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**The Modern Day Posse:
Concealed Handgun Permits and Law Enforcement**

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ABSTRACT

Concealed handgun carry is a controversial topic that inflames passions in those who support it and those who oppose it. For many years, most states have had laws that forbade or severely restricted the carrying of concealed handguns by all but law enforcement officers and those who may have qualified for the limited types of carry permits. Since the mid-1980s, states began to relax the previously strict control of concealed and open carry of handguns so that, today, almost all the states have some type of relaxed carry permits that are available to qualified residences in those states.

People who oppose the carrying of handguns believed that there would be “blood in the streets” because of the increased number of guns due to the new laws. Those who support the new laws believed that concealed carry will reduce crime rates and provide a safer environment for everyone whether or not some choose to carry weapons. The blood in the streets prediction has not come true and can be strongly attributed that as a general rule, those persons who take the time and effort to meet sometimes vigorous qualifications and rules to obtain their concealed carry permit, can honestly be called the “good guys.”

A search through research papers, statistical analysis, and studies have shown that since the advent of the concealed carry laws, there have been observable decreases in crime rates of those states that have adopted conceal carry (Lott Jr, 1997; Lott Jr, 2007; Wright & Rossi, 1985). Into this mix are thrown law enforcement officials and the on-the-street officers. Law enforcement officers (LEO's) serving in states with concealed handgun license (CHL) laws should recognize that CHL holders are an important component in the war on crime. LEO's should also recognize that CHL

holders can be an additional safety screen in cases where the LEO is in danger and needs help. Honest, reliable, armed CHL holders are a modern posse.

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INTRODUCTION

Since 1871, when “An Act to Regulate the Keeping and Bearing of Deadly Weapons” was passed, the state of Texas has enforced laws that made it illegal for everyday citizens to carry concealed and open carry of handguns (Leonardatos, Kopel, & Halbrook, 2010). In other states of this country, there have been various laws in place that determine who may carry a concealed handgun, and they even regulate where and when weapons may be carried if at all. Since the mid-1980’s, with a movement started in Florida, states began to relax the previously strict control of concealed and open carry of handguns and other firearms. To date, 48 states allow some form of handgun carry by qualified, trained citizens (Missourians for Personal Safety, n.d.).

The 2010 United States census showed that the State of Texas has a population of just over 25 million people (Campbell, 2010). Data from the Texas Department of Public Safety showed the number of active concealed carry license holders as 461,724 in their 2010 statistical report (Texas Department of Public Safety Regulatory Services Division, 2011). Past and current training of law enforcement officers (LEO’s) includes the oft repeated adage, by older, experienced officers to young rookies, “treat everyone as if they are armed.” Keeping this maxim in mind, there should be no difference in the day to day contact an LEO has with the public. The chance that some of the actual citizens he encounters daily could be legally carrying a handgun and are counted as “good guys” should not be a reason for the LEO to fear for their personal safety but should be a comforting feeling.

The history and social reality of guns in America is one of fact and fiction, glory and shame (Braham & Kahan, 2003). To some, there is an intense visceral hate for guns of all types and an almost holy war that they would wage to destroy and remove guns from the world as a whole. To others, the right to possess firearms is as much akin to a God-given, unalienable right recognized by the Declaration of Independence as is “Life, Liberty and the pursuit of Happiness.” The sensible, reasonable man should take a position that recognizes that guns are merely tools and in the honest person’s hands, they should not to be feared by other honest people. The gun, therefore, serves as a symbol, figuratively and symbolically, of equalization and protection from those who would harm them and those they love.

LEO’s throughout America have to deal with situations on a daily basis that can turn violent in an instant. While this is nothing new, a smart LEO will make use of every advantage they can get. This prudent LEO will wear his vest, carry a patrol rifle, maintain instant communication with fellow officers, and use all the available technology and hardware at his fingertips. An often overlooked resource an LEO can make use of is the trustworthy human element: the concealed handgun licensee.

When an LEO finds himself in a bad position, there is something comforting in a “good guy” arriving to help. Television shows featuring police in-car video are common programming on most channels. Numerous episodes will contain examples of ordinary citizens running up to assist an injured officer who was just hit by a wayward car or injured by a felon. Citizens, who have completed the requirements to obtain a concealed handgun license (CHL), especially in Texas, have met stringent training guidelines and background checks. These citizens have earned the right to call

themselves one of “good guys.” In light of the individual state’s legislatures recognition that while LEO’s are generally tasked with the job of protecting the public, the public has the right to protect and defend their own safety. LEO’s should support this basic right of self-defense for the citizens they have sworn to protect by realizing that trained, honest, armed citizens can be a strong and dependable ally in the war on crime and in the LEO’s own personal safety.

POSITION

Because of the requirements that must be met before a person can even apply for a CHL in Texas as well as the current firearm ownership laws, most honest firearm owners are already living a lifestyle that would qualify them as a “good citizen.” Studies conducted by scholars showed that people who are lawful gun owners have some similarities. They are generally familiarized with firearms from an early age, have a high rate of military service, their parents were gun owners, and they are mostly over the age of 35 (Bugg, 2007).

Someone who has more of a criminal nature will carry a handgun or other firearm without regard to any laws. A criminal intent on robbing someone at gunpoint is not going to even consider whether or not they have a license to carry the gun in the first place. By contrast, anyone who would take the time to apply for and spend the required training time and fees, most likely is someone who has nothing to worry about in obtaining their license to carry. The act of allowing an ordinary and previously honest person the right to be armed when they choose does not turn them into predators and super criminals. A comparison of arrest rates and other data proves that a law abiding person continues to remain peaceful after they are licensed (Sturdevant, 2001).

Studies by social scientists and economists have shown that the level of required training by CHL holders lends a degree of certainty to the trustworthiness and reliability of CHL holders (Lott Jr, 1998). The training covers not only how to shoot a handgun, but it also covers the laws and circumstances that would govern the use of the handgun in self defense. In Texas, applicants are required to attend 10 hours of state mandated training that cover Texas CHL laws, legal implications from the use of force, non-violent dispute resolution, firearms safety, and actual qualification with their chosen weapons (Handgun Proficiency Requirement, 1997). The training program is not exactly like those of LEO's by design because LEO's are also trained in the many other different aspects of the use of deadly force and are trained to a much greater degree (Lott Jr, 1998).

CHL training mainly concerns the defensive use of firearms on the personal level. The emphasis is on who, what, when, where, why and how the firearm may or, maybe even more importantly, may not be used. CHL training is specific in showing that the use of a firearm is serious business and that just because a citizen has a weapon does not mean he or she has to use it. Because of the training, LEO's should feel confident that the CHL holders are responsible and reliable.

CHL laws have been shown to lower serious crime rates in states that have adopted those laws (Lott Jr, 1997). Early studies comparing crime statistics across the United States indicated that murder and rape have fallen to much lower rates than those of the rest of the nation as a whole (Lott Jr, 2007). The defensive use of firearms is believed to be from between just under one million times to over 3 million times a year (Lott Jr & Landes, 1999).

A study performed by the National Institute of Justice asked felony prisoners in numerous states if potentially armed citizens had any effect on whether they targeted someone for attack (Wright & Rossi, 1985). Almost 60% of the felons admitted that they would not attack, rob, or burglarize anyone they believed was armed (Wright & Rossi, 1985). A 2002 survey, undertaken by a national magazine representing police executives, showed that more than 70% of law enforcement officers who took the survey agree that CHL laws will reduce violent crime rates (Gun Owners Foundation, 2008).

COUNTER POSITION

A study by the Violence Policy Center (VPC) examined statistics related to the 1995 start of the Texas CHL laws. The VPC claimed that in the first 5 1/2 years that the Texas law was in effect, Texas CHL holders were 81% more likely to be arrested for weapons offenses. In addition, their study found that some CHL holders were arrested multiple times each, some as much as twice in one day (as cited in Legal Community Against Violence, 2008).

Since Texas is large, both geographically and in population, it is a state that has become a battleground of ideas. Those against the possession of concealed handguns want the statistics to show that the CHL laws were a bad idea and that the laws should be repealed as soon as possible. The statistics by the VPC and the media sources would seem to show that the mere possession of handguns by normal, peaceful citizens has created an out of control problem.

The truth is that the VPC and others are using misleading facts and figures. The statistics used show total arrests but do not break out the non-weapon related crimes

for the ones with weapons. The figures used by the VPC do not take into account that over half of those CHL holders arrested for violent crimes are not indicted or otherwise found not guilty of the crime. The final nail in the coffin of misleading numbers is a study showing that CHL permit holders are more law abiding than the general public (Lott Jr, 2010). Analysis of Florida CHL data shows that of nearly 700,000 permits issued up until 2001, less than 1,200 were revoked for the commission of a crime, and only 129 were due to the criminal misuse of a firearm (Lott Jr,2010).

At the beginning of the CHL movement, there were many naysayers who warned that with the increased number of people having access to and carrying guns, a simple traffic accident could become deadly. They believe that a normally non-violent neighborhood dispute could erupt into a gunfight because of the additional guns on the street (Kovandzic & Marvell, 2002; Lott Jr & Landes, 1999). Others involved in law enforcement warned that more LEO's would be in danger or that citizens with a CHL would be mistakenly confronted by the LEO's resulting in death and injury to either party (Thurman, 1999). Journalists wrote articles in the belief that with the increase of guns, risks to LEO's and private citizens will increase (Weller, 2010). A major city police department representative and a Texas district attorney both made public statements voicing their beliefs against concealed carry laws during the proposal and legislative periods before the law's passage into law (Burnett, 2000). Against these beliefs are the actual numbers of Wild West shootouts and other "blood in the street" encounters that never occurred (Sullivan, 2002). Landmark statistical studies showed that with the advent of CHL laws in each of the various states, there has been a corresponding drop in violent crime rates (Lott Jr, 1998).

When the State of Florida approved its concealed carry laws in 1987, the Dade County Police started tracking the number of CHL holders that were involved in criminal incidents involving their use of the concealed handgun. Only four criminal incidents were recorded in the nearly five years that the tracking was performed (Lott Jr & Mustard, 1997; Cramer & Kopel, 1995). This lack of activity forced the program to be stopped after those first years because it was found to serve no purpose (Lott Jr & Mustard, 1997; Cramer & Kopel, 1995). Law enforcement officials in those states that have enacted CHL laws as well as studies by the Federal Bureau of Investigation (FBI) report no increase in violence related to the new CHL laws (Bebow & Hunter, 2002; Nemerov, 2010; Stone, 2008). As time proves that there has been no increase in violent encounters, even previously vocal critics have admitted they were wrong. The major city police department representative and a Texas district attorney that had originally opposed the CHL legislation are now firm supporters (Burnett, 2000).

Some of the critics of concealed carry and CHL legislation were extremely vocal in raising concerns about the prospect of felons and mentally unstable people being able to obtain concealed carry permits. An October 2000 investigation by the Los Angeles Times claimed that since the CHL laws have been in effect in Texas, serious criminals, including some arrested for violent crimes, have been allowed to obtain CHL permits. The number of violent criminals allowed to obtain permits was cited as being over 400. In addition, the investigation also claimed that thousands of the more than 200,000 Texas licensees were found to be mentally unstable or had been arrested for criminal acts (Legal Community Against Violence, 2008).

To ensure that the permit process is protected from those people who should be denied a CHL, most states have requirements similar to the Texas handgun licensing law. The law requires that those applying for a CHL must go through a background check. The basic background checks performed by the states on a CHL applicant are similar to the background checks performed on police officer applicants.

The background check performed by the Texas Department of Public Safety examines the applicant's criminal history for areas of past criminal behavior involving violence, especially domestic violence. Convictions involving these certain areas are grounds for rejection. Any felony convictions, recent psychological episodes, or addictive behaviors will result in a denial of an application (Handgun Proficiency Requirement, 1997). There are other closely examined areas of the applicant's life and history that are checked prior to the granting of a CHL permit. The submission of the actual applicant's color photograph and fingerprints for examination helps prevent the issuance of a permit to a person under a false identity and ensures that the person actually applying for the permit is who they say they are.

CONCLUSION

The government requirements that must be met before a person can even apply for a CHL, as well as the current firearm ownership laws, are not going to be followed by those who live outside of the law. Because some law-abiding, peaceful citizens are willing to be subjected to the scrutiny needed to qualify for a CHL, a person could reasonably feel that most honest firearm owners are already living a lifestyle that would qualify them as a "good citizen." The mere act of allowing them to legally carry a concealed handgun does not turn a previously normal person into a violent criminal.

LEO's should realize that the honest "armed" citizen has the same predisposition they had as when they were only just "honest" citizens.

CHL holders are not trained to the same level as LEO's for the simple reason that CHL holders are only concerned with the defensive use of their firearm. LEO's require more extensive training because their mission is so much more than the CHL holder and includes additional aspects of firearm usage. This specific training is what sets CHL holders apart from a regular untrained citizen with a firearm. The CHL holder knows the who, what, when, why, where and how requirements that must be met before using their firearm in defense of themselves or others.

Statistical analysis showed that the fact a state has enacted CHL laws causes both the violent and non-violent crime rates to drop (Lott Jr, 1997, 2007). Another study showed that criminals do not want to meet up with an armed citizen and the fact that they do not know who is armed leads them to go elsewhere (Wright & Rossi, 1985). Statistics have shown that some of the states and cities with the most restrictive gun laws have some of the highest rates for violent crime (Reynolds & Caruth III, 1992)

Those who stand in opposition to allowing everyday people the right to arm themselves claim several arguments against the adoption of CHL laws. They claim that CHL holders commit crimes at a higher rate than the average citizen while numerous studies prove that CHL holders are much more law-abiding than most citizens (Bebow & Hunter, 2002; Nemerov, 2010; Stone, 2008; Sturdevant, 2001).

They claim that the simple fact of having more guns on the street will increase violent crime, and there will be gunfights erupting over parking lot disputes. The facts gathered over 25 years of statistics from the states with active CHL laws do not back

this up. This misleading argument has been used by opponents of CHL law passage in every state that has adopted concealed or open carry laws.

Opponents also claim that concealed carry licenses are being issued to the mentally unstable and to violent criminals on a regular basis. Again, the facts prove otherwise. Even with the very low numbers of unqualified applicants who attempt to get through the approval process, this does not make this argument a big concern.

These armed citizens, these “good guys,” should be regarded by law enforcement officers as a reliable and strong ally in the war on crime and should therefore be treated with respect and trust. Officers should trust that these “good guys” would come to their aid if needed or called upon. In the early history of the settlement of the United States, it was common for the Sheriff in a town or territory to call upon the citizens he served to arm themselves and help him track down and catch criminals. These groups of armed citizens acting under the color of law were referred to as a “posse”. Today, these same types of citizens, these “good guys,” called upon or volunteering to help an officer in trouble, would be, in fact, a modern day posse.

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