

No. 24-1046

**In The
Supreme Court of the United States**

◆

JASON WOLFORD, et al.,

Petitioners,

v.

ANNE E. LOPEZ, ATTORNEY GENERAL
OF HAWAII,

Respondent.

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

◆

**BRIEF OF THE NATIONAL RIFLE ASSOCIATION
OF AMERICA AND INDEPENDENCE INSTITUTE
AS *AMICI CURIAE* IN SUPPORT OF PETITIONERS**

◆

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INTEREST OF *AMICI CURIAE*¹

The National Rifle Association of America (NRA) is America's oldest civil rights organization and foremost defender of Second Amendment rights. It was founded in 1871 by Union veterans—a general and a colonel—who, based on their Civil War experiences, sought to promote firearms marksmanship and expertise amongst the citizenry. Today, the NRA is America's leading provider of firearms marksmanship and safety training for both civilians and law enforcement. The NRA has approximately four million members, and its programs reach millions more.

Founded in 1985 on the eternal truths of the Declaration of Independence, the Independence Institute is a 501(c)(3) public policy research organization based in Denver, Colorado. The briefs and scholarship of Research Director David Kopel have been cited in seven opinions of this Court, including *Bruen*, *McDonald* (under the name of lead amicus Int'l Law Enforcement Educators & Trainers Association (ILEETA)), and *Heller* (same). Kopel has also been cited in 130 opinions of lower courts.

Amici are interested in this case because Hawaii's Vampire Rule eviscerates the right to bear arms, directly contradicts original meaning, and is based on counterfactual animus against carry licensees.



¹ No counsel for any party authored this brief in any part. No person or entity other than *amici* funded its preparation or submission.

SUMMARY OF ARGUMENT

In literature and legend, vampires are malignant characters who ruthlessly prey upon others—but they cannot enter a building without invitation. Hawaii treats concealed carry permitholders similarly, requiring them to obtain the owner’s consent before entering publicly accessible private property with a firearm. But permitholders are not malignant; they are vetted, trained, licensed by the government, and far more law-abiding than the general public.

Hawaii’s Vampire Rule is contrary to our nation’s historical tradition. In early America, citizens commonly carried—and were often required to carry—firearms in church, at work, at public assemblies, in ballrooms, to and from militia musters, while traveling, and in their daily lives. Firearms were so routinely carried in taverns—the social centers of colonial- and founding-era communities—that taverns typically provided hooks for patrons to hang their firearms. A law presumptively banning firearms from privately owned premises open to the public would have rendered these ubiquitous practices, and the public mandates surrounding them, impossible.

Hawaii is not addressing an unprecedented societal concern posed by permitholders. Data show the opposite: carry-license revocations are exceedingly rare—typically between 0.01% and 0.32% annually—and often unrelated to criminal conduct. Texas conviction statistics show that permitholders are nearly seven times less likely to be convicted of a crime than the general population. Colorado’s arrest-based revocation system shows that permitholders are more than eight times less likely to be arrested.

Independent research, from RAND to the *Chicago Tribune*, and even data collected by the Violence Policy Center, confirm that permitholders offend at far lower rates than ordinary citizens. Concealed carry permitholders are exceptionally law-abiding, and Hawaii’s treatment of them as predatory actors has no empirical or historical foundation.

ARGUMENT

I. The Vampire Rule.

In literature and legend, a vampire is a “preternatural being of a malignant nature.”² Or metaphorically for human beings, a “person of a malignant and loathsome character, esp. one who preys ruthlessly upon others.”³ In some stories, vampires can only enter homes or other buildings

² *Vampire*, 12 THE OXFORD ENGLISH DICTIONARY 33 (1933).

³ *Id.* See also *Old Dominion Branch No. 496, Nat. Ass’n of Letter Carriers, AFL-CIO v. Austin*, 418 U.S. 264, 268 (1974) (quoting trade union literature, “After God had finished the rattlesnake, the toad, and the vampire, He had some awful substance left with which he made a scab.”); *A Book Named “John Cleland’s Memoirs of a Woman of Pleasure” v. Att’y Gen. of Com. of Mass.*, 383 U.S. 413, 432 n.11 (1966) (Douglas, J., concurring) (serial killer, “the British vampire who sucked his victims’ blood through soda straws and dissolved their drained bodies in acid baths”); *State of Md. v. Baltimore Radio Show*, 338 U.S. 912, 931 (1950) (Frankfurter, J., statement respecting denial of cert., app’x) (newspaper article describing accused murderer as a “vampire”); *United States ex rel. Vajtauer v. Comm’r of Immigr. at Port of New York*, 273 U.S. 103, 109 (1927) (quoting pamphlet of Soviet Union communist propaganda denouncing farmers as “vampires”).

when invited.⁴ As applied to vampires, this Vampire Rule protects public safety by restricting a vampire's ability to enter a human's building.

Perversely, the Vampire Rule enacted by Hawaii and five other states applies only to beings who are exceptionally *not* dangerous: law-abiding citizens who have passed a background check, completed safety training, and have been licensed by the government to carry concealed handguns. While "sensitive places" rules are based on the principle that certain locations are inappropriate for firearms, even in the hands of the

⁴ See, e.g., Bram Stoker, *DRACULA* 223 (1897) ("He may not enter anywhere at the first, unless there be some one of the household who bid him to come; though afterwards he can come as he please."). Before Stoker's 1897 novel, some vampire lore implied rather than stated a Vampire Rule. See 3 Joseph Sheridan Le Fanu, *IN A GLASS DARKLY* 74–80 (1872) (ch. 2, vampire Carmilla fakes a carriage accident to be invited into a home); *The Vampyre*, in 6 *THE LITERARY GAZETTE* 108, 112 (2d ser., 1819) (vampire Lord Ruthven's "peculiarities caused him to be invited to every house"). A Vatican librarian's 1645 analysis of Greece reported the belief that:

[A] demon takes possession of such a body, which issues from the tomb, and, generally at night, goes about the streets of a village, knocking sharply upon doors, and summoning one of the household by name. But if the person called unwittingly answers he is sure to die on the following day. Yet a vrykolakas never cries out a name twice, and so the people of Chios, at all events, always wait to hear the summons repeated before they reply to anyone who raps at their door of a night.

Montague Summers, *THE VAMPIRE: HIS KITH AND KIN* 30 (1928) (citing and translating Leo Allatius [a/k/a Leone Allacci], *DE GRAECORUM HODIE QUORUNDAM OPINATIONIBUS* [On the Opinions of the Greeks Today] (1645)).

most law-abiding, the Vampire Rule functions as a general prohibition on licensed carry in ordinary life. As will be detailed in Part III, *infra*, concealed carry permitholders are extraordinarily law-abiding. Their crime rate is extremely low, especially when contrasted with the general public.

Hawaii's Vampire Rule diverges from both practical reality and historical tradition. In early American history, as detailed in the next Part, citizens commonly carried—and were often required to carry—firearms in church, at work, at public assemblies, in ballrooms, to and from militia musters, while traveling, and in their daily lives. A law presumptively banning firearms in privately owned public locations would have made this ordinary practice and the public mandates impossible.

II. Early Americans regularly carried on publicly accessible private property.

There was a robust tradition of public firearm carriage in the founding era. Thus, this Court found “overwhelming evidence of an ... enduring American tradition permitting public carry” in *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1, 67 (2022). The Early Republic’s leading constitutional scholar, St. George Tucker, observed, “In many parts of the United States, a man no more thinks, of going out of his house on any occasion, without his rifle or musket in his hand, than an European fine gentleman

without his sword by his side.”⁵ Likewise, a Virginian writing his friend in Scotland in 1775 noted, “No person goes abroad without his sword, or gun, or pistols.”⁶ This tradition could not have been established if Americans were prevented from carrying on publicly accessible private property. But history shows that Americans commonly did, highlighting how far Hawaii’s Vampire Rule deviates from American tradition.

A. Taverns.

During the colonial and founding eras, “The tavern was usually the only public place in town—except the meeting house on the days of worship—where the people were accustomed to congregate.”⁷

Taverns were the heart of community life, serving not only as places for eating, drinking, socializing, gaming, and entertainment, but also as essential landmarks and lodging for travelers, and as vital centers of communication—hosting social meetings, business meetings, public gatherings, philosophical debates, legislative assemblies, and even handling the

⁵ 5 St. George Tucker, BLACKSTONE’S COMMENTARIES app’x 19 (1803).

⁶ 3 AMERICAN ARCHIVES 621 (4th ser., Force ed., 1840) (Sept. 1, 1775).

⁷ PROCEEDINGS OF THE BROOKLINE HISTORICAL SOCIETY AT THE ANNUAL MEETING, JANUARY 28, 1902, at 30 (1902); *see also* John Cushing, *Town Commons of New England, 1640–1840*, in 51 OLD TIME NEW ENGLAND 86, 89 (no. 3, 1961) (“In most communities, the tavern was the only public building other than the meetinghouse.”).

local mail.⁸ Put simply, “the tavern was conceived as a public institution which should provide all needed services.”⁹

“Taverns were ubiquitous in colonial life.”¹⁰ Some colonies even required each town to have one.¹¹ Later, in the early republic, taverns “continued to play their role as centers of community life for all classes of people,” and “sprang up organically within new communities” as the country’s frontier expanded.¹²

Taverns could be regulated. For instance, the government often required licenses to operate a tavern, prohibited excessive drinking, imposed curfews, and set prices for the goods and services

⁸ See, e.g., Steven Struzinski, *The Tavern in Colonial America*, in 1 THE GETTYSBURG HISTORICAL J., art. 7, at 29, 31, 34–36 (2002).

⁹ Carl Bridenbaugh, CITIES IN THE WILDERNESS: THE FIRST CENTURY OF URBAN LIFE IN AMERICA 1625–1742, at 114 (Capricorn Books ed. 1964) (1938).

¹⁰ Nancy Struna, PEOPLE OF PROWESS: SPORT, LEISURE, AND LABOR IN EARLY AMERICA 144 (1996).

¹¹ See, e.g., THE PUBLIC RECORDS OF THE COLONY OF CONNECTICUT, PRIOR TO THE UNION WITH NEW HAVEN COLONY, MAY, 1665, at 103 (Trumbull ed., 1850) (1664 Connecticut law requiring “one sufficient inhabitant” in “ech Towne” to “keepe an Ordinary [tavern]”); Alice Morse Earle, STAGE-COACH AND TAVERN DAYS 2 (1900) (“in 1656 the General Court of Massachusetts made towns liable to a fine for not sustaining an ordinary”); Lemuel Shattuck, A HISTORY OF THE TOWN OF CONCORD 45 (1835) (“Concord was presented in 1660 for not having a common house of entertainment, and ordered to get one before next Court under penalty of 2s 6d.”).

¹² Steven Barleen, THE TAVERN: A SOCIAL HISTORY OF DRINKING AND CONVIVIALITY 12, 13 (2019).

offered.¹³ In 1712 Massachusetts, even singing and dancing were prohibited.¹⁴ But governments never restricted firearms carriage in taverns.

Rather, it was commonplace for patrons to carry their firearms into taverns. A typical tavern contained “hooks to hang firearms” on “each side of the huge chimney.”¹⁵ To provide a specific example, the Ingersoll House in Salem Village, Massachusetts—which operated from 1677 until the nineteenth century—had “hooks on each side of the fireplace to hang firearms that locals brought with them.”¹⁶

“A typical day” at a tavern included “shooting contests,” along with cards, dancing, and ninepins (a

¹³ See, e.g., 1 RECORDS OF THE GOVERNOR AND COMPANY OF THE MASSACHUSETTS BAY IN NEW ENGLAND, 1628–1641, at 280 (Shurtleff ed., 1853) (1639 Massachusetts Bay law requiring tavernkeepers to provide certain services and forbidding “excessive prices” for food and alcohol); 2 *id.* at 100 (1645 Massachusetts Bay law requiring licenses and prohibiting excessive drinking); THE CHARTERS AND GENERAL LAWS OF THE COLONY AND PROVINCE OF MASSACHUSETTS BAY 397 (1814) (1712 Massachusetts law prohibiting drinking after 9:00 p.m. and requiring tavernkeepers to provide “suitable provision” for guests, horses, and “publick entertainment”).

¹⁴ THE CHARTERS AND GENERAL LAWS OF THE COLONY AND PROVINCE OF MASSACHUSETTS BAY, at 397.

¹⁵ Harriet Tapley, *Old Tavern Days in Danvers*, in 8 THE HISTORICAL COLLECTIONS OF THE DANVERS HISTORICAL SOCIETY 1, 1 (1920).

¹⁶ Daniel A. Gagnon, *Ingersoll’s Tavern, Anything But “Ordinary,”* SPECTERS OF SALEM VILLAGE, Jan. 5, 2019, <https://spectersofsaalemvillage.com/2019/01/05/ingersolls-tavern-anything-but-ordinary/>.

game resembling bowling).¹⁷ “[S]hooting matches” were especially “common” at taverns that catered to a diverse working-class clientele.¹⁸ Some taverns prepared targets for patrons, but “[s]hooting contests in which the targets were things normally found indoors, such as candle flames that a marksman tried to ‘snuff,’ also occurred[.]”¹⁹

Thomas Jefferson apparently participated in such a shooting contest. As a young lawyer riding the circuit and frequenting taverns, he recorded an expense spent at a tavern, and, “Won shooting 1/6 [one sixpence].”²⁰

Jefferson also carried a firearm into a tavern while serving as president. He later wrote to the tavernkeeper: “I left at your house ... a pistol in a locked case, which no doubt was found ... after my departure.”²¹

¹⁷ Struzinski, at 31

¹⁸ Struna, at 152.

¹⁹ *Id.* at 148.

²⁰ 1 JEFFERSON’S MEMORANDUM BOOKS, ACCOUNTS, WITH LEGAL RECORDS AND MISCELLANY, 1767–1826, at 81 (Bear, Jr. & Stanton eds., 1997).

²¹ Letter from Thomas Jefferson to Paul Verdier, Oct. 9, 1803, in 41 THE PAPERS OF THOMAS JEFFERSON 486 (Oberg ed., 2014); see also Letter from Thomas Jefferson to Thomas Mann Randolph, Oct. 9, 1803, in 41 THE PAPERS OF THOMAS JEFFERSON, at 485 (“I left at Orange C.H. one of my Turkish pistols”).

“Orange C.H.” referred to a “tavern operated by Paul Verdier in the Town of Orange,” which Jefferson “frequented.” *A Letter from Thomas Jefferson to Joel Barlow*, GADSBY’S TAVERN MUSEUM 3 (2018), <https://media.alexandriava.gov/docs-archives/historic/info/gadsbys/gtresearchtjletterarticle.pdf>; see also 41 THE PAPERS OF THOMAS JEFFERSON, at 486.

In addition to the regular shooting contests, “A day of great sport at the tavern was when there was a turkey-shoot.”²² For example, in 1773, the Punch Bowl Tavern in Brookline, Massachusetts, hosted a shoot including “a Bear and a Number of Turkeys.”²³ These events became “a favourite diversion early in the Nineteenth Century,”²⁴ and notices for such shoots “were frequently found in autumnal newspapers.”²⁵

On November 23, 1821, for instance, a notice in the *Salem Gazette* “invite[d] all *Gunners* and others” to shoot “FINE FAT TURKEYS” at “the Old Bakers’ Tavern.”²⁶ British naval officer and noted traveler Basil Hall encountered an ad for such a shoot in a tavern in 1827 during his tour of North America. His landlord mentioned that “these shooting matches were so common in America,” and explained that participants paid for each shot, and could carry off whatever bird they hit.²⁷

Firearms were also carried into taverns for self-defense. Ira Allen—Vermont’s most influential founder²⁸—recounted several instances of carrying

²² Earle, at 207.

²³ BOSTON EVENING POST, Jan. 11, 1773.

²⁴ Mary Caroline Crawford, *LITTLE PILGRIMAGES AMONG OLD NEW ENGLAND INNS* 231 (1907).

²⁵ Earle, at 207.

²⁶ SALEM GAZETTE, Nov. 23, 1821.

²⁷ 2 Basil Hall, *TRAVELS IN NORTH AMERICA, IN THE YEARS 1827 AND 1828*, at 142–43 (1830).

²⁸ From 1776 to 1786, “few if any state papers of Vermont were issued that [Ira] did not prepare or assist in preparing.” 1

arms in taverns throughout his autobiography. For instance, Ira, along with his brother Ethan Allen and cousin Remember Baker, “put up at a tavern” on their way to purchase land near the New York border in 1772. Each man was “armed with holsters and pistols, a good case [pair] of pistols each in our pockets, with each a good hanger [single-edged curved sword].”²⁹ In other words, they each carried three or four firearms, and a sword. The following year, after Governor Tryon placed a bounty on Ethan Allen’s head, Ethan and Eli Roberts encountered a dozen British soldiers in a tavern. “[T]hat he and Roberts had each a gun and a case [pair] of pistols”—three firearms each—seemingly deterred any attack by the soldiers before Allen and Roberts were able to escape out a window.³⁰

Moreover, taverns were common gathering places for militias, serving as centers for organizing, strategizing, or congregating after training. “Ethan Allen and the Green Mountain Boys often met” at the Catamount Tavern.³¹ After devising their plan to capture Fort Ticonderoga there, “the Green Mountain Boys had armed themselves and gathered at the Catamount Tavern” before setting out to achieve one

James Benjamin Wilbur, IRA ALLEN: FOUNDER OF VERMONT, 1751–1814, at 87 (1928).

²⁹ *Id.* at 39.

³⁰ Ira Allen, NATURAL AND POLITICAL HISTORY OF THE STATE OF VERMONT 43–44 (1798).

In the usage of the time, “gun” meant a long gun, and not a pistol. See *Gun*, 1 Noah Webster, AMERICAN DICTIONARY OF THE ENGLISH LANGUAGE (1828) (unpaginated).

³¹ 1 Wilbur, at 73.

of the first American victories of the Revolutionary War.³²

Boston's Sons of Liberty congregated in the basement of the Green Dragon, sometimes called the "Headquarters of the Revolution," where, among other things, "the Boston Tea Party was planned" and "Paul Revere began his famous ride."³³

Regular meetings were held by the New York Sons of Liberty at the Queen's Head Tavern, the Norwich Sons of Liberty at the Leffingwell Inn, the officers of Washington's Army at the Black Horse Tavern, and the Lexington Train Band at the Buckman Tavern.³⁴

A firearm carried in a tavern may have even fired "the shot heard round the world," which sparked the Revolutionary War and ultimately led to America's independence. At Lexington Green, many British "Regulars thought that the first shot came from 'the corner of a large house to the right of the Church,' which could only have been the Buckman Tavern.... Many armed men had been in the Buckman Tavern that night[.]"³⁵

³² Christine Sismondo, AMERICA WALKS INTO A BAR: A SPIRITED HISTORY OF TAVERNS AND SALOONS, SPEAKEASIES AND GROG SHOPS 72–73 (2011); *see also* VERMONT, THE LAND OF GREEN MOUNTAINS 33–34 (Vt. Office of Secretary of State 1913).

³³ Barleen, at 10.

³⁴ Damien Cregeau, "*Spirits of Independence*": Ten Taverns of the Revolutionary War Era, JOURNAL OF THE AMERICAN REVOLUTION, Apr. 29, 2021, <https://allthingsliberty.com/2021/04/spirits-of-independence-ten-taverns-of-the-revolutionary-war-era/>.

³⁵ David Hackett Fischer, PAUL REVERE'S RIDE 193 (1994).

Despite how commonly firearms were carried into taverns, no colony or state restricted carrying in taverns before the twentieth century. But an 1859 New York City law is instructive. The city forbade any “tavern-keeper, keeper of a public house, garden or place of resort” to “permit any person” on a “Sunday” to “practice with or fire off any pistol, gun, fowling-piece or other fire-arms, in or upon his or her premises.”³⁶ The law—which applied only on Sunday and forbade only target shooting—presupposes that patrons commonly carried arms into such establishments and left such carrying unregulated. It thus reflects a society in which carrying firearms into taverns, public houses, gardens, and places of resort was both lawful and accepted.

B. Churches.

Americans in the colonial and founding eras often carried firearms to church and were sometimes required to.

Virginia first required “all suche as beare armes” to “bring their pieces swordes, po[w]der and shotte” to church in 1619, and enacted similar statutes requiring arms at church in 1632, 1643, and 1676.³⁷

³⁶ ORDINANCES OF THE MAYOR, ALDERMEN AND COMMONALTY OF THE CITY OF NEW YORK 235 (Valentine ed., 1859).

³⁷ NARRATIVES OF EARLY VIRGINIA, 1606–1625, at 273 (Tyler ed., 1907) (1619 law); 1 THE STATUTES AT LARGE; BEING A COLLECTION OF ALL THE LAWS OF VIRGINIA, FROM THE FIRST SESSION OF THE LEGISLATURE, IN THE YEAR 1619, at 174 (Hening ed., 1823) (1632 law); *id.* at 263 (1643 law); 2 *id.* at 333 (1676 law).

A 1642 Maryland statute forbade any “man able to bear arms to goe to church or Chappell” without a “fixed gunn.”³⁸

In 1643, Connecticut’s legislature complained that a previous order requiring carry to church was being neglected and added a punishment for any man who failed to “bring his Arms to the meeting house every Sabbath and lecture day.”³⁹ New Haven, a separate colony at the time, enacted a law requiring a quarter of the militia to bear arms to church in 1644.⁴⁰

Plymouth Colony, in 1657, required “the Milletary companie of every Township” to bring their arms to church from April through November each year.⁴¹ In 1658, the law was modified to apply from March through November and apply only to a quarter of the military company.⁴² Then in 1675, during King Philip’s War, the mandate was modified again to apply year-round and to “every one.”⁴³

In 1743, South Carolina mandated that all able-bodied men under 60 carry a “gun or a pair of horse

³⁸ 3 ARCHIVES OF MARYLAND: PROCEEDINGS OF THE COUNCIL OF MARYLAND, 1637–1667, at 103 (Browne ed., 1885).

³⁹ THE PUBLIC RECORDS OF THE COLONY OF CONNECTICUT, at 96.

⁴⁰ RECORDS OF THE COLONY AND PLANTATION OF NEW HAVEN, FROM 1638 TO 1649, at 132 (Hoadly ed., 1857).

⁴¹ THE COMPACT WITH THE CHARTER AND LAWS OF THE COLONY OF NEW PLYMOUTH TOGETHER WITH THE CHARTER OF THE COUNCIL AT PLYMOUTH 102 (Brigham ed., 1836).

⁴² *Id.* at 115.

⁴³ *Id.* at 176.

pistols ... into the church or other place of divine worship.”⁴⁴

Likewise, approaching the Founding, Georgia in 1770 imposed fines on militiamen who went to church unarmed.⁴⁵

Americans did not require mandates to carry in church. Even though Massachusetts had lifted its mandate in the seventeenth century, Thomas Chalkley wrote around 1705 that “[t]he people generally rode and went to their worship armed,” while noting that Quakers attended meetings “without either sword or gun.”⁴⁶ Just before the Founding, in 1775, the minutemen of Concord, Massachusetts, “carried their muskets ... in church” without any sort of directive.⁴⁷

This robust and well-documented tradition of carrying in churches stands in stark contrast to Hawaii’s law, which presumptively bans carry on private property open to the public.

C. Public Assemblies.

Early colonial laws required carry at public assemblies. For example, in 1637 Massachusetts, “every p[er]son above the age of 18” had to “come to the

⁴⁴ 7 THE STATUTES AT LARGE OF SOUTH CAROLINA 417 (McCord ed., 1840).

⁴⁵ 19 THE COLONIAL RECORDS OF THE STATE OF GEORGIA, pt. 1, at 137–40 (Candler ed., 1911).

⁴⁶ Thomas Chalkley, THE JOURNAL OF THOMAS CHALKLEY 40 (1808).

⁴⁷ Robert A. Gross, THE MINUTEMEN AND THEIR WORLD 69 (1976).

publike assemblyes with their musketts, or other peeeces fit for servise.”⁴⁸ In 1643, militia officers of each town were ordered to “appoint what armes to bee brought to the meeting houses on the Lords dayes, & other times of meeting.”⁴⁹

Similarly, a 1639 Rhode Island law provided that “none shall come to any public Meeting without his weapon.”⁵⁰ Four years later, Portsmouth, Rhode Island, enacted a similar law requiring “every man” to “come armed unto the meeting upon every sixth day.”⁵¹

As with carrying in churches, Americans did not require mandates to carry at public assemblies. For instance, on the annual commemoration of the Boston Massacre in 1775, Bostonians attended Dr. Joseph Warren’s stirring oration at the Old South Meeting House—which was owned by the Third Church of Boston and “often served as the site of significant protests and meetings” since it could hold 5,000 people.⁵² Wary that the speech might upset the Redcoats in attendance, “almost every man [in the

⁴⁸ 1 RECORDS OF THE GOVERNOR AND COMPANY OF THE MASSACHUSETTS BAY, at 190.

⁴⁹ 2 *id.* at 38.

⁵⁰ 1 RECORDS OF THE COLONY OF RHODE ISLAND AND PROVIDENCE PLANTATIONS, IN NEW ENGLAND 94 (Bartlett ed., 1856).

⁵¹ *Id.* at 79.

⁵² *Boston Landmarks Commission Study Report: Old South Meeting House*, BOSTON.GOV, May 20, 2025, at 17–18, 23–24, <https://www.boston.gov/sites/default/files/file/2025/05/Old%20South%20Meeting%20House%20Study%20Report.pdf>.

audience] had a short stick, or bludgeon, in his hand; and ... many of them were privately armed.”⁵³

D. Weddings and Funerals.

A 1656 Virginia law forbade people to “shoot any gunns at drinkeing,” but provided exceptions for weddings and funerals.⁵⁴ If people did not sometimes carry firearms on such occasions, this law would make no sense.

E. Ballrooms.

An Englishman visiting Mississippi in 1807 observed, “most of those around you wore a concealed dagger, and sometimes even two, one in the bosom, and the other under the coat; while others have a brace of pistols in the girdle behind the back.”⁵⁵ He expressed surprise that the “custom of carrying a concealed dagger” extended to the ballroom, where “on more than one occasion,” he saw one “fall out of the bosom, or from behind the girdle, while its owner was dancing with a lady, without her betraying the least sign of surprise or displeasure,” because the “custom, it seems, has blunted their finer feelings in this place, as they hardly notice the dagger, even when it falls at their feet.”⁵⁶

⁵³ Frederick MacKenzie, *A BRITISH FUSILIER IN REVOLUTIONARY BOSTON* 37–38 (French ed., 1926).

⁵⁴ 1 Hening, at 401–02.

⁵⁵ Whitman Mead, *TRAVELS IN NORTH AMERICA* 53 (1820).

⁵⁶ *Id.* at 62.

F. Shops.

Although carrying in shops was too commonplace to be remarked upon in writings of the time, it has been noted that in Concord, Massachusetts, in early 1775, “Minutemen ... carried their muskets everywhere,” including “in shops.”⁵⁷

G. Work.

Some laws required people to carry arms while working. For example, a 1624 Virginia statute provided, “That men go not to worke in the ground without their arms (and a centinell upon them).”⁵⁸ Virginia enacted a similar law in 1632.⁵⁹ Later, in 1806, Georgia required “All male white inhabitants ... from the age of eighteen to forty-five years” to “work upon the several roads, creeks, causeways, water-passages, and bridges” and to “carry with him one good and sufficient gun or pair of pistols.”⁶⁰

Others chose to carry arms to work. For instance, as a lawyer, Patrick Henry would “walk to court, his musket slung over his shoulder to pick off small game.”⁶¹ And Dr. Joseph Warren, when tensions arose

⁵⁷ Gross, at 69.

⁵⁸ 1 Hening, at 127.

⁵⁹ *Id.* at 189.

⁶⁰ Oliver Prince, DIGEST OF THE LAWS OF THE STATE OF GEORGIA 407, 409 (1822).

⁶¹ Harlow Giles Unger, LION OF LIBERTY: PATRICK HENRY AND THE CALL TO A NEW NATION 30 (2010).

with the British in April 1775, carried a pair of pistols while visiting a patient.⁶²

H. Travelers.

Travel writer Fortescue Cuming provides evidence that carrying arms was a routine part of travel. Visiting Harrisburg, Pennsylvania, in 1807, Cuming recounted meeting “labourers who were at work in a barn at the ferry house,” noting that they expressed admiration for the “work and lightness” of his “double barrelled gun.”⁶³ He later described “putting on my shot belt and taking my gun” from one tavern to another, before visiting the post office, a magistrate in his office, and exploring the town, before “returning to my inn.”⁶⁴

When traveling throughout South Carolina in 1775 to promote the Patriot cause, William Drayton “always had about his person a dirk and a pair of pocket pistols; for the defence of his life.”⁶⁵ Travel writer Isaac Weld noted that in 1796, on the roads from Kentucky/Tennessee to and from Philadelphia/Baltimore, “These people all travel on horseback, with pistols and swords.”⁶⁶ And Washington Irving, writing about St. Louis in 1808,

⁶² Richard Frothingham, *LIFE AND TIMES OF JOSEPH WARREN* 452 (1865).

⁶³ Fortescue Cuming, *SKETCHES OF A TOUR TO THE WESTERN COUNTRY* 22 (1810).

⁶⁴ *Id.* at 23–25.

⁶⁵ 3 *AMERICAN ARCHIVES*, at 258.

⁶⁶ 1 Isaac Weld, *TRAVELS THROUGH THE STATES OF NORTH AMERICA* 233–34 (2d ed. 1799).

observed that “[n]ow and then a stark Kentucky hunter ... with rifle on shoulder and knife in belt, strode along.”⁶⁷

Many early American laws ensured that travelers could carry arms. Some colonies—Maryland,⁶⁸ Massachusetts,⁶⁹ Rhode Island,⁷⁰ and Virginia⁷¹—*required* people to travel armed. Then throughout the nineteenth century, several states and territories enacted carry restrictions that expressly exempted travelers, including Alabama,⁷² the Arizona Territory,⁷³ Arkansas,⁷⁴ California,⁷⁵ Indiana,⁷⁶

⁶⁷ 8 THE WORKS OF WASHINGTON IRVING 83 (1866).

⁶⁸ 3 ARCHIVES OF MARYLAND, at 103 (1642 law).

⁶⁹ 1 RECORDS OF THE GOVERNOR AND COMPANY OF THE MASSACHUSETTS BAY, at 190 (1637 law).

⁷⁰ 1 RECORDS OF THE COLONY OF RHODE ISLAND, at 94 (1639 law).

⁷¹ 1 Hening, at 127 (1624 law); *id.* at 173 (1632 law).

⁷² 1841 Ala. Laws 148–49; Wade Keyes, THE CODE OF ALABAMA 882–83 (1877) (1871 law).

⁷³ 1883 Ariz. Sess. Laws 21–22; 1889 Ariz. Sess. Laws 30.

⁷⁴ REVISED STATUTES OF THE STATE OF ARKANSAS, ADOPTED AT THE OCTOBER SESSION OF THE GENERAL ASSEMBLY OF SAID STATE, A.D. 1837, at 280 (1838) (1837 law); 1874–75 Ark. Acts 156; 1881 Ark. Acts 191.

⁷⁵ 1863 Cal. Stat. 748.

⁷⁶ 1819 Ind. Acts 39; 1831 Ind. Acts 192; 1859 Ind. Acts 129.

Kentucky,⁷⁷ Mississippi,⁷⁸ Nevada,⁷⁹ the Oklahoma Territory,⁸⁰ Tennessee,⁸¹ and Wyoming.⁸²

Travelers were necessarily dependent on publicly accessible establishments for food, lodging, supplies, restrooms, directions, and other necessities. The widespread traveler protections thus demonstrate that historical regulations accommodated, rather than obstructed, the carrying of weapons in the public and quasi-public spaces essential to everyday travel. Hawaii's law—which by default bans carry in those very types of establishments—upends that tradition, allowing carry only for someone who leaves home, stays on public streets, and then returns home.

I. Militia Laws.

Hundreds of militia acts enacted throughout the colonial and founding eras required militiamen to carry their privately owned firearms to musters held multiple times per year.⁸³ For example, a 1785

⁷⁷ 1813 Ky. Acts 100.

⁷⁸ 1878 Miss. Laws 175.

⁷⁹ 1867 Nev. Stat. 66.

⁸⁰ 1890 Okla. Sess. Laws 495; 1893 Okla. Sess. Laws 503; Dorset Carter, ANNOTATED STATUTES OF THE INDIAN TERRITORY 243–44 (1899) (1899 law).

⁸¹ 1821 Tenn. Pub. Acts 16; Robert Caruthers & Alfred Nicholson, A COMPILATION OF THE STATUTES OF TENNESSEE 100 (1836) (1825 law); 1870 Tenn. Pub. Acts 55.

⁸² 1890 Wyo. Sess. Laws 140.

⁸³ See 2 BACKGROUNDS OF SELECTIVE SERVICE: MILITARY OBLIGATION: THE AMERICAN TRADITION, pts. 1–14 (Vollmer ed., 1947) (compiling colonial- and founding-era militia acts).

Virginia law required militiamen to attend at least seven musters per year.⁸⁴ A muster did not necessarily involve drilling or practice, but it did require militiamen to bring the requisite arms to prove that they possessed them. Like the travelers discussed above, militiamen were therefore required to travel with arms and to rely on places of public accommodation.

In sum, history is replete with examples showing that it was typical for Americans to carry firearms on privately owned property open to the public. And as Petitioners have demonstrated, no tradition supports presumptively prohibiting carry in such places.⁸⁵ Therefore, Hawaii's law directly conflicts with our nation's historical tradition.

III. Americans with concealed carry permits are far more law-abiding than the general public, according to government data.

Respondent might argue that the law addresses “unprecedented societal concerns” posed by concealed carry permit holders.⁸⁶ But permit holders are exceptionally peaceful and law-abiding, as demonstrated by the most recent and most thorough study of the behavior of Americans with concealed carry permits: K. Alexander Adams, *A State-by-State*

⁸⁴ 12 Hening, at 11.

⁸⁵ Pet. Br. 30–38.

⁸⁶ *Bruen*, 597 U.S. at 27.

Analysis of Concealed Carry Permit Revocations (Firearms Rsch. Ctr., Working Paper No. 2025-9).⁸⁷

Many studies use econometric or other modeling techniques to attempt to ascertain whether concealed carry laws have statistically significant effects on crime. These papers' authors sometimes debate complicated methodological issues. In contrast, the Adams paper simply reports and discusses data from official government sources. Its objective was to examine whether shall-issue laws for concealed carry licensees could increase crime rates because licensees perpetrate gun crimes. According to the results: "CCW [concealed carry weapons] permit holders are extremely law-abiding. The fraction of violent crimes committed by licensed CCW permit holders is miniscule and unlikely to explain any significant increase in crime after the adoption of a liberalized concealed carry law."⁸⁸

A. Data on total CCW permit revocations.

To investigate CCW licensees, Adams collected all available data from the thirteen states that publish data on revocation of concealed carry permits. According to Adams, "Permit revocation rates are the most accessible administrative proxy to analyze illegal behavior among CCW permit holders."⁸⁹ However, as Adams cautions, permit revocations represent an "upper bound" on licensee misbehavior, and are almost

⁸⁷ https://firearmsresearchcenter.org/working_papers/a-state-by-state-analysis-of-concealed-carry-permit-revocations/.

⁸⁸ *Id.* at 15.

⁸⁹ *Id.* at 4.

certainly an “overestimate.”⁹⁰ For example, permits may be revoked because a person moves to another state, or is noncriminally delinquent on taxes.⁹¹

Adams’s Table 2 presents the revocation rates by state, for the most recent year available.⁹² (The Louisiana data are different, as detailed below.)

Table 2: Permit Revocations by State				
State	Year	Permits Revoked	Active Permits	Revocation Rate
Michigan	2024	2,466	864,811	0.29%
Colorado	2024	405	305,723	0.13%
Minnesota	2024	47	408,356	0.01%
Florida	2025	2,125	2,358,993	0.09%
Texas	2024	2,607	1,539,879	0.17%
Louisiana*	2018	1,463*	236,344*	0.62%*
Ohio	2024	339	623,691	0.05%
South Dakota	2024	18	51,373	0.03%
South Carolina	2024	1,676	517,709	0.32%
Hawaii	2024	6	2,207	0.27%
Utah	2024	490	666,693	0.07%
Kentucky	2023	365	309,796	0.12%

⁹⁰ *Id.* at 4–5.

⁹¹ *Id.*

⁹² *Id.* at 8.

Wisconsin	2024	1,166	508,046	0.23%
* Data is since inception; <i>i.e.</i> , total revocations divided by total licenses issued since the law's start.				

For the twelve states with recent data available, revocation rates range from a high of 0.32% annually (about 1 in 300 licenses) in South Carolina to 0.01% in Minnesota (about 1 in 10,000 licenses). In the Table above, Louisiana stopped publishing data after 2018. Adams calculated the cumulative revocation rate starting with Louisiana's 1996 enactment of its shall-issue licensing law. From 1996 to 2018, of all carry licenses issued, 0.62% were revoked (about 1 in 167).⁹³ In Florida, for all licenses issued from the beginning of shall-issue in 1987 through 2025, the revocation percentage is 0.38% (about 1 in 263).⁹⁴

B. Data on reasons for permit revocations.

Only some states publish sufficiently detailed data to study the reasons for carry permit revocations. While there are notable differences among states in reasons for permit revocations, a commonality is that felony convictions account for about a third or fewer of revocations.⁹⁵

For example, in Michigan, 79 percent of revocations were for conviction of a crime, and that

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *See id.* at 9–11.

included 15 percent for felonies.⁹⁶ Wisconsin revoked 21 percent because the permit holder was no longer a state resident; 25 percent for drug offenses; 21 percent for domestic restraining orders, domestic violence misdemeanor convictions, and similar crimes; 2 percent for involuntary commitments; and 33 percent for felony convictions.⁹⁷

In Utah, 42 percent of permit revocations were for an “alcohol violation.”⁹⁸ Felony convictions accounted for 26 percent.⁹⁹ While the Utah Bureau of Criminal Identification did not list the numbers for particular felonies, the Bureau did list the types. These included violent crimes, and also theft, fraud, stealing public money, securities fraud, embezzlement, DUI, counterfeiting, vandalism, prostitution, and drug possession.¹⁰⁰ For at least some of those crimes, such as securities fraud, a carry permit might have little relevance.

Colorado has an unusual provision that allows a permit to be revoked, suspended, or denied, if a preponderance of the evidence indicates that the

⁹⁶ *See id.* at 10 (2,466 revocations; 1,941 for conviction of a crime; 370 for conviction of a felony).

⁹⁷ *See id.* at 9–10. There were 1,116 revocations; 146 for domestic abuse restraining orders (labeled “injunctions”); 54 domestic abuse convictions; 4 child abuse convictions; 29 involuntary commitments; and 343 for conviction of a non-domestic crime, most felonies. *Id.*

⁹⁸ *Id.* at 11.

⁹⁹ *Id.*

¹⁰⁰ *Id.*

person is ineligible to have a carry permit.¹⁰¹ If the arrestee is ultimately acquitted or otherwise not convicted, the permit is restored.

Separately—and not for behavior that is itself criminal—“if the sheriff has a reasonable belief that documented previous behavior by the applicant makes it likely the applicant will present a danger to self or others,” the sheriff may deny or revoke a permit.¹⁰² In Colorado, arrests caused 49 percent of revocations, and restraining orders 41 percent.¹⁰³ Another 6 percent of revocations were for “discretionary” reasons apparently not involving an arrest.¹⁰⁴

C. Concealed carry permitholders are exceptionally law-abiding.

The State of Texas publishes an unusually detailed annual report that lists numerous types of crimes, the annual number of convictions in a given category for CCW licensees, and the annual numbers of convictions in the same category for non-

¹⁰¹ Colo. Rev. Stat. §18-12-203(3). The individual may seek judicial review. Given that the sheriff’s proof is by preponderance of the evidence, and that any lawful arrest is necessarily based on probable cause, the sheriff’s burden is light.

¹⁰² *Id.* §18-12-203(2)–(3) . For the minority of revocations that involve an individual’s behavior but not any of the precise statutory disqualifiers, if the sheriff’s decision is contested, the sheriff bears the burden of proof “by clear and convincing evidence.” *Id.* §18-12-207(3).

¹⁰³ Adams, at 10–11.

¹⁰⁴ *Id.* at 11.

licensees.¹⁰⁵ The Texas conviction rate for licensees is 20.06 per 100,000 population. The murder rate is 0.97 per 100,000 licensees. Compared to the general Texas population, “a CCW permit holder is 6.87 times less likely to be convicted of a crime and 2.6 times less likely to be convicted of a murder than the general population.”¹⁰⁶

The reason for the exceptionally low crime rate of carry licenses is obvious: concealed carry is, by its nature, virtually impossible to detect, unless a person walks through a metal detector or is frisked by the police. Obtaining a concealed carry permit often requires hundreds of dollars in fees and expenses, including for training, as well as the post-training hours necessary to go through the permitting process. In many jurisdictions, applicants often undergo long waits even to schedule appointments for fingerprinting and filing an application. Those who bother to go through the onerous process are the ones concerned enough about legal compliance that they spend significant resources to obtain a card from the government allowing them legally to do what they could have done for free with negligible risk of being

¹⁰⁵ *Conviction Rates for Handgun License Holders*, TEX. DEP’T OF PUB. SAFETY, Mar. 18, 2025, <https://www.dps.texas.gov/sites/default/files/documents/rsd/ltc/reports/convictionratesreport2024.pdf>. “Offense’ means an offense prohibited under Chapter 411, Subchapter H, Texas Government Code or under Title 5, Chapter 29, Chapter 46, or Section 30.03, Texas Penal Code.” *Id.* at 5. “Convictions of CHL Holders’ includes any conviction reported to the Handgun Licensing Program for which the convicted individual held a license to carry a handgun at the time the offense was committed.” *Id.*

¹⁰⁶ Adams, at 12.

caught. It is unsurprising that concealed carry permitholders are much more law-abiding than the general population.

D. Other research confirms that concealed carry permitholders are unusually law-abiding.

Adams’s findings are consistent with other research. The Rand Corporation produces continually updated reports on firearms policy in the United States. Rand does not conduct its own studies, but instead produces meta-studies—that is, analyses of large numbers of other studies. While Rand credits some studies indicating that licensed carry (the issue in *Bruen*) might increase crime rates, Rand also states that the blame does not lie with the licensees: “Properly permitted gun users do not appear to be directly responsible for increased violence because the available evidence shows that license holders as a group are particularly law-abiding and are rarely convicted for violent crimes.”¹⁰⁷

The Violence Policy Center (VPC) is an advocacy organization for prohibition of handguns and many other firearms. Its website *Concealed Carry Killers* claims that there were 2,817 people killed by “concealed carry killers” from May 2007 to January

¹⁰⁷ *The Effects of Concealed-Carry Laws*, RAND, July 16, 2024, <https://www.rand.org/research/gun-policy/analysis/concealed-carry.html>.

2025.¹⁰⁸ Of these, 1,732 were suicide victims.¹⁰⁹ Suicide is a serious problem, of course, but three-quarters of all suicides take place in the home;¹¹⁰ that a suicide victim had a carry permit appears of scant relevance. Calling suicide victims “killers” is cruel and, in any event, provides no insights into a victim’s propensity for violence towards others.

As for the 614 homicide convictions,¹¹¹ the VPC notably chooses not to report data on the locations where the shootings took place, and a scan of the VPC report will reveal many incidents that occurred in a home or other location where a carry permit is irrelevant. Even for crimes that took place in public, VPC includes crimes that did not involve a concealed handgun. For example, the first items in the Texas report are data from the Texas Department of Public Safety (without details) about convictions of licensees for murder. The first individual report is from 2020, about a motorist who used a rifle to shoot someone at

¹⁰⁸ *Concealed Carry Killers*, VIOLENCE POLICY CENTER, Aug. 20, 2025, <https://concealedcarrykillers.org/>.

¹⁰⁹ *More Than 2,800 Non-Self Defense Deaths Involving Concealed Carry Killers Since 2007, Latest Violence Policy Center Research Shows*, VIOLENCE POLICY CENTER, Aug. 20, 2025, <https://vpc.org/press/more-than-2800-non-self-defense-deaths-involving-concealed-carry-killers-since-2007-latest-violence-policy-center-research-shows/>. The figure includes 65 murder-suicides, *Concealed Carry Killers*, *supra*, which differ from typical suicides.

¹¹⁰ “About three-quarters of suicide incidents occur at home.” *Basic Suicide Facts: Where?*, HARVARD T.H. CHAN SCHOOL OF PUBLIC HEALTH, <https://www.hsph.harvard.edu/means-matter/basic-suicide-facts/where/> (last visited Nov. 24, 2025).

¹¹¹ *More Than 2,800 Non-Self Defense Deaths*, *supra*.

a demonstration.¹¹² Then, mixed in with older state reports, is a 2019 shooting in an apartment, and a 2019 shooting by a security guard at a laundromat.¹¹³

Taking the VPC figure of 614 homicide convictions since 2007 at face value, this is 34 per year. Nationwide, about 21 million people have concealed carry permits.¹¹⁴

Homicide rates are typically calculated per 100,000 population. Thirty-four homicide convictions out of a population of 21 million is an annual rate of 0.16 per 100,000 population. For the general

¹¹² *Concealed Carry Killers: Texas*, VIOLENCE POLICY CENTER, <https://concealedcarrykillers.org/texas/> (Daniel Perry) (last visited Nov. 24, 2025).

¹¹³ *Id.*

¹¹⁴ John Lott, et al., *Concealed Carry Permit Holders Across the United States: 2023* (Dec. 2023), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4648999. Similarly, a University of Washington study reported: “[I]n 2019 approximately 16 million adult handgun owners had carried a loaded handgun on their person in the past month.” Kim Eckart, *More US Adults Carrying Loaded Handguns Daily, Study Finds*, UW NEWS, Nov. 16, 2022, <https://www.washington.edu/news/2022/11/16/more-u-s-adults-carrying-loaded-handguns-daily-study-finds/>.

The number of persons with carry permits has been declining in the last several years because the majority of states (but none of the Vampire Rule states) have reformed their laws to more closely reflect original Second Amendment practices: an adult who can legally possess a handgun does not need to obtain a permit to carry. In such states, some persons obtain permits anyway, because many states reciprocally recognize sister states’ permits, and thus a traveler with a home-state permit can carry in other states. Also, in some states, a permit allows carry in certain locations that would otherwise be off-limits.

population, the homicide conviction rate is approximately 2.81 per 100,000.¹¹⁵ Even under VPC's data, this would mean that a person without a CCW permit is over 17 times more likely to be convicted of a homicide than a person with a permit.

Colorado's odd policy of revocation upon arrest allows for different sorts of comparisons.¹¹⁶ A national 2005–07 study found that there were 1,746 arrests of the 685,464 fulltime law enforcement officers in that period.¹¹⁷ This is an annual rate of 85 arrests per 100,000 law enforcement officers. In Colorado, 49 percent of revocations are for arrests, which is an annual rate of 64 per 100,000 licensees. Presumably all of the Colorado arrest-based license revocations

¹¹⁵ Calculated as follows: For 2023, the overall national homicide rate was 6.80 per 100,000, according to the U.S. Centers for Disease Control and Prevention. *Assault or Homicide*, CDC <https://www.cdc.gov/nchs/fastats/homicide.htm> (last visited Nov. 24, 2025). The CDC figure includes lawful defensive homicides. To turn the homicide rate into a homicide conviction rate, go to the Murder Accountability Project website and select *Clearance Rates*, <https://www.murderdata.org/p/blog-page.html>. Choose a date range of 2005 to 2024. The clearance rate is 59 percent. The conviction rate for persons charged with homicide is approximately 70 percent. Conviction figures include lesser included offenses. Brian A. Reaves, *Felony Defendants in Large Urban Counties, 2009 - Statistical Tables*, U.S. DEPARTMENT OF JUSTICE, at 24, fig. 16 (Dec. 2013), <https://bjs.ojp.gov/content/pub/pdf/fdluc09.pdf>. The 6.8 homicide rate x 59% clearance rate x 70% conviction rate = 2.81. The 2.81 general homicide conviction rate is 17.55 times greater than the VPC's CCW homicide conviction rate of 0.16.

¹¹⁶ Described in text at notes 101, 102, *supra*.

¹¹⁷ Philip Stinson, et al., *Exit Strategy: An Exploration of Late-Stage Police Crime*, 13 POLICE Q. 413, 420 (2010); *see also* Lott, et al., at 13.

were for crimes that, if later resulting in a conviction, would make the person ineligible for a carry permit. Conversely, some misdemeanors for which police officers were arrested would not be concealed carry permit disqualifiers.¹¹⁸ Even so, the Colorado CCW licensee arrest rate of 64 per 100,000 population is in the same general range as the law enforcement officer arrest rate of 85. Contrast either figure with the Colorado general population felony arrest rate of 890.¹¹⁹ A Coloradoan with a concealed carry permit is

¹¹⁸ See *id.* at Table 1 (listing crimes, but not categorizing as felonies or misdemeanors).

¹¹⁹ The 85 CCW vs. 890 general population comparison understates the differences between the groups. First, the general Colorado figure is based on using felony filings as an equivalent for felony arrests; but the method understates the number of felony arrests, because some arrests result in diversions, or in charges never being filed for a variety of reasons, such as evidence that appears too weak for a conviction beyond reasonable doubt. Second, the CCW figure (unlike the general population figure) includes domestic violence misdemeanor arrests, because a domestic violence misdemeanor conviction precludes possession of a firearm, let alone a carry permit. 18 U.S.C. §922(g)(9). The difference is further understated because the Colorado general population figure is only for state/local arrests, and not for federal felonies. With the above caveats, the general felony arrest (filing) rate for Colorado is calculated as follows: For fiscal year July 1, 2022, to June 30, 2023, there were 40,252 felony filings in Colorado state district courts. *Annual Statistical Report Fiscal Year 2023*, COLORADO JUDICIAL BRANCH 20 (2003) (table 13), <https://www.coloradojudicial.gov/sites/default/files/2023-11/FY2023-Annual-Report-FINAL.pdf>. In Colorado, state district courts hear felonies but not misdemeanors. *Id.* at 18. In Colorado, the minimum age for a concealed carry permit is 21 years, so discount the felony filings to account for defendants aged 18–20, and for juvenile cases transferred to district court. The 18–20 age group is approximately 5 percent of Colorado’s population. But

over 17 times less likely to be arrested for a felony than a Coloradoan without a permit.

Adams did not include Illinois in his study, because state government data on concealed carry licensees was too sparse. However, the *Chicago Tribune* in 2020 investigated all known uses of firearms by the 315,000 Illinoisians with permits. The investigation covered both lawful and unlawful uses; it included both shooting a firearm and displaying a firearm to make a legal or illegal threat. The newspaper found 71 such incidents from 2014 and 2020.¹²⁰ Even in a world where all defensive firearms use were illegal, the “gun crime rate” of licensed Illinoisians would be about 1 in 4,337.

In short, all the data point in the same direction: if everyone were as peaceable and law-abiding as are Americans with concealed carry permits, the crime

because persons 18–20 commit more crime than most older age groups, use a 10 percent discount. The result is 36,228 felony filings against persons 21 years or older. In 2022, the Colorado population aged 21 or older was 4,353,553. (At the Colorado State Demography Office website, https://demography.dola.colorado.gov/assets/lookups/county_sya_lookup.html, choose Colorado, 2022, and select custom age range of 21–110.) From the above figures, remove the 197 arrests of CCW licensees, and the 305,723 licensees. (Licensee number is in the Table, *supra*.) This leaves 36,031 felony filings against non-licensees, out of a non-licensee population of 4,047,830, meaning the felony filing rate against the unlicensed 21+ population is 890 per 100,000 population.

¹²⁰ Katherine Rosenberg-Douglas, *Explore: Shootings by CCL Holders in Illinois Since Concealed Carry Law went into Effect in 2014*, CHICAGO TRIBUNE, Mar. 1, 2020, <https://www.chicagotribune.com/news/breaking/ct-viz-illinois-ccl-shootings-tracker-20200227-ww4ldqwdjrd2ze63w3vzewioiy-htmlstory.html>.

rate would be much lower. Contrary to the invidious prejudice expressed in Hawaii's Vampire Rule, Americans exercising the right to bear arms are not evil menaces upon whom the government must inflict the unique injury of presumptive public exclusion.

◆

CONCLUSION

Unlike literal or metaphorical vampires, American citizens with concealed carry permits are overwhelmingly peaceful and law-abiding. If the entire U.S. population were as pacific as the subset with carry permits, the need for firearms for personal protection would be drastically diminished. Treating law-abiding Americans who have been thoroughly vetted by law enforcement as inherently malignant and desirous of murdering innocents conflicts with historical tradition and violates the Second Amendment.

The judgment below should be reversed.

Respectfully submitted,

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