wesson Centennial revolver at the right, the Colt Detective Special or Cobra, or the various Smith & Wesson clones from Taurus and Rossi—come in several calibers, as does the slightly larger and heavier Ruger SP101. They are somewhat larger than the "mouse guns," and they do weigh more.

All of these guns can chamber the .38 Special round—a reasonable choice for self-defense—and the ones of newer manufacture are also rated for the so-called +P .38 rounds, which build up greater pressures and therefore send the bullet out of the barrel faster. Some

small revolvers are even available in the powerful .357 Magnum cartridge; new gun owners may not be aware that any revolver chambered for a .357 Magnum can chamber and shoot .38 Special rounds—+P or not.

The alloy-framed "Airweight" guns or the more recent titanium-framed ones can weigh less than eleven ounces. The only drawbacks to these are the expense, if bought new, and the recoil. A round that is comfortable when fired from a heavier gun can often be punishing in a light-framed one. This, again, is more of a range problem than a self-defense one—under the adrenaline dump of a life-threatening situation, you're unlikely to be conscious of the recoil. An ultralight revolver isn't likely to be much fun to shoot at the range, though, and you might have to endure some discomfort in order to fire enough rounds to be completely confidant that it will point and shoot accurately for you.

These revolvers come in both double-action and Double Action Only (DAO) models. Both can be fired by a fairly firm squeeze on the trigger, which both cocks the hammer and fires the gun, but the double action revolver also makes it possible to manually cock the external hammer, and then fire the gun with a much lighter trigger pull thereby, at least in theory, making better accuracy possible.

That possible advantage does come with some trade-offs. If the hammer is pulled back and the gun is not fired, it becomes necessary to manually lower the hammer before reholstering it, and while that can be done safely, it's not something that's suitable for shaky fingers.

Secondly, while it's a mistake to so much as rest a finger on the trigger of a gun unless it's pointed at a target and to be immediately fired, there are enough real-world instances of accidental discharges by people who apparently have done just that with cocked double-action revolvers that it's best, by and large, simply to avoid the whole problem.

All in all, our recommendation, particularly for those new to carrying, is to stick with a DAO revolver, like the one on the previous page, for personal protection. Careful selection of grips can make these point well for almost any hand shape and size. Grips need to be chosen not only for shape but for functionality—wood is far prettier than rubber, but rubber grips are easier to hold onto, particularly with sweaty hands.

If you have a standard double-action revolver—one that can be fired either double-action, or by cocking the hammer with the thumb—it can be converted to DAO by any experienced gunsmith. Failing that, simply *never* manually cocking the hammer with the thumb can serve almost as well, in practice, although there are some legal risks. In one case, a prosecutor claimed that the accused cocked and shot his DA revolver by negligence—

which is manslaughter, a felony—rather than by deliberate action in self-defense[56].

Mid-sized revolvers

Mid-sized revolvers like the Smith & Wesson K-Frame series or the hammerless .44 Special at the right, are, generally speaking, on the largish side for carry and concealment, but are by no means impossible for that purpose; that's particularly true for those with shorter barrels. The main problem with them is the weight—the Smith & Wesson Model 66, for example, weighs two pounds. On the plus side, some mid-sized revolvers can, like the Taurus Model 66, be chambered for up to seven rounds. But, realistically, carrying one of these with adequate concealment can be a challenge.

Full-sized revolvers

Full-sized revolvers are generally unsuitable. They're large, heavy, and the combination of their size and the bulging of the cylinder makes them significantly harder to conceal than anything smaller.

Compact semiautos

Compact Semiautos like the Glock 30 (billed by its manufacturer as a "subcompact" pistol, and shown next to the Kel-Tec .32 for comparison) are often good choices, particularly for those who find that they can point-shoot more accurately with a semiauto than with a snubby revolver.

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56. This was the famous Luis Alvarez case, in Miami. In 1982, Alvarez, a police officer, shot Nevell "Snake" Johnson, while holding him at gunpoint. A riot ensued. Alvarez was charged with manslaughter, and eventually acquitted in what was, at the time, the longest criminal trial in Florida. By the time the trial was over, all Miami Police Department revolvers had been converted to DAO.

The small Glocks and other compact semiautos are available in calibers from .380 up to and including the very powerful 10mm Glock 31.

New shooters (and many experienced ones) often find the Glocks a good choice, both because of the robustness of their manufacture, and because of their simplicity of operation; the only external safety that any of the Glocks have is a tiny trigger-on-the-trigger, and it's unnecessary to worry that the failure to put a safety switch in the right position will prevent the pistol from firing.

Also in the compact category are guns like the Smith & Wesson 3913 and the Taurus Millennium series, the Kahr pistols, as well as some of the smaller SIGs. The Smith & Wesson semiautos do have an external “safety” switch, which is a disadvantage, but they can be safely carried, properly holstered, with the safety switch in the “fire” position.

These pistols are, for most people, too large for regular pocket carry—as we recommend at least considering—but they can conceal reasonably well for most people using other carry methods, and in a pinch, many of them can be carried, at least for a short period of time in a large enough pocket.

Mid-sized semiautos

Mid-sized semiautos are also frequently a good choice, for those who can count on wearing a covering garment.

The Colt Commander and its clones, like the Kimber Pro Carry, puts seven or eight rounds of .45 ACP in a very flat and concealable package, although the manual of arms of such guns makes them a questionable choice for anybody but experienced shooters, as they need to be carried either with the hammer back and safety switch on, with the hammer down on an empty chamber, or with the hammer down on a loaded chamber. The first carry method requires remembering to push the safety switch down with the thumb in order to fire; the second requires racking the slide with both hands; the third requires thumbing the hammer back. All are easy to do on the range, but could easily be a problem in a stressful situation.

The Para Ordnance LDA series of mid-sized pistols are a much better choice for carry for all but the most experienced users. The compact-sized LDA is shown on the left in the picture, with a Government Model .380 for size comparison.

While they have the same flat profile of the Colt Commander, the LDA pistols can be carried with the hammer down on a loaded chamber and the safety switch off, and still fired by a firm pull on the trigger.

For newer permit holders, the simplicity of operation of the mid-sized Glocks, such as the Glock 19 or 23. Or other simple-to-operate pistols, like the SIG P239 at right. The SIG pistols have an external decocking lever, rather than an external safety, makes them prime candidates in this category.

With a covering garment and a proper holster, any of these can be easily concealed under a jacket or vest, particularly with an inside-the-waistband (IWB) holster.

Full-sized semiautos

Full-sized semiautos push the limits of what's reasonable to carry, but are by no means beyond them. The classic 1911A1 and similar pistols are very flat, and conceal surprisingly well, and can be a reasonable choice for experienced shooters.

A better choice for new permit holders who want to carry full-sized semiautos are the larger Glocks, such as the Glock 17 at the right, or any of the full-sized SIGs—these are recommended because they don't have external “safety switches”.

While the full-sized Berettas, like the Model 92, and similar offerings from Taurus, are fine firearms, they are both big and thick, and concealing them can be difficult.

Our recommendation

Our recommendation that new permit holders carry a five- or six-round Double-Action Only (DAO) revolver, chambered in .38 Special, preferably in one of the lightweight alloy frames. These are very simple to operate, and the DAO action prevents any concern about lowering a cocked hammer. Among the good choices in this category are any of the alloy-framed Smith & Wesson Centennial revolvers, as well as the Taurus "CIA Model 850" revolver or the classic Colt "Detective Special" or lightweight "Cobra," converted to DAO.

The lack of an external hammer makes these revolvers easy to retrieve from a pocket holster without fear of the hammer snagging on the pocket, and as you'll see in *The Mechanics of Everyday Carry*, starting on page 141, we think that pocket holsters have a lot to offer.

For new permit holders who prefer semiautos, we recommend considering the small Glocks or SIG pistols, or the Taurus Millennium series, none of which has an external safety switch.

These aren't the only good choices—but we think that they are among the good choices.

Choosing a self-defense handgun is, as we've said, a serious matter, and it's worth some time giving some thought to it, discussing it with knowledgeable people—including your trainer—and trying out many different handguns, to see which works best for you.

Ammunition

Beyond issue of caliber and handgun comes the matter of ammunition. There are scads of manufacturers making very good commercial ammunition, some of it specifically designed for personal protection.

Generally, ammunition can be divided into two categories: solid point (usually called "hardball"); and hollowpoint, which has a cavity in the nose of the bullet. You'll see both in the illustration here.

Hollowpoint ammunition will, at least in theory, quickly expand inside an attacker's body, creating additional damage that will aid in stopping him quickly. A 9mm Parabellum hollowpoint, by this theory, will quickly expand to be larger than a .45 ACP hardball round, thereby doing more damage and stopping the attacker even more quickly than a .45 ACP round would.

That said, there's some question as to how reliably that actually happens.

Even in tests—where bullets are fired into a gelatin medium that is intended to approximate human flesh—hollowpoint ammunition often fails to expand, and even when it does, often only does so after traveling as much as eight inches or more. In real life, where the cavity of the hollowpoint may become filled with threads of clothing on the way in, it may be even less likely to expand.

And then there's the question of the ballistic gel itself. In order to be a useful way to compare bullet performance, ballistic gel has to be uniform in its composition—but an attacker won't be. How accurately shooting into ballistic gel actually simulates shooting into human flesh is a matter of some debate—a real attacker, for example, will have not only clothing, but bones that can deflect or slow a bullet.

Our attitude is to prefer hollowpoints, on the ground that they at least *might* expand, but—following what's suggested by the research of Martin J. Fackler—to consider penetration and bullet diameter to be of more importance; this is why we recommend carrying the most powerful, largest-caliber handgun you can reasonably conceal and reliably control.

While there's much good that can be said about the very large-cavity .45 ACP hollowpoints usually called “Flying Ashtrays,” produced by CCI and other manufacturers, some semiautos won't feed them reliably, and for these, even more than usual, it's necessary to make sure, well in advance, that the given handgun you'll be carrying reliably feeds the ammunition that it will be carrying, every time.

Following on Dr. Fackler's research, we recommend hardball for those carrying .32 ACP handguns, on the grounds that even the hardball ammunition in these relatively low-powered guns is going to have enough trouble penetrating far enough to cause injury sufficient to stop an attack.

As to what kind of ammunition is good, and what can be defended in court, opinions and myths abound.

Many respected self-defense professionals claim, for example, that a permit holder risks problems in court by carrying handloaded ammunition.

Realistically, both a police investigation and a court case are likely to be far more about whether the use of deadly force was justifiable—at every moment that deadly force was used, as previously discussed—than it is about such peripheral matters as the flavor of ammunition used. We recommend against handloaded ammunition in self-defense weapons, not only or even primarily for liability reasons, but for quality-control ones.

Still, all in all, there's no harm done to be conservative, and while it's not necessary to use the same loadings as your local police department requires that its officers carry, that's probably not a bad place to start, at

least for those carrying guns of the same caliber as your local police department[57].

We recommend, particularly for new shooters, either carrying the same loadings as the local PD, or any of the good commercial ammunition designated by the manufacturer as for personal defense. In the unlikely event that your selection of ammunition ever becomes an issue, you're probably better off with something labeled a “Personal Defense” round than, say, the no-longer-manufactured “Black Talon,” about which there was much misleading press reporting, although with a new name—“STX”—that round is still immensely popular with police departments.

Among the good candidates are the Winchester Silvertip hollowpoints, the Federal “Personal Defense” rounds, the Cor-Bon ammunition, and the Remington “Golden Saber” loadings.

Exotic rounds

Just as a failure of a bullet to penetrate far enough into the body can make it fail in stopping an attack, overpenetration—where a bullet goes through what it's aimed at—can be a serious problem for the more powerful rounds. This is why handguns are a much better choice for personal defense than rifles, in most cases—the problem of carrying a rifle in public aside. All but the most carefully-selected rifle rounds are problematic for personal defense—a bullet that goes through the attacker will continue on, and there's no guarantee that one or more walls will stop it before it buries itself in some innocent body.

One attempt to solve the overpenetration problem are with pre-fragmented rounds, such as the “Glaser Safety Slug” or “MagSafe” rounds. The “bullet” consists of some amount of very small lead shot, held in place with epoxy, with a copper casing around it all. Upon hitting anything solid—whether a wall or flesh—the “bullet” immediately fragments, dumping all of its energy into the flesh or the wall, and not overpenetrating.

That certainly works well in theory, and may in fact work well in fact, but there are reasons to believe that such rounds many not penetrate far enough into an attacker's body to do the sort of damage necessary to stop the attack.

We recommend keeping things simple, and avoiding exotic ammunition, particularly in semiautos. The cost of running several hundred rounds

57. To find out what ammunition your local police department issues or requires, just call and ask. As of this writing, for example, the Minneapolis Police Department requires that their officers carry 9mm+P 115 grain Federal rounds in their service weapons.

of Glasers through a semiauto—something that's necessary in order to be sure that it will function reliably with that ammunition—is prohibitive for almost everybody.

Specific ammunition recommendations

While, as we've said, there are many good choices, our top recommendations for self-defense ammunition, by caliber, are in the following table:

Handgun	**Recommendation**
.32 ACP semiauto (Seecamp, Kel-Tec, etc.)	Winchester, Federal or Remington 71 grain solid-point ("ball") ammunition
.380 ACP semiauto	Federal 90 gr. Hydra-shok hollowpoint or Cor-Bon 90 gr. hollowpoint
9mm Makarov	Cor-Bon 9mm Makarov hollowpoint
.38 Special (older guns, not rated for +P rounds; also useful for people sensitive to recoil)	Federal 125 grain Nyclad lead hollowpoint; Winchester Silvertip 110 grain JHP
.38 Special +P (newer guns; also a good choice for .357 Magnum handguns, for those who prefer less recoil)	Federal 125 grain +P Nyclad or Remington 125 grain +P Golden Saber hollowpoint; any good commercial "FBI load" 158-grain semi-wadcutter hollowpoint
.357 Magnum	Federal 125 grain jacketed hollowpoint or Winchester Silvertip 145 grain jacketed hollowpoint or Remington Medium Velocity 125 grain Semi-Jacketed Hollowpoint

9mm Parabellum	Remington 115 grain +P JHP or Winchester Silvertip hollowpoint or Cor-Bon 9mm 115 grain +P Jacketed Hollowpoint
.40 Smith & Wesson	Winchester Silvertip 155 grain jacketed hollowpoint or the equivalent loading from Federal, Cor-Bon, or Remington
.45 ACP	Federal 230 or 185 grain Hydrashok Jacketed hollowpoint or Cor-Bon 185 grain Sierra JHP or CCI Lawman 200 gr. "Flying Ashtray" jacketed hollowpoint

Where we come down

It would be easy to say that for a self-defense weapon, it's your choice—and we do.

Beyond that, though, we do think that our recommendation, particularly for those new to carry, of a snubby revolver in .38 Special is a good one, particularly for those new to carry, and entirely suitable for many experienced gun owners.

There'll be more on our reasons for that recommendation in a subsequent chapter.

And remember: a gun never solves problems.

CHAPTER 7
The Legalities of Everyday Carry

Before turning to the details of how to carry a handgun in public, it's necessary to return, again, to the law—this time about the legalities of carrying a handgun in public.

Relax: this is much simpler than the law on lethal force.

A few preliminaries need to be addressed first. Minnesota law requires a permit holder to possess both his or her permit and valid ID—either a driver's license or a state identification card, although a US passport should do—while carrying a handgun in public. Should your permit or ID be stolen, it's best to replace both before carrying a handgun in public. Under the law, police officers are entitled to give a citation to a permit holder who is carrying without the permit and ID—and to take size the firearm—although the citation can and will be dismissed if the permit holder proves that he or she had a valid permit at the time of the violation, and in that case the firearm will be returned.

Permitted places

Generally speaking, as in much other law, that which is not specifically prohibited is permitted. A permit holder can carry a handgun most places, including public places, except where specifically prohibited by law or by proper notice from the property owner or renter.

Carry at work

Special attention needs to be paid to the issue of carry in the workplace.

Firstly, there is nothing in Minnesota law that flatly forbids a permit holder from carrying his or her handgun at work.

A permit *may* not even be necessary; under Minnesota Statute 624.714, Subdivision 9, a permit is *not* required "to keep or carry about the person's place of business, dwelling house, premises or on land possessed by the person a pistol."

The definition of "the person's place of business" as used in this statute has not been established in court, and until there is a decision by the Minnesota Supreme Court as to what that phrase means *as used in this particular statute*[58], we have no way of knowing if it includes a workplace where you're employed, but don't own.

And if you are required to own it? Does it include employees of a publicly held corporation who own some stock in that company? How about a four-way partnership?

Until and unless sufficient test cases work themselves up through the court system, there's simply no way of knowing whether or not you're breaking the law by carrying without a permit at work, and we caution against it; test cases are for other people.

While it is certainly lawful for permit holders to carry at their place of employment—unless it's a specifically banned area, like a school or prison—that doesn't mean that you won't be dismissed for doing so, whether or not there is a specific written policy forbidding it.

Yes: it's lawful, but you can be fired for it anyway.

The MPPA permits employers to set regulations about employees' behavior in the workplace, except for parking lots. As a general rule, such regulations ought to be announced in advance—but, as Minnesota is an "at will" state, an employer can, under most circumstances, terminate an employee's employment for any reason—or none—with little or no recourse by the employee. The fact that an employer has not specifically said that carry at work is prohibited may not prevent the employer from firing you for doing so—although if you're fired for that reason, you should immediately contact an experienced attorney.

In practice, it's best to quietly investigate what the employer's policy is, and then to make your decision based on what you think the actual risks are. Keeping quiet about your ownership of guns and particularly about

58. And, alas, there hasn't been.

your having a carry permit expands your options—but you should assume that if *anybody* at work knows you have a permit, everybody at work does.

From the point of view of the permit-holding employee, policies on carry in the workplace should be explicit, and ideally allow permit holders to carry.

While there are no pending court cases as of this writing, it's entirely possible that an employer who forbids his or her employees from carrying in the workplace assumes the responsibility of defending them from attacks that could be deterred or stopped with a carried handgun, and employers would, all in all, be wise not to forbid permit holders to carry at work, and let the law take its course.

That said, it's the employer's call. Employers have *very* broad latitude to prescribe or prohibit behavior while the employee is, as the lawyers say, "acting in the course and scope of that employment.[59]"

The parking lot

One of the many virtues of the MPPA is that it cleared up the issue of parking lots. At least in terms of permit holders and carried handguns, parking lots and ramps are public spaces, not private ones, even if they're owned by an employer, and employers have no right to forbid permit holders from carrying in parking lots.

Still, despite the MPPA, one Minnesota employer specifically prohibited not only carry of any sort of gun on their property—including their rented parking lot—but also the possession of so much as a single gun part or cartridge, even locked in the trunk of a car, by their employees on company-owned or company-rented property, and said that they would fire any employee who violates that policy. Whether they will change this policy remains to be seen.

We expect that there will be one or more test cases on this.

Employees of that company and those with similar policies should, if they plan to carry to and from work, consider parking outside of the employer's owned or rented property and storing the gun locked in the trunk of the car—and consult an attorney should doing so result in any harm to them.

Another option—which we do not recommend, as there is some risk involved—is simply to ignore a company policy against carrying, and carry

59. In plain English, roughly: while actually at work for the employer, whether on-site or off-site.

very discreetly. The very real risks of being dismissed if caught have to be weighed against the risks of being unable to defend yourself.

It's a lousy choice, granted.

We don't want to understate the risks of losing your job—employers have great latitude not only in things like hiring and firing, but in searching, as well. An employee's desk or locker can be searched by an employer without any form of warrant or notice, and to some extent that even applies to the employee's person.

It won't be easy to find another job if you've been fired for "carrying a loaded, concealed handgun."

Employers are legally entitled to set almost any rules they want in the workplace, even if that means banning all handguns.

A more sensible employers' attitude, in the opinion of the authors of this book, would be to permit carry in accordance with the law—and, in fact, it would be best to encourage it, as it would lead to a safer workplace—but there is no law requiring employers to be sensible[60].

Prohibited places

As a matter of policy, we think it's unwise to prohibit permit holders from carrying handguns anywhere, as those policies announce to criminals that such places are "free-fire zones," where the criminals don't have to worry about being confronted by lawfully-armed citizens.

That said, both Minnesota state and US Federal law do prohibit even permit holders from carrying in some places, and until and unless those laws are changed, anybody violating them runs the risk of severe legal penalties.

Permit holders are prohibited from carrying at the following places:

1. *Schools*. The only time that permit holders may carry at schools or day care centers, public or private, are while in the car or while taking the handgun off and storing it in the car while in the parking lot. You may also carry on school or day care grounds with the explicit, *written* permission of the school principal or day care center director.

2. *Federal buildings, including post offices*. Federal law prohibits civilians, even those with carry permits, from carrying guns in Federal buildings, specifically including post offices, and this is not superseded by Minnesota state law.

That armed security guards are frequently seen in post offices, their guns in evidence on their duty belts, without being arrested doesn't mean

60. If there was, Scott Adams, of Dilbert fame, would be out of business.

that permit holders can't be prosecuted for doing what is, in law, precisely the same thing. Don't bring your handgun into any of those buildings—including Federal court houses, Federal agencies such as the IRS, FBI, etc.

There is little case law as to whether or not the post office or Federal building also includes the attached parking lot, but a conservative approach is best: park outside of the attached parking lot, and secure your handgun in your car before going in.

3. *Courthouse complexes*. Minnesota Statute 609.66, Subdivision 1g, prohibits even permit holders from carrying in court buildings, unless the sheriff is notified. In theory, once the sheriff is notified, it's legal to carry in court buildings. In practice, courthouse guards and police will ask—insist, really—that a permit holder lock up his or her weapon in the secure storage area of a courthouse facility.

If you want to or need to go into a state court building, such as the Minneapolis Municipal Center, just go inside and walk right up to the guard station. Show the guard your permit, and ID, and ask for directions. In practice, you'll be given an escort into the secure storage area of the court building by a guard, and be permitted to secure your handgun in one of the strongboxes that police officers use to store their pistols when they enter areas, such as prisoner holding cells, where even they are not permitted to carry. Naturally, all safety procedures should be followed at all times, including those for routine encounters with police—never remove your handgun from your holster without explicit permission or instructions; unload it, and verify that it is unloaded, before securing it in the lockbox.

It is, by and large, nothing to be nervous about; the guards and police on duty at the court buildings, even under the previous law, have generally had significant experience with permit holders checking in their firearms, and will usually see it as a routine matter.

It's reasonable to expect that there will be one or more test cases on this, as the standard practice is in conflict with Minnesota Statute 609.66. Once those test cases occur and work themselves through the courts, it should be possible for permit holders to carry in courthouse complexes similarly to the way they carry on the Capitol and grounds, as below, simply by giving notice.

In the meantime, it's best to avoid being the subject of a test case, no matter how clear the statute appears to be. Let somebody else go through the hassle, and read about it at the AACFI website.

4. *The State Capitol, and grounds*. Minnesota Statute 609.66 Subdivision 1g also prohibits the carrying of handguns by civilians on the Capitol grounds or in any of the buildings on the Capitol grounds, with some exceptions. A civilian—with or without a permit—may receive explicit, written

permission from the Commissioner of Public Safety to carry in the Capitol, and on its grounds.

Realistically, this is a rarity.

A simpler way is provided by Minnesota Statute 609.66: rather than asking permission, if you're a permit holder, you can give written notice to the Commissioner of Public Safety that you intend to carry on the Capitol grounds. This notification should be sent by Certified Mail, Return Receipt Requested, and both a copy of the letter and the return receipt should be kept in the permit holder's files.

Make the letter simple and businesslike. One sample letter by a permit holder reads as follows—feel free to use it as a model:

> June 21, 2003
>
> Rich Stanek, Commissioner
> Minnesota Department of Public Safety
> Central Office
> Town Square
> 444 Cedar Street
> Saint Paul, Minnesota 55101
>
> Via Certified Mail
>
> Dear Commissioner Stanek:
>
> Minn. Stat. 609.66, Subdivision 1g specifies that a person who "possesses a dangerous weapon, ammunition, or explosives in any state building within the capitol area described in section 15.50, other than the National Guard Armory" is guilty of a felony, *except* for several classes of persons, including "persons who carry pistols according to the terms of a permit issued under section 624.714 and who so notify the sheriff or the commissioner of public safety, as appropriate." (Minn. Stat 609.66, Subd 1g, (b)(2))
>
> As a citizen involved in the legislative process, I frequently visit buildings within the capitol area. As the holder of a Minnesota State Permit to Carry a Handgun, it is likely that when I do so, I will have my pistol in my possession.
>
> Please consider this letter as the required notification, securing for me the exemption specified in Minn. Stat 609.66, Subd 1g, (b)(2). A copy of both the front and back of my current permit, which expires on February 21, 2004, is included, as is a copy of the front of my Minnesota driver's

license.

Thank you for your attention to this matter.

Very truly yours,

It's a good idea, although not necessary, to carry a copy of the letter and the return receipt when visiting the Capitol, just in case the issue comes up, although it probably won't. If you're questioned by a Capitol security officer or State Trooper, just be calm and responsive, as when dealing with any other police officer on a routine matter.

Since all citizens should participate in the legislative process—at least, that's our opinion—sending out a notification like this one should be a regular part of getting and renewing your permit.

Since security procedures vary from time to time, common sense is needed in dealing with the changes. You should not, under any circumstances, go through a metal detector without notifying a Capitol policeman or State Trooper that you are a permit holder, that you have given notification to the Commissioner. Do that with your permit and ID in hand—*not*, of course, your handgun. Ideally, you should have a copy of your notification letter, too.

It's no big deal. You'll be let through or—more likely—be escorted around the metal detector.

Realistically, experienced police officers in and around the Capitol have already, over the years, encountered a number of permit holders who have given notification, and can be expected to behave calmly and professionally. One of the writers of this manual has had a conversation with a senior officer in the Minnesota State Patrol who was at the time assigned to the Capitol area—and who has asked not to be named, so we won't—who said, chuckling, “Of all the things I worry about around here, it isn't permit holders.”

5. *Correctional facilities, state hospitals, jails.* Permit holders also cannot carry in correctional facilities, state hospitals, or county jails, even with giving notice. This is probably not a bad idea, all in all. If you have to visit somebody in one of these places, just store the gun in your car, properly secured.

6. *Hunting.* It is illegal to carry a handgun “while hunting big game by archery, except when hunting bear.” While there's no case law on whether this prohibition is overruled by the possession of a valid carry permit, this is not likely to be a major issue for most permit holders, all in all. But, it's best

to be safe: if you're hunting big game with a bow and arrow, leave your handgun at home—unless you're hunting bear.

On the other hand, with that specific exception, Minnesota laws about calibers used in hunting do *not* apply to permit holders carrying a handgun for personal protection. It is illegal to, for example, hunt deer with a .45 ACP pistol, but it is not illegal for a permit holder hunting deer with a suitable rifle or shotgun to also carry that same pistol for personal protection. Just don't shoot the deer with a pistol that isn't legal for deer[61].

7. *Airports.* The general rule, which *must* be paid attention to, is that you may not, ever, walk through a security station or metal detector when carrying a gun, on the body or even unloaded and secured in a locked box.

That said, it's lawful to enter airports, whether to pick up or drop off passengers or to do business *outside* of the security zone while armed. The experience of other states with modern, nondiscretionary permit laws, though, shows that a small number of permit holders occasionally forget that they are carrying, and you should *never* approach the security station of an airport—or any other metal detector or security station, anywhere—without first making utterly certain that you do not have a gun on you, or in a briefcase, purse, or whatever. This applies to spare magazines, speed loaders, and loose ammunition, as well; many permit holders get in the habit of carrying a spare magazine or speedloader in a pocket, purse, or briefcase.

It's good to get in the habit of making a short trip to the restroom before braving the security entrance, simply to check all pockets and bags. Yes, it would be embarrassing to have to miss a flight because you forgot that you'd locked your gun in your briefcase, and it would be annoying to have to figure out what to do with a spare magazine or speedloader—but being arrested for forgetting would be even more embarrassing, and worse in other obvious ways.

"I forgot" is not an explanation that will go over very well with the security people at the airports, or with a court later on.

While lockers outside of the security zone in airports used to be commonplace, in the wake of modern security concerns, they've entirely vanished. If you go into the airport with the intention of going inside the security zone—say, if you're going to meet a friend at his gate—just lock the gun, and all ammunition—and the holster, just as a matter of good practice—in the trunk of the car.

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61. If, on the other hand, you're *attacked* by a deer, in or out of hunting season, and have to use your .45 to defend yourself, you're probably technically okay—but we wish you the best of luck in explaining that to the DNR game officer.

While there is nothing unlawful about carrying a holster inside the security zone, it's the sort of thing that's likely to draw excessive and unwanted attention from airport security officers, and should be avoided.

For more on traveling with handguns, see *Traveling outside of Minnesota*, starting on page 135.

Carrying and drinking

The permit law that the MPPA replaced didn't address the issue of drinking and carrying. Supposedly, the printed message on the old permits—which stated, although without any support in the statute—"Not valid when consuming alcohol or drugs"—was an attempt to remedy that problem.

It didn't. Police departments aren't allowed to write laws. That's for the legislature.

The only reason that the absence of it didn't create problems is that permit holders are a self-selected, responsible group of people.

Theoretically, even assuming that the police department regulations had the force of law, that would have simply not prohibited carrying while intoxicated (that was not prohibited by the printing on the permit), but carrying while consuming alcohol (which was forbidden).

It would have been illegal for, for example, a permit holder carrying in public to as much as have a single sip of a friend's beer while, legally speaking, it would have been lawful—stupid, but lawful—to drink oneself into a stupor, then stop drinking and start carrying.

Fortunately, permit holders have always been a responsible lot. The MPPA is both more reasonable than the previous law, and very specific.

Carrying while "under the influence of alcohol or a controlled substance" is prohibited. Technically, the MPPA sets the legal limit for blood alcohol content (BAC) of .04 (four hundredths of a percent)—less than half the legal limit for drinking and driving—and punishes carrying with a BAC of .04 and .10 as a petty misdemeanor, and carrying with a BAC of.10 or more as a misdemeanor, and in either case, prescribes a suspension of the permit in addition to fine or jail time.

Realistically, none of this should be a problem for a responsible permit holder. Even a relatively small man or woman can have one beer, a single glass of wine, or a single shot of whiskey without ever going near a BAC of .04, and most people's BAC will drop, roughly, about .02 per hour, if they don't drink any more.

It's legal for most people to have a small glass of wine, a beer, or a mixed drink—containing a single shot—once every couple of hours over an

evening. It's also possible to consult a standard blood alcohol table, and crosscheck against sex, age, height, and body weight, in order to get closer to the legal limit without going over.

But we *strongly* recommend against it.

It's illegal to go over the limits; it's unwise to try to get close.

When it comes to mixing drinking and carrying, it's best to avoid the whole thing, and it's certainly wise to not go anywhere near the legal limits, just as it is for drinking and driving. Alcohol mixes only a little worse with cars than it does with guns.

Ideally, you should simply skip drinking entirely while carrying.

On the other hand, if you don't want to take that advice, we *strongly* recommend no more than a single drink—a glass of wine, a beer, or a single mixed drink—while carrying. The time to make decisions about combining alcohol and operating any possibly dangerous machine—whether it's a gun or a car—is *before* drinking.

In a situation where you've decided to drink more than that, the best thing to do is to secure the firearm before you do, just as it is to make sure there's a designated driver.

If you've decided that you really want to have that second—or third drink or fourth drink—unload and secure the firearm first.

Posting

Minnesota law does not make it illegal for a permit holder to carry a handgun in either public or private places simply because it has been posted. That said, property owners do have the right to set limitations on what people can do on their property, and somebody who has been asked—orally, or by a posted sign that says "[Operator of the establishment] BANS GUNS ON THESE PREMISES"—not to carry in a given place may well find himself or herself asked to leave, and possibly charged with trespassing if he or she fails to leave.

If he or she doesn't, the police can be summoned, and the permit holder charged with a petty misdemeanor trespassing violation, with a $25 fine for a first offense; further offenses are treated more harshly.

The very interesting question of whether or not a business owner assumes responsibility for the safety of a permit holder by denying him or her the right to carry his firearm at that place of business has yet to be addressed by the courts, although legal arguments could, and likely will, be made on both sides.

One thing is clear: if you are asked to leave, do so.

Still, if you're carrying your handgun properly concealed, it's unlikely that it will ever be noticed. Again, there are likely to be test cases on this, and the sensible thing to do is to avoid being involved in a test case.

Carry without permit

The MPPA did not change the situations in which it is lawful to carry a handgun without a permit. A handgun—including a loaded one—may be carried at one's home, place of business, or when traveling between the two, although how directly you must be traveling is not clear from the case law.

As to what is a "place of business," as we've said, the case law is not terribly informative. State v. Palmer (636 N.W.2d 810 Minn.App., 2001) makes it clear that the "place of business" must be a fixed place of business—Palmer, who carried a handgun as a courier, couldn't use his car as his place of business.

Even what is a "home" is not clear. In one case, a court ruled that the home exemption didn't apply to a driveway—that case was not appealed, so we don't know if the Appeals Court or Supreme Court would have agreed with that silly ruling by the trial judge.

Realistically, anybody who wants to keep a firearm for personal protection even if only at home should apply for a carry permit, as it avoids questions about boundaries of "home" and "place of business."

No permit is necessary to carry a firearm—even if loaded—to a place where it will be repaired[62]. Failing that, the gun must be transported "unloaded, contained in a closed and fastened case, gunbox or securely tied package."[63]

Naturally, those restrictions don't apply to permit holders.

Traveling outside of Minnesota

Whether or not another state recognizes a Minnesota carry permit is entirely up to the legislature of that state. As of this writing, Minnesota carry permits are recognized by Alaska, Idaho, Indiana, Kentucky, Michigan, Montana, and Utah; Minnesota permit holders may carry in those states—subject to those states' laws. Vermont is a special case—no permit, from Vermont or elsewhere, is necessary in order to carry there[64].

62. Explaining that that's what you were doing to a police officer is, though, unlikely to be a lot of fun.
63. Many police officers believe that the case must be locked as well as "closed and fastened," and that the handgun must also be secured in the trunk of the car. They're wrong.
64. In fact, there is no such thing as a carry permit in Vermont—one isn't needed.

While, generally speaking, Minnesota law about permitted carry is similar to those other states, that's subject to change at any time by the other states' legislatures, and you should learn about the current law in *that* state before carrying there. Some states, for example, forbid carry in bars, although Minnesota law does not. Most states require that permit holders carry concealed, unlike Minnesota, and in some there are serious penalties for even an accidental display of a firearm.

Generally speaking it's lawful to travel in a vehicle with an unloaded gun, ammunition stored separately, locked in a case in the trunk of the car, if one is simply traveling through the jurisdiction, rather than staying there.

That aside, it is *not* legal to possess a handgun—even unloaded and locked in a case in the trunk of the car—in New York City, Chicago, the District of Columbia, or Massachusetts, and the same principles that apply to entering the security zone of the airport apply: forgetting that it's there will not constitute an excuse if, for example, you decide to stay overnight.

Permit holders who wish to travel with their handguns can consult the state Attorney General's office of the states through which they'll be traveling, although in practice the website at www.packing.org provides largely reliable, generally up-to-date information about carry in the fifty states.

The National Rifle Association also regularly publishes a guide on traveling with firearms—see www.nra.org.

Traveling outside the United States

When traveling outside of the US, Mexico is the simplest case: Mexico forbids foreigners—including US citizens—to have firearms or ammunition, and it's both illegal and foolish to drive into Mexico with so much as a single .22 cartridge anywhere in the car.

On the other hand, while Canada forbids US citizens—and, generally, Canadian citizens—from traveling with handguns, Canadian law and Customs Canada regulations permit a visitor to Canada to declare and check in guns at the border, and retrieve them when leaving.

The guns should be unloaded, in a case, and the ammunition stored separately—just be sure to stop at a previous rest stop and make sure that's so.

When driving up to the Customs station, the Customs officer will generally ask a question such as, “Are you carrying any handguns for your own protection?”

As usual, the rules about routine police encounters apply. Just answer honestly, and—as an exception to the rule about not volunteering information—inform the Customs agent that the guns are unloaded and locked in

cases with the ammunition stored separately, and then proceed as he or she directs you.

In the rare but occasional event where the Customs officer forgets to ask the gun question, and instead says something like “Welcome to Canada,” urging you on, it's necessary to say something like, “I've got an unloaded handgun locked in a box in the trunk—may I check it in here?” before proceeding. The fact that a Customs agent has made a mistake isn't a defense in a Canadian court.

Regardless of how the issue is brought up, the Customs officers will either ask you to bring the cased guns inside, or will retrieve the case themselves. They will log in the guns and, usually, the ammunition—round by round—and then give you a receipt. Canadians tend to look at handgun ownership as a strange thing that US citizens do, but Customs Canada agents have long experience, both with Americans politely checking in firearms, and with a very few trying to sneak one or more through[65].

There's an important legal point about the ammunition. While Canadian law does not prohibit civilian possession of ammunition, it does prohibit the possession of *hollowpoint* ammunition, and should the Customs officers forget to ask the traveler to check in the ammunition—as sometimes happens—it's important to, politely, remind them that hollowpoint ammunition is prohibited, and to request that it be checked in, as well.

The Canadian Customs station will hold the guns for up to forty days, during which time, upon leaving Canada, you just stop at the same Customs station, produce picture ID and the receipt, and will be given the guns back, and be asked to sign a receipt to that effect.

The guns should then be kept cased and unloaded while proceeding down the road to US Customs. You don't have to declare your firearms when reentering the US, but if you find yourself involved in a Customs search, it's a good idea to politely inform the Customs agent that you have an unloaded firearm that you've just retrieved, and tell him where it is.

Traveling by air

It is both legal and entirely practical to bring a handgun along when traveling in the US by air, although there are a few pitfalls.

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65. Do we have to add that you should *never* do that? We understand that Canadian jails are generally nicer than American ones, but...

Know the local laws of your destination

The most important rule is to be sure, in advance, that you can lawfully possess the gun at your destination. There is no way, for example, that you can legally fly into New York or the District of Columbia[66] with a handgun, even in checked luggage, and it's only lawful under very specific circumstances to fly into Massachusetts with one.

Again, to find out what the law in your destination is, check the NRA publication, or with www.packing.org.

Even if the state doesn't recognize Minnesota carry permits, you may be legally able to keep one in your rented car or hotel room—just be sure what the laws are in advance. While Florida does not, at the moment, accept Minnesota carry permits, they do have very generous rules for travelers. It's not necessary, in Florida, to have a permit to carry a loaded firearm in a private vehicle, as long as the gun is "securely encased". This, under Florida law, includes it being in the glove compartment (even if it's unlocked), in a zippered case or any box with a lid—which includes, for example, in a closed cigar box on the seat next to you in the car.[67] It just can't be on your person, unless you have a Florida carry permit—but it does include holsters, as long as you're not wearing the holster.

How to check in a firearm

The general procedure is, when checking in outside the security area for a flight, to tell the ticket agent that you wish to check in a handgun. The gun should have been brought to the counter already unloaded and locked in a hard-sided case, and the ammunition should be stored separately, either in the same suitcase or another checked one.

For civilians, there is *no* such thing as a handgun or ammunition lawfully in carry-on baggage.

Experienced ticket agents will simply retrieve the appropriate forms, fill them out with your assistance, have you sign, and pack the forms in your luggage. Inexperienced ones, all too often, won't be aware that it's even legally possible to bring a gun aboard in checked luggage, and you'll have to ask, politely, for a supervisor. Again, it's not a big deal, and nothing to worry about.

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66. Both Dulles and Ronald Reagan Airport, by the way, are in Virginia. Don't cross into the District of Columbia with your handgun.

67. Yes, we know that sounds, to anybody used to Minnesota's very restrictive rules, to be suspiciously generous. Feel free to check it yourself—the phone number of the Florida Attorney General's office is (850) 487-1963, and they get asked this specific question a lot.

What not to do

There is one possible very serious pitfall. If there is a stop or change of planes, it's important you check the luggage through to the final destination. Regardless of how you acquire it, it is illegal for a civilian to possess a handgun inside the security zone of the airport, even when transporting luggage to be checked in for another leg of the trip.

This can be a problem, particularly when changing planes from different airlines. Some airlines don't have transfer agreements with others, and in those cases—and, sometimes, in the case of some changes in routing on a single airline—travelers will be instructed to pick up their luggage from one baggage claim and check it in for the next leg of the flight.

Don't do this.

Ever.

In practice, ticket agents will, under such circumstances, sometimes try to persuade you to do the transporting yourself.

Listen politely, but politely decline, and do not, under any circumstances, accept custody of the checked baggage containing either the handgun or ammunition—don't so much as touch the bags. A ticket agent saying, “It's okay—people do this all the time,” will not be a useful defense in court.

Ask for a supervisor, but, again: do *not* accept possession of the suitcase containing the gun or ammunition, not even for a moment.

If necessary—and it may well be—it's far safer to notify the airport police and ask to have them do the transfer than it is to put yourself in the position of possessing a gun in a zone where, even if it's unloaded and locked in a case, you can be convicted for doing so.

The simple, inviolable rule must be followed: do not, ever, have in your possession a handgun—or shotgun or rifle, or any ammunition—no matter how it's secured or packaged, and no matter who has reassured you that it won't be a problem, within the security zone of an airport.

In the very worst case, while abandoning a suitcase with a gun inside is a bad idea, it's a much worse idea to put yourself in the position of committing a felony for fear of losing property.

And remember: a gun never solves problems.

CHAPTER 8
The Mechanics of Everyday Carry

If the law about how limited the right to use lethal force—including a carried handgun—hasn't frightened you yet, read on. Turning from the legalities, it's now necessary to consider practical issues around carrying.

When should I carry?

It's up to you. You have to make your own decisions about when to carry. A carry permit gives you the right to carry a pistol, but it doesn't confer an obligation, and, as a matter of fact, some permit holders will carry a handgun rarely, if ever.

Carrying only when you feel that you're in danger in some senses simplifies the problem, but leaves you vulnerable to the unexpected. Realistically, any attack will be in some sense unexpected—anybody sensible who thinks that, say, he or she will be mugged when walking down the street at a given time will simply avoid being then and there[68].

We recommend a simple policy: carry everywhere it's permitted, all the time, and be prepared to store the gun safely when it's not. (For more on safe storage while carrying, see *Storing when carrying* on page 158.)

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68. Some time ago, one of the gun magazines surveyed several well-known gun writers, asking them a question something like: "You have two choices. 1. Having an unreliable .380 semiauto and thirty seconds warning of an attack, or 2. Having your choice of firearm and being surprised. Which would you choose?" Every one of them, reasonably, chose 1. One writer took the position that he didn't even need the .380 to make the first choice better. "I can run pretty far in thirty seconds."

That said, carrying a handgun in Minnesota presents some unusual challenges, largely because of the weather. The temperature in this state varies, over the course of a year, typically by 100 degrees or more, and as the temperature changes, so does clothing, and this is a major factor that must be considered when in carrying a handgun, as reasonable clothing can range from t-shirt and shorts to layers of clothing underneath a parka, with every step in between.

Choosing a carry method—or, more likely, a combination of carry methods—that will work across that broad spectrum requires a fair amount of thinking things out in advance.

We'll get to that in a moment, but first, think about this: carrying a handgun is, for people who haven't done it before, an intimidating experience, particularly at first. You have the sense that everybody sees the handgun; that they're looking right through your clothes.

That goes away after a while. For the time being, following a few simple rules will minimize the chances of unintentionally frightening somebody.

Don't touch the gun

This isn't just the ordinary safety rule—although safety is always important—but refers to the tendency of somebody new to carrying to constantly be touching at the holster, perhaps through the covering garment, as though to make sure that the gun is still there.

Don't do that. If it's necessary to adjust it, or to move it, it's important to do that in privacy—ideally, say, in a locked bathroom, or at least a bathroom stall—rather than fiddling with it in public. If it's necessary to handle the gun other than in complete privacy—say, if you're moving it from a hip holster to a coat pocket when getting out of the car—some advance practice with a gun *that you have repeatedly checked is completely unloaded* will show you that it's entirely possible to do this in a parked car without displaying the handgun, even in the unlikely event that somebody would happen to be looking. With more practice, it's possible to quickly and discreetly move a handgun in a pocket holster from one pocket to another without drawing attention, even in public: the main trick is to grip the holstered gun so as to conceal the butt of the gun in your hand. A casual observer will think it's a wallet or a leather pouch.

This shouldn't be a problem. It's illegal to threaten somebody with a gun, and generally unwise to actually reveal that you have one on you, but Minnesota law does not distinguish between open and concealed carry.

Still:

Do avoid exposing it unintentionally

A gun in a hip holster will be exposed if, for example, you sweep your jacket back to retrieve your wallet. Much better to make a habit of reaching back, behind and underneath the hem of the jacket, and retrieving the wallet without exposing the handgun. This feels strange at first, but with a little practice becomes natural. Even better is, as we've suggested before, to get in the habit of carrying your wallet on the side opposite where you have your handgun.

Realistically, if you're using a good holster or some other reasonable carry method, it's vanishingly unlikely that a handgun is going to tumble to the ground. But if it does, simply pick it up, and replace it, without a lot of glancing around or jerky movements that will make you look like you're doing something wrong, as you aren't. Accidentally exposing a handgun isn't illegal at all, and deliberately exposing one, while unwise, isn't illegal, either, unless it constitutes the making of a threat.

Still, the earlier caution still applies: if you show a handgun, even accidentally, while engaged in any sort of confrontation, persuading the police or the courts that it was an accident may be difficult.

Carry methods

There are several different basic carry methods, and an almost unlimited number of combinations. Still, they can be reduced to the following categories: hip holster, shoulder holster, pocket holster, deep cover, off-body carry, and a few miscellaneous options.

Each of these has different advantages and problems, and we'll talk about each one in turn. Because of both physical and social differences between men and women, the subject of carry for women has some special issues, and we'll get to that in its own section.

Holsters

The most common way to carry a handgun is in a holster. All good holsters have a few things in common: they all cover the trigger guard completely, and all support the gun in precisely the same position each time, without letting it flop around.

Belt holsters

One good carry method that combines both security and availability is the hip holster, where the gun is held on the hip by a belt. This is usually, on the "strongside" hip—the right hip for right-handers; the left hip for lefties—generally at or behind the hip joint itself—with the holster on a belt.

One obvious thing about this method is that it requires a covering garment—a coat, jacket, or at least a vest or loose shirt worn over the belt—in order to make concealment possible. While there are some hip holsters that permit a shirt to be tucked around them—the Mitch Rosen "Workman" is probably the best example—for all but the smallest of handguns and the loosest of shirts or blouses, there will still be a noticeable bulge.

As long as you are wearing a covering garment that can be quickly brushed aside, this keeps the gun reasonably available, and well-concealed. On the other hand, a gun on a belt holster that's under two sweaters and a zipped-up parka during winter will be anything but quickly available. It's something to think about.

The belt

One non obvious thing about carrying on a hip holster is the fact that *the belt itself is even more important that the holster*. Thin, flexible belts are perfectly adequate to keep a pair of pants from falling down, but they're not adequate to keep a piece of metal weighing a pound or more in a stable position, and one of the few absolute certainties about carrying a handgun regardless of the method used is that it will never feel lighter as the day goes by.

There are all sorts of hip holsters, some, like the one on the right, with retaining devices such as “thumb break” snaps, that will help to keep the gun in the holster, but the key to making this method work is the belt, which should be as wide as is practical—at least 1.5 inches, although 1.75 inches is better—and as stiff as possible. Most commercial belts, even of the appropriate width, don't have the required stiffness, and our recommended approach is to purchase one or more belts that have been specially designed to have the necessary rigidity.

Galco and Aker, for example, sell belts for roughly $40 retail, and like most specially-made gun belts, in addition to being more rigid than dress belts, they have a more dense arrangement of holes, permitting a more precise fit that will help to prevent the holster from flopping around.

Holsters themselves vary dramatically both in configuration and quality. We recommend a moderate approach—neither trying to get off as cheaply as possible, nor spending a lot of money on a top-of-the-line custom holster—at least at first. Even a well-made holster, designed for the gun its carrying, may not quite fit right for a given person, given how peoples' bodies and preferences vary.

The “holster drawer”—a sort of living graveyard for holsters that didn't quite work out—is a *very* common thing for people who carry handguns to have.

While there are far too many good on-the-belt holsters to list all of them, among the very good and affordable choices are the Galco Fletch and FX for 1.75-inch belts, or their “Concealable” model for 1.5-inch belts; the Milt Sparks “5BN,” a custom holster available in all belt sizes; the Desantis “Thumb Break Scabbard #1”; and the Alessi “Belt Slide Unit.”

Prices for these holsters vary from about $40 to around $80, and they can be bought either at local stores, by mail order, or on the Internet.

For on-the-belt carry, high-tech plastics, such as Kydex, are often good choices. Plastic is less expensive and less needing of care than leather is. A particularly good choice for Glock owners is the minimalist Glock “Sport” holster, available for around $10. The only problem with this holster is that it leaves the muzzle of the gun exposed, and while the bottom of a closed leather or plastic holster might, if it shows, be mistaken for the bottom of a

cell phone holster or something similar, the muzzle of a handgun is distinctive.

Inside the waistband

One very good kind of hip holster, which hides most of the barrel and muzzle, is what is called the “Inside the Waistband,” or IWB, holster, like the Tucker Gunleather “Answer” holster at the right. Rather than riding on the outside of the belt, this holster is slipped inside the waistband of the pants, with the belt under the clips and pressing the holster, and the handgun it holds, into place. For many people, this has huge advantages—the covering garment doesn't need to extend to cover the bottom of the holster, as that, along with most of the gun itself, are concealed inside the trousers, leaving nothing but a strap or so visible on the belt line; somebody seeing the strap will most likely think it's a carrier for a pager or cell phone.

Further, the importance of the stiffness of the belt is diminished, since the belt is used to compress the holster up against the body. And as a temporary expedient, if it's necessary to remove the covering garment, you can pull your shirt or blouse out and tuck it around the holster, providing decent concealment.

As always, there are trade-offs. Putting something inside the pants will, except for pants that are already loose-fitting around the waist, require buying new trousers, with an additional inch or two in the waistband. Some people, particularly those with bad backs, find that the pressure against the side and back becomes painful, particularly after a few hours.

And while high-tech plastics, such as Kydex, can be perfectly fine on the belt, when they're pushed up more strongly against the body, the stiffness of the plastic tends to make them uncomfortable.

Some IWB holsters are soft-sided, and the mouth of the holster will collapse when the gun is removed, making reholstering a complicated, two-hand operation that might require undoing the belt. This isn't particularly a problem for somebody who is keeping his gun on his hip all day, but presents ongoing difficulties for people who have to take the gun out to store it before going into a prohibited place. On the other hand, soft-sided holsters can be more comfortable.

We recommend hard-sided holsters for IWB carry.

Among the recommended holsters in this category are the Alessi “Talon Plus,” as pictured at right; the Desantis “Inner Piece”; the Galco “Summer Comfort,” and “Royal Guard”; the Milt Sparks “Executive Companion”; and the Mitch Rosen “ARG”.

Prices, by and large, are a little higher than equivalent on-the-belt holsters.

Shoulder holsters

Shoulder holsters have some advantages, but also a lot of problems.

For obvious reasons, they always require a covering garment, and the vest or jacket or coat has to cover not only the gun itself, but all of the straps, as well. The temporary expedient of pulling out the shirt that can work well for an IWB holster or even decently for an on-the-belt holster isn't available. If you have to take off your covering garment and don't want to expose your holster, you'll have to go off to the bathroom or some other private area, and remove the whole thing, then store it in a briefcase or bag.

Again, television is misleading: on TV, many policemen wear shoulder holsters, and seem to have no trouble removing their handgun when they need it.

That's not usually true in real life. Since men tend to have arms that are shorter relative to their shoulder width than women do, it's often more difficult for men in real life than it looks on television to reach under the armpit and retrieve the gun.

Shoulder holsters can be uncomfortable. If the straps are narrow, they'll tend to cut into the shoulders; shoulder rigs with wider straps are more difficult to conceal, and more expensive.

Shoulder holsters, in general, are also fairly expensive. Among the better commercial ones are the Galco “Miami Classic” and “Jackass”; the Alessi “Guardian”; and the Desantis “CEO Shoulder Rig,” but even the least expensive of these approaches $100, and the price of shoulder holsters only goes up from there.

The “Rolls Royce” of domestic shoulder holsters is probably the Mitch Rosen “Stylemaster,” but that starts at more than $350.

On the positive side, by carrying the handgun on one side and spare magazines or speedloaders on the other side, shoulder holsters balance well, and keep the handgun reasonably available while seated, or driving. A jacket or parka doesn't have to be completely unzipped or unbuttoned to make the gun available.

One limitation of most shoulder holsters is that they are, like belt holsters, one-handed—only a contortionist can quickly reach up with the left hand to where the gun is under the left armpit, open the thumb-break closure, and remove the handgun at all, much less quickly.

For revolvers, there is another option, although it's not a common one. Shoulder holsters based on the classic Berns-Martin design, popularized by the James Bond books, hold revolvers in a butt-down position by a spring built into the holster itself, which clamps around the cylinder. It looks strange—the barrel of the gun seems to point directly up toward the armpit—but it's actually quite practical for revolvers.

These are not made by any of the main commercial manufacturers these days, but Ken Null of KL Null Holsters—his website is at www.klnullholsters.com—makes what he calls his "City Slicker," a plastic version of the classic Berns-Martin. The particular advantage of these is that it permits the handgun to be retrieved by either hand, and the durability and moisture-resistance of the plastic, combined with his particularly low-profile harness, permits these to be worn under loose-fitting shirts.

Still, the problems with shoulder holsters remain.

All in all, our recommendation is that shoulder holsters be thought of as special purpose holsters, and not be a prime candidate for day-to-day carry, particularly for men.

Pocket holsters

We like pocket holsters a lot.

Pocket holsters are a terrific choice for many people, particularly those carrying smaller guns. Anything other than overly tight trousers makes them very concealable, and the ability to reach into a pocket without doing anything dramatic permits you to, if necessary, get a grip on the handgun without having to commit yourself to displaying it. Pocket holsters also have the advantage of being able to fit into different kinds of pockets—the same holster can work in the pants pocket, a coat pocket, or even in the chest pocket of a parka, if it's large enough.

The price of a good pocket holster also tends to be much lower than for other kinds of holsters. The Uncle Mike's Pocket Holster series, like the holster above, starts at about $10, and are perfectly adequate for pants pocket carry, particularly for smaller semiautos—the fact that the pocket itself is

helping to hold the gun prevents the necessity of the holster fitting tightly around the gun itself. The suede strap stitched into the outside of the holster will keep the holster in the pocket if the gun is drawn.

For guns that are going to be carried, at least some of the time, in coat or jacket pockets, a more rigid pocket holster is a better idea, and these are more expensive—but, again, prices are relatively low compared with belt holsters.

Galco, Milt Sparks, Desantis, and many other quality manufacturers make good-fitting, rigid pocket holsters, all of them designed to permit you to draw the gun while leaving the holster in the pocket, where it belongs. These run from $40 to around $60.

Even the Kramer Pocket Holster, at the upper end, goes for only around $80, and the leather square stitched to the outside of the holster gives it the outline of a wallet in even a tight pants pocket.

For people new to carrying a handgun, we recommend a combination of a small revolver and a rigid pocket holster as a good starting point. Many experienced permit holders will find that it's not only a good starting point, but a completely satisfactory permanent carry method. The holstered gun can be carried in a pants pocket, and easily transferred to and from a coat pocket, and with a little practice, this can be done in public without drawing any attention—the hand conceals the butt of the handgun, and if somebody notices the leather square of holster, it just looks like a wallet or case for an electronic device.

One huge advantage of a pocket holster is that it enables you, in a stressful situation, to get your handgun in your hand without committing yourself to drawing it, or displaying it at all. Instead of sweeping back your jacket—as you'd have to with a belt holster—or shoving your hand into your jacket—as you'd need to with a shoulder holster—all you have to do is stick your hand in your pocket. That's something that people do all the time, and doesn't draw attention—unless you want it to.

As we discuss later, it may be reasonable under some situations—say, when walking to the car in a darkened parking lot late at night—to actually carry your handgun in your hand, on the grounds that while you're probably not going to need it, if you do need it, you'll need it now, and not want to get involved in trying a fast draw out of the movies or television.

With a pocket holster, you already can have the firearm in hand, and can get the handgun out a lot more quickly, without doing anything threatening in advance, should it be necessary to bring it out.

Consider two similar scenarios in that darkened parking lot. In both of these, you're walking to your car, and somebody starts to approach you, from across the parking lot. You're nervous about him—something about

his appearance and manner, and the fact that you're alone. The only car around is yours—and he's walking in a way to intercept you, rather than just innocently cutting across the parking lot.

Naturally, the first thing you do is thrust out your left hand, palm out, and say, “Please stop.” While that isn't Minnesota Nice, an isolated, dark parking lot is one of the places where you've got enough reason to worry about your security to avoid being Minnesota Nice. Innocent people will, by and large, not only respect your request and your personal space, but will understand that, and apologize for violating it as they move away.

In the first scenario, you're carrying a full-sized semiauto on a hip holster, under your jacket.

In the second, you've got a small revolver in a pocket holster.

Bill Jordan, the legendary Border Patrolman, was capable of drawing and firing in a measured .270 seconds—but his reflexes were almost inhumanly fast, and he spent thousands of hours practicing. Even so, Jordan said, on more than one occasion, that “if you don't have your gun in your hand when the trouble starts, you probably never will get to it.” A good pocket holster—one that covers the trigger guard, and prevents you from accidentally putting your finger on the trigger—lets you have your gun in your hand well before trouble starts, and without any danger of frightening innocents.

We think that's a terrific advantage.

The only possible disadvantage it has is that it has no “macho value” at all.

We think of that as a feature, rather than a bug.

Deep cover

Beyond standard holsters, there's a whole variety of “deep cover” alternatives, and some of these can be very useful.

One common type of holster in this category is what's called the “belly band”. This basically a broad elastic bandage with an attached holster, and is worn under the shirt. It does conceal very well, but it's necessary to either unbutton the shirt or to yank it up in order to get at the gun. It works best for people with flat, muscular builds, particularly around the stomach area, as otherwise the holster tends to flop around.

Kramer Leather makes what they call their “Confidant Shirt Holster.” Basically, it's an armless t-shirt with a built-in elastic holster under each armpit. It's worn much as a t-shirt is, under any shirt or clothing, and just as is true for the belly band, while it can make retrieving a gun very difficult, it does conceal very well. The only additional disadvantages are that the t-

shirt itself is, for structural reasons, made from polypropylene, rather than cotton, and can be very uncomfortable, particularly when worn for extended periods of time. Particularly with heavier guns, the pressure of the straps on the shoulders can be painful.

Still, it does provide excellent concealment.

Perhaps the strangest but possibly the most useful "deep cover" carry method are the under-the-pants pouches, sold by the brand names of Thunderwear™ or Thunderbelt™. The gun is carried in a breathable plastic or denim pouch, on the front of the waist—just over the crotch, or slightly to the side—with the butt either under the belt or the belt resting on the butt of the gun.

The real problem with Thunderwear and similar holsters is a matter of safety. For obvious reasons, either holstering or retrieving the gun requires pointing the gun at your crotch, and that violates the safety principle of "never point a gun at anything you're not willing to destroy."

Almost everybody who first uses one of these devices find the whole process somewhat nerve-wracking, and it's absolutely necessary to spend a lot of time—with a many-times checked, unloaded gun—holstering and unholstering before considering this as an actual carry method.

That aside, there are some definite advantages to these devices. Since they come with a built-in elastic belt to hold the pouch in place, you're not dependent on your own belt to hold up the weight of the gun. These can work perfectly well under, say, a loose pair of running shorts, trousers and slack with a short or blouse, a three-piece suit with either a belt or suspenders, or, for women, either a dress or a skirt. Because of how well the shape of the body and drape of all but the tightest clothing tend to conceal the handgun, they offer excellent concealment, usually with an undetectable bulge—and since it's both rare and impolite to stare at somebody's crotch, even a modest bulge will rarely draw attention.

Retrieving the handgun is simply a matter of reaching the thumb down the front of the pants or skirt—or, in the case of a dress, yanking up the dress—pulling the gun butt up with the thumb until you can get a full grip on the handgun, and withdrawing it. None of that looks particularly graceful or becoming, of course, but a life-threatening situation is not the time to worry about that sort of thing.

It should be noted that, in the case of any carry method, but particularly for Thunderwear, there may be a situation where it is necessary to get the gun out quickly, but there is *never* a time when it's necessary to put it away quickly, and you should make a habit, even when using weapons that they know are unloaded, to be very, very slow and deliberately careful when inserting the gun into such holsters.

Thunderwear and other pouches can be a reasonable choice for those people for whom a compromise between deep concealment and fast access is important, but we caution that such holsters should only be used after *much* practice with a repeatedly-checked unloaded weapon.

Miscellaneous carry methods

Some miscellaneous carry methods have been around for a while. An ankle holster is one. At first glance, it does have some advantages—the trouser leg covers the pistol, and relieves concerns about brushing back a covering garment or a bulge of a shirt. The main problem with ankle holsters is that they put the gun as far away from the hand as it can be and still be on the body. While it may be reasonably accessible when seated in a chair, when standing it's necessary to stoop over—not a good idea in a dangerous situation—before getting the gun in hand. Even when seated in a car, particularly from behind the drivers seat, it's difficult for all but the most limber to get at the ankle, and the holster.

We recommend against ankle holsters.

Still, as long as there are people, there will be new ideas, and some newer ideas are useful. One unusual holster is called the "Pager Pal™." It's a pager—either real or phony—which is firmly attached to a flat leather holster. The holster itself slides inside the pants, similar to an IWB holster, with the pager hanging it on the belt. To retrieve the gun, it's a matter of pulling the holster at least partway out by the pager.

Also in the miscellaneous carry—and more useful—are the various "fanny packs" specifically designed for guns. There is usually a concealed compartment, closed either by a zipper or Velcro fastenings, which—importantly—keeps the gun in separate from other things being carried. Those where the gun compartment are sealed with zippers often permit the use of a small padlock to seal the compartment shut, making storage much safer. For people who already carry fanny packs, this is an obviously good choice. The gun is reasonably accessible, and the fanny pack is also useful for things like keys, wallets, change and cell phones. All of the major holster manufacturers—including Bianchi, Galco, and others—make some form of these, and prices range from around $20 to around $50 for the "Original Tommy Gun Pack."

Fanny packs are definitely handy—and not just for handguns—but they're not for everybody, or every situation. They look distinctly out of

place in most office or more formal settings, for one. The general rule for using a fanny pack to carry a handgun is that it should only be used where fanny packs are already common. You'll find them in abundance at the malls, or on people taking walks in spring through fall, at parks, and so forth.

The main problem with fanny packs used for handguns is what to do when you take them off. That issue will be addressed more generally *Storing when carrying*, starting on page 158, but as a matter of safety and common sense, either the gun or the fanny pack—or, better, both—must be secured when it's not on the body.

Holsters to avoid

One apparently convenient idea is the Small of the Back (SOB) holster. Instead of being placed on or just behind the hip, the holster—usually with a dramatic cant—goes on the belt in the middle of the back.

There is an obvious advantage to this mode of carry. There's little danger of a covering garment being inadvertently swept so far aside that the firearm is revealed.

The main problem with it is one of safety. Putting a piece of hard metal—even inside a holster—up against the spine isn't a good idea. When sitting, the back of the chair or car seat will press the handgun up against the back, and a fall—whether on an icy sidewalk or if being attacked—can slam the holstered firearm against your spine, doing a horrible amount of damage.

We recommend against Small of the Back carry.

Another option—less problematic, but still recommended against—is the cross-draw holster. Instead of being on or behind the strongside hip, the holster sits on the weakside of the belt, with the butt canted toward the strong hand. The main problem with this is concealment—for anybody with arms shorter than an orangutan's, the holster will have to be placed in front of the hip, making it more difficult to keep the firearm and holster concealed under the covering garment, and making unintentional display more likely. This is a common carry mode for plainclothes police, but on-duty police officers—uniformed or plainclothes—don't have as much need to avoid having the fact that they're carrying a handgun be noticed as sensible civilians do.

Carry without a holster

It's also possible—although generally not recommended—to carry a handgun without any holster at all. Depending on body type, gun shape, and the tightness of the belt, it's possible to simply insert a pistol or revolver inside the waistband of the pants, and have the belt itself hold it in place. Similarly, pocket carry without a pocket holster is possible, particularly for revolvers, which tend to ride properly barrel-down, as opposed to the relatively butt-heavy semiautos, which tend to shift around.

One particularly neat and inexpensive device are the "Barami Hip Grips." These are replacement grips for small revolvers, that incorporate a small flange. The gun is inserted into the waistband, with the flange preventing the gun from slipping down into the pants.

The main disadvantage to carrying in any of these ways is that the trigger is not covered. That's a particular problem with pocket carry. It's possible—and has happened—that something like a set of keys carried in the same pocket can become wedged in front of the trigger, causing the an unintentional discharge when the gun is removed from the pocket. If you do carry a handgun in a pocket without a pocket holster be sure to put *nothing* else in that pocket. Still, all in all, we recommend against such carry methods, particularly for those new to handguns.

That said, it's not impossible and, with some practice and experience, holsterless carry can be done. Small revolvers and smaller semiautos can simply be slipped into a pocket, or under a sufficiently tight belt, with the pressure of the belt holding the gun in place.

Again, it's not recommended, but is not utterly beyond reasonable consideration, either.

Off-body carry

There's not a lot of good that can be said about off-body carry, except that it's sometimes necessary. It's important that, when you're carrying a handgun in public, it be under your personal control at all times, and it's difficult to do that unless it's on your body.

That said, there are quite a few devices that can be used for those times when carrying on the body is impractical. For women, some manufacturers make purses with hidden compartments. Others make daily planners with a hidden compartment; similarly, compartments in briefcases specifically designed for handguns, or even ordi-

nary ones, can be used. A photographer's bag can easily conceal a handgun in one of its compartments.

The problem with any form of off-body carry is that, in an emergency situation, it's very easy for the gun owner to be separated from whatever it is that's carrying the gun.

Our suggestion—our strong suggestion—is that the only good places for a self-defense handgun are on the body or secured. This applies also to women and purses.

The bathroom

One problem that those who are new to carrying a handgun in public will have to deal with is the rest room, as indelicate as it is to mention it.

In the case of single-user rest rooms, with a lock on the door, there is no problem; you simply remove the handgun from the holster—perhaps placing it on edge of the sink—and use the facility, and then readjust your clothing, and replace the handgun in the holster. The only possible pitfall is in forgetting the handgun in the bathroom—*don't* do that[69].

Typical public bathrooms, though, don't provide that level of privacy. What's to be avoided is to have a person in the next stall seeing a handgun—or even a holster—lying on the floor. Part of carrying a concealed handgun—and while Minnesota law doesn't require that the firearm be concealed, most of the time good judgment does—is in keeping it concealed.

For men using a urinal, it's fairly simple to manipulate the zipper without brushing the covering garment aside, although those men who typically loosen their belt when using a urinal will need to stop doing that—the clunk of a handgun hitting the floor, either still in the holster or after having fallen out, will draw attention.

From time to time, men as well as women will need to use restroom stalls. Typical stalls are open at the bottom, and it's obviously undesirable for the person in the next stall to be able to see trousers or slacks down around the ankles, with a firearm and holster in clear view.

Obviously, this isn't a problem for those using shoulder holsters. For those who carry via a belly band or Thunderwear, the solution is easy: the belly band or Thunderwear can simply be left in place, and the clothing adjusted before leaving the stall. Similarly, for pocket carry, it's just a matter of making sure, when lowering the trousers, that the holster doesn't show.

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69. One permit holder, who found himself halfway out of the bathroom with the handgun still on the sink, has ever since made it a habit when using private bathrooms to remove one shoe, and put the handgun in it.

With belt holsters, the problem remains.

One obvious way to handle the problem is to hang the holster—or the handgun itself—on the hook of the stall.

It's obvious, but it's a bad idea, for several reasons. For one thing, it removes the handgun from your immediate control, if only by a few feet. Thieves have been known to reach over the top of restroom stalls and steal purses and other bags—and it's hard to imagine any good coming out of one stealing a handgun under that sort of circumstance.

A little foresight, as usual, helps. It's possible, and unlikely to draw any attention, to bring a briefcase or other bag into the restroom stall, and keep it between your feet while using the facility, and put the handgun in that, with the trousers or slacks arranged to conceal the holster.

Failing that, arranging the lowered trousers or slacks to cover the handgun, while it remains in a belt holster, is something that takes only a little practice.

If necessary, the pistol can be removed from the holster, and kept in the lap while using the toilet.

Carrying for women

Women have special issues when it comes to carrying self-defense handguns, both for cultural and physiological reasons.

As a historical matter, most belt holsters were designed for men, and because of generally different shapes in the hip area, and where the waist of women's slacks or skirts are relative to men's, a handgun carried in a typical belt holster will have the muzzle pushed out by the swell of a woman's hip, tilting the butt of the gun so that the butt digs into a woman's side, which while not dangerous, is decidedly uncomfortable.

For police service holsters for women, the problem has been solved by spacers, which push the top of the holster further out from the hip. That's a fine solution for women uniformed police officers—but uniformed police officers, male and female, don't carry concealed. The butt of the pistol sticks out significantly, and that's the sort of bulge that will be noticed under any covering garment.

For women carrying concealed, spacers won't do.

There are some belt holsters specifically designed for women—perhaps the best known is the Mitch Rosen "Nancy Special," which tilts the grip forward and out, just a little, rotating the barrel of the firearm out of the way, to avoid the butt pressing in on the side. Take another look at the holster on page 145; it's got that extra tilt, and it's not pressing into the side of the woman wearing it.

Still, there's the question of dress.

Men, generally, wear shirts and trousers, with the trousers secured by a belt. A slightly wider than normal belt is unlikely to draw much attention.

Women, generally, wear skirts and blouses or dresses, and in both cases the typical belts are usually rather thin, and a covering garment—a jacket or vest—is not worn as routinely as it is for men. For women wearing jeans or slacks and some sort of jacket or vest, a belt and holster combination—as long as it's the right holster—is every bit as practical as it is for men. Similarly, for those women who wear suited skirts and similar attire, the matter of the belt and holster can be handled by proper selection of both. Galco, for example, makes a concealment belt that, while wide at the sides and back, is tapered to an inch or so in front. Under a jacket or vest, it looks like a one-inch belt.

But for women wearing more typical clothes—either a skirt and blouse, or a dress—without the covering garment, belt holsters are a problem.

Shoulder holsters, when a covering garment is worn, are far more practical for women than they are for men. Generally speaking, women's arms are much longer in relation to the width of their shoulders, and it's usually much easier for a woman to reach across the chest and acquire the grip of a pistol in a shoulder holster than it is for a man.

Still, the rest of the limitations apply: shoulder holsters must be covered by some garment, and the sort of temporary expedient possible with belt holsters—untucking a shirt to cover the handgun and holster—just isn't possible.

That said, for women who wear sufficiently loose blouses or shirts, it is possible to wear one of the KL Null shoulder holsters under the blouse or skirt. Since the strap of the harness is thin and white, should the strap show at some point, it's likely to be mistaken for a bra strap.

But it won't work under a tight blouse, or one of sheer material.

The obvious place for many women—and some men—to carry a handgun, is in a purse or the equivalent, and many manufacturers make purses with concealed pockets for handguns.

We recommend against this. Even the most alert people occasionally lapse in attention for just a moment, and a purse snatching is a bad enough thing in itself without making it worse by giving the criminal a handgun.

In the case of a violent attack, anything carried—including a purse—is likely to be knocked away. During the day at work, it's often necessary, if the gun is in the purse, to lock the entire purse in a desk drawer, leaving it available to anybody who has the key to the desk—it's simply not acceptable to leave a gun with a purse in it on the desk, unattended. Permit holders must keep their firearms either secured, or under their personal control, at all times.

All in all, we strongly advocate in favor of on-the-body carry, both for men and women, and think that those women who can't find another carry method that does permit that should seriously consider Thunderwear, the Kramer Confidant t-shirt holster, or a belly band.

There are intermediate steps possible, particularly if you have a place to lock up the firearm at work.

One female permit holder has made it a habit to carry her pistol in her coat pocket, in a pocket holster, both to and from work. When she gets to the place she works, she immediately proceeds to the women's room, with her briefcase, where she takes her gun from her coat, and locks it in a small case which she keeps in a locked bank deposit bag. The locked bag is then locked in her desk drawer through the day, until it's time to leave, at which time she reverses the process.

In this case, her employer does have a generalized policy against carrying in the office, but it's been specifically waived for her, with the understanding that she'll keep the firearm secured while she's at work, and not scare anybody with it. In her case, it's not been a problem.

For more on work-related issues, see *Carry at work* on page 126.

Storing when carrying

There are often reasons why it may be necessary to store a gun while away from home: you may need to enter a prohibited place, like a state hospital; you may not be able to carry at work; you may decide to go out for a few beers with a friend; or any of a myriad of other things.

When you do that, the gun must be securely stored, and it's important to decide how to do that in advance.

We recommend a two-stage securing of the gun: the gun should first be unloaded and locked so that it can't be immediately fired, and it should also be locked into or to something to prevent it from being stolen—which is the more important step.

Let's take each of these in turn.

The most popular way of making a handgun safe is with a trigger lock, which fits over the trigger guard, at least theoretically preventing it from

being fired. This works much better for guns where the shaft of the lock goes behind the trigger, as with revolvers, than it does for those semiautos, like the classic 1911 .45, where there's no space behind the trigger.

Although trigger locks are probably preferable, most guns can be made unable to fire by a simple padlock, whether locked behind the trigger for those guns that make that possible, or around the top strap of a revolver after the cylinder has been swung out. For many semiautos, a padlock can be used by removing the slide, and fastening the lock through the ejection port, making it impossible to reassemble the gun until the lock is removed.

More importantly, when storing the gun, it's then necessary to secure the gun against being stolen. Simply leaving it in a car is a bad idea; most cars can be broken into quickly and easily by experienced thieves, and the locks on most cars' glove compartments are remarkably weak.

The trunk is a better place.

You can get a specially-made gun box to bolt into the trunk of your car. These aren't terribly expensive—you can buy them for around $40 and up, and they can be installed in either the passenger compartment of the car or the trunk.

Some of these lockboxes come with Simplex push-button locks, which enable keyless access, and are also useful for storing guns in the home, combining reasonable security with reasonably quick access—and, of course, if quick access is an issue, it's perfectly reasonable to leave the gun fully loaded in a lockbox that's been bolted in place, whether that place is the car or against the bedroom wall.

When traveling, a gun case can often be secured in a hotel or motel safe. Alternately, an ordinary bicycle chain lock can be used to lock the gun to a stable piece of plumbing in the hotel bathroom, although that may leave it visible to maids cleaning the room.

The key point is this: when you're carrying in public, keeping control of your handgun is your responsibility. It needs to be either on your person, or secured.

That's just plain good sense, and good safety.

Specifics of Minnesota law

There's a few things about Minnesota law that affect issues surrounding everyday carry. Let's take a look at them.

Carrying openly

Minnesota law is unusual in that it doesn't differentiate between open and concealed carry. While some states require, by law, that permit holders carry in a way that an average person can't tell that they are carrying, the only thing that makes that required in Minnesota is common sense. If you have a carry permit you are, in theory, legally able to strap a cowboy-style sixgun belt around your hips, and walk around in public. Don't. You'll scare people. You'll get a lot more attention from the police than you could possibly want.

That said, there are times when it may be prudent—and legal—to carry a handgun discreetly, but openly—even in your hand.

Minnesota Statute 609.66 is clear:

> "Whoever does any of the following is guilty of a crime and may be sentenced... (1) recklessly handles or uses a gun or other dangerous weapon or explosive so as to endanger the safety of another; or (2) intentionally points a gun of any kind, capable of injuring or killing a human being and whether loaded or unloaded, at or toward another."

"Brandishing" is prohibited by other sections—as is either harming somebody or threatening to, either by word or pointing—but simply holding a gun isn't illegal, provided that it's not pointed at somebody, and isn't part of a threat.

Obviously, that's the sort of thing that should be done in high-risk, isolated situations—say, while walking to the car in a parking lot or ramp late at night—where it may be prudent to discreetly carry the gun in the hand, always obeyin the safety rules, in particular those about pointing the gun in a safe direction and keeping the finger off the trigger. That's not reckless, and in the dark, it's very likely that it won't be noticed, if you do it discreetly.

The word "discreetly" is used deliberately. While it's not illegal in and of itself, it could be misinterpreted by somebody seeing the gun, and could, at least conceivably, lead to a misdemeanor charge of disorderly conduct.

Number and type of guns carried

Minnesota law does not limit the number of handguns that a permit holder can carry, either at different times, or at the same time. It's perfectly lawful, although silly, to carry a dozen guns at once—but don't. We recom-

mend that most civilians carry a small, easily accessible pistol or revolver, and leave it at that.

While civilians may not possess newly-manufactured magazines with a capacity greater than ten rounds, there is no legal bar to having so-called "pre-ban" magazines which have a greater capacity[70].

Handguns vs. long guns

In terms of carrying a gun, Minnesota law does not distinguish between handguns and long guns.

While Minnesota Statute 624.7181 makes it illegal for most people to carry a rifle, shotgun, or BB gun in public, it also expressly excludes permit holders: a permit holder can, at least in theory, carry a rifle or shotgun anywhere that he or she can carry a pistol or revolver.

This is sort of like the theory about strapping a cowboy sixgun belt around your waist and going for a walk in public. Yes, in legal theory, you could sling your shotgun over your shoulder and go shopping—after all, with a proper sling, it won't be pointed at anybody—but don't. The police would, no doubt, find some theory that you wouldn't like.

In practice, of course, permit holders will not be carrying around rifles or shotguns in public. That said, a carry permit does make it legal to, for example, keep a rifle or shotgun in the passenger compartment of a car when it would otherwise be unlawful.

Loaded guns and children

Section 609.666, Subdivision 2 of the Minnesota statutes makes it a crime if someone "negligently stores or leaves a loaded firearm in a location where the person knows, or reasonably should know, that a child is likely to gain access, unless reasonable action is taken to secure the firearm against access by the child."

While there is no specific law on the storage of *un*loaded firearms, any negligent storage may leave a gun owner subject to other criminal penalties—such as child endangerment—or to civil charges if somebody misuses them.

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70. The newly manufactured high-capacity magazines are supposed to have a date of manufacture after September 13th, 1994, or a statement that they are "for law enforcement use only," engraved or stamped on them. Be careful—don't buy used magazines that have had these markings removed.

What is “reasonable action”? We don't know. The people who wrote the law intended that it mean either securing the firearms, or teaching children old enough to learn about gun safety—but there aren't any appellate cases where it's been decided if safety instruction is enough.

Realistically, the Minnesota law is no more stringent than the requirements of good gun safety—see *Gun Safety, On and Off the Range*, starting on page 163—and somebody who resolutely follows sound safety practices will not find himself or herself at risk.

And remember: a gun never solves problems.

CHAPTER 9
Gun Safety, On and Off the Range

Safety is a vital component of both of our orientation. The reason that AACFI trainers put the safety training portion of the course just before firearms are handled is not because it's unimportant, but quite the opposite.

The safety rules are few, and simple, and in truth, it's usually possible to neglect all but any one of them without anything bad happening.

But *don't* do that.

Just make a firm commitment to obey *all* the rules, *all* of the time. Humans make errors, and if you make it a conscious policy never to violate a safety rule, the odds of you ever hurting anybody with a negligent discharge of your firearm are much lower than your chances of seeing somebody hit by lighting.

There is a simple problem with all firearms: after a bullet has been fired down the barrel, there is no way to call it back. Your first protection against causing harm to yourself or others is to make sure that there will be no bullet being fired down the barrel unless you intend for it to happen, and your second is to make sure that even if a bullet is fired unintentionally, it goes somewhere harmless.

Basic safety rules

The three basic rules are straightforward.

Always treat every firearm as though it's loaded

The main immediate cause of firearms accidents and injuries are guns that people thought were unloaded, but weren't. If you make it a policy to treat a firearm as though it's loaded—even if you're utterly certain that you just unloaded and checked it even a second ago—you won't be involved in that sort of accident.

Always keep every firearm pointed in a safe direction

Pretend to yourself that there is a laser beam shining out through the barrel, destroying everything that's in line with it. Whenever you're handling a firearm, make sure that imaginary laser beam never shines on another person, or a window, or anything else that you're not willing to destroy. Even when holstering a handgun, do it—if it's at all possible, and it usually is—without pointing the barrel, even for a moment, at your own body, and always do it without pointing it at somebody else.

And that has to be done actively, not merely passively. Imagine a situation where you are holding an unloaded handgun, pointed in a safe direction, and somebody starts to walk in front of it. You *must* take the responsibility of making sure that it doesn't point at that person. Whether you do it by persuading him not to walk in front of it, or by pointing it in another direction doesn't matter nearly as much as it does to make utterly certain that, at no moment—not even for a split second—does the firearm actually point at him.

Keep your finger outside the trigger guard until you're ready to shoot

Beginners seem to have more trouble with this rule than any other. Whether that's the influence of toy guns or television isn't clear.

Regardless, it's important.

Most trainers advocate keeping the index finger pointed straight forward, parallel with the barrel, although some, like Massad Ayoob, favor curling the index finger and pressing against the frame of the handgun, above and forward of the trigger. Either is fine. The important point is that the finger should be

kept off the trigger, even when the gun is pointed at a target, until you're actually ready to shoot.

Rules for handling guns

Beyond the three basic rules, the next in importance are the additional rules for handling a firearm.

Let's take each in turn.

Every time you pick up or are handed a firearm make sure it is unloaded

New gun owners are often surprised to see experienced ones seemingly constantly opening actions and checking firearms, as though they're nervous, or unsure about whether or not the guns are loaded. They're not—they're just practicing good safety. Even if you've just handed an unloaded gun to your best friend, and he's had it for only a second, the moment it's handed back, you must open the action and check it.

For revolvers, it's just a matter of swinging out the cylinder—at which point the revolver, even if the chambers are loaded, can't fire—and then looking into each chamber of the cylinder.

Semiautos are more complicated—this is one of the reasons that we recommend revolvers for those new to firearms.

Semiautos can have rounds in the magazine or in the chamber, or both, and while pulling—racking—the slide will almost always eject a round from the chamber, releasing the slide will chamber another round, if there's a loaded magazine in the pistol.

So it's important to follow all the steps, *in the right order*, each time:

First, remove the magazine, and either set it aside or hold it in the hand.

Second, pull the slide all the way back, and look carefully inside the pistol, making sure that there is no round still in the chamber or somewhere in the magazine well.

Third, drop the slide, and then, if the pistol has a hammer, lower the hammer, by pointing the pistol in a safe direction and either using a decocker, decocking safety, or simply pulling the trigger with chamber empty, and then—and *never* until then—reinserting the magazine.

If you do those in the wrong order—say, reinserting the magazine before letting the slide go forward, which is probably the most common error—you will have chambered a round. And if you drop the hammer by pulling the

trigger with a round chambered, there will, a few milliseconds later, be a hole in something.

Almost everybody who has seen a cartridge ejected from a supposedly unloaded pistol has experienced a momentary surge of adrenaline and fear.

Practice safe gun handling

When you're handing a firearms to somebody else, make it a point to be sure that it's both unloaded, and with the action open. A revolver with an empty cylinder swing out, or a semiauto with the slide locked back and the magazine removed, simply can't fire at that moment, and won't be able to until several actions happen. Make it a habit, when you're handing a firearm to somebody else, to do it just that way.

If somebody wants to hand a firearm to you ask that he unload it and open the action

There are a—very—few times that this rule and the one above don't apply, but don't go looking for them.

Don't leave firearms unattended, loaded or not

The reasons for that are obvious. Firearms that are not under your immediate control should be secured. If they're not being kept for self-protection, they should be unloaded, as well.

Think before you act
Take your time

If you're at the range, and your revolver or pistol has failed to fire when you've pulled the trigger, there's no reason at all to rush. If you're shooting from behind a bench—the usual situation—the first thing you should do is just set the gun down, with the muzzle pointed downrange, and think about it for a moment. Wait at least sixty seconds before opening the action[71];

71. There could be a delayed ignition of the cartridge. You don't want it to happen while it's in your hand.

there's no hurry. If you're concerned about what to do next, this gives you the opportunity to call the range officer or a knowledgeable friend over.

In self-defense situations, unfortunately, speed and haste may be necessary. In practice at the range, neither is ever necessary, and either is a very bad idea.

Safety when shooting

Beyond gun handling comes issues involving actually shooting. Most shooting, of course, will and should take place on the range. If you're careful and lucky, none of your shooting will ever take place anywhere else, but the same rules apply.

Keep your finger off the trigger until you're ready to shoot

Yes, we know we're repeating ourselves, but it's important.

Even on those very rare occasions when a handgun is being brought out "for real," you do need to keep your finger off the trigger until you're ready to shoot. That's the very *last* step before firing, and you need to think about those other matters before you put your finger on the trigger. You must assume that, under the stress of a life-threatening situation, what would normally feel like just resting a finger on the trigger is very likely to send a bullet moving downrange, at some hundreds of feet per second, the moment you touch your finger to the trigger. That adrenaline dump that we discussed in a previous chapter will seriously affect you, and you simply can't count on the sort of fine motor control that you normally have. Also, when you have tunnel vision—which is, as you've seen, likely to be the case in a life-threatening situation—you can trip over things, or have a "startle reflex," and your hands can clench, and if that happens when you finger is on the trigger, something bad will happen.

Be sure that you know where your bullet will go

The range is the place to find out if your firearm shoots where you point it, and if your sights are properly aligned—for you. Before selecting a particular handgun for carry, be sure both that it points well for you, and that the

sights are right—for you. The shooting range is the place to find that out that, say, a particular revolver shoots to the right of where you point it. The street isn't.

Don't shoot before considering what happens if you miss, or if the bullet penetrates your target.

At the formal ranges, there are always massive backstops behind the target area. Even so, at indoor ranges, note that the ceiling area above the target is often scored and marred by bullets that didn't go where they were supposed to be going.

At an indoor range, that's sloppy, and likely to irritate the range owner, but that's about all.

Outdoors, it can be much worse.

A round that's fired above the backstop can go a terribly long distance—a mile or more, in some cases—and while most well-designed outdoor ranges have a large enough "dead area" behind the backstop, that's often not the case with informal ones. Be sure that you know where your bullet is going to go, not only if you hit the target, but if you miss it.

In a self-defense situation, you may not have as much choice as you would like, but when practicing, you always have the choice of simply stopping for a moment—or longer—and thinking about it.

Even in the gravest extreme, you are obligated—both legally and morally—to consider what might happen if you miss.

It's not okay to miss your attacker by an inch and send a 125-grain bullet whizzing across a busy street and into a schoolyard, and it's foolish to think that even frequent practice can guarantee that you'll be able to put a bullet into a human-sized target from even a few feet away.

We advocate firing at the Center of Mass (COM) during a defensive shooting because of both the margin of error and the thickness and width of the human body. Aiming—pointing—toward the bottom of the chest means that you may be able miss by as much as a foot or more horizontally and even more vertically and not send a bullet past the attacker.

Further, the torso is the thickest part of the human body. It's not unknown for relatively powerful handgun bullets to penetrate all the way through the chest or belly and come out the other side, but it's incredibly rare for all but the most powerful rounds.

Don't drink before shooting

This should be obvious.

An afternoon at the range, followed by dinner and a few drinks with friends—after the guns have been cleaned, if necessary, and put away—is a

fine thing, just as a few beers around the cabin or campfire after a day of hunting is.

It's the order that is important. Reverse the order—drink before shooting—and you're asking for trouble. Guns and alcohol don't mix—and that includes cleaning, as well as shooting.

The same thing obviously applies to those drugs—both prescription and nonprescription ones—that affect your judgment or perception. We're not suggesting any silliness here—a diabetic can, of course, take his or her insulin or metformin at regular times, even on a day at the range—but mixing firearms and illegal recreational drugs isn't only illegal, but stupid.

Remember that many nonprescription drugs contain alcohol and that some can affect judgment and perception. Some common antihistamines can have dramatic effects—if in doubt, don't go shooting until you've consulted with a physician or pharmacist.

A few miscellaneous safety issues:

Cleaning guns

Most of the time, somebody supposedly being shot or shooting somebody else “while cleaning his gun” is a fiction—a lie. It was either suicide, or reckless gun handling.

The first step when cleaning a firearm is to make sure that it's unloaded, and detailed cleaning of most semiautos and rifles requires that the firearm actually be disassembled, first, which makes the firearm literally incapable of being fired. For some firearms—the Glocks, for example—the first step in disassembly is to dry-fire it: to pull the trigger with the internal mechanism cocked, but the chamber empty. Always make sure that the firearm is unloaded before doing that, and point it in a safe direction while dry-firing it.

Realistically, most “gun cleaning” injuries and deaths are either suicide, or the result of playing with guns, while ignoring more than one safety rule.

Don't do that. When you're cleaning a firearm, make sure that it's unloaded, and remove any ammunition from the immediate area.

Storage

Firearms that are not being kept for self-defense should be unloaded and secured, with the ammunition stored separately. This is one of the few things that responsible gun owners and anti-gun hysterics can agree on.

You're simply not going to need, say, your .22 target rifle in a hurry; targets will wait patiently.

When it comes to self-defense weapons, matters are less clear.

A self-defense handgun will, almost certainly, not be needed at all, or it will be needed in a great hurry. In real life, there are almost no situations where somebody will say to himself or herself, “Gee, I'm going to need a handgun—and need it badly—in about five minutes.” If the handgun is needed, it's needed *now*.

If it's not needed quickly, there are almost certainly better ways to handle the situation than with a handgun. If you've got five minutes to handle the problem, you can probably run half a mile away, or drive much further. If you've got half an hour, there's probably enough time for the police to arrive[72].

An intruder in your home probably won't give you the opportunity to find your keys, retrieve a self-defense handgun or shotgun from the gun safe or gun box, and then retrieve your ammunition and load your firearm.

Granted, it will probably take much less time to do that than it will for the police to respond to a 911 call, but, still, that's clearly inadequate.

What to do about that depends on your situation. Some gun owners without children make a habit of leaving a loaded handgun in or on a bedside nightstand, some all of the time, some only at night.

We recommend against this, for a variety of reasons. A home is not a safe, and burglars can break in either at night or during the day. The most likely place for one to look for a handgun is near the bed, and whether you're at home or at work, you don't want to provide an intruder with a loaded firearm.

One inexpensive and reasonable solution is a small fire safe or fire box, with a combination or key lock, kept beside the bed at night. Besides storing important papers, a loaded gun can be placed inside. With this, it's important to be sure to unlock it before going to bed, and to relock it in the morning, and do that every day.

For those with children, this may be inadequate. Odds are, that you will, eventually, forget to lock it, leaving a loaded handgun in a place where a child can get at it. The same argument applies to gun boxes with keyed locks. We recommend against them, for the same reasons.

We recommend specially designed gun boxes, ones that have fairly simple push-button locks—either electronic locks or the mechanical Simplex lock—that can, after a little practice, be quickly accessed in the dark. The big name in gun boxes with electronic locks is the “Gun Vault” brand, and there

72. Or, for that matter, a pizza.

are several well-known manufacturers who use the mechanical, push-button Simplex lock, including Amsec, Cannon, and R&D Enterprises.

A three-pound gun box is, of course, not a substitute for a five hundred pound safe. Still, they can be counted on to keep the self-defense gun away from a clumsy thief or a child in the short run.

The question as to how to store a handgun inside a gun box is in itself controversial. Perhaps out of fear of liability, many of the manufacturers recommend against storing guns in a gun box in a condition in which it will take just a pull on the trigger to fire the gun. For those who carry semiautos in "Condition Three"—hammer down on an empty chamber—it's probably reasonable to store then in the gun box in the same way.

We recommend storing the self-defense handgun in the gun box in precisely the same state that you intend to carry it in.

And, as a matter of good practice and sound safety, every time you remove the handgun from the box—no matter how much or how little time has passed since you put it in the box—be sure to check whether or not it's loaded. Yes, you'll treat it as loaded, regardless; but you do need to *know*, not remember, and not assume.

Wash your hands

The chemical components that make up modern gunpowder aren't terribly toxic, but they are not intended for human consumption. And the lead in bullets very definitely is toxic. After shooting, be sure to wash your hands thoroughly before eating, or smoking—anything that can convey any of the residues to your mouth should be avoided.

Wear safety glasses *and* hearing protection while shooting

This should be obvious, but we'll say it anyway: loud sharp sounds can damage your hearing severely. Be sure to have your hearing protection in place *before* you step out on the range. Hearing protection can consist of specially-made earplugs, or headsets that clamp over the ears—or, preferably, both. Earplugs are usually available for under $1 per set, and headsets start at around $10.

There are also very effective electronic sound-canceling headsets, that use high-tech computer circuitry to cancel out loud sounds, while letting ordinary sounds—like conversation—through. These start at around $150.

Hot gases and particles kicked up can be bad for your eyes. For those who don't wear safety glasses normally, eye protectors are necessary—and for those who do, eye protectors that fit over glasses add protection, and are strongly recommended.

Gun safety and children

For those with children, the most important part of gun safety is education. Teaching your children the gun safety rules *for children* is essential.

The NRA "Eddie Eagle" program recommends teaching children four rules, should they see a firearm:

STOP!

DON'T touch.

LEAVE the area.

TELL an adult.

Beyond that, teaching children about the proper handling of firearms—under an adult's supervision—is certainly a good idea, as is having children help to clean guns. There's nothing better for taking the excitement and wonder out of firearms than helping to run a few dozen patches of foul-smelling cleaning solution through the barrel of a disassembled firearm, and then having to scrub up later.

Do keep all firearms either on your person or secured. Obviously, firearms being kept for self-protection can't be kept unloaded, with the ammunition stored separately—but they can be secured in gun boxes. Firearms not being kept for self-protection should be unloaded and secured.

"Security by obscurity" doesn't work in the computer world, and hiding guns, hoping that children won't find them, is unsafe and risky, unless the child is an infant. Yes, putting the firearm on the top shelf of the closet is fine, if your child is in a bassinet. If you're going to rely on your training of your children to see to their safety, assume that they know where the guns are.

Again: *train your children*. We recommend the NRA "Eddie Eagle" program very strongly. With literally hundreds of millions of firearms in tens upon tens of millions of households, it's important for all children to know what to do if they see a firearm: stop; don't touch; leave the area; tell an adult. This training will be useful not only in your home, but can save a life should your children visit the home of somebody who pays less attention to safety than you do.

Gun accidents

In 2000, there were a total of around 600 fatal gun accidents in the US, according to the National Safety Council—more than six times that number of people drowned that year. In that year, the single largest group to die in fatal gun accidents were people in the 25-44 years of age.

In reality, as opposed to myth, the number of gun accidents in the US is low, and continues to fall almost every year, both in total numbers and on a per-capita basis. Despite the increasing population and the increasing numbers of firearms in the US, fatal accidents have fallen by more than 60% over the past quarter century. Keeping that happening is primarily a matter of education, and of following all of the safety rules, all of the time.

Be part of the solution, not part of the problem.

Please.

And remember: a gun never solves problems.

CHAPTER 10

Shooting, on the Range and on the Street

When you take your carry permit course—whether from an AACFI Instructor or somebody else—shooting should be a relatively small part of your training.

And that's why this chapter is short.

The reason for that is simple: most of what's important about the responsibilities of a permit holder are day-to-day things, in staying out of trouble, avoiding conflict, and so forth. Most permit holders, as we've said, will never have to so much as take their handgun out "for real"—and that's just fine.

But, if you're going to carry a self-defense handgun, you *must* know how to shoot it, and while we're going to discuss the some of the details of that here, you really do need some one-on-one instruction if you're not already very familiar with handguns—and even then, it's a good idea.

New shooter training in gun safety handling is part of the AACFI Basic Handgun course. It's intended to get you ready for the AACFI Carry Course—see the AACFI website at www.firearmsinstructors.biz for details.

Not that AACFI is the only group whose certified instructors can teach beginners about safe gun handling and basic shooting skills. There are also very good courses available in gun safety in Minnesota through the Department of Natural Resources, as well as the National Rifle Association. The DNR course is primarily focused on hunting safety, but it covers other issues as well.

The NRA Basic Firearm Training Course, while it doesn't deal with issues of self-defense, is a terrific introduction to safe gun handling. Many

gun clubs, across the state, give introductory courses to firearms handling and shooting, and they're generally very good.

That said, there is a very large difference between target shooting—the focus of much other training—and self-defense shooting—which is the concern of AACFI Carry Permit training.

Target shooting vs. self-defense shooting

Target shooting is, among other things, fun—although some people never do take it. At a range, indoor or outdoor, you stand behind a shooting bench in a well-lighted area, and take your time settling into whatever position you like, take in a breath and let half of it out, and then focus carefully on both the sights and the target and gently squeeze the trigger until the firearm goes off. If you've done it right, there's a nice round hole in the paper target, or perhaps you've knocked over a tin can, or turned a stale cookie into a cloud of rapidly-expanding crumbs.

The key to target shooting is that you can take your time, and that you are not under real stress, except possibly, the stress of trying to win a formal or informal competition—and that you're easily able to see not only your target, but your sights.

A self-defense shooting is going to be different in almost every respect.

Most self-defense shootings take place with very little light, making both the sights and the target—your attacker—difficult to see. *No* self-defense shooting allows for a lot of time for consideration and thought—if you have a lot of time to think about it, you've probably got time to escape.

And then there's the stress. As discussed previously, the stress of a life-threatening situation causes physiological changes, and those have serious implications.

While some training courses have students do things to increase their heart rate, say, by running in place or doing pushups, an increase in heart rate is only part of what the body does when you're frightened—although trying to shoot at a target with your heart pounding from exercise can be very enlightening.

Still, it's not possible to duplicate the actual stress of a life-threatening event on the training range.

What it is possible to do—and what AACFI-certified instructors teach—is self-defense shooting, rather than target shooting. We start with how you stand, moving to how you hold your firearm, and then, finally, on how you point—and we emphasize *point*—it when shooting in self-defense.

There are three basic stances that are taught in modern handgun self-defense courses, and the recommendation of the combination of the Isosceles stance and point shooting needs some explanation.

Let's start with the stance—how you stand when you're shooting in self-defense, or practicing it on the range.

The Weaver

The Weaver Stance is the best-known one. In the Weaver stance, the body is turned slightly away from the target as the pistol is brought up to eye level—so that the sights can be used—in a two-handed grip, with the strong arm slightly flexed, the weak arm flexed more. The strong arm pushes out on the pistol, while the weak arm pulls in, creating a tension that helps to quickly return the pistol to the same position after each shot. It feels a little awkward at first, but with some practice, it's possible to quite quickly fire multiple accurate shots at a target.

The Chapman

The Chapman Stance, or Modified Weaver, is similar—the main difference is that strong arm is kept as straight as possible, ideally with the elbow locked. Again, the strength of the upper body is used to bring the pistol back to where the sights can be used effectively, and, again, the target is not faced quite directly.

Usually, with either the Weaver or the Chapman stance, the head is turned slightly to the side, so as to bring the better eye in line with the sights[73].

There's no question that both of these two stances permit fast, repeated, and aimed fire at many distances. There's also no question that mastering either of these even on the range requires a lot of time and effort.

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73. People vary. Some right-handed people use their left eye for aiming and shooting, some use their right. The same is true for lefties.

The problem is that even many—we think most—people who have been thoroughly trained in either of these stances simply won't take up the stance when under the real stress of an attack. We've looked at videos of police shootings—and encourage you to do the same, on any of the television shows that show tapes of such things. How many times do you see even well-trained police officers taking up a Weaver or Chapman stance? How often do you see them cocking their head to one side to bring the good eye into line with the sights?

We've yet to find one. At best, it's a rarity.

The Natural Isosceles

The Isosceles stance is different, and is almost instinctive. The target is faced directly, with the strongside leg taking half a step back, as though trying to back away from the threat. This is what people do instinctively when faced with a threat—they face it squarely, and at least start to back away.

The handgun is thrust out, either at chest- or eye-level, as though trying to use it to push the threat away.

For reasons discussed in a previous chapter, a violent confrontation is physiologically different than shooting on the range. The massive adrenaline dump makes it difficult to remember technique, and the presence of an attacker makes it almost impossible for many people—most—to remember to look at sights, or to take up other than an instinctive stance.

This isn't a new insight.

Colonel Rex Applegate, who spent much of WWII training OSS agents, argued over many years that, in his words, “most shooters, no matter how well trained in the Weaver [stance] instinctively revert to the Isosceles when faced with life threatening situations... he instinctively faces the threat with both eyes open focusing on the target.”

Videos of police shootings bear this out. Police are, by and large, *not* trained to step back on the strongside leg, and they *are* trained to use their sights. Nevertheless, in video after video, you can see that the policemen are stepping back, on the strongside leg, looking at their attacker, not at their sights.

Even in the famous 1986 FBI Miami shooting, one of the FBI agents—a champion in FBI pistol competitions—was shot dead while standing and looking at his assailant, unable to focus on his sights.

Realistically, even if you *can* look at the sights, they may not do you any good—anywhere from 80% to 90% of self-defense shootings take place in low-light or worse.

This is why we emphasize that your carry handgun must *point* well—for you.

Bruce K. Siddle's 1998 paper, “Scientific and Test Data Validating the Isosceles and Single Hand Point Shooting,” presents research data supporting the notion that, under stress, almost all people—even well-trained police officers—will, regardless of what they're trained to do, square off toward the threat, and not turn the body away from it, even a little.

It is, perhaps, arguable that well-trained people might be able to assume a non-instinctive stance under the stress of a life-threatening emergency, and certainly many, many well-respected self-defense trainers teach the Weaver and the Chapman. It would be hard to argue that, in light good enough to make use of the sights, and given the time to set up in a trained—as opposed to instinctive—position, and given the ability to remember to do so, careful aimed fire from either the Weaver or the Chapman stance wouldn't likely be more accurate than point-shooting from an instinctive stance, like the Isosceles. It probably would. But if highly-trained police officers can't and don't, can you?

Probably not.

The late Julio Santiago of Burnsville, Minnesota, a veteran of both the US Army and twenty-five years as a Deputy Sheriff in Dakota County, was one of first the trainers to note this, and spent much of his life teaching the importance of point shooting, particularly in low-light situations, where the sights won't be available.

It's possible, of course, to train to use both aimed fire—perhaps from a Weaver or Chapman stance—and point shooting from a more natural one, and to hope that you will, under the stress of a life-threatening emergency, be able to choose between the two.

We prefer, as usual, to keep things simple, and use what's instinctive as the basis for defensive shooting—and for both initial training and qualifying for permit holders.

That isn't to say that the Isosceles stance and point shooting is the be-all and end-all, and we're not against using your sights—if you can. Massad Ayoob teaches his advanced students that it's possible, from the Isosceles stance, to raise the handgun up to the point where the sights can be used, and we see no problem in doing that—if you can.

Point shooting does have its limitations. While there are some people who can point-shoot accurately to fifty feet or beyond, those are rare.

Then again, most self-defense shootings take place at *very* close distances. While it's not impossible that somebody could represent a deadly threat while fifty feet away, the further away an attacker is, the more likely that there's another option other than using deadly force to get out of the situation. And, as you'll remember, if you can solve the problem by retreating, you're required to, other than in your home—and even then it's probably a good idea.

Now take a look around your home.

Unless you live in a house with very large rooms, it's very difficult to construct a situation where you could be more than twenty or so feet away from somebody, particularly from somebody who presents an immediate and deadly threat.

This is why self-defense shooting training takes place at very close distances—at realistic, self-defense distances. Most AACFI trainers do all shooting training and qualification at 15 feet—which, in terms of real-life self-defense distances, is fairly long. By far the majority of self-defense shootings take place within just a very few feet—in many cases, at actual contact distances. Again, remember the Tueller Drill—even if you move very quickly, it's entirely likely that your attacker will be able to close with you before you can bring your self-defense handgun to bear, even if you already have it out.

We think that you should, initially, plan on putting in a lot of range time, both by yourself and under formal or informal instruction. But even with that, even if you've spent hours and hours practicing another stance, it's a fair guess that, in a life-threatening situation, you will do what almost everybody else does: squarely face the threat and focus your eyes on the threat, take half a step back on your strong leg, as though preparing to flee.

To use what we call the Natural Isosceles Stance, the pistol, gripped with the strong hand—the finger off the trigger until you are ready to shoot, as always—and supported with the weak hand, is brought up to chest level, and thrust out straight at the target, as though trying to push the attacker away with the muzzle of the firearm.

The eyes are focused not on the pistol, but on the target. (Yes, it's possible to use sights with this stance—we'll get to that shortly.)

If the pistol points right for you, when you pull the trigger, a hole will appear very near the middle of the target, near what would be the Center of Mass of the attacker. If you keep firing, doing just the same thing, a collection of holes will appear near the center of the target.

It's really that simple.

If you want to use your sights, it's simply a matter of raising the handgun to eye-level. Most people will need to turn their head slightly, to bring their better eye in line with the sights—but don't close the other eye. In a self-defense situation, you won't be able to, and it's best to practice what you would actually do.

Most people, of course, simply won't be able to focus on the sights. Look at the picture on the right. Would you be looking at your sights, or at your attacker?

What could go wrong?

A lot, actually. If you're thinking too much—instead of just pointing—you might be relying on bad habits. This is particularly true for experienced target shooters, who often can't quite rid themselves of the tendency to use their sights, and often find themselves "betwixt and between"—half sight-shooting, half point-shooting, and mostly missing.

If the gun doesn't point right for you, you're likely to see a grouping of shots above, below, or to one side of the center of the target. At the range, it's an easy matter to adjust that—but in the dark, under stress, it almost certainly won't be. It may be that you need to change the way you grip the handgun, rather than the grips themselves. Still, the important thing about instinctive point-shooting is that you shouldn't have to remember anything: it should work even—particularly—if you have a spastic, life-and-death grip on the handgun.

If your shots are scattered all over the target, seemingly randomly, accompanied by many misses, it's more likely that the problem is that you're flinching than that the firearm is defective. It's fairly easy to check which it is—just have a friend try out the handgun, and if he or she manages to group shots well, the problem is almost certainly you flinching.

That can be overcome with practice[74], or with the "Dirty Trick" exercise at the shooting range.

The "Dirty Trick" exercise is very simple, particularly with revolvers. For a revolver, with your back turned, have somebody else load some of the chambers with live rounds, and some of them with empty shells or with "Snap Caps"[75], then place the revolver, pointed safely downrange, on the shooting bench. You then pick it up,[76] assume the Natural Isosceles Stance, and slowly squeeze off a shot. If there's just a click—because you've dropped the hammer on one of the empty shells—but your hand jerks, you know the problem is flinching, and repeating the exercise will, eventually, cure you of that. You can even do the "Dirty Trick" test on yourself: put one or two live rounds in the revolver, fill the rest of the chambers with empty shells, and spin the cylinder before closing it, deliberately not looking at which chambers contain the live rounds and which contain the empty shells.

Doing the exercise with semiautos is a little different, and more time-consuming, and can't be done solo. For each shot, your friend has to either chamber or not chamber a round, and you've got to be sure that not only don't you see what he's doing, but don't hear whether the slide is racked before or after the magazine is clicked into place, unless you're using "Snap Caps."

Practicing

We think that new permit holders, in particular, should make practicing a regular part of their lives, and even expe-

74. Some trainers recommend "dry fire" practice where a handgun that you've repeatedly checked as unloaded is pointed in a safe direction, and then the trigger is pulled. The idea is to teach you that there's not necessarily going to be any recoil when you pull the trigger, and to help you forget about anticipating and reacting to it, which is what flinching basically is. We would be less suspicious about "dry fire" practice if we didn't know of somebody who tried it while sitting in front of his television, and unwittingly put a bullet through the television. We recommend that if you're going to engage in "dry fire" practice, just do it on the range, just as you would the "Dirty Trick" test.

75. "Snap Caps" are dummy rounds, which are intended to make "dry fire" practice safer—for the pistol, as some pistols can be damaged by repeated dry firing. While using Snap Caps or any other dummy rounds, *always* follow *all* of the gun safety rules, particularly about keeping your handgun pointed in a safe direction. The advantage to Snap Caps for the Dirty Trick test is that, while shooting a semiauto with one chambered won't cycle the action—since the Snap Cap is a dummy round, it won't create the gas pressures that a live round will—one can be hidden in a magazine, and be chambered by either the initial racking of the slide, or by the firing of a live round.

76. This is one of the rare occasions when you don't check to see if the handgun is loaded—but you do keep it safely pointed downrange, at all times, of course.

rienced ones shouldn't neglect a regular trip to the range. At least once a month at first—the more the better.

But what you practice is as important as how often you practice. Plinking at long-distance targets with a .22 target pistol can be fun, but it isn't practice.

The practice that counts are those shots fired at realistic self-defense distances—twenty-one feet at most, and there's nothing wrong with practicing with the target only five or six feet away—from the position that you'd actually use.

Most people will instinctively take up something similar to the Natural Isosceles stance, with the handgun thrust out, at chest level, and that's what we think most of you should practice. And if you can persuade the range owner to turn the lights down for you to practice that—and many will, particularly if the range isn't busy—that's all the better.

Practice often.

And remember: a gun never solves problems.

CHAPTER 11
Training

If, after reading the previous chapters, you've decided that you want to pursue getting a "Minnesota State Permit to Carry a Handgun" further, your next step is to get training, which will include both classroom training and a shooting qualification, and—if you pass the course—lead to you being certified by a trainer as eligible to apply.

Where to get training

Under the MPPA, sheriffs—the issuing authority—can accept a training certificate from anybody they choose to. By law, however, they *must* accept certificates issued by any of the following organizations:

1. The Minnesota Bureau of Criminal Apprehension—better known as the BCA.
2. The Minnesota Association of Law Enforcement Firearms Instructors (MALEFI).
3. The National Rifle Association (NRA).
4. The American Association of Certified Firearms Instructors (AACFI)—the publishers of this book.
5. The Peace Officer Standards and Training (POST) board.
6. The Department of Public Safety (DPS).

As of this writing, neither the BCA, the MALEFI, the POST board, nor the DPS offer carry permit courses and training for civilians. At present, none of these plan to.

Obviously, we think that AACFI has much to offer. Our training materials, like this book, were written with both Minnesota law—both statutes and case law—and culture in mind. And, by law, Minnesota sheriffs are required to accept AACFI Graduate Certificates as proof of training and qualification for carry permits. But we strongly encourage you to look around, and see which courses best suit your needs. Just be sure, in advance, that either:

1. Your instructor is certified by one of the organizations on the previous page, or
2. that your local sheriff will accept your instructor's certification[77], if your instructor is not a certified by any of the sanctioned training organizations.

Regardless of which training you choose, all training courses must, as per the MPPA, include: instruction in the fundamentals of how to use a handgun, successful completion of a shooting qualification exercise, and instruction in the fundamental legal aspects of pistol possession, carry, and use, including self-defense and the restrictions on the use of deadly force.

If you decide to go with an AACFI course, you can call AACFI at (612) 730-9895, or locate and sign up for a course on our website at www.firearm-sinstructors.biz—and we encourage you to look at our website in any case, as it has much information that you'll find useful, no matter which course you decide to go with. AACFI trainers are independent contractors who operate their own businesses, and have chosen to use AACFI materials and, in many cases, our scheduling and other support services. AACFI trainers offer both introductory courses, entirely suitable for somebody who has never held a handgun before, and the AACFI Carry Course, which presumes at least some familiarity with firearms[78].

And remember: a gun never solves problems.

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77. The simple way to find out, in that case, is to call up the sheriff's office and ask. "I'm going to be applying for a carry permit, and I'm considering taking training from Bob Smith, a local trainer, who isn't certified by the NRA or AACFI to conduct carry permit training. Will you accept a training certificate from him?" If he says yes, you're probably okay. While the sheriff can change his mind and deny the credentials for an instructor who isn't certified by any of the six groups, he's unlikely to.
78. Although, as a matter of policy, *no* AACFI course assumes familiarity with firearms safety.

CHAPTER 12
Applying for a Carry Permit

Once you've taken—and passed—a training course, the next step is to apply for your carry permit. By design, this is a straightforward process, and for most applicants, it won't require anything more than filling out a single form, and making one visit to the local sheriff's office.

In order to be eligible, you must—in addition to having passed an approved training course and having gotten your certificate:

- be at least 21
- be either a citizen or a permanent resident of the US
- have and be able to show qualifying ID (a driver's license or MN ID card are the usual ones; a US Passport is acceptable)
- not be disqualified by reason of having been convicted of any of various serious crimes, or adjudged mentally incompetent. For the full list of disqualifying crimes, see *The Minnesota Personal Protection Act of 2003*, starting on page 211.

Where to apply

If you're a Minnesota resident, you have to apply at the sheriff's office in the county in which you live; if you're not a Minnesota resident, you can apply at any sheriff's office. Regardless, you do have to apply in person.

Call your local sheriff's office and ask where to apply—sheriffs are permitted to contract out the application process to local police chiefs, and some may tell you to go there, instead.

How to apply

Applications are available at all sheriff's offices, or can be downloaded from the Internet—the Commission of Public Safety must make them available.

For your convenience, there's always a copy of the current application form available for free download at www.firearmsinstructors.biz. To make things easier, before making that trip to the sheriff's office, make xerox copies of your driver's license, state ID or the photo page of your passport, and of your graduation certificate from your training course. (If the training course you've taken isn't from one of the groups whose certification is automatically accepted, the sheriff can ask for additional information about your training course, and then decide for himself whether or not to accept your certification; it's up to him.)

Filling out the application is straightforward. Simply fill in all the information requested. All of the information must be given, and should be accurate—it's a crime to deliberately give inaccurate information.

You must submit your application in person, along with a check, cash, or money order for $100—although the sheriff can set a lower fee.

What happens next

After the application is submitted, the sheriff will run a standard computerized background check on you, to see if you are disqualified. They may, if they choose to, conduct a more thorough check, calling friends, acquaintances, employers, your local police, or whoever they want—although, in practice, they're unlikely to bother. It's nothing to be concerned about, either way.

They have thirty days from the day on which you submit your application to either deny or grant the permit—the clock starts ticking on the first day after you submit your application. That's thirty *calendar* days, not *business* days—if, say you submit your permit application on December 20th, the time is up on January 20th, regardless of their time out for the holidays.

They will usually mail your permit to you. If they mail you your permit, you proceed to the next step, *If the permit is granted*. If they deny your permit—which they must do in writing, with the specific reasons for the denial—proceed to *If the permit is denied*.

Don't call and ask about the status of your permit at least until the thirty days have elapsed. It's wise to wait an additional day or two, just to be sure that a denial letter hasn't been sent on the final day.

Why? If they don't deny the application within the statutory time, they have to give you the permit. If they do deny it, they're committed to—read: "stuck with"—defending the reasons that they give you in the denial letter, and if you can successfully dispute those, they have to give you the permit.

If you haven't heard by thirty-two days or so, then it's time to call the sheriff's office and ask about your permit status. If you're told that they're still investigating, *politely* remind the sheriff, deputy, or clerk that the statutory period has elapsed, and ask that the permit be issued immediately.

If they don't immediately agree to issue the permit, consider it denied.

If the permit is granted

When you receive your permit in the mail, put it in your wallet with your driver's license, but do make sure to make a copy of it, for your files. You may then begin carrying a handgun in public, as a holder of a Minnesota State Permit to Carry a Handgun. Your permit is valid five years from the date it was issued. (For more on renewal, and on refresher courses, see *What to Do After You've Gotten Your Permit*, starting on page 197.)

Congratulations—and please do your best to keep out of trouble. (Again, see the next chapter.)

If the permit is denied

If your permit application is denied, there are three steps to take: evaluate, negotiate, litigate.

Let's take them one at a time.

Evaluate

The first thing to do is to look at the letter and see why the sheriff has denied your permit. The MPPA requires that the sheriff gives his specific reasons and factual basis for any denial; look at what he's written.

There's really only four reasons that you can be denied: you're prohibited by statute from possessing a handgun; there's some flaw—real or perceived—in your paperwork; the sheriff has decided not to accept the certification that your trainer has given you[79]; or the sheriff has decided

79. That, of course, doesn't apply to certification from any of the groups, including AACFI, that the sheriff is required by law to accept. If the sheriff declines to accept optional certification, you can either try to persuade him to change his mind, or take a course from one of the approved groups, and reapply.

that there is a "substantial likelihood that the applicant [that's you] is a danger to self or public if given a permit to carry a pistol."

If you really are prohibited by law from possessing a handgun, there's nothing you can do to get a permit, until and unless that prohibition is removed. Being convicted of certain crimes—see *The Minnesota Personal Protection Act of 2003*, starting on page 211—will prevent you from getting a permit, as will certain court findings, like commitment to a mental institution, orders of protection on behalf of a spouse, etc. Being in the BCA gang database is also a disqualification.

Until and unless those disqualifications either expire or can be removed, you won't—and can't—be granted a permit. If you want to take it further, see an attorney.

If the sheriff has *mistakenly* decided that you're prohibited by statute—say, he thinks that you're Bob Smith the convicted bank robber, rather than Bob Smith the never-been-convicted-of-anything insurance salesman—all you should need to do is call the sheriff's office, politely explain the situation, and ask him to recheck the records, and that should solve the problem.

The fourth reason that a permit may be denied is, as we said, because the sheriff thinks that he has good reasons—not just a prejudice, or a feeling, or a dislike for the notion of lawfully armed civilians—but specific reasons, based on evidence, to believe that the you are, in layman's terms, likely to be dangerous if given permission to carry a firearm in public.

If that's the reason that your permit has been denied, you should begin by asking yourself an obvious question:

Is the sheriff right?

If you decide that he is, doesn't it seem reasonable not to take on the responsibility of carrying a handgun in public? If you agree that he's right, and you really ought not to be carrying a handgun, let it drop.

If you decide that the sheriff is wrong, the question then becomes a legal one:

Does the sheriff have "clear and convincing" evidence that you're likely to be dangerous? Some supposed evidence doesn't count—he can't consider, for example, incidents of alleged criminal behavior that aren't reported and investigated, or of crimes for which you were charged, but were acquitted. His denial, again, has to be based not on his feeling, but on evidence, and—as you'll see shortly—he'll have good reasons not to play fast-and-loose in choosing to view minor issues as evidence that you'd be dangerous.

If he doesn't have persuasive enough evidence, and this does go to a hearing, you will be granted the permit—and under the MPPA, the court will award you court costs and reasonable attorney's fees, so while you will have to put up some money, when you win, he'll have to reimburse you.

So, assuming that you think that the sheriff is both wrong and doesn't have enough evidence of your supposed dangerousness, you should go off and hire a lawyer, and have him file a lawsuit, yes?

Negotiate

No. Not yet. You may not have to at all. It may be possible to clear up the problem with a simple phone call or a letter. Should this go to a hearing—and it may—the judge will look both more favorably on you and on your demand for attorney's fees if you and your attorney can show that you made a sincere effort to work the problem out before going to court. Judges don't like people rushing to court when they can settle their problems between themselves.

For another, it's just plain better, all in all, to solve problems with discussions than it is by going to court. The courts are busy enough with controversies that can't be settled otherwise, after all.

You have two options at this point. One is to negotiate by yourself—and provide documentation, say, that you're Bob Smith the insurance salesman, and not Bob Smith the felon. Another is to get an attorney, and have him either do the negotiation for you, or advise you as to how to do it yourself.

Which makes sense depends on you and your situation. It won't be wrong to contact an attorney—see *Finding an attorney* on page 193—although it may not be necessary. If you can easily afford it, that's our recommendation. If all it takes is a couple of attorney's phone calls and perhaps a letter, it's not likely to be terribly expensive.

But let's assume that you're capable of making a calm phone call, and writing a sensible letter, and the denial was based on, at best, weak evidence of something that wouldn't, even if true, actually disqualify you.

In this hypothetical example, the denial letter from the sheriff says that sheriff's investigation revealed—accurately, in this example—that earlier this year, you and your next-door neighbor had a shouting match over where a fence was placed, and the sheriff has decided that constitutes evidence you're likely to be dangerous if given a permit to carry.

You might write a letter something like this:

> September 2, 2003
>
> Dear Sheriff Smithers:
>
> Thank you for your letter of September 1, 2003, denying my August 20th Application for a Minnesota State Permit to

Carry a Handgun.

You give as the sole reason for your denial your evaluation of an incident on July 1, 2003, involving an argument with my next-door neighbor, Alphonse Hornsby, over the placement of a border fence.

There are two points about this incident that make it clearly insufficient as grounds for a denial.

1. No violence was committed by me, or threatened by me, in this incident.

2. Not only was there no conviction—of either Mr. Hornsby or myself—for anything, but there was no arrest made, nor were any charges filed, nor a police report made. The police were not even summoned, as it was merely a minor, if perhaps noisy, disagreement, that has nothing at all to do with carrying guns in public, as my part of the argument took place entirely from my back yard, and no firearms were involved at all.

As your denial is clearly not permitted under Minnesota Statutes, section 624.714, subdivision 12, should we need to go to court on this, your denial would be overruled by the court, and a writ of mandamus issued, requiring you to issue me the permit, and an order would be issued for court costs and attorney's fees awarded to me as per the statute.

I would rather we save the county the expense and both the county and myself the annoyance of unnecessary litigation. Please issue my permit within five (5) business days of the date of this letter.

Thank you for your prompt attention to this matter.

Very truly yours,

Bob Smith

One important point about this letter: it deals with, and *only* with, the stated reason that the sheriff has given for denying your permit. Should this go to court—and in this hypothetical case, it's unlikely to have to—your attorney will prevent the sheriff from raising other issues.

If the sheriff can't establish that the reason *that he gave* holds water, the court will order him to issue your permit. That might not be the case if

you'd brought up extraneous matters, so don't. Stick to the subject, which isn't whether or not you ought to have a carry permit, or whether or not you're a good person, or any other issue, but only that the specific reason that he gave for denying you isn't sufficient to think that you'd be dangerous if given a permit.

Send the letter to the sheriff by Certified Mail, Return Receipt requested, and save a copy of the letter and the receipt. If you'd like, fax an additional copy to the sheriff.

If he doesn't, within the five business days you've given him, call or and tell you to come down and pick up your permit or mail it to you, it's time to go to court.

Now, you'll need an attorney.

Litigate

The world is full of non-attorneys who think that they can play lawyer. They're almost always wrong. If you need to go to court, get an attorney.

Finding an attorney

While the actual language of the MPPA was written by very experienced attorneys, it was written with the specific intent that any competent attorney should be able to handle an appeal under the MPPA. While there's no substitute for a good, experienced criminal attorney when charged with a crime, many attorneys without any particular expertise in this area will be able to handle an MPPA appeal.

If you already have a good attorney—criminal or otherwise—he or she would probably be a good place to start, if only for a recommendation. Friends who have been through the process before may be able to advise you, as should contacts at your local gun range, gun club, or gun store. And, of course, a quick email or phone call to your trainer should provide you with a good starting point.

Ask around.

After finding an attorney and him or her agreeing to take the case, it's important to remember the basic rule: your attorney is on your side. Nothing you say about what you've done can be used against you, or even repeated by the attorney without your permission. On the other hand, anything that you say to your attorney that is either false or incomplete can very seriously damage your situation.

Answer all your attorney's questions completely, and never, *ever* lie to him or her[80]. Your relationship with your attorney is in some ways the opposite of your relationship with the police in a criminal investigation—anything you *don't* say can come back to bite you.

Most—not, by any means, all—attorneys will listen to your situation for a brief period of time without charging you, and advise you as to how that attorney thinks you should proceed.

Listen carefully. If your attorney says that he or she thinks it's a borderline case, one where there's a 50-50 chance or worse that the court will rule against you, you should be aware that there's a real possibility that you'll not only not get your permit, but that you'll also be out several thousands of dollars in attorney's fees and court costs.

As we've previously discussed, attorney's fees tend to be very high, and the combination of this and the weakness of the previous carry law caused many people to simply give up when their permit applications were routinely denied. The expense and hassle of going to court to appeal denials, year after year, wore some people down. And others lost their appeals. As David M. Gross of St. Louis Park, an attorney with extensive experience in these matters, put it, it was "a matter of 'how much justice can you afford?'"

That's changed.

The MPPA hasn't lowered attorney's fees, but it has changed the ground rules. If you go to court, you don't necessarily have to prove anything—the *sheriff* has to prove to the court that he was right to deny you your permit, and if he can't do that, you win. If you win your appeal, the sheriff will be required to pay both court costs and reasonable attorney's fees.

This is why sheriffs will tend to grant permits, even if they personally don't like the idea of lawfully-armed citizens: overruled denials affect their budget—*they* end up paying those expensive attorney's fees.

Again, there is a risk here: if you lose, you won't get your court costs or attorney's fees back, and actually going to court will probably cost you at least two thousand dollars for a simple case, and could run into five figures for a complicated one.

There's no reason to be shy about the subject of money. Attorneys, like other professionals, do need to be paid, and have every right to be paid.

Arrangements can vary dramatically. Should you actually have to file the appeal, most attorneys will expect you to put up a couple of hundred dollars for filing fees—should you win, you'll get those back—as well as a

80. If you know any lawyers socially, ask one some time about the troubles that their clients have gotten into by lying to them.

down payment on the attorney's services, called a “retainer.” Shopping around is a good idea.

From your point of view, the least expensive situation that you need an attorney in is where you have already done the negotiation yourself—either with or without the guidance of an attorney—and he files a petition to the court.

After the attorney files the petition, in anything like the example given, the county attorney will likely contact your attorney, and offer to settle. (It's unlikely that you'll hear from the sheriff after the filing. If you do, just refer him to your attorney. His time to make this go away for free has passed.)

Your attorney will require the sheriff to pay your out-of-pocket attorney's fees and court costs—after all, the sheriff already had a chance to settle this for free, after you sent him your letter—and you'll get your permit.

If not, you have to go to court.

The appeals process

The appeals process is simple. Your attorney will file papers with the court, asking for a “Writ of Mandamus”—a fancy way of asking the court to tell an official to do something, in this case, to issue your permit. You'll be the “plaintiff”—the person filing the suit—and the sheriff is the “respondent”—the person being sued.

The sheriff's lawyer—a lawyer from the County Attorney's office—will respond, explaining to the judge why he thinks that there's sufficient evidence that the reason the sheriff has said you're disqualified not only is true, but ought to, by law, disqualify you.

And then your attorney goes to court. He—or she—may want you to come along, or not.

Because of the way that the MPPA was written, the burden of proof is on the sheriff—and, in practice, his attorney. They must produce evidence that you are disqualified, and the evidence must be not merely enough to show that there's more likelihood than not that you'd be dangerous if issued a permit or are otherwise disqualified, but be “clear and convincing.”

If the sheriff's attorney doesn't produce sufficient evidence, your attorney doesn't have to produce any at all or—at least in theory—say a word. The judge will order the sheriff to issue you your permit. Even if the sheriff's attorney does produce evidence, you—through your attorney—have the right to challenge it, to show that it's insufficient, inaccurate, or irrelevant, or even to move to have it discarded as inadmissable. You attorney may want to call you to testify, or call other witnesses, or produce documents—it all depends on the situation.

The example we gave, above, is the sort of thing that's unlikely to go past the negotiation stage.

But if it does, and it gets to court, it should be an easy win for you and your attorney, and a fairly expensive lesson for a sheriff.

And remember: a gun never solves problems.

CHAPTER 13
What to Do After You've Gotten Your Permit

First of all, of course, stay out of trouble

Look at it this way: most people who get permits have already gone through their entire lives without ever having to point a gun at another human being, and it's best to keep it that way. If you haven't been persuaded by the chapters on the law about the use of lethal force and what happens after an incident where you've had to produce a handgun—even if you've not so much as pointed it at anybody—read them again.

If you're even idly considering the idea that now is a good time to go down to that bad neighborhood that you've been avoiding, or to head over to your neighbor's house and straighten him out about his dog voiding itself on your lawn, think again. Repeat as necessary, think all you want—just don't *do* it. Your "Minnesota Permit to Carry a Handgun" is just that: it's a permit to carry a handgun in public. It doesn't make you bulletproof, or knife-proof, or arrest-proof, or lawsuit-proof.

And of all the many things it's not, the foremost among them is a reason to go looking for trouble.

Decide on your own personal carry strategy

There's no question that some permit holders rarely, if ever, carry handguns in public. Some people take out a permit as insurance against a possible threatening situation, and don't intend to actually carry their handguns in public until they find themselves with one. Others simply make it a policy to carry almost all of the time—everywhere it's legally permitted.

Still others pick a middle-of-the-road policy—carrying when they feel like it, and not bothering when they don't.

It's up to you, but it's worth thinking through. Some very ordinary sorts of problems can be complicated by the mere presence of a handgun, even if it's never deliberately pointed at somebody, drawn from the holster, or shown.

Let's take an example: you're having an argument with a mechanic, as you think—correctly, as it turns out—that he's replaced your busted alternator with a used one, rather than the new one that you've been billed for. Having your permit, you're wearing your gun—in this example, on your strongside hip, concealed by your jacket—and you quite unintentionally put your hands on your hips, accidentally brushing your jacket back and revealing that you're armed.

Two things are likely to happen, very quickly.

The first is that he's likely to immediately back down, and admit that you were right; the second is that he's going to be dialing 911 for the police at the first moment that he thinks that it's safe to do so.

Did you mean to threaten him? Absolutely not.

Have you committed a crime? No.

Are you going to be having an unpleasant learning experience? You bet.

You head home, and before going more than a few blocks, one or more police cruisers, lights flashing, responding to a “man with a gun” call, pulls you over, and several policemen leap out, their pistols drawn, and instruct you to get out of the car.

Since you know enough to cooperate with the police, you find yourself kneeling on the ground, hands clasped behind your head. You're disarmed and handcuffed, and taken to jail, and charged with any of a number of crimes, including the all-purpose “breach of peace.”

Since you know enough not to get involved in a discussion with the police, you call your lawyer. If you're lucky, he'll able to arrange for minimal bail that day—and if you can't post the whole bail amount, you'll pay ten percent of it to a bondsman, and never see it again.

And then, if you're lucky—and if you haven't said anything to the police that can possibly be construed as an admission of guilt, the chances of being lucky go up—your lawyer will persuade the prosecutor to drop the charges. Perhaps you won't be that lucky—the best he may be able to get the prosecutor to do is reduce the charges, and arrange for you to plead guilty to a misdemeanor and pay a fine, leaving you several thousand dollars poorer, without a carry permit, and with a misdemeanor conviction on your record.

Or you can fight the charges—after all, you didn't threaten the dishonest mechanic—and hope that the judge or jury will see it that way, with the cer-

tainty that you'll be spending several thousand dollars on lawyer's fees when it goes to trial.

And all because you—perfectly innocently, in this example—put your hands on your hips while involved in an ordinary sort of argument[81].

We keep emphasizing this point because it's important: when you're carrying a handgun, you have to take extra precautions—not fewer—to avoid trouble.

Your permit and handgun aren't for settling disputes—your handgun is for saving your life, and your permit is what makes it legal for you to carry it in public. Period.

That said—and even though it's your choice—we feel that we owe you a recommendation as to a personal carry strategy, and here it is:

We think, all in all, that it makes sense for anybody who is willing to make strong and continuous efforts to stay out of trouble, to carry his or her handgun everywhere it's legal and permitted, and nowhere else. The thing about life-threatening emergencies is that they tend to be unpredictable. There is no guarantee, we're sorry to say, that having your handgun will be able to protect you in that sort of situation—but even the FBI reports show that the single most effective thing you can do if attacked is to produce a handgun.

Spend time at the range with your carry handgun

A handgun is a tool, and, as with most tools, the more you use it, the more comfortable you are with it, and the more likely that, even under stress, you'll use it properly. Particularly at first, you should plan on making regular range trips, and practicing point-shooting at close targets—and if you can arrange for the range master to lower the lights, so that you're practicing in low-light or darkness, all the better.

Remember: keep it simple. Target shooting, with aimed fire, is for most folks a lot more fun than simply thrusting out a handgun at chest level from an Isosceles stance—but the idea is practice, not fun.

Recycle your carry ammunition

Modern ammunition can last a long time—it doesn't tend to “go bad.” That said, nothing lasts forever. One occasional mistake that new gun own-

81. If you find yourself in a situation like that, the best thing to do is for you to back down, even if you’re right. “I’m sorry,” you should say. “Of course it’s a new alternator, and I apologize for suggesting otherwise.”

ers do is cleaning their ammunition with various chemicals suitable for cleaning the handgun—don't do that; it can ruin the primers.

If you're practicing with your carry ammunition, just start off by using it—point-shooting, from an Isosceles stance—at the target, and put new ammunition in when you leave the range.

Clean your carry handgun

Handguns are machines, and machines need care and maintenance. Different people adopt different policies about how often and how thoroughly to clean their handguns. Some take the position that the handgun should be clean enough to "eat off of"—although how they'd do that, we don't know—and do a full, detailed, disassembly and cleaning of semiautos after every shooting session. That's not wrong, although it might be a little excessive—and in the case of some semiautos, it raises the question of whether or not the pistol was reassembled properly, and will perform if needed. After a detailed cleaning of a handgun, we recommend either running another magazine full of your carry ammunition through it, or—after making *very* sure that it's *completely* unloaded; no rounds in the cylinder of a revolver, no round or ammunition in a semiauto—cocking it, then inserting a pencil, eraser first, down the barrel, pointing it in a safe direction, and "firing" it. If the pencil pops up, it means that the firing mechanism, at least, is working.

We recommend just giving semiautos and revolvers a light cleaning after every shooting session. Semiautos need to be cleaned more thoroughly than revolvers do, although unless you've put a lot of rounds through it, a detailed cleaning shouldn't be necessary very often.

Take additional training

There is no such thing as too much education, and that applies to permit holders and the carrying of handguns as much as anything else. Consider taking an advanced course, from AACFI or any other reputable training organization.

Keep up with changes in the law

As we've said, there are lots of mainly minor issues that Minnesota courts haven't had to address, yet, but they will. You can expect that there will be test cases, for example, involving carrying in courthouses—right

now, the law permits permit holders to just give notification to the sheriff and carry in courthouses, but the practice is to have permit holders lock up their firearms. You can expect that some lawyers with carry permits will be challenging this. Employers, as we've said, do have the right to forbid permit holders to carry at work—but when they do that, are they responsible for an injury that happens to an employee who wasn't able to defend himself or herself? We don't know; there haven't been any test cases on that, as of yet.

The only way you ever want to be involved in a test case, of course, is to read about it. So do.

Beyond that, there's the matter of the legislature. As Judge Gideon J. Tucker said in 1866, “No man's life, liberty, or property is safe while the legislature is in session.”

Check out the AACFI website

Make it a habit to consult the AACFI website at www.firearmsinstructors.biz to keep up with any test cases that happen, and how they're resolved, and with any pending bills in the legislature that might affect your rights as a permit holder, and a gun owner.

And also keep an eye out for the next edition of this book—as the case law develops, AACFI will be updating and expanding it.

Prepare to renew your permit

There's no rush; the “Minnesota State Permit to Carry a Handgun” is valid for five years. Renewing it is, basically, the same procedure as getting one in the first place. You'll have to take a refresher course within a year prior to your renewal, and the maximum fee for a renewal is $75, rather than $100. AACFI and other organizations will be announcing refresher courses as that time approaches.

It's nothing to worry about, but it is something to keep in mind. With the many permits issued in 2003, the first year of the MPPA, it's a safe bet that in 2008 there will be some of the same problems in scheduling training sessions—schedule yours early, rather than late, and plan on applying for your renewal two months or so before your permit expires. Your renewal will be effective as of the last valid date of your original permit, so there's no waste in applying a little early.

Support the individuals and groups that made it possible for you to get your carry permit

The battle to change Minnesota's antiquated, bureaucrats-know-best permit law to the modern, mainstream, moderate MPPA was a long and difficult one, and it didn't happen all by itself.

Among elected officials, the legislative battle was fought tirelessly by the chief authors of the bill—Representative Lynda Boudreau in the Minnesota State House, and Senator Pat Pariseau in the Senate. If you appreciate the hard work they've done, please drop them a thank-you note. And the same goes for all of the legislators in both the Minnesota House and Senate who voted for the MPPA—their names are in Appendix C, *Minnesota Legislators Who Supported You*, starting on page 253.

And it wasn't, by any means, just two legislators—nor even all the legislators, of all three parties, that voted for the bill. The National Rifle Association put a lot of effort into the lobbying process in Minnesota, as it has in the other states that have passed "shall issue" laws. Please consider joining the NRA, if you haven't already—you can join at their website at www.nra.org.

But the majority of the work was done by a grassroots group called Minnesota Concealed Carry Reform Now!, otherwise known as CCRN, a division of GOCRA, the Gun Owners Civil Rights Alliance. The contribution of the volunteers of CCRN/GOCRA, over quite literally *years* of working on the legislation and lobbying for its passing, can't be overstated.

Please consider supporting and joining CCRN/COCRA—their website is at www.mnccrn.org.

But, mainly, the most important thing to do is just to go on with your life, living it as well as you can, and hope that—like the fire insurance on your home—the combination of your carry permit and your carried handgun is something you'll never have to use.

We hope so, too.

And, for one last time, remember: a gun never solves problems.

APPENDIX A
Necessary Equipment

Carrying a handgun isn't, or shouldn't be, just a matter of having a handgun and carry permit. We think that there are several other items that a permit holder should definitely have, and some that are a good idea, depending on your budget.

Minimum equipment

- An utterly reliable handgun, one that points well for *you*.
- A pocket holster, or some other carry method or combination of carry methods, that works for you, throughout Minnesota's varying seasons.
- Your permit and driver's license or State ID.
- A cell phone[82].
- A gun box, or some other method to secure your firearm, whether you're out in public, or at home, should you need to. At a minimum, a trigger lock or padlock.
- A gun cleaning kit.
- The phone number of a good criminal lawyer, just in case.

82. If you can't afford monthly cell phone fees, you can buy a used cell phone at most pawn shops, and then not have it activated. Even without service activation, any working cell phone can be used to dial 911 in an emergency. Even if you already have a cell phone, having an unactivated one as an emergency spare in your glove compartment isn't a bad idea.

Recommended equipment

- A flashlight.
- A spare handgun.
- A spare magazine for a semiauto, or a speedloader for a revolver.
- A spare wallet, with some expired credit cards and around $20 in small bills—you can throw it to a mugger as you run in the opposite direction.

APPENDIX B

IACP "Officer-Involved Shooting Guidelines"

In 1998, the International Association of Police Chiefs, through its Psychological Services Section, adopted the following guidelines for helping police officers through the traumatic event of being involved in a shooting. While civilians can't expect this sort of treatment, it's worth knowing how stressful that the IACP thinks that a shooting is for the survivor of it, and the sort of gentle and thoughtful care that such an officer needs. It's also worth noting guideline 6, which suggests, that to avoid "legal complications," the officer should avoid discussing the shooting before the investigation.

In the case of civilians, realistically, the only person you can turn to to provide anything like this is, as we've said, your attorney.

> Officer-Involved Shooting guidelines
>
> Adopted by the IACP Police Psychological Services Section in 1998
>
> These guidelines were developed to provide information and recommendations on constructively supporting an officer(s) involved in a shooting. In the past, officers involved in on-duty shootings were often subjected to a harsh administrative/investigative/legal aftermath that compounded the stress of using deadly force. A "second injury" can be created by insensitively and impersonally dealing with an officer who has been involved in a critical incident.

Field experience of members of the Police Psychological Services Section of the IACP suggests that following these guidelines can reduce the probability of long-lasting psychological and emotional problems resulting from a shooting. However, these guidelines are not meant to be a rigid protocol. These guidelines work best when applied in a case-by-case manner appropriate to each unique situation.

1. At the scene, show concern. Give physical and emotional first aid.

2. Create a psychological break; it is advisable to get the officer away from the body and suspect(s) or remove the officer completely from the immediate scene. Shielding the officer from media attention is essential. The officer should stay with a supportive peer or supervisor and return to the scene only if necessary.

3.Explain to the officer what will happen administratively during the next few hours and why. It is recommended that an administrator brief the officer again sometime in the next two days regarding the entire process of investigation, media interaction, grand jury, review board, and any other potential concerns that might be encountered after a shooting.

4.If the firearm is taken as evidence, replace it immediately or when appropriate (telling the officer it will be replaced). Officers, especially when in uniform, may feel extremely vulnerable if they are left unarmed. Immediate replacement of a firearm also communicates support for the officer, rather than miscommunicating that an administrative action is being taken. If the firearm must be removed at the scene and cannot be replaced, it is desirable to assign an armed companion officer to stay with the involved officer.

5. If possible, the officer can benefit from some recovery time before detailed interviewing begins. This can range from a few hours to overnight, depending on the emotional state of the officer and the circumstances. Officers who have been afforded this opportunity to calm down are likely to provide a more coherent and accurate statement. Providing a secure setting,

insulated from the press and curious officers, is desirable during the interview process.

6. Totally isolating the officer breeds feelings of resentment and alienation. The officer may benefit from being with a supportive friend or peer who has been through a similar experience. (To avoid legal complications, the shooting should not be discussed prior to the preliminary investigation.)

7. If the officer is not injured, either the officer or a department representative should contact the family with a telephone call first, perhaps followed up with a personal visit, and let them know what happened before other rumors and sources reach them. If the officer is injured, a department member known to the family should pick them up and drive them to the hospital. Offer to call friends, chaplains, etc., to make sure the family has support.

8. Personal concern and support for the officer involved in the shooting, communicated face-to-face from high-ranking administrators, goes a long way toward alleviating future emotional problems. The administrator does not have to comment on the situation, or make further statements regarding legal or departmental resolution, but can show concern and empathy for the officer during this stressful experience.

9. It is desirable to give the officer a few days of administrative leave to deal with the emotional impact. Make sure the officer understands this is an "administrative leave," not a "suspension with pay." It may well be in the best interests of the officer and the agency to keep the officer off the street until the criminal investigation, internal shooting review board, grand jury, coroner's inquest, and district attorney's statement have all been completed. This avoids placing the officer in potential legal and emotional double binds from being involved in another critical incident before the first one has been resolved, or being further involved with suspects or witnesses while working.

10. Departments may wish to screen all emergency service personnel at the scene (including dispatchers) for their reactions and give administrative leave or the rest of the shift off, if necessary.

11. It is advisable that a confidential debriefing with a licensed mental health professional be scheduled for all involved personnel within 72 hours. While this can be a group session, it may not be legally or emotionally appropriate to include the officer(s) who did the shooting in a debriefing with others, as actually doing the shooting creates different issues. A one-on-one debriefing with a licensed mental health professional is recommended for the officer(s) who did the shooting prior to or in place of a group debriefing. Follow-up sessions for any personnel involved in the shooting may be appropriate.

It was the majority consensus of members of the IACP Police Psychological Services Section that debriefings be mandatory for all involved in a shooting incident. The Section recognizes there are a few departments with well-established police psychology programs who have positive results with voluntary briefings. In the absence of this type of program, it is advisable that debriefings be mandatory.

It needs to be made very clear to all involved personnel and supervisors that debriefings are separate and distinct from any fitness-for-duty assessment, and administrative or investigative procedures. It is extremely inappropriate to use information from a debriefing in any manner other than to help the individuals involved in the incident deal with psychological or emotional issues.

12. Opportunities for family counseling and/or family group debriefings (spouse, children, significant others) should be made available.

13. If the officer has a published home telephone number, it may be advisable to have a friend or telephone answering machine screen telephone calls, since there are sometimes threats to the officer and his or her family.

14. When possible, an administrator should tell the rest of the department (or at least the supervisors and the rest of the officer's team) what happened so the officer does not get bombarded with questions and rumors are held in check. Screen for vicarious thrill seekers to protect the officer and the situation.

15. Expedite the completion of administrative and criminal investigations and advise the officer of the outcomes. Lengthy investigations can stimulate a secondary injury.

16. Consider the officer's interest in preparing media releases.

17. The option of talking to peers who have had a similar experience can be quite helpful to personnel at the scene. Peer counselors can also be an asset participating in group debriefings in conjunction with a mental health professional, and in providing follow-up support.

Family members may also greatly benefit from the peer support of family members or other officers who have been involved in critical incidents. The formation and administrative backing of peer support teams for officers and family members will prove a wise investment during the stress of a critical incident.

18. It is advisable not to force a return to full duty before the officer indicates readiness. Allow a paced return, perhaps allowing the officer to "team" with a fellow officer, or work a shorter or different "beat" or shift.

19. Prior to any event, attempt to train all officers, supervisors, and family members in critical incident reactions and what to expect personally, departmentally, and legally.

20. Shootings are complex events often involving officers; command staff; union representatives; internal affairs; peer support teams; district attorneys; investigators; city, town, or county counsel; personal attorneys; city, town or county politicians; media; and others. It is recommended that potentially involved parties meet to establish locally acceptable procedures and protocols on handling these stressful, high-profile events to avoid conflict among the many different interests. It is recommended that they continue to communicate regularly to ensure smooth functioning and necessary adjustments.

APPENDIX C

The Minnesota Personal Protection Act of 2003

Bill Summary

This is a slightly edited version of the legislative summary of the MPPA, which was prepared for the Minnesota State House of Representatives by Joe Cox of the House Research Office, to advise legislators as to what changes they were making passing the MPPA.

> The first article of this law establishes a "shall issue" policy for permits to carry a pistol in public. Essentially, it reverses the presumption on the issuance of permits to carry a pistol. Under previous law, a person must have demonstrated "an occupation or personal safety hazard" that required a permit. Issuance of a permit was discretionary and a permit may be limited in its scope. Under this law, a sheriff is required to issue a permit to a person unless the person is disqualified under specific, listed factors.
>
> The second article of this bill imposes a lifetime ban on firearm possession for persons who commit felony-level crimes of violence. Under previous law, the possession restriction ended ten years after discharge from sentence for violent felons. It establishes a process by which a person can petition the court to restore firearm possession rights. It modifies the definition of "crime of violence." It also makes other related changes.

Article 1

1 Pistol permit data. Conforming amendment to the data practices chapter clarifying that a sheriff may share certain data on permit holders with the department of public safety (DPS).

2 Possession on school property. Provides that it is a misdemeanor for a person with a permit to carry a pistol to carry on school property. An exception is made for people in motor vehicles and for placing a firearm in, or retrieving it from, the trunk of a vehicle. Provides that a violation does not subject the firearm to forfeiture. Also makes the following changes:

- Provides that, in relation to the current law prohibiting possession of dangerous weapons on school property, a person must know he or she is on school property to be guilty of the crime.
- The definition of school property is clarified and expanded, specifically including buildings under temporary school control. Also adds child care centers to the definition.
- Certain other exceptions in current law, such as having written permission from the principal, also apply and have been modified.
- Provides that a school district may not regulate firearms carried by non-students or non-employees in a manner inconsistent with this subdivision.

3 Commissioner. Defines "commissioner" as the commissioner of public safety for the carry permit section, and related sections, of law.

4 Permit required; penalty.

(a) Similar to previous law. Provides that a person may not carry a pistol in a public place without a permit to do so. Does not apply to law enforcement officers. Provides that a violation is a gross misdemeanor. Second and subsequent violations are felonies. (Note: current law provides certain exceptions to the general prohibition, such as carrying a pistol from the place of purchase to home. This article does not change the exceptions.)

5 Display of permit; penalty.

(a) Requires permit holders to have the permit card and other government issued photo-ID in possession at all times when carrying a pistol. Permit holders must show the card and other ID to a peace officer upon lawful demand. Provides that a violation is a petty misdemeanor. The fine for a first offense must not exceed $25. Provides that a firearm is not subject to forfeiture for violating this paragraph.

(b) Provides that a citation must be dismissed if a person demonstrates that he or she had a valid permit at the time of the alleged violation.

(c) Requires a permit holder to provide a sample signature to aid in identification.

6 Where application made; authority to issue permit; criteria; scope.

(a) Vests authority to issue permits with sheriffs. Residents apply to the sheriff in the county where the person resides. Nonresidents may apply to any sheriff.

(b) Provides that a permit must be issued if a person:

- has training in the safe use of a pistol,
- is at least 21 and a citizen or permanent resident of the U.S.,
- completes a permit application,
- is not otherwise prohibited from possessing a firearm under law, and is not listed in the criminal gang investigative data system. (A more detailed list of persons ineligible for a permit to carry a pistol under this article is included at the end of this summary.)

(c) Provides that a permit is a statewide permit.

(d) Allows a sheriff to contract with a police chief to issue permits.

7 Training in the safe use of a pistol.

(a) Requires an applicant to present evidence of being trained in the safe use of a pistol within one year of an original or renewal application. Training may be demonstrated by employment as a

peace officer in Minnesota within the past year or completion of a basic training course conducted by a certified instructor.

(b) Basic training must include:

- instruction in the fundamentals of pistol use,
- successful completion of a shooting exercise, and
- legal instruction on pistol possession, carry, and use, including self-defense.

(c) Instructors may be certified within the last five years. The following organizations may certify instructors:

- the bureau of criminal apprehension, training and development section
- the Minnesota Association of Law Enforcement Firearms Instructors
- the National Rifle Association
- the American Association of Certified Firearms Instructors
- the POST board or a similar agency of another state, and
- the DPS or a similar agency of another state.

(d) Requires a sheriff to accept the training described in this subdivision. Allows a sheriff to accept other satisfactory evidence of training in the safe use of a pistol.

8 Form and contents of application.

(a) Requires applications to be on a standard form. Provides that only information required by statute may be requested on the form. In addition to items such as name and date of birth, requires an applicant to list all states of residence in the last ten years, requires authorizing the release of civil commitment information, and requires an applicant to state that, to the best of the applicant's knowledge, he or she is not prohibited from possessing a firearm.

(c) Outlines the required contents of an application packet:

- a signed and dated application
- documentation of pistol training, and
- an accurate photocopy of government issued ID.

(d) Applicants who would otherwise be ineligible for a permit due to a criminal conviction, but whose rights are restored by court order or pardon, must submit a copy of the relevant order with the application.

e) Requires applications to be submitted in person.

(f) Sets the application fee at actual cost or $100, whichever is less. Of that amount $10 is transferred to the state general fund to cover the state costs of permitting. [Note, however, that under section 32 of this article the amount transferred to the general fund is $21.50 until July1, 2004.]

(g) Provides that no additional information or fees may be required of an applicant.

(h) Requires sheriffs to make new and renewal applications available. Requires DPS to make forms available on the internet.

(i) Requires application forms to display a notice that a permit is void if the permit holder becomes prohibited from possessing a firearm. Requires the notice to list applicable criminal offenses and civil categories.

(j) Requires sheriffs to provide a signed receipt when an application is filed.

9 Investigation.

(a) Requires sheriffs to conduct background checks on applicants by electronic means in state databases and the federal National Instant Check System. The sheriff must also make a reasonable effort to check other available, relevant databases.

(b) Requires the sheriff to notify the police chief, if any, of the municipality where the applicant resides. The chief may supply the sheriff with information relevant to permit issuance.

(c) Requires sheriffs to update background checks yearly. Allows additional checks at any time.

10 Granting and denial of permits.

(a) Requires a sheriff to act on a permit application within 30 days. Provides that, in addition to failing to meet the requirements under section 6, a permit may be denied if there is a substantial likelihood that the applicant is a danger to self or the public if given a permit to carry a pistol.

(b) Provides that the failure to notify an applicant of a denial constitutes the issuance of a permit. Requires denials to be in writing and to set forth a factual basis for the denial. Provides procedures for reconsideration.

(c) Requires sheriffs to provide laminated permit cards. Requires the sheriff to notify DPS to include the permit holder in the state database.

(d) Requires sheriffs to notify DPS when a permit is suspended or revoked.

(e) Allows the sheriff to suspend the application process if certain charges are pending against the applicant.

11 Permit card contents; expiration; renewal.

(a) Requires permit cards to be uniform. Specifies the information that must be present on permit cards.

(b) Requires permit cards to identify the issuing sheriff and state an expiration date. Requires permit cards to display a notice that a permit is void and must be returned if the permit holder becomes ineligible to possess a firearm.

(c) Provides that permits expire after five years. Provides that permits may be renewed under the same criteria as an original permit, subject to certain renewal procedures. The renewal fee is actual costs, but not to exceed $75. Of that, $5 is submitted to DPS and deposited in the general fund.

(d) Provides that a renewal permit is effective on the day the prior permit expires.

12. Change of address; loss or destruction of permit.

(a) Requires permit holders to notify the sheriff within 30 days of changing address, or losing or destroying a permit card. Provides that a violation is a petty misdemeanor and the fine for a first offense may not exceed $25. Provides that a firearm is not subject to forfeiture for a violation.

(b) Provides for replacement of permit cards upon change of address, loss, or destruction. Provides for a $10 fee. Requires completion of a specialized application and a notarized statement if the card was lost or destroyed.

13 Permit to carry voided.

(a) Similar to former law. Provides that a permit is void and must be revoked if a permit holder becomes ineligible to possess a firearm. Requires the permit holder to return the permit card.

(b) Requires the court to take possession of a permit card if the permit holder is convicted of a disqualifying offense.

(c) Allows the issuing sheriff or the sheriff of the county of current residence to petition for the revocation of a permit if the sheriff believes the permit holder has demonstrated dangerousness to the public. If the sheriff's petition is denied, the sheriff must pay the permit holder's costs and attorney fees.

(d) Requires permit revocations to be promptly reported to the issuing sheriff.

14 Prosecutor's duty. Requires prosecutor's to determine whether a person charged with a disqualifying offense is a permit holder. If the defendant is a permit holder, the prosecutor must notify the sheriff of the charges and the final disposition of the case. (Section 18 of the article governs the suspension of the permit as a condition of release.)

15 False representations. Amends current law to provide that false information given in an application must be material to constitute a criminal violation.

16 Emergency issuance of permits. Allows a sheriff to issue an emergency permit to a person when the person's safety is at immediate risk. Requires completion of an application and

affidavit. Does not require evidence of training. Provides that an emergency permit is valid for 30 days, may not be renewed, and may be revoked without a hearing. Prohibits a fee. Provides that an emergency permit holder may seek a regular permit subject to the regular procedures.

17 Hearing upon denial or revocation.

(a) Allows an applicant to appeal the denial or revocation of a permit. The sheriff is the respondent. The court must hold a hearing as soon as possible, but not later than 60 days. Requires the record to be sealed.

(b) Requires the court to order issuance of a permit unless the sheriff establishes by clear and convincing evidence that the applicant does not meet the basic statutory criteria (e.g.; 21 years old, trained in the use of a pistol) or that there is a substantial likelihood that the applicant is a danger to self or the public if authorized to carry a pistol. The court must issue written findings and conclusions of law. Incidents of alleged criminal misconduct that were not investigated and documented, and incidents for which the applicant was acquitted, may not be considered.

(c) If a person is denied a permit for being in the BCA gang database, the person may appeal on the grounds of misidentification, improper inclusion, or by showing withdrawal from gang activities.

(d) Requires the court to award costs and attorney fees to a successful applicant.

18 Suspension as condition of release. Allows the court to suspend a permit as a condition of release pursuant to the same criteria as the surrender of firearms under Minn. Stat. ' 629.715 if a permit holder is charged with a violent crime. The court must report a suspension to the issuing sheriff or to DPS.

19 Records.

(a) Prohibits a sheriff from maintaining permit application data not necessary to support an outstanding permit. Requires sheriffs to purge unnecessary information yearly.

(b) Notwithstanding paragraph (a), information on a permit holder whose permit was denied or revoked for cause may be kept for six years.

20 Commissioner of public safety; contracts. Requires DPS to maintain a database of persons with valid carry permits. Provides that DPS may also maintain a separate database of persons who were denied permits or who had permit revoked. Allows DPS to contract with an outside source to fulfill this duty.

21 Recognition of permits from other states.

(a) Requires DPS to establish and publish a list of states that have laws governing carry permits that are not substantially similar to Minnesota's. A person with a license or permit from a state not on the list may use it in Minnesota subject to Minnesota law.

(b) Notwithstanding paragraph (a), provides that an out of state permit is not valid if the permit holder is, or becomes, prohibited from possessing a firearm.

(c) Provides that a sheriff may file a petition against an out of state permit holder under section 17 of the article.

(d) Requires DPS to execute reciprocity agreements with other states when necessary.

22 Posting; Trespass.

(a) Establishes a petty misdemeanor offense for failing to leave private property while possessing a firearm if the property is posted and the owner asks the person to leave.

(b) Defines “reasonable request” and “private establishment.” Provides specific requirements for signs.

(c) Provides that owners or operators of private property may not restrict the lawful possession of firearms in a parking facility.

(d) Provides that this section does not apply to private residences. The possessor of a private residence may prohibit firearms in any lawful manner.

(e) Provides that a landlord may not restrict the lawful possession of firearms by tenants or their guests.

(f) Provides that this section overrides any policies relating to similar conduct in the trespass law.

(g) Provides an exception for on-duty police officers and security guards.

23 Employers; public colleges and universities. Clarifies that public and private employers may establish policies that restrict firearm possession by employees. Provides that public colleges and universities may establish policies that restrict firearm possession by students while on campus. Prohibits employers and public colleges from restricting the lawful possession of firearms in parking facilities.

24 Immunity. Provides immunity to sheriffs, sheriff's employees, and certified instructors for acts committed by permit holders, unless the sheriff, employee, or instructor had actual knowledge that an applicant was disqualified from possessing a pistol.

25 Monitoring. Requires DPS to report to the legislature on permits to carry pistols. Requires sheriffs to supply necessary information to DPS. Provides that copies of reports must be available to the public for the cost of duplication. Provides that nothing in this law requires or allows the registration of firearms.

26 Use of fees. Provides that permit fees may only be used to pay costs related to permits, specifically including any attorney fees the sheriff is ordered to pay on behalf of applicants and the reasonable costs of the county attorney. Requires fee money to be maintained in a segregated fund. Requires sheriffs to report to the commissioner annually on fund revenues, expenditures, and balances.

27 Short title; construction; severability. Minnesota Citizens' Personal Protection Act of 2003. Makes certain legislative declarations regarding intent and construction. Provides that if one section is deemed invalid, the remaining sections are not invalid.

28 Exclusivity. Provides that no additional or different criteria or procedures for the issuance of permits to carry pistols may be utilized and provides that no other government official may limit permits in any way.

29 Carrying while under the influence of alcohol or a controlled substance.

Subd. 1. Acts prohibited. Prohibits carrying a pistol in public when under the influence of a controlled substance, a hazardous substance, alcohol, or a combination. Prohibits carrying when BAC is .10 or more, or when BAC is between .04 and .10 (a distinction is made between .04 and .10 because different penalties apply depending on the BAC level).

Subd. 2. Arrest. An arrest for a violation of subd. 1 may be made upon probable cause, without regard to whether it was committed in the officer's presence.

Subd. 3. Preliminary screening test. Provides that an officer with reason to believe a person has violated subd. 1 may require the person to provide a breath sample for an in-field screening device. The results may be used to determine whether an arrest should be made and further testing required. The results of the preliminary test have limited admissibility in court.

Subd. 4. Evidence. Provides that admission of evidence relating to a person's BAC is governed by section 169A.45 (in Minnesota's DWI laws).

Subd. 5. Suspension. Provides the court may suspend a person's authority to carry a pistol as a condition of release for a violation of this section.

Subd. 6. Penalties.

(a) and (c) Provides that a violation for BAC over .10 or a controlled or hazardous substance is a misdemeanor. A second violation is a gross misdemeanor. Provides that the authority to carry a pistol is revoked and the person may not reapply for 1 year.

(b) and (d) A violation for BAC of .04 to .10 is a misdemeanor. The maximum penalty is not increased for subsequent violations. The authority to carry a pistol is suspended for 180 days.

(e) Provides that for a violation with a BAC of .04 to .10, a firearm is not subject to forfeiture.

Subd. 7. Reporting. Provides that suspensions and revocations must be reported to the sheriff or to DPS.

30 Chemical testing.

Subd. 1. Mandatory chemical testing. Requires a person carrying a pistol in public to submit to a chemical test when an officer has probable cause to believe the person violated section 29 and the person was arrested, the person was involved in a firearms-related accident, the person refused a preliminary screening test, or the screening test indicated a BAC of .04 or more.

Subd. 2. Penalties; refusal; revocation. Provides that if a person refuses to take a test, a court may impose a civil penalty of $500 and may revoke the authority to carry a pistol in public for one year. Provides that the person must be given notice and an opportunity to be heard.

Subd. 3. Rights and obligations. Lists certain things about which a person must be informed when a test is requested.

Subd. 4. Requirement of blood or urine test. Provides that a blood or urine test may be required after a blood test if there is reason to believe the person is impaired by a controlled substance.

Subd. 5. Chemical tests. Chemical tests are governed by section 169A.51 (in Minnesota's DWI laws).

31 Appropriation. Appropriates $1,071,000 in FY 2004 and $119,000 in FY 2005 from the general fund to DPS for implementation. Provides that money not spent in FY 2004 carries over to FY 2005.

32 Temporary fee provision. Provides that until July 1, 2004, $21.50 of a permit fee goes to the general fund to cover DPS

start-up costs. After July 1, 2004, the amount of the transfer per permit reverts to $10.

33 Grandfather clause. Provides that current permits remain valid until they expire.

34 Revisor's instruction. Instructs the Revisor to change the term "commissioner of public safety" to "commissioner" in the laws relating to carry permits. "Commissioner" is defined in section 3 of the article.

35 Repealer. Repeals sections of law that are replaced by sections in this article.

36 Effective date. The effective date for the article is 30 days after final enactment, except that the attorney general must promulgate the list required under section 21 within 60 days of final enactment and the database required in section 20 must be operational within 180 days of the effective date.

Article 2

1 Crimes of violence; ineligibility to possess firearms. Conforming change relating to orders of discharge from a criminal sentence. Provides that orders of discharge for persons who committed crimes of violence must state that the person is not entitled to possess firearms for the remainder of the person's lifetime, unless the right is specially restored.

2 Juvenile adjudications. Conforming change relating to juveniles adjudicated delinquent for, or extended jurisdiction juveniles convicted of, crimes of violence. Provides that such persons may not possess firearms for the remainder of the person's lifetime, unless the right is specially restored.

3 Certain convicted felons ineligible to possess firearms. Conforming change again providing that an order of discharge from a criminal sentence must state that a person convicted of a crime of violence must not possess a firearm for the remainder of the person's lifetime, unless the right is specially restored.

4 Violation and penalty. Provides that it is a felony for a person convicted of a crime of violence to ship, transport, possess, or receive a firearm. No time limit applies. Under current law, the prohibition ends ten years after discharge from sentence. Clarifies that a conviction under this section bars a conviction for the same conduct under section 624.713, subdivision 2, since constitutional provisions prohibiting double jeopardy would apply. Provides that the penalty does not apply to a person whose rights are specially restored.

5 Judicial restoration of ability to possess a firearm by a felon. Establishes a process for a person prohibited by state law from possessing a firearm to petition a court to restore the right. Allows the court to grant relief if the person shows good cause to do so and the person has been released from physical confinement. If a petition is denied, a person may not re-petition for three years, unless the court allows otherwise.

6 Order concerning crimes of violence. Conforming change relating the expungement process. Under current law, an expungement for a crime of violence still does not restore firearm possession rights. This extends that policy to a lifetime ban for crimes of violence, unless rights are specially restored.

7 Crime of violence. Modifies the definition of "crime of violence". Removes from the definition all gross misdemeanor and misdemeanor offenses that were previously included. Provides that felony convictions for the stated offenses are "crimes of violence." Note that the gross misdemeanor offenses removed from the definition are addressed by some of the changes in the following section.

8 Ineligible persons. This section of law, both currently and as amended, provides a list of persons who are ineligible to possess certain firearms. There are three primary changes to this section from current law. First, for persons who commit crimes of violence, the ten-year limit on firearm possession restrictions is removed, leaving instead a lifetime ban. Second, the gross misdemeanor offenses that were removed from the crime of violence definition are reinserted here. Provides that persons who commit these gross misdemeanor offenses may not possess

a firearm for three years from the date of conviction. A violation is a gross misdemeanor. Third, it provides that the lifetime prohibition for crime of violence offenders applies to offenders discharged from sentence on or after August 1, 1993. The practical effect of this provision is that a person whose right to possess a firearm was restored prior to the effective date of this legislation will not have that right taken away. However, if a person's right to possess a firearm was not yet restored, the possession ban will continue for life (or at least until the person has his or her rights specially restored).

9 Penalties. Modifies the penalty section relating to violations of section 8. Provides that violations do not apply to persons whose rights are specially restored by either court order or under a certain federal provision.

10 Notice. Conforming change. Requires the court to notify an offender when the person is prohibited from possessing a pistol for life.

11 Pardons. Makes a policy change relating to the board of pardons. Removes the presumption that a person receiving a pardon for a crime of violence may nevertheless not possess firearms “unless the board expressly provides otherwise in writing by unanimous vote”.

12 Effective date. Sections 1 to 11 are effective August 1, 2003. Provides that the lifetime ban on firearm possession for violent felons applies to offenders discharged from sentence on or after August 1, 1993.

Persons Ineligible for Permits to Carry Pistols

The people listed below are prohibited from possessing a pistol or firearm under state law as amended by this legislation (some exceptions may apply B statute and case law must be consulted to determine eligibility in any specific case). Under the policies outlined in Articles II and III, the people listed below are not eligible for a permit to carry a pistol in public.

General/Civil Status:

- Persons who have been committed as mentally ill, mentally retarded, or mentally ill and dangerous
- Persons who have been found incompetent to stand trial or not guilty by reason of mental illness
- Persons currently committed as chemically dependent
- Peace officers informally admitted to treatment facilities for chemical dependency
- Fugitives from justice
- Illegal aliens
- Persons dishonorably discharged from the armed forces
- Persons who have renounced U.S. citizenship

Criminal History Status:

The following crimes are defined by law as crimes of violence. Persons convicted of felony-level offenses for these crimes (or an attempt to commit them) are ineligible for permits to carry a pistol (or to possess any firearm) for life unless those rights are specially restored. Conviction for a similar crime in another state also applies:

- Murder
- Manslaughter
- Aiding suicide or attempted suicide
- First through fourth degree assault
- Crimes committed for the benefit of a gang
- Use of drugs to injure or to facilitate crime
- Simple or aggravated robbery
- Kidnapping
- False imprisonment
- Criminal sexual conduct in the first through fourth degrees
- Malicious punishment of a child
- Neglect or endangerment of a child
- Commission of a crime while wearing or possessing a bullet-resistant vest
- Firearm theft
- Motor vehicle unauthorized use
- Theft/looting
- Theft of a controlled substance, an explosive, or an incendiary device
- First or second degree arson in the first through third degree
- Drive-by shooting

- Unlawfully owning, possessing, or operating a machine gun or short-barreled shotgun
- Riot
- Terroristic threats
- Harassment and stalking
- Shooting at a public transit vehicle or facility
- Violations of the controlled substance laws

Other felonies. A person convicted of any other felony is ineligible for a permit to carry a pistol until the person's civil rights are restored. The time period may be longer for persons expressly prohibited from possessing a firearm as a condition of a pardon, expungement, or restoration of civil rights. Certain antitrust and other business practice violations are excluded.

Specified gross misdemeanors. A person convicted of the following crimes as a gross misdemeanor is not entitled to possess a firearm for three years from the date of conviction: crime committed for the benefit of a gang, assaults motivated by bias, false imprisonment, neglect or endangerment of a child, burglary in the fourth degree, setting a spring gun, riot, harassment and stalking.

Other controlled substance crimes. A person convicted of a misdemeanor or gross misdemeanor controlled substance crime, or hospitalized or committed for controlled substance abuse, is ineligible for a permit to carry a pistol unless the person obtains a doctor's certificate, or other satisfactory proof, that the person has not abused a controlled substance for two years.

Domestic assault/Order for protection violation/Stalking/Harassment. A person convicted of domestic assault, an OFP violation, stalking, or harassment may not possess a pistol for three years from the date of conviction. If the person used a firearm in committing the crime, the court may extend the restriction to any type of firearm for a period from three years to life. (Note: under federal law, a person in Minnesota convicted of misdemeanor domestic assault may not possess a firearm unless the conviction has been expunged or a pardon has been granted.)

Other assault crimes (non-domestic). A person who is convicted of assault twice in three years may not possess a pistol for three years from the date of the second conviction.

Person charged with felony. A person charged with a felony may not receive, ship, or transport a pistol or assault weapon.

Others. A firearm may not be possessed by a person:

- charged with a crime of violence and placed in a pretrial diversion program;
- who flees from a state to avoid prosecution or testifying; or
- who "is an unlawful user" of a controlled substance.

Places Where Pistols are Off-Limits or Restricted even with a Permit to Carry

Despite the general rule that permits to carry pistols are valid statewide, pistols, or other firearms, are nevertheless restricted or not allowed in the following places:

- Correctional facilities or state hospitals (Minn. Stat. ' 243.55)
- County jails (Minn. Stat. ' 641.165)
- Courthouse complexes, unless the sheriff is notified (Minn. Stat. ' 609.66)
- The Capitol area, unless the commissioner of public safety is notified (Minn. Stat. ' 609.66); "capitol area" is defined in Minn. Stat. § 15.50, subdivision 2.
- Afield while hunting big game by archery, except bear (Minn. Stat. ' 97B.211)

Additionally, firearms are not permitted in federal court facilities or other federal facilities (Title 18 U.S.C. ' 930). This is just one of many federal laws regulating firearms. Federal law must also be consulted to ensure compliance with all applicable firearms laws.

Subdivisions of Minn. Stat. 624.714 that have not been amended or repealed

While the MPPA modified much of Minnesota law about handguns, these subdivisions of Minnesota Statute 624.714 weren't changed, and remain in force:

> Subd. 9. Carrying pistols about one's premises or for purposes of repair, target practice. A permit to carry is not required of a person:
>
> (a) to keep or carry about the person's place of business, dwelling house, premises or on land possessed by the person a pistol;
>
> (b) to carry a pistol from a place of purchase to the person's dwelling house or place of business, or from the person's dwelling house or place of business to or from a place where repairing is done, to have the pistol repaired;
>
> (c) to carry a pistol between the person's dwelling house and place of business;
>
> (d) to carry a pistol in the woods or fields or upon the waters of this state for the purpose of hunting or of target shooting in a safe area; or
>
> (e) to transport a pistol in a motor vehicle, snowmobile or boat if the pistol is unloaded, contained in a closed and fastened case, gunbox, or securely tied package....
>
> Subd. 11. No limit on number of pistols. A person shall not be restricted as to the number of pistols the person may carry.
>
> Subd. 13. Exemptions; adult correctional facility officers. A permit to carry a pistol is not required of any officer of a state adult correctional facility when on guard duty or otherwise engaged in an assigned duty.

Text of the Minnesota Personal Protection Act

11.19 PUBLIC SAFETY REGULATORY PROVISIONS
11.20 Section 1. Minnesota Statutes 2002, section 13.871, is

amended by adding a subdivision to read:

Subd. 9. [PISTOL PERMIT DATA.] Data on persons permitted to carry pistols under the terms of a permit must be shared as required by section 624.714, subdivision 6.

Sec. 2. Minnesota Statutes 2002, section 609.66, subdivision 1d, is amended to read:

Subd. 1d. [~~FELONY;~~ POSSESSION ON SCHOOL PROPERTY; PENALTY.] (a) Except as provided under paragraphs (c) and (e), whoever possesses, stores, or keeps a dangerous weapon or uses or brandishes a replica firearm or a BB gun while knowingly on school property is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than $5,000, or both.

(b) Whoever possesses, stores, or keeps a replica firearm or a BB gun on school property is guilty of a gross misdemeanor.

(c) Notwithstanding paragraph (a) or (b), it is a misdemeanor for a person authorized to carry a firearm under the provisions of a permit or otherwise to carry a firearm on or about the person's clothes or person in a location the person knows is school property. Notwithstanding section 609.531, a firearm carried in violation of this paragraph is not subject to forfeiture.

(d) As used in this subdivision:

(1) "BB gun" means a device that fires or ejects a shot measuring .18 of an inch or less in diameter;

(2) "dangerous weapon" has the meaning given it in section 609.02, subdivision 6;

(3) "replica firearm" has the meaning given it in section 609.713; and

(4) "school property" means:

(i) a public or private elementary, middle, or secondary school building and its improved grounds, whether leased or owned by the school; ~~and~~

(ii) a child care center licensed under chapter 245A during the period children are present and participating in a child care program;

(iii) the area within a school bus when that bus is being used by a school to transport one or more elementary, middle, or secondary school students to and from school-related activities, including curricular, cocurricular, noncurricular, extracurricular, and supplementary activities; and

(iv) that portion of a building or facility under the temporary, exclusive control of a public or private school, a school district, or an association of such entities where conspicuous signs are prominently posted at each entrance that give actual notice to persons of the school-related use.

~~(d)~~ (e) This subdivision does not apply to:

(1) licensed peace officers, military personnel, or students participating in military training, who are on-duty, performing official duties;

(2) persons ~~who carry pistols according to the terms of a permit~~ authorized to carry a pistol under section 624.714 while in a motor vehicle or outside of a motor vehicle to directly place a firearm in, or retrieve it from, the trunk or rear area of the vehicle;

(3) persons who keep or store in a motor vehicle pistols in accordance with ~~sections~~ section 624.714 ~~and~~ or 624.715 or other firearms in accordance with section 97B.045;

(4) firearm safety or marksmanship courses or activities conducted on school property;

(5) possession of dangerous weapons, BB guns, or replica firearms by a ceremonial color guard;

(6) a gun or knife show held on school property; ~~or~~

(7) possession of dangerous weapons, BB guns, or replica firearms with written permission of the principal or other person having general control and supervision of the school or the director of a child care center; or

(8) persons who are on unimproved property owned or leased by a child care center, school, or school district unless the person knows that a student is currently present on the land for a school-related activity.

(f) Notwithstanding section 471.634, a school district or other entity composed exclusively of school districts may not regulate firearms, ammunition, or their respective components, when possessed or carried by nonstudents or nonemployees, in a manner that is inconsistent with this subdivision.

Sec. 3. Minnesota Statutes 2002, section 624.712, is amended by adding a subdivision to read:

Subd. 11. [COMMISSIONER.] "Commissioner" means the commissioner of public safety unless otherwise indicated.

Sec. 4. Minnesota Statutes 2002, section 624.714, is amended by adding a subdivision to read:

Subd. 1a. [PERMIT REQUIRED; PENALTY.] A person, other than a peace officer, as defined in section 626.84, subdivision 1, who carries, holds, or possesses a pistol in a motor vehicle, snowmobile, or boat, or on or about the person's clothes or the person, or otherwise in possession or control in a public place, as defined in section 624.7181, subdivision 1, paragraph (c), without first having obtained a permit to carry the pistol is guilty of a gross misdemeanor. A person who is convicted a second or subsequent time is guilty of a felony.

Sec. 5. Minnesota Statutes 2002, section 624.714, is amended by adding a subdivision to read:

Subd. 1b. [DISPLAY OF PERMIT; PENALTY.] (a) The holder of a permit to carry must have the permit card and a driver's license, state identification card, or other government-issued photo identification in immediate possession at all times when carrying a pistol and must display the permit card and identification document upon lawful demand by a peace officer, as defined in section 626.84, subdivision 1. A violation of this paragraph is a petty misdemeanor. The fine for a first offense must not exceed $25. Notwithstanding section 609.531, a firearm carried in violation of this paragraph is not subject to forfeiture.

(b) A citation issued for violating paragraph (a) must be dismissed if the person demonstrates, in court or in the office of the arresting officer, that the person was authorized to carry the pistol at the time of the alleged violation.

(c) Upon the request of a peace officer, a permit holder must write a sample signature in the officer's presence to aid in verifying the person's identity.

Sec. 6. Minnesota Statutes 2002, section 624.714, subdivision 2, is amended to read:

Subd. 2. [WHERE APPLICATION MADE; AUTHORITY TO ISSUE PERMIT; CRITERIA; SCOPE.] (a) Applications by Minnesota residents for permits to carry shall be made ~~to the chief of~~

~~police of an organized full-time police department of the municipality where the applicant resides or~~ to the county sheriff ~~where there is no such local chief of police~~ where the applicant resides. ~~At the time of application, the local police authority shall provide the applicant with a dated receipt for the application.~~ Nonresidents, as defined in section 171.01, subdivision 42, may apply to any sheriff.

(b) Unless a sheriff denies a permit under the exception set forth in subdivision 6, paragraph (a), clause (3), a sheriff must issue a permit to an applicant if the person:

(1) has training in the safe use of a pistol;

(2) is at least 21 years old and a citizen or a permanent resident of the United States;

(3) completes an application for a permit;

(4) is not prohibited from possessing a firearm under the following sections:

(i) 518B.01, subdivision 14;

(ii) 609.224, subdivision 3;

(iii) 609.2242, subdivision 3;

(iv) 609.749, subdivision 8;

(v) 624.713;

(vi) 624.719;

(vii) 629.715, subdivision 2; or

(viii) 629.72, subdivision 2; and

(5) is not listed in the criminal gang investigative data system under section 299C.091.

(c) A permit to carry a pistol issued or recognized under this section is a state permit and is effective throughout the state.

(d) A sheriff may contract with a police chief to process permit applications under this section. If a sheriff contracts with a police chief, the sheriff remains the issuing authority and the police chief acts as the sheriff's agent. If a sheriff contracts with a police chief, all of the provisions of this section will apply.

Sec. 7. Minnesota Statutes 2002, section 624.714, is amended by adding a subdivision to read:

Subd. 2a. [TRAINING IN THE SAFE USE OF A PISTOL.] (a) An applicant must present evidence that the applicant received training in the safe use of a pistol within one year of the date of an original or renewal application. Training may be demonstrated by:

(1) employment as a peace officer in the state of Minnesota within the past year; or

(2) completion of a firearms safety or training course providing basic training in the safe use of a pistol and conducted by a certified instructor.

(b) Basic training must include:

(1) instruction in the fundamentals of pistol use;

(2) successful completion of an actual shooting qualification exercise; and

(3) instruction in the fundamental legal aspects of pistol possession, carry, and use, including self-defense and the restrictions on the use of deadly force.

(c) A person qualifies as a certified instructor if the person is certified as a firearms instructor within the past five years by:

(1) the bureau of criminal apprehension, training and

development section;
(2) the Minnesota Association of Law Enforcement Firearms Instructors;
(3) the National Rifle Association;
(4) the American Association of Certified Firearms Instructors;
(5) the peace officer standards and training board of this state or a similar agency of another state that certifies firearms instructors; or
(6) the department of public safety of this state or a similar agency of another state that certifies firearms instructors.
(d) A sheriff must accept the training described in this subdivision as meeting the requirement in subdivision 2, paragraph (b), for training in the safe use of a pistol. A sheriff may also accept other satisfactory evidence of training in the safe use of a pistol.

Sec. 8. Minnesota Statutes 2002, section 624.714, subdivision 3, is amended to read:

Subd. 3. [FORM AND CONTENTS OF APPLICATION.] (a) Applications for permits to carry ~~shall~~ must be an official, standardized application form, adopted under section 624.7151, and must set forth in writing only the following information:

(1) the applicant's name, residence, telephone number, if any, and driver's license number ~~or nonqualification certificate number, if any, of the applicant~~ or state identification card number;

(2) the applicant's sex, date of birth, height, weight, and color of eyes and hair, and distinguishing physical characteristics, if any~~, of the applicant~~;

(3) all states of residence of the applicant in the last ten years, though not including specific addresses;

(4) a statement that the applicant authorizes the release to the ~~local police authority~~ sheriff of commitment information about the applicant maintained by the commissioner of human services or any similar agency or department of another state where the applicant has resided, to the extent that the information relates to the applicant's eligibility to possess a ~~pistol or semiautomatic military-style assault weapon under section 624.713, subdivision 1~~ firearm; and

~~(4)~~ (5) a statement by the applicant that, to the best of the applicant's knowledge and belief, the applicant is not prohibited by ~~section 624.713 from possessing a pistol or semiautomatic military-style assault weapon; and~~ law from possessing a firearm.

~~(5) a recent color photograph of the applicant.~~

~~The application shall be signed and dated by the applicant.~~ (b) The statement under paragraph (a), clause ~~(3)~~ (4), must comply with any applicable requirements of Code of Federal Regulations, title 42, sections 2.31 to 2.35, with respect to consent to disclosure of alcohol or drug abuse patient records.

(c) An applicant must submit to the sheriff an application packet consisting only of the following items:

(1) a completed application form, signed and dated by the applicant;

(2) an accurate photocopy of a certificate, affidavit, or other document that is submitted as the applicant's evidence of

training in the safe use of a pistol; and

(3) an accurate photocopy of the applicant's current driver's license, state identification card, or the photo page of the applicant's passport.

(d) In addition to the other application materials, a person who is otherwise ineligible for a permit due to a criminal conviction but who has obtained a pardon or expungement setting aside the conviction, sealing the conviction, or otherwise restoring applicable rights, must submit a copy of the relevant order.

(e) Applications must be submitted in person.

(f) The sheriff may charge a new application processing fee in an amount not to exceed the actual and reasonable direct cost of processing the application or $100, whichever is less. Of this amount, $10 must be submitted to the commissioner of public safety and deposited into the general fund.

(g) This subdivision prescribes the complete and exclusive set of items an applicant is required to submit in order to apply for a new or renewal permit to carry. The applicant must not be asked or required to submit, voluntarily or involuntarily, any information, fees, or documentation beyond that specifically required by this subdivision. This paragraph does not apply to alternate training evidence accepted by the sheriff under subdivision 2a, paragraph (d).

(h) Forms for new and renewal applications must be available at all sheriffs' offices and the commissioner of public safety must make the forms available on the Internet.

(i) Application forms must clearly display a notice that a permit, if granted, is void and must be immediately returned to the sheriff if the permit holder is or becomes prohibited by law from possessing a firearm. The notice must list the applicable state criminal offenses and civil categories that prohibit a person from possessing a firearm.

(j) Upon receipt of an application packet and any required fee, the sheriff must provide a signed receipt indicating the date of submission.

Sec. 9. Minnesota Statutes 2002, section 624.714, subdivision 4, is amended to read:

Subd. 4. [INVESTIGATION.] (a) The ~~application authority shall~~ sheriff must check, by means of electronic data transfer, criminal records, histories, and warrant information on each applicant through the Minnesota Crime Information System~~. The chief of police or sheriff shall~~ and, to the extent necessary, the National Instant Check System. The sheriff shall also make a reasonable effort to check other available and relevant federal, state, or local record keeping systems. The sheriff must obtain commitment information from the commissioner of human services as provided in section 245.041 or, if the information is reasonably available, as provided by a similar statute from another state.

(b) When an application for a permit is filed under this section, the sheriff must notify the chief of police, if any, of the municipality where the applicant resides. The police chief may provide the sheriff with any information relevant to the issuance of the permit.

(c) The sheriff must conduct a background check by means of electronic data transfer on a permit holder through the Minnesota Crime Information System and, to the extent necessary,

the National Instant Check System at least yearly to ensure continuing eligibility. The sheriff may conduct additional background checks by means of electronic data transfer on a permit holder at any time during the period that a permit is in effect.

Sec. 10. Minnesota Statutes 2002, section 624.714, subdivision 6, is amended to read:

Subd. 6. [~~FAILURE TO GRANT~~ GRANTING AND DENIAL OF PERMITS.] (a) The sheriff must, within 30 days after the date of receipt of the application packet described in subdivision 3:

(1) issue the permit to carry;

(2) deny the application for a permit to carry solely on the grounds that the applicant failed to qualify under the criteria described in subdivision 2, paragraph (b); or

(3) deny the application on the grounds that there exists a substantial likelihood that the applicant is a danger to self or the public if authorized to carry a pistol under a permit.

(b) Failure of the ~~chief police officer or the county~~ sheriff to ~~deny the application or issue a permit to carry a pistol~~ notify the applicant of the denial of the application within ~~21~~ 30 days ~~of~~ after the date of receipt of the application ~~shall be deemed to be a grant thereof.~~ packet constitutes issuance of the permit to carry and the sheriff must promptly fulfill the requirements under paragraph (c). To deny the application, the ~~local police authority shall~~ sheriff must provide ~~an~~ the applicant with written notification of ~~a denial~~ and the specific ~~reason for~~ factual basis justifying the denial under paragraph (a), clause (2) or (3), including the source of the factual basis. The sheriff must inform the applicant of the applicant's right to submit, within 20 business days, any additional documentation relating to the propriety of the denial. ~~A chief of police or a sheriff may charge a fee to cover the cost of conducting a background check, not to exceed $10. The permit shall specify the activities for which it shall be valid.~~ Upon receiving any additional documentation, the sheriff must reconsider the denial and inform the applicant within 15 business days of the result of the reconsideration. Any denial after reconsideration must be in the same form and substance as the original denial and must specifically address any continued deficiencies in light of the additional documentation submitted by the applicant. The applicant must be informed of the right to seek de novo review of the denial as provided in subdivision 12.

(c) Upon issuing a permit to carry, the sheriff must provide a laminated permit card to the applicant by first class mail unless personal delivery has been made. Within five business days, the sheriff must submit the information specified in subdivision 7, paragraph (a), to the commissioner of public safety for inclusion solely in the database required under subdivision 15, paragraph (a). The sheriff must transmit the information in a manner and format prescribed by the commissioner.

(d) Within five business days of learning that a permit to carry has been suspended or revoked, the sheriff must submit information to the commissioner of public safety regarding the suspension or revocation for inclusion solely in the databases required or permitted under subdivision 15.

(e) Notwithstanding paragraphs (a) and (b), the sheriff may

suspend the application process if a charge is pending against the applicant that, if resulting in conviction, will prohibit the applicant from possessing a firearm.

Sec. 11. Minnesota Statutes 2002, section 624.714, subdivision 7, is amended to read:

Subd. 7. [PERMIT CARD CONTENTS; EXPIRATION; RENEWAL.] ~~Permits to carry a pistol issued pursuant to this section shall expire after one year and shall thereafter be renewed in the same manner and subject to the same provisions by which the original permit was obtained, except that all renewed permits must comply with the standards adopted by the commissioner of public safety under section 624.7161.~~ (a) Permits to carry must be on an official, standardized permit card adopted by the commissioner of public safety, containing only the name, residence, and driver's license number or state identification card number of the permit holder, if any.

(b) The permit card must also identify the issuing sheriff and state the expiration date of the permit. The permit card must clearly display a notice that a permit, if granted, is void and must be immediately returned to the sheriff if the permit holder becomes prohibited by law from possessing a firearm.

(c) A permit to carry a pistol issued under this section expires five years after the date of issue. It may be renewed in the same manner and under the same criteria which the original permit was obtained, subject to the following procedures:

(1) no earlier than 90 days prior to the expiration date on the permit, the permit holder may renew the permit by submitting to the appropriate sheriff the application packet described in subdivision 3 and a renewal processing fee not to exceed the actual and reasonable direct cost of processing the application or $75, whichever is less. Of this amount, $5 must be submitted to the commissioner of public safety and deposited into the general fund. The sheriff must process the renewal application in accordance with subdivisions 4 and 6; and

(2) a permit holder who submits a renewal application packet after the expiration date of the permit, but within 30 days after expiration, may renew the permit as provided in clause (1) by paying an additional late fee of $10.

(d) The renewal permit is effective beginning on the expiration date of the prior permit to carry.

Sec. 12. Minnesota Statutes 2002, section 624.714, is amended by adding a subdivision to read:

Subd. 7a. [CHANGE OF ADDRESS; LOSS OR DESTRUCTION OF PERMIT.] (a) Within 30 days after changing permanent address, or within 30 days of having lost or destroyed the permit card, the permit holder must notify the issuing sheriff of the change, loss, or destruction. Failure to provide notification as required by this subdivision is a petty misdemeanor. The fine for a first offense must not exceed $25. Notwithstanding section 609.531, a firearm carried in violation of this paragraph is not subject to forfeiture.

(b) After notice is given under paragraph (a), a permit holder may obtain a replacement permit card by paying $10 to the sheriff. The request for a replacement permit card must be made on an official, standardized application adopted for this purpose under section 624.7151, and, except in the case of an address change, must include a notarized statement that the

permit card has been lost or destroyed.

Sec. 13. Minnesota Statutes 2002, section 624.714, subdivision 8, is amended to read:

Subd. 8. [PERMIT TO CARRY VOIDED.] (a) The permit to carry ~~shall be~~ is void and must be revoked at the time that the holder becomes prohibited by law from possessing a ~~pistol under section 624.713~~ firearm, in which event the holder ~~shall~~ must return the permit card to the issuing sheriff within five business days ~~to the application authority~~ after the holder knows or should know that the holder is a prohibited person. If a permit is revoked under this subdivision, the sheriff must give notice to the permit holder in writing in the same manner as a denial. Failure of the holder to return the permit within the five days is a gross misdemeanor unless the court finds that the circumstances or the physical or mental condition of the permit holder prevented the holder from complying with the return requirement.

(b) When a permit holder is convicted of an offense that prohibits the permit holder from possessing a firearm, the court must revoke the permit and, if it is available, take possession of it and send it to the issuing sheriff.

(c) The sheriff of the county where the application was submitted, or of the county of the permit holder's current residence, may file a petition with the district court therein, for an order revoking a permit to carry on the grounds set forth in subdivision 6, paragraph (a), clause (3). An order shall be issued only if the sheriff meets the burden of proof and criteria set forth in subdivision 12. If the court denies the petition, the court must award the permit holder reasonable costs and expenses, including attorney fees.

(d) A permit revocation must be promptly reported to the issuing sheriff.

Sec. 14. Minnesota Statutes 2002, section 624.714, is amended by adding a subdivision to read:

Subd. 8a. [PROSECUTOR'S DUTY.] Whenever a person is charged with an offense that would, upon conviction, prohibit the person from possessing a firearm, the prosecuting attorney must ascertain whether the person is a permit holder under this section. If the person is a permit holder, the prosecutor must notify the issuing sheriff that the person has been charged with a prohibiting offense. The prosecutor must also notify the sheriff of the final disposition of the case.

Sec. 15. Minnesota Statutes 2002, section 624.714, subdivision 10, is amended to read:

Subd. 10. [FALSE REPRESENTATIONS.] A person who gives or causes to be given any false material information in applying for a permit to carry, knowing or having reason to know the information is false, is guilty of a gross misdemeanor.

Sec. 16. Minnesota Statutes 2002, section 624.714, is amended by adding a subdivision to read:

Subd. 11a. [EMERGENCY ISSUANCE OF PERMITS.] A sheriff may immediately issue an emergency permit to a person if the sheriff determines that the person is in an emergency situation that may constitute an immediate risk to the safety of the person or someone residing in the person's household. A person seeking an emergency permit must complete an application form and must sign an affidavit describing the emergency situation. An emergency permit applicant does not need to provide evidence of training.

An emergency permit is valid for 30 days, may not be renewed, and may be revoked without a hearing. No fee may be charged for an emergency permit. An emergency permit holder may seek a regular permit under subdivision 3 and is subject to the other applicable provisions of this section.

Sec. 17. Minnesota Statutes 2002, section 624.714, subdivision 12, is amended to read:

Subd. 12. [HEARING UPON DENIAL OR REVOCATION.] (a) Any person aggrieved by denial or revocation of a permit to carry may appeal ~~the denial~~ by petition to the district court having jurisdiction over the county or municipality ~~wherein the notification or denial occurred~~ where the application was submitted. The petition must list the sheriff as the respondent. The district court must hold a hearing at the earliest practicable date and in any event no later than 60 days following the filing of the petition for review. The court may not grant or deny any relief before the completion of the hearing. The record of the hearing must be sealed. The matter ~~shall~~ must be heard de novo without a jury.

(b) The court must issue written findings of fact and conclusions of law regarding the issues submitted by the parties. The court must issue its writ of mandamus directing that the permit be issued and order other appropriate relief unless the sheriff establishes by clear and convincing evidence:

(1) that the applicant is disqualified under the criteria described in subdivision 2, paragraph (b); or

(2) that there exists a substantial likelihood that the applicant is a danger to self or the public if authorized to carry a pistol under a permit. Incidents of alleged criminal misconduct that are not investigated and documented, and incidents for which the applicant was charged and acquitted, may not be considered.

(c) If an applicant is denied a permit on the grounds that the applicant is listed in the criminal gang investigative data system under section 299C.091, the person may challenge the denial, after disclosure under court supervision of the reason for that listing, based on grounds that the person:

(1) was erroneously identified as a person in the data system;

(2) was improperly included in the data system according to the criteria outlined in section 299C.091, subdivision 2, paragraph (b); or

(3) has demonstrably withdrawn from the activities and associations that led to inclusion in the data system.

(d) If the court grants a petition brought under paragraph (a), the court must award the applicant or permit holder reasonable costs and expenses including attorney fees.

Sec. 18. Minnesota Statutes 2002, section 624.714, is amended by adding a subdivision to read:

Subd. 12a. [SUSPENSION AS CONDITION OF RELEASE.] The district court may order suspension of the application process for a permit or suspend the permit of a permit holder as a condition of release pursuant to the same criteria as the surrender of firearms under section 629.715. A permit suspension must be promptly reported to the issuing sheriff. If the permit holder has an out-of-state permit recognized under subdivision 16, the court must promptly report the suspension to the commissioner of public safety for inclusion solely in the

database under subdivision 15, paragraph (a).

Sec. 19. Minnesota Statutes 2002, section 624.714, is amended by adding a subdivision to read:

Subd. 14. [RECORDS.] (a) A sheriff must not maintain records or data collected, made, or held under this section concerning any applicant or permit holder that are not necessary under this section to support a permit that is outstanding or eligible for renewal under subdivision 7, paragraph (b). Notwithstanding section 138.163, sheriffs must completely purge all files and databases by March 1 of each year to delete all information collected under this section concerning all persons who are no longer current permit holders or currently eligible to renew their permit.

(b) Paragraph (a) does not apply to records or data concerning an applicant or permit holder who has had a permit denied or revoked under the criteria established in subdivision 2, paragraph (b), clause (1), or subdivision 6, paragraph (a), clause (3), for a period of six years from the date of the denial or revocation.

Sec. 20. Minnesota Statutes 2002, section 624.714, is amended by adding a subdivision to read:

Subd. 15. [COMMISSIONER OF PUBLIC SAFETY; CONTRACTS; DATABASE.] (a) The commissioner of public safety must maintain an automated database of persons authorized to carry pistols under this section that is available 24 hours a day, seven days a week, only to law enforcement agencies, including prosecutors carrying out their duties under subdivision 8a, to verify the validity of a permit.

(b) The commissioner of public safety may maintain a separate automated database of denied applications for permits to carry and of revoked permits that is available only to sheriffs performing their duties under this section containing the date of, the statutory basis for, and the initiating agency for any permit application denied or permit revoked for a period of six years from the date of the denial or revocation.

(c) The commissioner of public safety may contract with one or more vendors to implement the commissioner's duties under this section.

Sec. 21. Minnesota Statutes 2002, section 624.714, is amended by adding a subdivision to read:

Subd. 16. [RECOGNITION OF PERMITS FROM OTHER STATES.] (a) The commissioner of public safety must annually establish and publish a list of other states that have laws governing the issuance of permits to carry weapons that are not substantially similar to this section. The list must be available on the Internet. A person holding a carry permit from a state not on the list may use the license or permit in this state subject to the rights, privileges, and requirements of this section.

(b) Notwithstanding paragraph (a), no license or permit from another state is valid in this state if the holder is or becomes prohibited by law from possessing a firearm.

(c) Any sheriff or police chief may file a petition under subdivision 12 seeking an order suspending or revoking an out-of-state permit holder's authority to carry a pistol in this state on the grounds set forth in subdivision 6, paragraph (a), clause (3). An order shall only be issued if the petitioner meets the burden of proof and criteria set forth in subdivision 12. If the court denies the petition, the court must award the

permit holder reasonable costs and expenses including attorney fees. The petition may be filed in any county in the state where a person holding a license or permit from another state can be found.

(d) The commissioner of public safety must, when necessary, execute reciprocity agreements regarding carry permits with jurisdictions whose carry permits are recognized under paragraph (a).

Sec. 22. Minnesota Statutes 2002, section 624.714, is amended by adding a subdivision to read:

Subd. 17. [POSTING; TRESPASS.] (a) A person carrying a firearm on or about his or her person or clothes under a permit or otherwise who remains at a private establishment knowing that the operator of the establishment or its agent has made a reasonable request that firearms not be brought into the establishment may be ordered to leave the premises. A person who fails to leave when so requested is guilty of a petty misdemeanor. The fine for a first offense must not exceed $25. Notwithstanding section 609.531, a firearm carried in violation of this subdivision is not subject to forfeiture.

(b) As used in this subdivision, the terms in this paragraph have the meanings given.

(1) "Reasonable request" means a request made under the following circumstances:

(i) the requester has prominently posted a conspicuous sign at every entrance to the establishment containing the following language: "(INDICATE IDENTITY OF OPERATOR) BANS GUNS IN THESE PREMISES."; and

(ii) the requester or its agent personally informs the person of the posted request and demands compliance.

(2) "Prominently" means readily visible and within four feet laterally of the entrance with the bottom of the sign at a height of four to six feet above the floor.

(3) "Conspicuous" means lettering in black arial typeface at least 1-1/2 inches in height against a bright contrasting background that is at least 187 square inches in area.

(4) "Private establishment" means a building, structure, or portion thereof that is owned, leased, controlled, or operated by a nongovernmental entity for a nongovernmental purpose.

(c) The owner or operator of a private establishment may not prohibit the lawful carry or possession of firearms in a parking facility or parking area.

(d) This subdivision does not apply to private residences. The lawful possessor of a private residence may prohibit firearms, and provide notice thereof, in any lawful manner.

(e) A landlord may not restrict the lawful carry or possession of firearms by tenants or their guests.

(f) Notwithstanding any inconsistent provisions in section 609.605, this subdivision sets forth the exclusive criteria to notify a permit holder when otherwise lawful firearm possession is not allowed in a private establishment and sets forth the exclusive penalty for such activity.

(g) This subdivision does not apply to an on-duty peace officer or security guard acting in the course and scope of employment.

Sec. 23. Minnesota Statutes 2002, section 624.714, is amended by adding a subdivision to read:

Subd. 18. [EMPLOYERS; PUBLIC COLLEGES AND

UNIVERSITIES.] (a) An employer, whether public or private, may establish policies that restrict the carry or possession of firearms by its employees while acting in the course and scope of employment. Employment related civil sanctions may be invoked for a violation.

(b) A public postsecondary institution regulated under chapter 136F or 137 may establish policies that restrict the carry or possession of firearms by its students while on the institution's property. Academic sanctions may be invoked for a violation.

(c) Notwithstanding paragraphs (a) and (b), an employer or a postsecondary institution may not prohibit the lawful carry or possession of firearms in a parking facility or parking area.

Sec. 24. Minnesota Statutes 2002, section 624.714, is amended by adding a subdivision to read:

Subd. 19. [IMMUNITY.] Neither a sheriff, police chief, any employee of a sheriff or police chief involved in the permit issuing process, nor any certified instructor is liable for damages resulting or arising from acts with a firearm committed by a permit holder, unless the person had actual knowledge at the time the permit was issued or the instruction was given that the applicant was prohibited by law from possessing a firearm.

Sec. 25. Minnesota Statutes 2002, section 624.714, is amended by adding a subdivision to read:

Subd. 20. [MONITORING.] (a) By March 1, 2004, and each year thereafter, the commissioner of public safety must report to the legislature on:

(1) the number of permits applied for, issued, suspended, revoked, and denied, further categorized by the age, sex, and zip code of the applicant or permit holder, since the previous submission, and in total;

(2) the number of permits currently valid;

(3) the specific reasons for each suspension, revocation, and denial and the number of reversed, canceled, or corrected actions;

(4) without expressly identifying an applicant, the number of denials or revocations based on the grounds under subdivision 6, paragraph (a), clause (3), the factual basis for each denial or revocation, and the result of an appeal, if any, including the court's findings of fact, conclusions of law, and order;

(5) the number of convictions and types of crimes committed since the previous submission, and in total, by individuals with permits including data as to whether a firearm lawfully carried solely by virtue of a permit was actually used in furtherance of the crime;

(6) to the extent known or determinable, data on the lawful and justifiable use of firearms by permit holders; and

(7) the status of the segregated funds reported to the commissioner under subdivision 21.

(b) Sheriffs and police chiefs must supply the department of public safety with the basic data the department requires to complete the report under paragraph (a). Sheriffs and police chiefs may submit data classified as private to the department of public safety under this paragraph.

(c) Copies of the report under paragraph (a) must be made available to the public at the actual cost of duplication.

(d) Nothing contained in any provision of this section or any other law requires or authorizes the registration,

documentation, collection, or providing of serial numbers or other data on firearms or on firearms' owners.

Sec. 26. Minnesota Statutes 2002, section 624.714, is amended by adding a subdivision to read:

Subd. 21. [USE OF FEES.] Fees collected by sheriffs under this section and not forwarded to the commissioner of public safety must be used only to pay the direct costs of administering this section. Fee money may be used to pay the costs of appeals of prevailing applicants or permit holders under subdivision 8, paragraph (c); subdivision 12, paragraph (e); and subdivision 16, paragraph (c). Fee money may also be used to pay the reasonable costs of the county attorney to represent the sheriff in proceedings under this section. The revenues must be maintained in a segregated fund. Fund balances must be carried over from year to year and do not revert to any other fund. As part of the information supplied under subdivision 20, paragraph (b), by January 31 of each year, a sheriff must report to the commissioner on the sheriff's segregated fund for the preceding calendar year, including information regarding:

(1) nature and amount of revenues;

(2) nature and amount of expenditures; and

(3) nature and amount of balances.

Sec. 27. Minnesota Statutes 2002, section 624.714, is amended by adding a subdivision to read:

Subd. 22. [SHORT TITLE; CONSTRUCTION; SEVERABILITY.] This section may be cited as the Minnesota Citizens' Personal Protection Act of 2003. The legislature of the state of Minnesota recognizes and declares that the second amendment of the United States Constitution guarantees the fundamental, individual right to keep and bear arms. The provisions of this section are declared to be necessary to accomplish compelling state interests in regulation of those rights. The terms of this section must be construed according to the compelling state interest test. The invalidation of any provision of this section shall not invalidate any other provision.

Sec. 28. Minnesota Statutes 2002, section 624.714, is amended by adding a subdivision to read:

Subd. 23. [EXCLUSIVITY.] This section sets forth the complete and exclusive criteria and procedures for the issuance of permits to carry and establishes their nature and scope. No sheriff, police chief, governmental unit, government official, government employee, or other person or body acting under color of law or governmental authority may change, modify, or supplement these criteria or procedures, or limit the exercise of a permit to carry.

Sec. 29. [624.7142] [CARRYING WHILE UNDER THE INFLUENCE OF ALCOHOL OR A CONTROLLED SUBSTANCE.]

Subdivision 1. [ACTS PROHIBITED.] A person may not carry a pistol on or about the person's clothes or person in a public place:

(1) when the person is under the influence of a controlled substance, as defined in section 152.01, subdivision 4;

(2) when the person is under the influence of a combination of any two or more of the elements named in clauses (1) and (4);

(3) when the person is knowingly under the influence of any chemical compound or combination of chemical compounds that is listed as a hazardous substance in rules adopted under section

182.655 and that affects the nervous system, brain, or muscles of the person so as to impair the person's clearness of intellect or physical control;

(4) when the person is under the influence of alcohol;

(5) when the person's alcohol concentration is 0.10 or more; or

(6) when the person's alcohol concentration is less than 0.10, but more than 0.04.

Subd. 2. [ARREST.] A peace officer may arrest a person for a violation under subdivision 1 without a warrant upon probable cause, without regard to whether the violation was committed in the officer's presence.

Subd. 3. [PRELIMINARY SCREENING TEST.] When an officer authorized under subdivision 2 to make arrests has reason to believe that the person may be violating or has violated subdivision 1, the officer may require the person to provide a breath sample for a preliminary screening test using a device approved by the commissioner of public safety for this purpose. The results of the preliminary screening test must be used for the purpose of deciding whether an arrest should be made under this section and whether to require the chemical tests authorized in section 624.7143, but may not be used in any court action except: (1) to prove that the test was properly required of a person under section 624.7143, or (2) in a civil action arising out of the use of the pistol. Following the preliminary screening test, additional tests may be required of the person as provided under section 624.7143. A person who refuses a breath sample is subject to the provisions of section 624.7143 unless, in compliance with that section, the person submits to a blood, breath, or urine test to determine the presence of alcohol or a controlled substance.

Subd. 4. [EVIDENCE.] In a prosecution for a violation of subdivision 1, the admission of evidence of the amount of alcohol or a controlled substance in the person's blood, breath, or urine is governed by section 169A.45.

Subd. 5. [SUSPENSION.] A person who is charged with a violation under this section may have their authority to carry a pistol in a public place on or about the person's clothes or person under the provisions of a permit or otherwise suspended by the court as a condition of release.

Subd. 6. [PENALTIES.] (a) A person who violates a prohibition under subdivision 1, clauses (1) to (5), is guilty of a misdemeanor. A second or subsequent violation is a gross misdemeanor.

(b) A person who violates subdivision 1, clause (6), is guilty of a misdemeanor.

(c) In addition to the penalty imposed under paragraph (a), if a person violates subdivision 1, clauses (1) to (5), the person's authority to carry a pistol in a public place on or about the person's clothes or person under the provisions of a permit or otherwise is revoked and the person may not reapply for a period of one year from the date of conviction.

(d) In addition to the penalty imposed under paragraph (b), if a person violates subdivision 1, clause (6), the person's authority to carry a pistol in a public place on or about the person's clothes or person under the provisions of a permit or otherwise is suspended for 180 days from the date of conviction.

(e) Notwithstanding section 609.531, a firearm carried in

violation of subdivision 1, clause (6), is not subject to forfeiture.

Subd. 7. [REPORTING.] Suspensions and revocations under this section must be reported in the same manner as in section 624.714, subdivision 12a.

Sec. 30. [624.7143] [CHEMICAL TESTING.]

Subdivision 1. [MANDATORY CHEMICAL TESTING.] A person who carries a pistol in a public place on or about the person's clothes or person is required, subject to the provisions of this section, to take or submit to a test of the person's blood, breath, or urine for the purpose of determining the presence and amount of alcohol or a controlled substance. The test shall be administered at the direction of an officer authorized to make arrests under section 624.7142. Taking or submitting to the test is mandatory when requested by an officer who has probable cause to believe the person was carrying a pistol in violation of section 624.7142, and one of the following conditions exists:

(1) the person has been lawfully placed under arrest for violating section 624.7142;

(2) the person has been involved while carrying a firearm in a firearms-related accident resulting in property damage, personal injury, or death;

(3) the person has refused to take the preliminary screening test provided for in section 624.7142; or

(4) the screening test was administered and indicated an alcohol concentration of 0.04 or more.

Subd. 2. [PENALTIES; REFUSAL; REVOCATION.] (a) If a person refuses to take a test required under subdivision 1, none must be given but the officer shall report the refusal to the sheriff and to the authority having responsibility for prosecution of misdemeanor offenses for the jurisdiction in which the incident occurred that gave rise to the test demand and refusal. On certification by the officer that probable cause existed to believe the person had been carrying a pistol on or about the person's clothes or person in a public place while under the influence of alcohol or a controlled substance, and that the person refused to submit to testing, a court may impose a civil penalty of $500 and may revoke the person's authority to carry a pistol in a public place on or about the person's clothes or person under the provisions of a permit or otherwise for a period of one year from the date of the refusal. The person shall be accorded notice and an opportunity to be heard prior to imposition of the civil penalty or the revocation.

(b) Revocations under this subdivision must be reported in the same manner as in section 624.714, subdivision 12a.

Subd. 3. [RIGHTS AND OBLIGATIONS.] At the time a test is requested, the person must be informed that:

(1) Minnesota law requires a person to take a test to determine if the person is under the influence of alcohol or a controlled substance;

(2) if the person refuses to take the test, the person is subject to a civil penalty of $500 and is prohibited for a period of one year from carrying a pistol in a public place on or about the person's clothes or person, as provided under subdivision 2; and

(3) that the person has the right to consult with an attorney, but that this right is limited to the extent it cannot unreasonably delay administration of the test or the person will

be deemed to have refused the test.
Subd. 4. [REQUIREMENT OF BLOOD OR URINE TEST.] Notwithstanding subdivision 1, if there is probable cause to believe there is impairment by a controlled substance that is not subject to testing by a breath test, a blood or urine test may be required even after a breath test has been administered.
Subd. 5. [CHEMICAL TESTS.] Chemical tests administered under this section are governed by section 169A.51 in all aspects that are not inconsistent with this section.
Sec. 31. [APPROPRIATION.]
$1,071,000 is appropriated in fiscal year 2004 and $119,000 is appropriated in fiscal year 2005 from the general fund to the commissioner of public safety to implement the provisions of sections 1 to 30. The unencumbered balance in the first year does not cancel but is available for the second year.
Sec. 32. [TEMPORARY FEE PROVISION.]
Notwithstanding Minnesota Statutes, section 624.714, subdivision 3, paragraph (e), until July 1, 2004, the sheriff must submit $21.50 to the commissioner of public safety for deposit into the general fund for each permit application submitted under Minnesota Statutes, section 624.714.
Sec. 33. [GRANDFATHER CLAUSE.]
Permits to carry pistols issued prior to the effective date of sections 1 to 30 remain in effect and are valid under the terms of issuance until the date of expiration applicable at the time of issuance. However, a person holding a permit that was issued prior to the effective date of sections 1 to 30 may nevertheless apply for a permit under the terms and conditions of sections 1 to 30.
Sec. 34. [REVISOR'S INSTRUCTION.]
In Minnesota Statutes, sections 624.713 to 624.717, the revisor of statutes shall change the term "commissioner of public safety" to "commissioner" wherever the term appears.
Sec. 35. [REPEALER.]
Minnesota Statutes 2002, section 624.714, subdivisions 1 and 5, are repealed.
Sec. 36. [EFFECTIVE DATE.]
Sections 1 to 35 are effective 30 days after final enactment and apply to crimes committed on or after that date, except that the commissioner of public safety must promulgate the list required under section 21 within 60 days of final enactment. The database required by section 20 must be operational within 180 days of the effective date.

ARTICLE 3

LIFETIME BAN ON FIREARM POSSESSION FOR VIOLENT FELONS

Section 1. Minnesota Statutes 2002, section 242.31, subdivision 2a, is amended to read:
Subd. 2a. [CRIMES OF VIOLENCE; INELIGIBILITY TO POSSESS FIREARMS.] The order of discharge must provide that a person who has been convicted of a crime of violence, as defined in section 624.712, subdivision 5, is not entitled to ship, transport, possess, or receive a firearm ~~until ten years have elapsed since the person was restored to civil rights and during that time the person was not convicted of any other crime of violence~~ for the remainder of the person's lifetime. Any person who has received such a discharge and who thereafter has received a relief of disability under United States Code, title 18, section 925, or whose ability to possess firearms has been restored under

section 609.165, subdivision 1d, shall not be subject to the restrictions of this subdivision.

Sec. 2. Minnesota Statutes 2002, section 260B.245, subdivision 1, is amended to read:

Subdivision 1. [EFFECT.] (a) No adjudication upon the status of any child in the jurisdiction of the juvenile court shall operate to impose any of the civil disabilities imposed by conviction, nor shall any child be deemed a criminal by reason of this adjudication, nor shall this adjudication be deemed a conviction of crime, except as otherwise provided in this section or section 260B.255. An extended jurisdiction juvenile conviction shall be treated in the same manner as an adult felony criminal conviction for purposes of the sentencing guidelines. The disposition of the child or any evidence given by the child in the juvenile court shall not be admissible as evidence against the child in any case or proceeding in any other court, except that an adjudication may later be used to determine a proper sentence, nor shall the disposition or evidence disqualify the child in any future civil service examination, appointment, or application.

(b) A person who was adjudicated delinquent for, or convicted as an extended jurisdiction juvenile of, a crime of violence as defined in section 624.712, subdivision 5, is not entitled to ship, transport, possess, or receive a firearm ~~until ten years have elapsed since the person was discharged and during that time the person was not convicted of any other crime of violence~~ for the remainder of the person's lifetime. A person who has received a relief of disability under United States Code, title 18, section 925, or whose ability to possess firearms has been restored under section 609.165, subdivision 1d, is not subject to the restrictions of this subdivision.

Sec. 3. Minnesota Statutes 2002, section 609.165, subdivision 1a, is amended to read:

Subd. 1a. [CERTAIN CONVICTED FELONS INELIGIBLE TO POSSESS FIREARMS.] The order of discharge must provide that a person who has been convicted of a crime of violence, as defined in section 624.712, subdivision 5, is not entitled to ship, transport, possess, or receive a firearm ~~until ten years have elapsed since the person was restored to civil rights and during that time the person was not convicted of any other crime of violence~~ for the remainder of the person's lifetime. Any person who has received such a discharge and who thereafter has received a relief of disability under United States Code, title 18, section 925, or whose ability to possess firearms has been restored under subdivision 1d, shall not be subject to the restrictions of this subdivision.

Sec. 4. Minnesota Statutes 2002, section 609.165, subdivision 1b, is amended to read:

Subd. 1b. [VIOLATION AND PENALTY.] (a) Any person who has been convicted of a crime of violence, as defined in section 624.712, subdivision 5, and who ships, transports, possesses, or receives a firearm ~~before ten years have elapsed since the person was restored to civil rights~~, commits a felony and may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than $30,000, or both.

(b) ~~Nothing in this~~ A conviction and sentencing under this section shall be construed to bar a conviction and sentencing for a violation of section 624.713, subdivision 2.

(c) The criminal penalty in paragraph (a) does not apply to any person who has received a relief of disability under United States Code, title 18, section 925, or whose ability to possess firearms has been restored under subdivision 1d.

Sec. 5. Minnesota Statutes 2002, section 609.165, is amended by adding a subdivision to read:

Subd. 1d. [JUDICIAL RESTORATION OF ABILITY TO POSSESS A FIREARM BY A FELON.] A person prohibited by state law from shipping, transporting, possessing, or receiving a firearm because of a conviction or a delinquency adjudication for committing a crime of violence may petition a court to restore the person's ability to possess, receive, ship, or transport firearms and otherwise deal with firearms.

The court may grant the relief sought if the person shows good cause to do so and the person has been released from physical confinement.

If a petition is denied, the person may not file another petition until three years have elapsed without the permission of the court.

Sec. 6. Minnesota Statutes 2002, section 609A.03, subdivision 5a, is amended to read:

Subd. 5a. [ORDER CONCERNING CRIMES OF VIOLENCE.] An order expunging the record of a conviction for a crime of violence as defined in section 624.712, subdivision 5, must provide that the person is not entitled to ship, transport, possess, or receive a firearm ~~until ten years have elapsed since the order was entered and during that time the person was not convicted of any other crime of violence~~ for the remainder of the person's lifetime. Any person whose record of conviction is expunged under this section and who thereafter receives a relief of disability under United States Code, title 18, section 925, or whose ability to possess firearms has been restored under section 609.165, subdivision 1d, is not subject to the restriction in this subdivision.

Sec. 7. Minnesota Statutes 2002, section 624.712, subdivision 5, is amended to read:

Subd. 5. [CRIME OF VIOLENCE.] "Crime of violence" ~~includes murder in the first, second, and third degrees, manslaughter in the first and second degrees, aiding suicide, aiding attempted suicide, felony violations of assault in the first, second, third, and fourth degrees, assaults motivated by bias under section 609.2231, subdivision 4, drive-by shootings, terroristic threats, use of drugs to injure or to facilitate crime, crimes committed for the benefit of a gang, commission of a crime while wearing or possessing a bullet-resistant vest, simple robbery, aggravated robbery, kidnapping, false imprisonment, criminal sexual conduct in the first, second, third, and fourth degrees, theft of a firearm, felony theft involving the intentional taking or driving of a motor vehicle without the consent of the owner or the authorized agent of the owner, felony theft involving the taking of property from a burning, abandoned, or vacant building, or from an area of destruction caused by civil disaster, riot, bombing, or the proximity of battle, felony theft involving the theft of a controlled substance, an explosive, or an incendiary device, arson in the first and second degrees, riot, burglary in the first, second, third, and fourth degrees, harassment and stalking, shooting at a public transit vehicle or facility, reckless use of a gun or dangerous~~

~~weapon, intentionally pointing a gun at or towards a human being, setting a spring gun, and unlawfully owning, possessing, operating a machine gun or short-barreled shotgun, and an attempt to commit any of these offenses, as each of those offenses is defined in chapter 609. "Crime of violence" also includes felony violations of the following: malicious punishment of a child; neglect or endangerment of a child; and chapter 152.~~ means: felony convictions of the following offenses: sections 609.185 (murder in the first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); 609.215 (aiding suicide and aiding attempted suicide); 609.221 (assault in the first degree); 609.222 (assault in the second degree); 609.223 (assault in the third degree); 609.2231 (assault in the fourth degree); 609.229 (crimes committed for the benefit of a gang); 609.235 (use of drugs to injure or facilitate crime); 609.24 (simple robbery); 609.245 (aggravated robbery); 609.25 (kidnapping); 609.255 (false imprisonment); 609.342 (criminal sexual conduct in the first degree); 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual conduct in the third degree); 609.345 (criminal sexual conduct in the fourth degree); 609.377 (malicious punishment of a child); 609.378 (neglect or endangerment of a child); 609.486 (commission of crime while wearing or possessing a bullet-resistant vest); 609.52 (involving theft of a firearm, theft involving the intentional taking or driving of a motor vehicle without the consent of the owner or authorized agent of the owner, theft involving the taking of property from a burning, abandoned, or vacant building, or from an area of destruction caused by civil disaster, riot, bombing, or the proximity of battle, and theft involving the theft of a controlled substance, an explosive, or an incendiary device); 609.561 (arson in the first degree); 609.562 (arson in the second degree); 609.582, subdivision 1, 2, or 3 (burglary in the first through third degrees); 609.66, subdivision 1e (drive-by shooting); 609.67 (unlawfully owning, possessing, operating a machine gun or short-barreled shotgun); 609.71 (riot); 609.713 (terroristic threats); 609.749 (harassment and stalking); 609.855, subdivision 5 (shooting at a public transit vehicle or facility); and chapter 152 (drugs, controlled substances); and an attempt to commit any of these offenses.

Sec. 8. Minnesota Statutes 2002, section 624.713, subdivision 1, is amended to read:

Subdivision 1. [INELIGIBLE PERSONS.] The following persons shall not be entitled to possess a pistol or semiautomatic military-style assault weapon or, except for clause (a), any other firearm:

(a) a person under the age of 18 years except that a person under 18 may carry or possess a pistol or semiautomatic military-style assault weapon (i) in the actual presence or under the direct supervision of the person's parent or guardian, (ii) for the purpose of military drill under the auspices of a legally recognized military organization and under competent supervision, (iii) for the purpose of instruction, competition, or target practice on a firing range approved by the chief of police or county sheriff in whose jurisdiction the range is located and under direct supervision; or (iv) if the person has

successfully completed a course designed to teach marksmanship and safety with a pistol or semiautomatic military-style assault weapon and approved by the commissioner of natural resources;

(b) except as otherwise provided in clause (i), a person who has been convicted of, or adjudicated delinquent or convicted as an extended jurisdiction juvenile for committing, in this state or elsewhere, a crime of violence ~~unless ten years have elapsed since the person has been restored to civil rights or the sentence or disposition has expired, whichever occurs first, and during that time the person has not been convicted of or adjudicated for any other crime of violence~~. For purposes of this section, crime of violence includes crimes in other states or jurisdictions which would have been crimes of violence as herein defined if they had been committed in this state;

(c) a person who is or has ever been confined in Minnesota or elsewhere as a person who is mentally ill, mentally retarded, or mentally ill and dangerous to the public, as defined in section 253B.02, to a treatment facility, or who has ever been found incompetent to stand trial or not guilty by reason of mental illness, unless the person possesses a certificate of a medical doctor or psychiatrist licensed in Minnesota, or other satisfactory proof that the person is no longer suffering from this disability;

(d) a person who has been convicted in Minnesota or elsewhere of a misdemeanor or gross misdemeanor violation of chapter 152, or a person who is or has ever been hospitalized or committed for treatment for the habitual use of a controlled substance or marijuana, as defined in sections 152.01 and 152.02, unless the person possesses a certificate of a medical doctor or psychiatrist licensed in Minnesota, or other satisfactory proof, that the person has not abused a controlled substance or marijuana during the previous two years;

(e) a person who has been confined or committed to a treatment facility in Minnesota or elsewhere as chemically dependent as defined in section 253B.02, unless the person has completed treatment. Property rights may not be abated but access may be restricted by the courts;

(f) a peace officer who is informally admitted to a treatment facility pursuant to section 253B.04 for chemical dependency, unless the officer possesses a certificate from the head of the treatment facility discharging or provisionally discharging the officer from the treatment facility. Property rights may not be abated but access may be restricted by the courts;

(g) a person, including a person under the jurisdiction of the juvenile court, who has been charged with committing a crime of violence and has been placed in a pretrial diversion program by the court before disposition, until the person has completed the diversion program and the charge of committing the crime of violence has been dismissed;

(h) except as otherwise provided in clause (i), a person who has been convicted in another state of committing an offense similar to the offense described in section 609.224, subdivision 3, against a family or household member or section 609.2242, subdivision 3, unless three years have elapsed since the date of conviction and, during that time, the person has not been convicted of any other violation of section 609.224, subdivision 3, or 609.2242, subdivision 3, or a similar law of another

state;
(i) a person who has been convicted in this state or elsewhere of assaulting a family or household member and who was found by the court to have used a firearm in any way during commission of the assault is prohibited from possessing any type of firearm for the period determined by the sentencing court; ~~or~~
(j) a person who:
(1) has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;
(2) is a fugitive from justice as a result of having fled from any state to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding;
(3) is an unlawful user of any controlled substance as defined in chapter 152;
(4) has been judicially committed to a treatment facility in Minnesota or elsewhere as a person who is mentally ill, mentally retarded, or mentally ill and dangerous to the public, as defined in section 253B.02;
(5) is an alien who is illegally or unlawfully in the United States;
(6) has been discharged from the armed forces of the United States under dishonorable conditions; or
(7) has renounced the person's citizenship having been a citizen of the United States~~.~~; or
(k) a person who has been convicted of the following offenses at the gross misdemeanor level, unless three years have elapsed since the date of conviction and, during that time, the person has not been convicted of any other violation of these sections: section 609.229 (crimes committed for the benefit of a gang); 609.2231, subdivision 4 (assaults motivated by bias); 609.255 (false imprisonment); 609.378 (neglect or endangerment of a child); 609.582, subdivision 4 (burglary in the fourth degree); 609.665 (setting a spring gun); 609.71 (riot); or 609.749 (harassment and stalking). For purposes of this paragraph, the specified gross misdemeanor convictions include crimes committed in other states or jurisdictions which would have been gross misdemeanors if conviction occurred in this state.
A person who issues a certificate pursuant to this subdivision in good faith is not liable for damages resulting or arising from the actions or misconduct with a firearm committed by the individual who is the subject of the certificate.
The prohibition in this subdivision relating to the possession of firearms other than pistols and semiautomatic military-style assault weapons does not apply retroactively to persons who are prohibited from possessing a pistol or semiautomatic military-style assault weapon under this subdivision before August 1, 1994.
The lifetime prohibition on possessing, receiving, shipping, or transporting firearms for persons convicted or adjudicated delinquent of a crime of violence in clause (b), applies only to offenders who are discharged from sentence or court supervision for a crime of violence on or after August 1, 1993.
Sec. 9. Minnesota Statutes 2002, section 624.713, subdivision 2, is amended to read:
Subd. 2. [PENALTIES.] (a) A person named in subdivision 1, clause (a), who possesses a pistol or semiautomatic

military-style assault weapon is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

(b) A person named in subdivision 1, clause (b), who possesses any type of firearm is guilty of a felony and may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than $30,000, or both. This paragraph does not apply to any person who has received a relief of disability under United States Code, title 18, section 925, or whose ability to possess firearms has been restored under section 609.165, subdivision 1d.

(c) A person named in any other clause of subdivision 1 who possesses any type of firearm is guilty of a gross misdemeanor.

Sec. 10. Minnesota Statutes 2002, section 624.713, subdivision 3, is amended to read:

Subd. 3. [NOTICE.] (a) When a person is convicted of, or adjudicated delinquent or convicted as an extended jurisdiction juvenile for committing, a crime of violence as defined in section 624.712, subdivision 5, the court shall inform the defendant that the defendant is prohibited from possessing a pistol or semiautomatic military-style assault weapon for ~~a period of ten years after the person was restored to civil rights or since the sentence or disposition has expired, whichever occurs first~~ the remainder of the person's lifetime, and that it is a felony offense to violate this prohibition. The failure of the court to provide this information to a defendant does not affect the applicability of the pistol or semiautomatic military-style assault weapon possession prohibition or the felony penalty to that defendant.

(b) When a person, including a person under the jurisdiction of the juvenile court, is charged with committing a crime of violence and is placed in a pretrial diversion program by the court before disposition, the court shall inform the defendant that: (1) the defendant is prohibited from possessing a pistol or semiautomatic military-style assault weapon until the person has completed the diversion program and the charge of committing a crime of violence has been dismissed; (2) it is a gross misdemeanor offense to violate this prohibition; and (3) if the defendant violates this condition of participation in the diversion program, the charge of committing a crime of violence may be prosecuted. The failure of the court to provide this information to a defendant does not affect the applicability of the pistol or semiautomatic military-style assault weapon possession prohibition or the gross misdemeanor penalty to that defendant.

Sec. 11. Minnesota Statutes 2002, section 638.02, subdivision 2, is amended to read:

Subd. 2. Any person, convicted of a crime in any court of this state, who has served the sentence imposed by the court and has been discharged of the sentence either by order of court or by operation of law, may petition the board of pardons for the granting of a pardon extraordinary. Unless the board of pardons expressly provides otherwise in writing by unanimous vote, the application for a pardon extraordinary may not be filed until the applicable time period in clause (1) or (2) has elapsed:

(1) if the person was convicted of a crime of violence as defined in section 624.712, subdivision 5, ten years must have elapsed since the sentence was discharged and during that time

the person must not have been convicted of any other crime; and

(2) if the person was convicted of any crime not included within the definition of crime of violence under section 624.712, subdivision 5, five years must have elapsed since the sentence was discharged and during that time the person must not have been convicted of any other crime.

If the board of pardons determines that the person is of good character and reputation, the board may, in its discretion, grant the person a pardon extraordinary. The pardon extraordinary, when granted, has the effect of setting aside and nullifying the conviction and of purging the person of it, and the person shall never after that be required to disclose the conviction at any time or place other than in a judicial proceeding or as part of the licensing process for peace officers.

The application for a pardon extraordinary, the proceedings to review an application, and the notice requirements are governed by the statutes and the rules of the board in respect to other proceedings before the board. The application shall contain any further information that the board may require.

~~Unless the board of pardons expressly provides otherwise in writing by unanimous vote, if the person was convicted of a crime of violence, as defined in section 624.712, subdivision 5, the pardon extraordinary must expressly provide that the pardon does not entitle the person to ship, transport, possess, or receive a firearm until ten years have elapsed since the sentence was discharged and during that time the person was not convicted of any other crime of violence.~~

Sec. 12. [EFFECTIVE DATE.]

Sections 1 to 11 are effective August 1, 2003. The provisions of sections 1 to 11 that impose a lifetime prohibition on possessing, receiving, shipping, or transporting firearms apply to persons who are discharged from sentence or court supervision for a crime of violence on or after August 1, 1993.

APPENDIX D

Minnesota Legislators Who Supported You

The following Minnesota legislators—in both House and Senate—voted for the MPPA, which was signed by Governor Tim Pawlenty on April 28, 2003. If you're grateful for the change in Minnesota's former antiquated, bureaucrats-know-best carry law to a moderate, mainstream, modern, "shall-issue" one, please do say "Thank you," to at least some of them, whether by letter, email, or phone call.

Minnesota House

1. Jim Abeler
2. Peter Adolphson
3. Bruce Anderson
4. Irv Anderson
5. Jeff Anderson
6. Michael Beard
7. Greg Blaine
8. Dick Borrell
9. Lynda Boudreau
10. Fran Bradley
11. Laura Brod
12. Marks Buesgens
13. Tony Cornish
14. Gregory Davids
15. Chris DeLaForest
16. Randy Demmer
17. Jerry Dempsey
18. David Dill
19. Dan Dorman
20. Rob Eastlund
21. Kent Eken
22. Sondra Erickson
23. Brad Finstad
24. Doug Fuller
25. Chris Gerlach
26. Bob Gunther
27. Bill Haas
28. Tom Hackbarth
29. Elaine Harder
30. Bud Heidgerken
31. Mary Liz Holberg
32. Joe Hoppe
33. Larry Howes
34. Carl Jacobson
35. Jeff Johnson
36. Al Juhnke
37. Tony Kielkucki
38. Karen Klinzing
39. Jim Knoblach
40. Lyle Koenen
41. Paul Kohls
42. Philip Krinkie
43. William Kuisle
44. Bernie Lieder
45. Doug Lindgren
46. Arlon Lindner
47. Eric Lipman
48. Doug Magnus
49. Paul Marquart
50. Denny McNamara
51. Doug Meslow
52. Mary Murphy
53. Carla Nelson
54. Peter Nelson
55. Bud Nornes
56. Stephanie Olsen
57. Mark Olson
58. Lynne Osterman
59. Mary Ellen Otremba
60. Dennis Ozment
61. Erik Paulsen
62. Maxine Penas
63. Duke Powell
64. Tom Rukavina
65. Connie Ruth
66. Char Samuelson
67. Alice Seagren
68. Marty Seifert
69. Anthony Sertich
70. Dan Severson
71. Dean Simpson
72. Steve Smith
73. Judy Soderstrom
74. Loren Solberg
75. Doug Stang
76. Steve Strachan
77. Steve Sviggum
78. Howard Swenson
79. Barb Sykora
80. Kathy Tingelstad
81. Dean Urdahl
82. Ray Vandeveer
83. Dale Walz
84. Lynn Wardlow
85. Andrew Westerberg
86. Torrey Westrom
87. Tim Wilkin
88. Kurt Zellers

Minnesota Senate

1. Michel Bachmann
2. Thomas M. Bakk
3. Dick Day
4. Steve Dille
5. Michell Fischbach
6. Dennis R. Fredericson
7. David Gaither
8. David Hann
9. Debbie J. Johnson
10. Michael J. Jungbauer
11. Bob Kierlin
12. Sheila Kiscaden
13. Dave Kleis
14. David L. Knutson
15. Paul E. Koering
16. Cal Larson
17. Keith Langseth
18. Brian LeClair
19. Warren Limmer
20. Mike McGinn
21. Thomas M. Neuville
22. Sean R. Nienow
23. Gen Olson
24. Julianne E. Ortman
25. Mark Ourada
26. Pat Pariseau
27. Mady Reiter
28. Claire A. Robling
29. Julie A. Rosen
30. Carrie L. Ruud
31. Dallas C. Sams
32. Tom Saxhaug
33. LeRoy A. Stumpf
34. David H. Senjem
35. David J. Tomassoni
36. Jim Vickerman
37. Betsy L. Wergin

Is This Book for You?

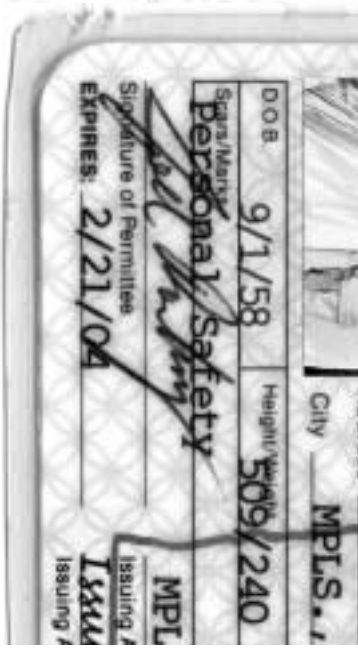
There are many good books on issues of the carrying of handguns.

Everything You Need to Know about (Legally) Carrying a Handgun in Minnesota is different: it's about carrying a handgun in *Minnesota*.

Most of the principles involved apply anywhere; staying alert in Minnesota isn't different than staying alert in Oregon, after all. But Minnesota is different from every other state. “Minnesota Nice” is part of our culture, and this book was written with that in mind, as well as the specifics of Minnesota law.

If you've been reading about the changes in the permit law in Minnesota and wonder what they mean, this book is for you—whether or not you decide to apply for a carry permit.

If you already have a personal safety concern, his book is for you. If you've been wondering about what kind of training and equipment you'll need, you'll learn that in these pages.



Even if you *haven't* been wondering about all the other issues—the legal, moral, and practical ones—you'll learn about those, too.

You *don't* need to be an experienced gun owner, or even have ever so much as held a firearm, in order to benefit from this book. You don't have to like guns, or any other tools and machinery.

If you are an experienced gun owner, this book is for you, too. Many people who have owned guns for most of their lives have yet to deal with either the laws or details of day-to-day carrying of a handgun.

If you're a police officer, wondering what you should think about the changes in the law, this book is for you, as well.

Even if you're a passionate gun control advocate—even if you think that all handguns should be banned—this book is for you, too. You should know about the issues involved, as somewhere upwards of 100,000 Minnesotans will eventually have carry permits. If you're worried about that, that's fine, for now. By the time you're finished reading this book, we hope you'll be reassured that it's going to be okay.

This book is also for those people—a small number, we hope—who think that carrying a handgun around in public would be fun and cool, and who think that the change in Minnesota's permit laws means that they could strut around in public, pushing people around, not taking any nonsense from anybody, because, well, they've got a gun.

They’re wrong.

We expect to talk them out of that.

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