

Violence Policy Center's *Concealed Carry Killers: Less Than It Appears*

Clayton E. Cramer¹

The Violence Policy Center maintains a website titled CONCEALED CARRY KILLERS as part of their effort to show that many Americans who receive licenses under the increasingly popular “shall-issue” concealed license laws are not only disreputable figures, but a threat to public safety. This list included, as of May 12, 2012, a total of 374 deaths—and at first glance, it is quite disturbing. (Unaccountably, the primary web page listed these as 12 law enforcement deaths and 228 civilian deaths, although perhaps they simply neglected to recalculate based on the data they had.)²

This paper provides a detailed analysis of the incidents, finding that many are incorrectly described. A few of the criminal cases have been settled in favor of the accused. Some are criminal cases that are still pending. Many of the incidents are single suicides, which while sad, are not criminal matters or public safety concerns, nor relevant to may-issue vs. shall-issue concealed carry licensing. A number involve situations where possession of a concealed weapon license is completely irrelevant to the tragedy that unfolded. In some cases, these incidents involve licenses issued in “may-issue” states, and licensees who are retired police officers, who are almost always issued such licenses even in the strictest of “may-issue” jurisdictions.

There are *some* legitimate concerns about concealed carry licenses that these events expose, and this paper suggests some areas where states may want to consider either minor

¹ Clayton E. Cramer. Research assistance was provided by Dan Barry, Alpheus Madsen, Clorinda Madsen, John Simutis, Harold Ancell, Vernon Daley, Wayne Johnson, Basil Copeland, Matthew Corwin, Tim Henderson, Tammy Cravit, Jonathan Walker, and Colin J. Wynne.

² Violence Policy Center, <http://www.vpc.org/ccwkillers.htm>, last accessed May 17, 2012.

revisions to existing issuance laws, or improved compliance with the laws already on the books in the interests of public safety.

Not Licensees

One of the most troubling aspects of the data is that a number of the incidents that CONCEALED CARRY KILLERS lists involve people who we know *did not have concealed carry licenses*. Some of these incidents that VPC list involve killings by people who by *VPC's own admission* did not have a concealed weapon permit. Richard Vithya Tauch of California is described as having “a permit to carry a firearm as a security guard.”³ Not only is California a may-issue state, but the security guard permit does not allow a guard to carry except when on duty with and “**does not** authorize you to carry a concealed weapon” [emphasis in original].⁴ Other incidents involved armed security guards, who are licensed quite separately from ordinary civilians, such as George Zadolnny, “an employee of an outside security company” at a Lockheed plant. Zaldonny murdered a woman who had broken off their relationship, then committed suicide.⁵

In other incidents, VPC describes the killer as a “legal concealed handgun carrier” because the incident took place in a state that does not require concealed carry licenses to carry a handgun.⁶ While such incidents might be an argument against abolishing the license requirement

³ Violence Policy Center, *Private Citizens Killed by Concealed Carry Killers May 2007 to the Present*, http://www.vpc.org/fact_sht/ccwprivatecitizens.pdf, last accessed May 17, 2012.

⁴ *Private Citizens, op cit.*, Richard Vithya Tauch of California is described as having “a permit to carry a firearm as a security guard.” Not only is California a may-issue state but the security guard permit applies only when on duty with and “**does not** authorize you to carry a concealed weapon.” California Department of Consumer Affairs, Bureau of Security and Investigative Services, *Security Guard Fact Sheet*, April 2008, http://www.bsis.ca.gov/forms_pubs/guard_fact.shtml, last accessed May 21, 2012.

⁵ *Private Citizens, op cit.*, George Zadolnny; Associated Press, *Lockheed Guard Kills Worker, Self*, WILKES-BARRE (PENN.) TIMES-LEADER, December 17, 2008, <http://timesleader.com/stories/Lockheed-guard-kills-worker-self.92076?t=f>, last accessed June 2, 2012.

⁶ *Private Citizens, op cit.*, Jared Lee Loughner.

to carry a concealed weapon, it is not an argument against shall-issue laws, because these persons did not have licenses.

In other incidents that VPC lists, a more thorough examination of the facts demonstrates that the killer did *not* have a license; VPC has jumped to conclusions. Humberto Delgado, Jr., who murdered a Tampa police officer in 2009, is described as having “a concealed handgun permit issued in North Carolina. Florida has reciprocity with North Carolina.”⁷ But none of the sources cited by VPC that are currently accessible indicate this. One of VPC’s sources says that he had “A North Carolina driver’s license” and “A certificate for a firearms safety course.”⁸ What appears to be an updated version of another VPC source says nothing about Delgado having a concealed weapon permit from anywhere—but does list that one of the many criminal charges against him was “carrying a concealed firearm.”⁹ If Delgado had a North Carolina’s concealed weapon permit, it is a bit odd that almost a month after the murder, Florida authorities would charge him with carrying a concealed weapon. No source (other than VPC) makes the claim that Delgado had a permit.

This would not be the first time that VPC has misread such an incident. A local newspaper incorrectly reported Michael C. Iheme of Minnesota had a concealed weapon permit after his arrest for murdering his wife, and VPC at the time reported this as a fact. Careful review of the records found that Iheme was subject to a restraining order (which would have caused revocation of such a permit). More importantly, the booking paperwork clearly showed

⁷ Violence Policy Center, *Law Enforcement Officers Killed by Concealed Carry Killers, May 2007 to the Present*, http://www.vpc.org/fact_sht/ccwlawenforcement.pdf, last accessed May 17, 2012.

⁸ Rebecca Catalanello and Jamal Thalji, *Tampa Bay Officer Was On His Back When Shot Dead*, TAMPA BAY TIMES, September 1, 2009, <http://www.tampabay.com/news/publicsafety/crime/tampa-officer-was-on-his-back-when-shot-dead/1032531>, last accessed May 25, 2012.

⁹ Kevin Graham and Kim Wilmath, *Humberto Delgado Pleads Not Guilty in Killing of Tampa Police Cpl. Mike Roberts*, TAMPA BAY TIMES, September 15, 2009, <http://www.tampabay.com/news/publicsafety/crime/humberto-delgado-pleads-not-guilty-in-killing-of-tampa-police-cpl-mike/1036020>, last accessed May 25, 2012.

that Iheme did *not* have a permit. What the police found in Iheme's car was "a Minnesota permit to purchase a handgun"¹⁰ which was abbreviated by the newspaper to "gun permit."¹¹ A Minnesota permit to purchase a handgun is not the same as a permit to carry a handgun concealed. While Iheme's incident no longer appears in VPC's report, it is apparent that VPC has a history of jumping to conclusions.

Another example of jumping to conclusions is the case of Omar Thornton, who murdered eight co-workers, then killed himself, after he was caught stealing beer from his employer. VPC claims that, "Thornton had a current Connecticut pistol permit that allowed him to carry concealed."¹² But Connecticut has two different licenses: a "pistol eligibility certificate" required to purchase a handgun,¹³ and a "State Permit to Carry Pistols and Revolvers."¹⁴ A Nexis search found numerous references to Thornton having a "pistol permit" but none that referred to him having a permit to carry, except in articles by gun control advocates.¹⁵

VPC claims to have received documents concerning Thornton's concealed handgun license from the Connecticut Department of Public Safety, but if so, a criminal investigation is in order. Connecticut law prohibits release of information on a carry licensee except to law enforcement agencies, local authorities, and the Commissioner of Mental Health and Addiction Services. There is no provision for release of such information to advocacy groups.¹⁶

¹⁰ John Pierce, *Brady Campaign Joins The VPC In Deception*, EXAMINER.COM, July 23, 2009, <http://www.examiner.com/article/brady-campaign-joins-the-vpc-deception>, last accessed May 25, 2012.

¹¹ Jim Adams, 911 call: 'I have killed the woman that mess up my life', MINNEAPOLIS STAR-TRIBUNE, July 26, 2008, http://www.startribune.com/templates/Print_This_Story?sid=25898449, last accessed May 25, 2012.

¹² *Private Citizens, op cit.*, Omar Thornton.

¹³ Connecticut Board of Firearms Permit Examiners, *Eligibility Certificates* ("does not permit the appellant to carry pistols or revolvers"), <http://www.ct.gov/bfpe/cwp/view.asp?a=1253&Q=443188>, last accessed May 26, 2012.

¹⁴ Conn. Stats. Ch. 529, § 29-28 (2011).

¹⁵ Strings used in Nexis search: "Omar Thornton" AND "carry permit"; "Omar Thornton" AND "concealed carry"; "Omar Thornton" AND "permit to carry".

¹⁶ Conn. Stats. Ch. 529, § 29-28(d) (2011).

The tragic accidental death of Jose Alvarado is another example. VPC reports that his mother, “Yaritza Alvarado, had a concealed handgun permit.” Examination of the two cited sources strongly suggests otherwise. One account does say that, “Neighbors told the [Express Times](#) that the boy’s mother had a registered gun and a license to carry in their home....”¹⁷ But Pennsylvania does not issue or require a license to carry a firearm in your home.¹⁸ The neighbors may have assumed that there was a license required to carry in your home. A later news story (not cited by the VPC) makes no mention of any license; the father was charged with involuntary manslaughter for putting the handgun (normally kept under the mattress of Mr. Alvarado and his wife) in the backpack where Jose kept his video games.¹⁹

Alex Kopystenski pleaded guilty to child abuse and neglect for the accidental death of his son, who “picked up a 9mm handgun from the vehicle’s front console and fatally shot himself in the head.” Review of VPC’s source for this article strongly suggests that they are jumping to conclusions; the evidence is pretty persuasive that he did *not* have a concealed carry license, indeed, could not have had a license. The news report does say that Kopystenski “had a permit for the 9mm handgun” but this does not necessarily mean a concealed carry license. Clark County (where Kopystenski lives, and where this incident took place) requires registration of pistols.²⁰ In addition, Kopystenski had an extensive criminal history, including a conviction for

¹⁷ Teresa Masterson, *8-Year-Old Shoots Self, Dies*, NBC 10 PHILADELPHIA, <http://www.nbcphiladelphia.com/news/local/8-Year-Old-Shoots-Self-Dies-81146542.html>, last accessed May 26, 2012.

¹⁸ Penn. § 6106(a)(1) (2011).

¹⁹ Manuel Gamiz Jr., *Dad charged in shooting death of Allentown boy, 8*, LEHIGH VALLEY MORNING CALL, March 8, 2010, http://articles.mcall.com/2010-03-11/news/all-a1_5backpack.7202047mar11_1_accidental-discharge-gun-backpack, last accessed May 26, 2012

²⁰ Las Vegas Municipal Police Department, *Firearms Registration*, <http://www.lvmpd.com/Permits/FirearmsRegistration.aspx>, last accessed June 2, 2012.

carrying a concealed weapon in 2006, and an assault with a deadly weapon charge “in 2001 [that] concluded with Kopystenski completing the court’s instructions.”²¹

Another article quoted Kopystenski’s mother Rena as saying that Kopystenski carried a gun “to protect himself” and that “He has had the right to bear arms since he was 18.”²² Rena clearly believed that Kopystenski’s “right to bear arms” was not dependent on a concealed carry license (which is only available to those 21 years of age and older).²³ This expansive and extralegal view of Kopystenski’s right to bear arms would explain his concealed carry conviction in 2006. All of this suggests that he had only registered the gun, as required by law—not that he had a concealed carry license.

VPC lists Guillermo Zarabozo as a Florida concealed carry licensee, but no news source that we have examined makes that claim. Zarabozo’s crimes took place when he was 19, and Florida law requires “You must be at least 21 years of age unless you are a servicemember, as defined in Section 250.01, Florida Statutes, or you are a veteran of the United States Armed Forces who was discharged under honorable conditions.”²⁴ He was apparently training to be a security guard, and an early Associated Press story about these murders on the high seas says that he “held a state permit to carry three types of handguns.”²⁵ At age 19, this might be a security guard permit, but not a concealed carry permit.

²¹ Mary Manning, *Boy’s Father Charged With Endangerment After Fatal Shooting*, LAS VEGAS SUN, July 21, 2009, <http://www.lasvegassun.com/news/2009/jul/21/police-investigate-5-year-olds-gunshot-wound/>, last accessed June 2, 2012.

²² Maggie Lillis, *Grandmother Disputes Police Report That Boy Was Shot With Gun left on Vehicle’s Console*, LAS VEGAS REVIEW-JOURNAL, July 22, 2009, http://www.lvrj.com/news/breaking_news/51419172.html, last accessed June 2, 2012.

²³ Nevada Rev. Stats. § 202.369 (2011) (list of requirements includes “Is 21 years of age or older”).

²⁴ *FLORIDA CONCEALED WEAPON OR FIREARM LICENSE BASIC ELIGIBILITY REQUIREMENTS AND DISQUALIFYING CONDITIONS*, http://licgweb.doacs.state.fl.us/weapons/cw_license_eligibility_requirements_web.pdf, last accessed June 14, 2012.

²⁵ Associated Press, *High-Seas Mystery Haunts Miami*, October 15, 2007, <http://m2.tbo.com/content/2007/oct/15/me-high-seas-mystery-haunts-miami/>, last accessed June 14, 2012.

In some cases, the killer had a concealed handgun license in the past, but previous misbehavior caused its revocation. The license was not valid at the time of the crime. One example is Kevin Hoover, whom VPC lists as a “concealed handgun permit holder.” News coverage of his conviction that VPC seems to have missed is very clear, “Hoover had a permit to carry a concealed weapon but it had been revoked because of a misdemeanor charge.”²⁶

There are also three incidents, with a total of three deaths, where the licensee did not kill anyone. One involved a licensee who engaged in a remarkably foolish prank that caused another person (not a licensee) to shoot and kill a friend.²⁷ Another incident involved a parking lot confrontation between Shannon Scott Paul, a licensee, and Ryan Dickens. Paul shot Dickens (perhaps in a lawful act of self-defense); Dickens wrestled Paul’s gun away from him, and killed Paul.²⁸ A tragedy, but to include the death of Paul at the hand of a non-licensee artificially inflates the death count. A third example was a suicide by a non-licensee who had gone target shooting with a licensee.²⁹

At least 8 of the 174 incidents, with a total of 25 deaths, do not involve concealed carry licensees. Three of the 174 incidents, with a total of three deaths, involve licensees, but they did not kill anyone.

²⁶ Trace Christenson, *Police: No trend in killings*, Battle Creek Enquirer, July 23, 2009, page A1, abstract at <https://secure.pqarchiver.com/battlecreekenquirer/access/1816814311.html?FMT=ABS&FMFS=ABS:FT&type=current&date=Jul+23%2C+2009&author=Trace+Christenson&pub=Battle+Creek+Enquirer&edition=&startpage=A.1&desc=Police%3A+No+trend+in+killings>, last accessed May 30, 2012.

²⁷ *Private Citizens, op cit.*, William J. Calderon.

²⁸ *Private Citizens, op cit.*, Shannon Scott Paul.

²⁹ *Private Citizens, op cit.*, Ty Takaezu.

Really Licensed?

There are other cases in which VPC claimed that the killer had a concealed carry license, but we are unable to find sources to back up this claim.³⁰ In some cases, VPC relies on a single newspaper account that is hardly persuasive. VPC reports on a Solomon Davis who they describe as a “concealed handgun permit holder” based on the initial news report: “Witnesses at the apartments told police that the suspect had a gun and a permit for it.”³¹ It is not clear how witnesses would know that the shooter had a permit. The only other news story about this incident (including a Nexis search) calls him Solomon Dawson, and makes no mention of any sort of permit.³²

Another example is Akbar Rana. VPC cites two sources. One of the reports no longer can be found on the MSNBC website or through Nexis. The other news report says nothing about a concealed carry license.³³ A third news report, not cited by VPC, says “the gun was legally registered to Rana” but says nothing about a concealed carry license.³⁴

Another troubling example is Amanda Knight, convicted of first-degree murder. Knight was part of a Washington State home invasion in which one of the residents was murdered by

³⁰ *Sole Survivor of Yuma Co. Shootings Breaks Her Silence*, KYMA channel 11, <http://www.kyma.com/slp.php?idN=5210>, last accessed May 26, 2012; Associated Press, *Arizona: Shooter Claimed He Was Harassed*, NEW YORK TIMES, June 3, 2011, http://www.nytimes.com/2011/06/04/us/04brfs-SHOOTERCLAIM_BRF.html, last accessed May 26, 2012; J.J. Hensley and Dennis Wagner, *Yuma Shootings: 5 People Killed; Gunman Dead*, ARIZONA REPUBLIC, June 3, 2011, <http://www.azcentral.com/news/articles/2011/06/02/20110602yuma-shooting-killed.html>, last accessed May 26, 2012.

³¹ *Man Shot Over Parking Space, Suspect in Custody*, WMC-TV, September 16, 2012, <http://www.wmctv.com/global/story.asp?s=13165953>, last accessed May 26, 2012.

³² *City Records Fifth Homicide of 2010*, CRITTENDEN COUNTY (ARK.) EVENING TIMES, September 20, 2012, <http://www.theeveningtimes.com/articles/2010/09/20/news/news2.txt>, last accessed May 26, 2012.

³³ Justin Kendall, *Akbar Rana, convenience store clerk, shot Frederick Jones Jr. in the back as he ran away, prosecutors say (updated)*, PITCH NEWS, October 29, 2010, <http://www.pitch.com/plog/archives/2010/10/29/akbar-rana-convenience-store-clerk-shot-frederick-jones-jr-in-the-back-as-he-ran-away-prosecutors-say-updated>, last accessed June 2, 2012.

³⁴ *Charges Filed Against Clerk in Shooting 10-26-2010*, KCTV channel 5, <http://www.kctv5.com/story/14794305/charges-filed-against-clerk-in-shooting-10-26-2010>, last accessed June 2, 2012.

one of Knight's fellow criminals. The only evidence that Knight had a Washington State license was from when Knight and her fellow home invaders were pulled over in Daly City, California. They needed to explain the presence of false IDs, marijuana, and a gun in the car. "Knight claimed the gun was hers and that she had a concealed weapons permit in Washington state. The permit was not valid in California and she was arrested on suspicion of having the weapon, Mangan said."³⁵ No other news accounts of this crime, or of Knight's subsequent conviction for first-degree murder, mentions a license. A claim by a convicted murderer with no corroboration while attempting to avoid an arrest on multiple criminal charges is hardly persuasive.

We have attempted to verify every claim of VPC that a person was a licensee. While some of our failures to confirm a license may be because the sources upon which VPC relied have disappeared, there are enough cases of the types mentioned above to make us skeptical. We were able to confirm that of the 174 incidents, 149 involved licensees totaling 219 deaths (including the suicide by a non-license target shooting with a licensee).³⁶ Not all of these deaths were criminal, however.

Not A Crime

A number of incidents that are described by VPC as "pending" were resolved in favor of the licensee. Vincent Williams and Lashaun Davis (or Lashawn Davis, depending on the news report) had a gunfight in Pine Bluff, Arkansas on February 21, 2010. Lashawn Davis died, Vincent Williams ended up in the hospital. Only two publicly visible accounts mention the

³⁵ Stacey Mulick, *UPDATED: Missing License Plate, Unbuckled Passenger Led To Pivotal California Traffic Stop*, NEWS-TRIBUNE, May 5, 2010, <http://blog.thenewstribune.com/crime/2010/05/05/missing-license-plate-unbuckled-passenger-led-to-pivotal-california-traffic-stop/#storylink=cpy>, last accessed June 2, 2012.

³⁶ *Private Citizens, op cit.*, Ty Takaezu.

incident, and neither makes any mention of a concealed handgun license.³⁷ The article that VPC references for the claim comes from the *Pine Bluff Commercial*, but their website shows no article on that date which references this incident.³⁸ However, an end of the year summary of homicides says that the death of Lashawn Davis was ruled justifiable.³⁹

Many other incidents VPC describes as “pending,” sometimes more than five years later, and where we can find no subsequent news coverage. The circumstances initially reported suggest that the lack of further news coverage is because the criminal justice system concluded that there was no crime, or that the evidence was so weak that it did not justify prosecution. One example is Jerry Bourque’s killing of two teenagers in front of his house in Malden, Massachusetts on September 7, 2010. He claimed that he was defending himself from a robbery.⁴⁰ We have been unable to find any subsequent coverage of this incident in the newspaper that initially reported the incident, or through Nexis. Another example is Gabriel Mobley, who shot and killed two men on February 28, 2008. His claim was self-defense, and more than four years later, we can find no evidence that he has gone to trial.

There are incidents in which the death of the licensee meant that there was no subsequent attempt to determine who was in the right—but some of these incidents do not neatly fit into VPC’s assumption that these deaths were unlawful. As an example, Arlando Davis shot and killed Jarmel Hodges “following a dispute about a loud party.” Davis had a concealed handgun

³⁷ Associated Press, *Vincent Williams, Lashawn Davis Shot in Pine Bluff*, KTHV-TV, <http://www.todaysthv.com/news/story.aspx?storyid=99876>, last accessed May 26, 2012; *PB Store Shooting Kills 1, Wounds 1*, ARKANSAS DEMOCRAT-GAZETTE, February 22, 2010, LexisNexis, last accessed May 26, 2012.

³⁸ <http://www.pbcommercial.com/content/archive-search.html> for all articles dated February 23, 2010.

³⁹ *2010 Pine Bluff & Jefferson County Homicides*, PINE BLUFF (ARK.) COMMERCIAL, December 31, 2010, http://nl.newsbank.com/nl-search/we/Archives?p_action=doc&p_docid=13478E169E38F428&p_docnum=4&s_accountid=AC0112052616425426624&s_orderid=NB0112052616401326014&s_dlid=DL0112052616431026751&s_ecproduct=DOC&s_ecprodtpe=&s_trackval=&s_sitelog=&s_referrer=&s_username=claytoncramer&s_accountid=AC0112052616425426624&s_upgradeable=no, last accessed May 26, 2012.

⁴⁰ Matt Byrne, *Second Man Dies After Salem Street Shooting*, BOSTON GLOBE, September 10, 2010, http://www.boston.com/yourtown/news/malden/2010/09/second_man_dies_after_salem_st.html, last accessed June 1, 2012.

license, and it is not clear from reading the sole news account cited by VPC that Davis was in the wrong. Hodges also had a gun, and shot and killed Davis.⁴¹ Other news accounts indicate that Davis was attempting to break up an argument that Hodges, who was drunk, was having with someone else, when Hodges shot Davis.⁴² It was not an optimum result, but in the absence of other evidence, it seems likely that had Davis not been armed, he would still be dead—and Hodges would still be alive.

In a few cases, VPC describes the licensee as “convicted,” but detailed examination of the news accounts shows that the killing was determined to be justified, and the conviction was for another aspect of the incident. As an example, Reginald Royals, Jr. shot and killed Juan Carlos Ovalle and wounded Marcus McGee after an parking lot collision led to an argument, then a fistfight. Both Royals and Ovalle had concealed handgun permits; Ovalle left his handgun in the car before getting into the confrontation with Royals.

At trial, Royals argued that he believed that Ovalle was reaching for a gun, and that he feared for his life. This was perhaps a reasonable concern, since it appears that Ovalle and McGee had been the aggressors in the argument and fistfight. The jury agreed, and found Royals guilty only of “unlawful wounding” of McGee. The sentence was 90 days in jail and a fine of \$2,500.⁴³ The jury’s unwillingness to convict on *any* charge related to Ovalle’s death, and

⁴¹ Trace Christenson, *2 die in Sunday shooting*, BATTLE CREEK ENQUIRER, May 25, 2009, Page A1, abstract at <http://pqasb.pqarchiver.com/battlecreekenquirer/access/1740359141.html?FMT=ABS&FMTS=ABS:FT&date=May+25%2C+2009&author=Trace+Christenson&pub=Battle+Creek+Enquirer&edition=&startpage=A.1&desc=2+die+in+Sunday+shooting>, last accessed June 2, 2012.

⁴² Leon Hendrix, *Men shoot, kill each other in BC*, WOOD channel 8, May 24, 2009, http://www.woodtv.com/dpp/news/local/kalamazoo_and_battle_creek/Men_shoot_kill_each_other_in_BC, last accessed June 2, 2012.

⁴³ Michelle Washington, *Waterside Garage Shooter Gets 90 Days, \$2,500 Fine*, VIRGINIAN-PILOT, January 23, 2010, <http://hamptonroads.com/2010/01/waterside-garage-shooter-gets-90-days-2500-fine>, last accessed June 3, 2012.

conviction of only the minor crime of “unlawful wounding” of McGee (who was shot five times), suggests that they felt Royals’ actions were wrong, but not terribly wrong.

At least 8 incidents, with 8 deaths, we categorize as justifiable, based on the criminal justice system finding the licensee was in the right.⁴⁴ There are at least 21 incidents with 23 deaths that appear to be still pending (or at least no news reports appear showing a conviction or dropping of charges). Some of these incidents are four or more years old; charges were likely dropped as it became apparent that the licensee was in the right.⁴⁵

Some cases involved licensees who, even according to VPC’s account, had not even been *charged* with a crime, and yet VPC still listed them as “pending.”⁴⁶ At least some of these cases, *even by VPC’s description*, give reason to see why some of these cases, even as much as four years later, have not resulted in a guilty verdict. Some of the very recent cases at least have a plausible self-defense basis to them. Allana Carey claimed that she was protecting herself from her boyfriend who was threatening her with a knife.⁴⁷ George Zimmerman had injuries consistent with his statement to police that he was defending himself from life-threatening attack by Trayvon Martin. Trevor Dooley claimed that he pulled his gun when David James attempted to

⁴⁴ Vincent Williams (1); Cleveland Anthony (1); Edward Bell (1); Arlando Davis (1); Kirk Caldwell (1); William Shane Moreland (1); Matthew Scott Miller (1); Reginald Royals Jr. (1). When a name followed by a parenthesized number appears in these notes, it indicates the number of deaths in the incident associated with the named person.

⁴⁵ Licensee accused, and number of persons killed: William Phillips (1); Richard Vithya Tauch (1); Allana Carey (1); George Zimmerman (1); Hewart Bailey (1); Emanuel “Emma” Laboy Rivera (1); Charles Edward “Pete” Richter Jr. (1); Akbar Rana (1); Michael Moreno (1); Gale Lynn Frye (1); Darrell Dean Laffoon (1); Danny Keith Kirtley (1); Marqus Hill (1); Yvonne Hiller (2); William Shane Moreland (1); Matthew Scott Miller (1); Norman Bren Whitton (1); Troy D. Whiteside (1); William Franklin (1); Cornelius J. De Jong IV (1); James Wonder (1).

⁴⁶ Cleveland Anthony (1).

⁴⁷ Associated Press, *Woman Pleads Not Guilty to Connecticut Town Motel Killing*, NORWICH (CONN.) BULLETIN, March 20, 2012, <http://www.norwichbulletin.com/news/x872950382/Woman-pleads-not-guilty-to-Connecticut-town-motel-killing#axzz1vIRzxQ1O>, last accessed May 26, 2012.

choke him after a verbal argument.⁴⁸ Michael Moreno claims that the deceased Reed opened fire on him during an argument about reckless driving,⁴⁹

Double Counting

VPC also uses the 2011 Michigan Concealed Pistol License report as its source for a total of four criminal homicides of civilians pending for the fiscal year ending June 30, 2011, and five criminal homicides of civilians pending for fiscal year ending June 30, 2008. It is impossible to determine how many of these pending cases have since led to conviction, exoneration, or are already counted in other incidents VPC lists for Michigan. There are five licensees (a total of six deaths) listed separately by VPC for Michigan in this period that *possibly* include all four of the pending charges for the year ending June 30, 2011,⁵⁰ which would make these double-counted. A similar issue appears with three licensees listed as convicted of murder or manslaughter. Additionally, the same incident involving Dam Lopez appears twice in VPC's list, once as convicted, once as pending.

VPC also points to the 2008 Michigan Concealed Pistol License report to list one person convicted of negligent homicide.⁵¹ In the official Michigan state report, this incident is listed with the note "No Pistol Carried During Crime."⁵² Was it an accidental death caused by negligent storage of a firearm? Did it even involve a firearm? We don't know, and listing this in a report on CONCEALED CARRY KILLERS with no other information is useless.

⁴⁸ Cary Williams, 'Stand Your Ground' Defense Denied For Trevor Dooley In 2010 Death Of David James, http://www.abcactionnews.com/dpp/news/region_hillsborough/stand-your-ground-defense-denied-for-trevor-dooley-in-2010-death-of-david-james-in-valrico#ixzz1vZRFI4Nt, last accessed May 21, 2012.

⁴⁹ Conor Shine, Attorney: Las Vegas Man To Argue Self-Defense in Shooting Death, LAS VEGAS SUN, November 29, 2011, <http://www.lasvegassun.com/news/2011/nov/29/attorney-reveals-las-vegas-man-argue-self-defense-/>, last accessed June 2, 2012.

⁵⁰ *Private Citizens, op cit.*, Edward Bell (1), Tigh Croff (1), Jamar Pinkney, Sr. (1), Harlan Drake (2), Kevin Hoover (1).

⁵¹ *Private Citizens, op cit.*, Name Not Provided, Between July 1, 2007 and June 30, 2008.

⁵² Michigan State Police, *CONCEALED PISTOL LICENSURE ANNUAL REPORT: JULY 1, 2007 TO JUNE 30, 2008*, 17, http://www.michigan.gov/documents/msp/CPL_Annual_Report_2007-2008_269128_7.pdf, last accessed June 2, 2012.

VPC again extracts from the Michigan State Police report that “one Michigan concealed handgun permit holder had criminal homicide charges pending for the killing of a law enforcement officer” in the fiscal year ending June 30, 2011.⁵³ Yet attempting to determine who this licensee was suggests that the Michigan State Police report may have suffered some clerical error.

There were five police officers feloniously killed in Michigan January 1, 2010 through June 30, 2011, and none of them provide a plausible basis for this claim. Cross-checking the FBI’s “Summaries of Officers Feloniously Killed” for 2010 shows one officer murdered by a suspect with “an extensive prior criminal history that included police assault, was a known drug dealer, and was on conditional release at the time of the incident”⁵⁴ which precludes this suspect being a licensee.

The second murderer was a “63-year-old offender [who] had a prior criminal history that included a previous murder and weapons violations.”⁵⁵ A more detailed account from local press reports that the killer, Elvin D. Potts, had felony convictions for drunk driving and carrying a concealed weapon, which would disqualify him from gun ownership, much less a license.⁵⁶

⁵³ *Law Enforcement Officers*, Name Not Provided.

⁵⁴ FBI, *Law Enforcement Officers Killed & Assaulted*, UNIFORM CRIME REPORTS, <http://www.fbi.gov/about-us/cjis/ucr/leoka/leoka-2010/summaries-of-officers-feloniously-killed#-b-michigan--b->, last accessed June 4, 2012; *Brian Eric Huff*, OFFICER DOWN MEMORIAL PAGE, <http://www.odmp.org/officer/20394-police-officer-brian-eric-huff>, last accessed June 4, 2012.

⁵⁵ FBI, *Law Enforcement Officers Killed & Assaulted*; *James David Bonneau*, OFFICER DOWN MEMORIAL PAGE, <http://www.odmp.org/officer/20341-police-officer-james-david-bonneau>, last accessed June 4, 2012.

⁵⁶ *Shooting Suspect Elvin D. Potts Has Long Criminal History*, JACKSON CITIZEN PATRIOT, March 10, 2010, http://www.mlive.com/news/jackson/index.ssf/2010/03/shooting_suspect_elvin_d_potts.html, last accessed June 4, 2012; *Danielle Salisbury, Jackson Prosecutors Rule Police Shooting Justified*, JACKSON CITIZEN PATRIOT, March 17, 2010 (establishing that Elvin Potts killed Officer Bonneau), http://www.mlive.com/news/jackson/index.ssf/2010/03/jackson_prosecutors_rule_polic.html, last accessed June 4, 2012.

The third murder, of Taylor police officer Matthew Lloyd Edwards, by Tyress Mathews, also cannot be by a licensee. Mathews had an extensive criminal history, including multiple felony convictions and thirteen years in prison.⁵⁷

The fourth Michigan police officer feloniously killed in this period was Livonia officer Larry Nehasil, murdered by Larry Bowling. Before being charged with the second degree murder of Nehasil, “Bowling had six felony convictions and nine misdemeanors.”⁵⁸

A fifth officer murdered was Eric Emiliano Zapata. Leonard Statler committed suicide after murdering Zapata, but we know that Statler was a convicted felon, because his father “pleaded guilty” to federal charges of “disposing of firearms to a felon” in allowing his son access to the gun used in the murder.⁵⁹ All of the criminals who murdered Michigan police officers in the period conceivably covered by the Michigan State Police report were ineligible for a concealed handgun license, and absent any way to verify the data, we must therefore assume that the report’s claim is inaccurate.

A criticism from local officials in Michigan is that the data from the state records of pending charges against licensees is often misleading or confusing. Oakland County, for example, filed “nearly 1,000 charges” against permit holders 2007-2011, but “more than 700 cases” still listed no disposition. Another example was “Kent County’s most recent annual

⁵⁷ James Mitchell, *Cop Killer Gets Life in Prison*, DOWNRIVER SUNDAY TIMES, December 3, 2011, <http://downriversundaytimes.com/2011/12/03/cop-killer-gets-life-in-prison/>, last accessed June 4, 2012.

⁵⁸ Michigan Attorney-General, *Schuetter Plan To Make Michigan Safer: Violent Criminals Off The Street & 1,000 New Cops On The Beat* (press release), January 25, 2012, <http://www.michigan.gov/som/0,4669,7-192-26847-269926--00.html>, last accessed June 4, 2012.

⁵⁹ Rex Hall Jr., *Father Of Man Who Killed Kalamazoo Police Officer Eric Zapata Pleads Guilty To Felony Weapons Charge*, MLive.com, May 29, 2012, http://www.mlive.com/news/kalamazoo/index.ssf/2012/05/father_of_man_who_killed_kalam.html, last accessed June 4, 2012.

report listed 48 charges against license holders, with 37 unresolved. In reality, the prosecutor said all but one of his cases were resolved.”⁶⁰

VPC’s data on nine incidents in which police officers were killed by concealed handgun licensees⁶¹ includes two incidents where charges are still pending. As with the homicide pending examples above, one of these incidents comes from annual state reports, and thus there are no details on who did it, if the killer has been convicted, and oddly enough, VPC references no news accounts of this murder. It seems unlikely that the murder of a police officer would produce no news coverage.⁶² The other still pending incident involves James Wonder, charged with the death of a police officer, and still pending almost four years later.⁶³ While the criminal justice system works very slowly, the slow motion here may be because there seems to be some question as to whether the off-duty federal officer who James Wonder killed might have given the licensee legitimate reason to use deadly force.⁶⁴

VPC also used Texas’ annual report on concealed handgun licenses revoked to include three licensees convicted in calendar year 2008, and one in 2009.⁶⁵ VPC’s data shows no news accounts of licensees convicted in either calendar year. These might have been convictions for murders committed before May of 2007, or that received no news coverage, or they might be, like the Michigan State Police report, clerical errors.

⁶⁰ John Agar, *Ready, Aim, Misfire: Analysis Finds Mistakes, Misunderstanding in Gun Reports*, MLIVE.COM, June 27, 2011, http://www.mlive.com/news/index.ssf/2011/06/ready_aim_misfire_analysis_fin.html, last accessed June 2, 2012.

⁶¹ Violence Policy Center, *Law Enforcement Officers Killed by Concealed Carry Killers, May 2007 to the Present*, http://www.vpc.org/fact_sht/ccwlawenforcement.pdf, last accessed May 17, 2012.

⁶² *Law Enforcement*, “Name Not Provided.”

⁶³ *Law Enforcement*, James Wonder.

⁶⁴ Rafael A. Olmeda, *Man Accused Of Killing Customs Agent To Claim 'Stand Your Ground' Immunity*, SOUTH FLORIDA SUN-SENTINEL, October 23, 2011 (Wonder arguing that he had legal right to use deadly force); Sam Fields, *I Wonder Why Wonder Was Indicted?*, BROWARDBEAT.COM, August 30, 2008 (Attorney Fields argues against Florida’s Stand Your Ground law, but acknowledges that the off-duty peace officer might have engaged in a crime against Wonder: “Arguably Pettit commits the crime of False Imprisonment.”)

⁶⁵ *Private Citizens, op cit.*, Name Not Provided, Between January 1, 2008 and December 31, 2008 (3); Name Not Provided, Between January 1, 2009 and December 31, 2009.

May-Issue State Incidents & Retired Police Officers

While the VPC report argues against shall-issue laws, it includes ten incidents, with a total of nineteen deaths, in may-issue states (California, Maryland, Massachusetts, New York, Rhode Island). While these could be part of an argument against *may*-issue laws, they can hardly be evidence against *shall*-issue laws. In some cases, the incidents that VPC lists involve persons who would receive a permit in *any* may-issue state, such as retired Maryland police officer Charles "Pete" Richter Jr., who killed a neighbor in a dispute that is still pending.⁶⁶ Another example in a may-issue state is Nicholas Gianquitti, a retired Rhode Island police officer. Even according to VPC, Gianquitti “held a concealed handgun license as a privilege conveyed to former law enforcement officers.” Even more troubling is that he was convicted for shooting a neighbor who had come to Gianquitti’s door and punched him in the nose,⁶⁷ circumstances that might qualify as excusable homicide, not a criminal act—and in any case, took place in Gianquitti’s home, where he needed no license. Other incidents involve licensees who committed murder in a may-issue state that did not recognize the killer’s license.⁶⁸

Even in the shall-issue states, some of VPC’s incidents involve retired police officers—who are usually exempt from concealed weapon permit requirements, or are seldom refused issuance, even in the most stringent may-issue states. One example is Ronnie Cook, a retired police officer in Texas who murdered his wife.⁶⁹

⁶⁶ Angela Price, *Richter Says He Shot in Self-Defense*, CECIL (MD.) WHIG, May 17, 2012, http://www.stardem.com/news/local_news/article_3d1922b7-217f-5ed3-9242-0a4348800a7f.html, last accessed June 1, 2012.

⁶⁷ *Private Citizens, op cit.*, Nicholas Gianquitti.

⁶⁸ *Distraught Hopkins Gunman Kills Self, Mom*, CBS News, September 17, 2010, http://www.cbsnews.com/2100-201_162-6872455.html, last accessed June 1, 2012.

⁶⁹ *Private Citizens, op cit.*, Ronnie Cook; Paul Stone, *Cook Sentenced to Life in Prison*, PALESTINE (TEX.) HERALD, January 16, 2010, <http://palestineherald.com/crimeandpunishment/x671407084/Cook-sentenced-to-life-in-prison>, last accessed June 2, 2012.

Sole Suicides

A surprising number of the incidents listed by VPC involve a concealed handgun licensee who committed suicide, apparently with no one else killed. Some of these suicides VPC derived from annual state concealed handgun licensure reports; it is unclear how many of the other incidents that VPC reports which end in a suicide are included in those aggregates, and are thus double-counted.⁷⁰ It is not even certain that all of these 129 suicides were committed with firearms. Because we cannot verify these 129 suicides derived from state reports, and determine how many actually duplicate other entries in VPC's collection, there seems little point in giving much credence to them as indicative of a problem with shall-issue. Removing these aggregate suicides alone reduces the total death count by 45%—a most dramatic change.

In addition, the incidents derived from news accounts show there are two sole suicide incidents (where a licensee killed himself, and shot no one else).⁷¹ While all suicides are tragedies, it is hard to see how a concealed handgun license, much less shall-issue licensing, leads to them. You do not need a concealed handgun license to own a handgun, and it is hard to see how the absence of such a license would prevent these suicides.

There is also one suicide that shows the misleading nature of VPC's claim that these were deaths caused by licensees. It involved a Kara M. Leonard who "was target shooting on Mother's Day with concealed handgun permit holder Ty Takaezu.... Leonard used Takaezu's

⁷⁰ *Private Citizens, op cit.*, Michigan, "Between July 1, 2010 and June 30, 2011." (29 suicides); Michigan, "Between July 1, 2009 and June 30, 2010." (43 suicides). Michigan, "Between July 1, 2008 and June 30, 2009." (28 suicides); "Between July 1, 2007 and June 30, 2008." (29 suicides); *Id.*, Brock McCarthy (had just pleaded guilty to sex with a pre-teen girl)(1); *Id.*, Marc Kidby (1); See *Concealed Pistol Licensing Annual Report, Statewide Totals, General Information, July 1, 2010 – June 30, 2011*, www.michigan.gov/documents/msp/2011_CPL_Report_376632_7.pdf, last accessed June 1, 2012.

⁷¹ *Private Citizens, op cit.*, Brock McCarthy (1), Marc Kidby (1).

handgun to commit suicide....”⁷² Leonard did not have a license. Takaezu did not shoot her. Target shooting does not require a concealed handgun license.

Removing these unverifiable and sole suicide incidents reduces the death count from 282 to 150.

Where No License Is Required

Many of these criminal homicides took place where no concealed carry license is required to carry a gun: the homes or businesses of the licensees, or a violent rampage murder spree started in the licensee’s home. A total of 38 incidents, totaling 72 deaths took place in such locations. (Included in this total are two incidents in which four police officers were murdered.)⁷³ It is hard to imagine that shall-issue laws could make any difference in such cases.

Where No License Matters

There are some cases where the licensees were breaking the law in carrying a gun *even before they drew that weapon*. When Bobby Ray Bordeaux Jr. went into a bar, drunk and carrying a concealed gun, he was already in violation of North Carolina law, which prohibits carrying a concealed handgun “while consuming alcohol or at any time while the person has remaining in the person's body any alcohol or in the person's blood a controlled substance previously consumed.”⁷⁴ Similarly, Brian McGuire was convicted of “first-degree manslaughter

⁷² *Id.*, Ty Takaezu (1).

⁷³ *Private Citizens, op cit.*, Michael McLendon (11), Kathy Lowe (1), James Thomas Boll (1), David Lee Noriega (1), William Seidl (1), Charles Edward “Pete” Richter, Jr. (1), David H. McCall (1), Brian Marchand (2), John P. Tassinari (1), Tigh Croff (1), Jamar Pinkney, Sr. (1), Kevin Hoover (1), Michelle Rae Wilson (1), Clinton Gallagher (2), Gale Lynn Frye (1), Randy Shrodes (2), Shamon McDavis (1), Emmitt Weaver (2), Terrance Hough Jr. (3), Gary Carl Buoy (1), Jerome Erslan (1), Kirk Caldwell (1), Nicholas Gianquitti (1), William Shane Moreland (1), Michael Joe Hood (3), Ronnie Cook (1), Robert Klosterman (2), Peter Simpson (1), Christopher Speight (8), Willie Donaldson (1), Aaron Poseidon Jackson (4), Wesley Earnest (1), Christopher Wayne Bowling (1), *Law Enforcement*, Richard Poplawski (3), Christina Korbe (1).

⁷⁴ N.C. G.S. § 14-415.11(c2).

and unlawful possession of a weapon on school property”—a place where his Kentucky concealed weapon permit was not valid.⁷⁵

Another example is Justin Luckhardt, who was carrying concealed while intoxicated and in a bar in Michigan, when he murdered Kim Luchie.⁷⁶ Kevin Hoover was intoxicated when he shot and killed his father-in-law at a backyard barbecue, again a violation of Michigan law.⁷⁷ Vishna Beepot, who pulled a gun in the course of an argument in a bar in Lauderdale Lakes, Florida, was also clearly breaking the law, regardless of his license.⁷⁸ Justin Campos’ “confrontation outside Lookers strip club” in Florida almost certainly also a violation, since Lookers is described as a “full bar.”⁷⁹ Matthew Culbertson, who killed a friend after a day spent drinking to stupidity, was in violation of Ohio law as well which prohibits carrying a gun while under the influence.⁸⁰

Another example, not involving alcohol is Paul Warren Pardus, who killed his 84-year-old mother, a doctor, and himself at Johns Hopkins hospital in Maryland. While Pardus had a concealed handgun license issued by Virginia,⁸¹ it was not valid in Maryland. Pardus certainly knew that he was in violation of the law when carried the gun into Maryland. From a legal standpoint, Virginia being “shall-issue” was irrelevant to his actions.

⁷⁵ Jennifer Hewlett and Karla Ward, *Fayette Schools Custodian Helper Is Found Guilty of Manslaughter*, LEXINGTON (KY.) HERALD-LEADER, December 21, 2010, <http://www.kentucky.com/2010/11/10/1517744/fayette-schools-custodian-helper.html>, last accessed June 1, 2012.

⁷⁶ *Jealousy, Rage And Race: Behind The Cabin Tragedy*, MORNING SUN, August 10, 2010, <http://www.srstories.com/show.php?item=4421>, last accessed June 1, 2012. Carrying under the influence prohibited: Michigan State Police, *Firearms*, http://michigan.gov/msp/0,1607,7-123-1591_3503_4654---,00.html, last accessed June 1, 2012; Michigan State Police, *Pistol Free Areas*, http://michigan.gov/msp/1,1607,7-123-1591_3503_4654-10947--,00.html, last accessed June 1, 2012.

⁷⁷ *Private Citizens, op cit.*, Kevin Hoover.

⁷⁸ *Private Citizens, op cit.*, Vishna Beepot; Fla. Stats. 790.06(12)(a)(12) (2011) prohibits carrying a weapon in “Any portion of an establishment licensed to dispense alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to such purpose...”

⁷⁹ *Private Citizens, op cit.*, Justin Campos; *Lookers*, <http://www.yelp.com/biz/lookers-fort-myers>, last accessed June 4, 2012.

⁸⁰ *Private Citizens, op cit.*, Matthew R. Culbertson; Ohio Rev. Code § 2923.15 (“No person, while under the influence of alcohol or any drug of abuse, shall carry or use any firearm or dangerous ordnance.”)

⁸¹ *Private Citizens, op cit.*, Paul Warren Pardus.

We find ten incidents, totaling fifteen dead, involving licensees who were in violation of the law by having a gun with them at the time of the incident, well before they had any occasion to draw a gun.⁸² These were not subtle errors, but gross and obvious violations of existing laws. It is hard to imagine that a person prepared to violate the state laws prohibiting intoxication while armed, or carrying a gun into a state where the licensee knows that their license is not valid, is going to be discouraged from such crimes by failure to get a license.

Premeditated Murders

Amanda Knight—for whom the evidence that she had a Washington State concealed handgun license is too scant to take seriously—was clearly engaged in a criminal act when she and three others forced entry into a home to commit a robbery that led to the death of one of the residents.⁸³ This was obviously a criminal act, and it is hard to imagine that *not* having a license would have prevented Knight from participating in this felony that led to murder.

Another powerful example is Troy Brake, who had a concealed handgun license. He murdered the Zimmer family so that he could rape and kill the 18 year old girlfriend of one of the sons. He was caught when he beat up a prostitute a month later, and police matched his gun to the Zimmer murders.⁸⁴ It is hard to imagine that Brake would not have committed this horrible crime just because he lacked a license to carry.

Perhaps the strangest of these incidents involves Mary Nance Hanson. She murdered her ex-daughter-in-law in a parking lot, having laid in wait for her. Her relatives were surprised that

⁸² *Private Citizens, op cit.*, Vishna Beepot (2), Lucas Holland (1), Brian McGuire (1), Paul Warren Pardus (3), Justin Luckhardt (2), Kevin Hoover (1), Mark Caudill (2), Bobby Ray Bordeaux Jr. (1), Matthew R. Culbertson (1), Amanda Knight (1).

⁸³ KOMO Staff, *Woman Gets 71-Year Prison Term For Craigslist Killing*, KOMO channel 13, <http://www.komonews.com/news/local/121807999.html>, last accessed June 2, 2012.

⁸⁴ *Private Citizens, op cit.*, Troy Brake.

she even owned a gun. It appears that her concealed weapon permit was only three months old.⁸⁵ After killing her ex-daughter-in-law, she called 911 to report what she had done, and could not explain why. But when she came up for trial, she pleaded guilty, explaining that, “My physical health is deteriorating rapidly, and I do not believe it would be in the best interests of taxpayers or of myself to pursue a trial.” In court, she asked the judge to sentence her to death by lethal injection. When told that the crime did not qualify for capital punishment, “Well, then, I guess I didn’t do a good enough job.”⁸⁶

It would appear that once she discovered that she was going to die of congestive heart failure, she wanted the state to kill her. To that end, she bought a gun, obtained a concealed weapon permit, and murdered someone in a way that would be unambiguously horrible. It is hard to imagine that not getting a permit would have stopped someone this cunning and evil.

It is conceivable that shall-issue laws encourage people to carry guns who otherwise might not do so. It also very unlikely that a person prepared to ignore the laws against rape, murder, and armed robbery, will be deterred by lacking a concealed handgun license.

We found 36 incidents totaling 96 deaths that were premeditated attacks, where it seems that the licensee planned the attack in advance, and sometimes had no intention of surviving. We determined that a crime was premeditated by including all first-degree murder convictions where premeditation appears to have been an element of the crime, as well as those crimes where there is clear evidence that the killer had planned the attack in advance. (Many of the murder/suicides of ex-wives are clearly in this category, especially those that took place on the morning of final divorce

⁸⁵ Nate Carlise, Sheena McFarland, and Lindsay Whitehurst, *70-Year-Old Arrested in Fatal Shooting*, SALT LAKE TRIBUNE, January 30, 2010, http://www.sltrib.com/sports/ci_14296014, last accessed June 2, 2012.

⁸⁶ Carolyn Campbell, *Killed For Custody Part I*, CITY WEEKLY, October 6, 2010, <http://www.cityweekly.net/utah/article-12328-killed-for-custody.html>, last accessed June 2, 2012.

decrees.) It seems implausible that the killers who planned such murders would have been restrained by the absence of a license to carry.⁸⁷

Guilty, But Barely

There are a number of cases where, sometimes after many years of effort by the criminal justice system, licensees were found guilty, but one can only say, “barely guilty.” The sentences are so light as to suggest that while the licensee was in the wrong, perhaps he was not *severely* in the wrong. The alternative is that the prosecutor plea bargained down what seemed an otherwise unwinnable case. One example is Richard Calderon who was charged with murder. He had hit and run another car, and an off-duty Texas State University police officer in her personal vehicle gave chase to get Calderon’s license plate number.

Calderon’s version is that “the front-seat passenger leaned out the window holding what appeared to be something shiny.” Assuming it was a gun, Calderon fired, killing the thirteen-year-old girl in the back seat. Clearly, it wasn’t, and a witness to the event denied that anyone leaned out of the front-seat passenger window.⁸⁸ Yet the resolution of the case suggests that prosecutors either found Calderon’s self-defense claim strong enough to justify a plea bargain, or the circumstances were genuinely ambiguous. Calderon was given a Deferred Adjudication of Guilt for Manslaughter,⁸⁹ which means that upon completion of ninety days in county jail, restitution to the mother of the victim, and seven years of probation, “[T]he judge shall dismiss the proceedings

⁸⁷ Michael McLendon (11), Carey H. Dyess (6), Jared Lee Loughner (6), John P. Tassinari (1), Hayes Bacall (1), Harlan Drake (2), Troy Brake (4), Clinton Gallagher (2), Michael Boccardi (2), Frank Garcia (4), William Maxwell (4), William Littleton (1), Jamez Mellion (1), Mark Langlois (1), Anthony Rodecker (2), George Sodini (4), Frank Graham (1), Thomas Pate (1), Tan Do (6), Moises Gonzalez (2), Alan Godin (1), Mary Nance Hanson (1), Justin Matern (4), Eugene C. Wright (1), Ali A. Abid (1), Timothy Drew (1), Wesley Earnest (1), Jason Kenneth Hamilton (4), Randy Gilbert Newberry (2).

⁸⁸ *Man accused in teen's shooting death claims self-defense, posts bond*, KHOU, March 5, 2010, <http://www.khou.com/home/Man-charged-in-shooting-death-of-13-year-old-girl-out-on-50K-bond-86650997.html>, last accessed June 5, 2012.

⁸⁹ Harris County District Attorney, *Online Services*, <http://www.hcdistrictclerk.com/eDocs/Public/Search.aspx>, case number 125391801010, last accessed June 5, 2012.

against the defendant and discharge him.” This “may not be deemed a conviction for the purposes of disqualifications or disabilities imposed by law for conviction of an offense.”⁹⁰ If Calderon was clearly and utterly in the wrong, this would be an unconscionable sentence for the killing of a thirteen-year-old bystander.

Another example is Kathy Lowe, who shot to death her husband, a retired investigator for the sheriff’s department, in their home. Her version was that he was dying of a terminal illness, and had become increasingly violent and threatening because of renal failure, and that she feared for her life. The district attorney testified *for the defense* that David Lowe had admitted to threatening Kathy Lowe’s life and that David Lowe “took a medical retirement from his job” because of his terminal health problems.⁹¹ The special prosecutor assigned to the case claimed that Lowe killed her husband to profit from life insurance policies she took out on him about the same time that she applied for a pistol permit.⁹² (That he was terminally ill and she needed to worry about paying the bills after her husband was gone might have been a less sinister motive for the life insurance.)

Why did Lowe apply for a concealed handgun license? At the suggestion of the sheriff, her husband’s boss.⁹³ After two mistrials in which juries could not agree on a verdict, she pleaded guilty to manslaughter, in exchange for probation—no time in jail or prison.⁹⁴

Similarly, Johnnie Pulley was convicted of second degree murder for the killing of 17-year-old Brandon Colenburg.⁹⁵ Yet, in spite of this, Pulley received a suspended ten year

⁹⁰ Texas Code Crim. Proc. Art. 42.12 § 5(c) (2011); Order of Deferred Adjudication, State of Texas v. Calderon, Richard, Case No. 125391801010 (177th Dist. Court, Harris County, Tex.), on file with author.

⁹¹ Elizabeth Summers, *Prosecution Rests in Kathy Lowe Trial*, SAND MOUNTAIN REPORTER, July 30, 2012, http://www.sandmountainreporter.com/news/article_1b6f0647-2a8c-58c9-a36c-b7acf598e4f0.html, last accessed May 26, 2012.

⁹² Elizabeth Summers, *Prosecutor: Insurance, lover Led To Death*, SAND MOUNTAIN REPORTER, July 29, 2012, http://www.sandmountainreporter.com/news/article_543df7d5-b2c6-5cc7-9bb8-f81cfd1bf74.html, last accessed May 26, 2012.

⁹³ Elizabeth Summers, *Lowe Relives Moment The Gun Went Off*, SAND MOUNTAIN REPORTER, August 3, 2012, http://www.sandmountainreporter.com/news/article_fb8864ba-7c48-5026-b140-f703c9f741d4.html, last accessed May 26, 2012.

⁹⁴ Elizabeth Summers, *Kathy Lowe to Plead Guilty*, SAND MOUNTAIN REPORTER, March 14, 2012, http://www.sandmountainreporter.com/news/local/article_b6fd82-6e1a-11e1-929b-001871e3ce6c.html, last accessed May 26, 2012.

sentence.⁹⁶ It suggests that there were some mitigating circumstances that while not excusing Pulley's actions indicated that that there was more going on behind the scenes than VPC's simple statement of the facts would indicate.

Another example is Willie Donaldson, who was initially charged with second-degree murder for shooting Matthew Hicks. Donaldson had responded to an "erotic services" ad on Craigslist, and a man and woman came over to Donaldson's house. The woman passed out in the Jacuzzi, at which point Donaldson claimed that Hicks attacked him, threatening to kill him. Donaldson was certainly seriously injured, making his claim of self-defense sufficiently plausible that the first judge who heard the case dismissed the charges because "the prosecutors had not met their burden of proof."⁹⁷ Several months later, Donaldson struck a bargain with prosecutors to plead no contest to manslaughter, "but he will not serve any jail time."⁹⁸ One might conclude that prosecutors sought to punish Donaldson for a death that came about because of an act of prostitution, not because Donaldson's actions were actually criminal.

Another very troubling conviction is James Matthew Menard. Except that he was trespassing in a gated community, he might well have successfully argued self-defense. During a confrontation with some teenagers, one of the teenagers pulled out an Uzi submachine gun, at

⁹⁵ Bill McClellan, *Nothing Normal About This Murder Trial*, ST. LOUIS POST-DISPATCH, May 26, 2010, http://www.stltoday.com/news/local/columns/bill-mcclellan/nothing-normal-about-this-murder-trial/article_36ab1a15-46db-53dc-930c-30afd9d87046.html, last accessed May 31, 2012.

⁹⁶ [Missouri] Office of State Courts Administrator, *State v. Johnnie Puller, Jr.* (2010), Case 0922-CR03334-01, <https://www.courts.mo.gov/casenet/cases/charges.do>, last accessed May 31, 2012.

⁹⁷ David Schultz, *Killing Was In Self-Defense, Accused Says*, ARLINGTON (VA.) CONNECTION, February 4-10, 2009, 3, 13, <http://connectionarchives.com/PDF/2009/020409/Arlington.pdf>, last accessed June 3, 2012.

⁹⁸ Allison Klein, *Guilty Plea, No Jail Time in Arlington, Va., Erotic Encounter Killing*, WASHINGTON POST, July 16, 2009, <http://www.washingtonpost.com/wp-dyn/content/article/2009/07/15/AR2009071503688.html>, last accessed June 3, 2012.

which point Menard shot and killed him. But it turned out to be a *toy* Uzi. Menard was convicted of third-degree murder.⁹⁹

While these incidents do not qualify as justifiable homicides, they are a reminder that not every incident that ends up with a guilty plea was completely unjustified.

Accidents

A number of the deaths that VPC lists are accidents. Some of them are accidents that led to convictions for negligent manslaughter; a few were simply accidents; some were accidents involving children who gained access to a gun, and fired it, with tragic results. Not all the accidents are particularly relevant to the question of shall-issue, however. Accidents which took place within the licensee's home or business, where a concealed carry license is not required to possess a loaded firearm, would likely have taken place under may-issue or even no-issue laws. It is at least plausible that a *few* licensees might not have bought a gun, or kept it loaded, except for shall-issue laws, but what percentage would be simply a guess.

There were eight deaths in eight accidents inside the licensee's home. A typical such incident was the death of Zacharia Nesbitt, a five-year-old who shot himself with his father's Glock 9mm pistol, which had been stored in a closet, loaded.¹⁰⁰ Some of the accidents are so unlikely that it is a bit hard to believe that they happened the way newspapers describe them—but the death of Julia Bennett seems, more than a year later, not to have led to any criminal charges. News accounts indicate that Hewart Bailey's two year old son found and fired a Glock 9mm pistol, killing his

⁹⁹ Tristan Spinski, *Jake Couture Slaying: James Menard Guilty of Felony Murder, Manslaughter*, NAPLES NEWS, January 14, 2011, <http://www.naplesnews.com/news/2011/jan/14/jake-couture-james-menard-guilty-murder-third/>, last accessed June 14, 2012.

¹⁰⁰ Janice Morse and Sheila McLaughlin, *Dad Charged in Son's Accidental Death*, CINCINNATI ENQUIRER, July 31, 2009, <http://news.cincinnati.com/article/AB/20090731/NEWS0107/307310048/Dad-charged-son-s-accidental-death>, last accessed May 26, 2012.

father's girlfriend. (There is also some disagreement from the news accounts if the two year old was Bailey's son, or Bennett's son.)¹⁰¹

There were 16 deaths in 16 accidents in other places, and which might be ascribed to the increased number of licensees caused by shall-issue. One rather typical (and inexcusable) accident involved Moises Zambrana, who was asked at church to show his 9mm pistol to another parishioner. He went into a closet, removed the magazine, *and forgot to remove the round in the chamber*. While explaining the pistol's safety features, he accidentally fired the gun, killing a 20-year-old on the other side of a wall.¹⁰²

Concealed Weapon? What Concealed Weapon?

In some cases, these incidents did not involve a concealed weapon at all. Shawn Kortz appears to have *strangled* Michael Hollon in January of 2012—and it must have been quite a remarkable struggle, because “Hollon's body was in a pool of blood, and blood was splattered across the den walls and ceiling.” Kortz, an interstate trucker, “had been awake for more than 30 hours at the time of Hollon's death” and had just returned from a long-haul trip. This is clearly a violation of federal law concerning required sleep for truck drivers. One might wonder if whatever Kortz was taking to stay awake that long could explain the level of violence involved.

Kortz and Hollon had been drinking for several hours when the fight happened. Kortz has no memory of what happened, but seems to be arguing self-defense. (Hollon's blood alcohol level was .375 per cent—suggesting that Kortz's claim of a memory erasing drinking binge and self-defense

¹⁰¹ Juan Ortega, *Father in Miramar toddler shooting case said he tried to prevent killing*, http://articles.sun-sentinel.com/2011-05-05/news/fl-miramar-toddler-shooting-20110504_1_search-warrant-accidental-shooting-son-shot, last accessed May 24, 2012; Peter D'Oench, *Relatives Of Slain Miramar Mother Doubt Tot Fired Weapon*, <http://miami.cbslocal.com/2011/04/21/miramar-toddler-may-have-fire-deadly-shot/>, last accessed May 24, 2012; Sofia Santana and Danielle A. Alvarez, *Police probe whether toddler fatally shot Miramar woman*, http://articles.sun-sentinel.com/2011-04-21/news/fl-miramar-mom-folo-20110421_1_miramar-police-police-probe-tania-rues, last accessed May 24, 2012.

¹⁰² *Private Citizens, op cit.*, Moises Zambrana.

might be true.) What if Kortz had been armed? He was. He had his gun with him, and took it with him when left Hollon's house.¹⁰³

Tony Villegas was another concealed handgun licensee who murdered by strangulation, as even VPC's account acknowledges.¹⁰⁴ It is hard to imagine how may-issue laws (or even a complete gun ban) would have made a difference in such a case.

Other situations involve long guns, either exclusively, or where the handgun was secondary to the rifle or shotgun as the killing weapon. It is hard to imagine that any of these 10 incidents, totaling 28 deaths, would have been different if the licensees had lived in no-issue or may-issue states.¹⁰⁵

Situations That Don't Make Sense

There are some incidents where VPC and police assume that the licensee was the killer because he committed suicide—but there remain troubling questions. We will not second-guess these reports, except to give one example that is a reminder that sometimes a simple solution wraps up a tragedy—but that does not mean that the simple solution is always and clearly right.

Concealed handgun licensee Austin Agee committed suicide two days after the murder of Lisa Davis, who Agee had just met for the first time. Agee left behind suicide notes that seemed to take responsibility for Davis' death, and told where her body was. Yet both Agee's family, unsurprisingly, and more surprisingly, even *Davis'* family, point to curious inconsistencies in the evidence that suggest someone else might have committed the murder. In particular, Davis had, shortly before her death, changed the beneficiary on her life insurance from "Chad Brantley to

¹⁰³ Lou Grieco, *Man Accused of Murder Claims He Can't Remember Events*, DAYTON DAILY NEWS, January 24, 2012, <http://www.daytondailynews.com/news/dayton-news/man-accused-of-murder-claims-he-cant-remember-events-1318008.html>, last accessed May 26, 2012.

¹⁰⁴ *Private Citizens, op cit.*, Tony Villegas.

¹⁰⁵ *Private Citizens, op cit.*, Michael McLendon (11), Gale Lynn Frye (1), William Littleton (1), Randy Shrodes (2), Aaron Poseidon Jackson (4); *Law Enforcement*, Jason Kenneth Hamilton (4), Randy Gilbert Newberry (2).

family members. She also told several people that ‘if anything happens to me, you tell the police to look at Chad’ and confided to some friends and relatives that she was ‘a little afraid’ of him.” Chad Brantley was a Shelby County deputy sheriff with whom Davis had recently broken off an engagement, and who still had a key to Lisa Davis’ home. Police investigated Brantley, but cleared him, even before Agee’s suicide.¹⁰⁶

Failures in Existing Law Enforcement

There are incidents in VPC’s list that raise serious questions as to whether existing laws are being adequately enforced. In some cases, we may be seeing systemic problems that require states to revisit particular parts of their processes for issuing licenses. In some cases, we may be looking at rare clerical failures. Even a 0.1% error rate involving 100,000 licensees means 100 mistakes.

Some of the incidents do suggest that some states are not taking sufficient care to revoke licenses by those with serious alcohol problems, such as Bobby Bordeaux, Jr., who “admitted himself to area hospitals twice seeking rehabilitation for his alcohol abuse, but ended both treatments shortly afterwards.” He had received psychiatric evaluations at a total of four hospitals in the region, because of his alcoholism. Bordeaux was so drunk the night that he killed Clifton Jackson in a bar that police were unable to even question him.¹⁰⁷ Similarly, while there is no news coverage that indicates John K. Gallagher III’s alcohol problem should have been a matter of public record, the evidence suggests that Gallagher’s alcohol and mental illness problems were quite severe.¹⁰⁸ Severe alcohol abuse is, unsurprisingly, a common factor in a number of these crimes.¹⁰⁹

¹⁰⁶ Marilyn Sadler, *Absence of Motive*, MEMPHIS, June, 2010, <http://www.memphismagazine.com/Memphis-Magazine/June-2010/Absence-of-Motive/>, last accessed June 2, 2012.

¹⁰⁷ T.J. Royal, *Defendant Doesn’t Remember Shooting*, DAILY SOUTHERNER, September 23, 2009, <http://dailysoutherner.com/local/x546129862/Defendant-doesnt-remember-shooting>, last accessed May 26, 2012.

¹⁰⁸ Michael Hewlett, *Gallagher Pleads Guilty*, WINSTON-SALEM JOURNAL, October 26, 2010, <http://www2.journalnow.com/news/2010/oct/26/gallagher-pleads-guilty-ar-483000/>, last accessed May 26, 2012.

¹⁰⁹ Lou Grieco, *Man Accused of Murder Claims He Can’t Remember Events*, DAYTON DAILY NEWS, January 24, 2012, <http://www.daytondailynews.com/news/dayton-news/man-accused-of-murder-claims-he-cant-remember-events-1318008.html>, last accessed May 26, 2012 (too drunk to remember what

Other incidents suggest that police failed to revoke licenses when there was apparently sufficient authority, even under shall-issue laws. We are unable to verify that Brian Scott Kolesar actually had a concealed weapon license. But if he did have one, it would appear that police were not doing their job. Brian Scott Kolesar was involved in a “troubled relationship” with his girlfriend Julie Arnold, to the point that she obtained a protective order from the courts because she was afraid of him. He was booked January 25, 2011, some months before the murder/suicide, for violating a temporary protective order (apparently a different TPO than the one in effect at the time of the murder/suicide). This should have been sufficient reason for revocation of a concealed carry permit (assuming that he had one—the only source for this claim appears to be Arnold). Curiously, sheriff’s deputies had been at the home hours before the killings, and in spite of concerns about Kolesar’s mental health, took no action to disarm him.¹¹⁰ This raises serious questions as to whether Kolesar actually had a license, or simply told Arnold that he had one.

Johnny Swack murdered his former wife. This was not a surprise to his sister. She had contacted police because her brother had been “treated at a mental institution just weeks before the murder.” They declined to take any action, because he had a permit. In the weeks before the murder, he had been trying to turn himself in at police stations, but he wasn’t wanted, so they declined to arrest him. She warned the mental hospital “he’s paranoid schizophrenic. He has guns and y’all need to do something about him.” So the hospital released him.¹¹¹ It seems hard to believe that there

happened); *Police: Man Who Killed Wife, Self Had Criminal Charge s Pending*, WTOV channel 9, September 3, 2010, <http://www.wtov9.com/news/news/police-man-who-killed-wife-self-had-criminal-charg/nJMPJ/>, last accessed May 26, 2012 (drunk driving arrest while armed led to confiscation of handgun; murder/suicide on day of court hearing); Jim Phillips, *Man Gets Five Years For Lethal Horseplay With Gun*, ATHENS (OHIO) NEWS, November 11, 2010, <http://www.athensnews.com/ohio/article-32573-man-gets-five-years-for-lethal-horseplay-with-gun.html>, last accessed May 26, 2012.

¹¹⁰ Mike Bowersock, *More Details Emerge About Murder-Suicide in Pataskala*, NBC Channel 4, October 24, 2011, <http://www2.nbc4i.com/news/2011/oct/24/9/more-details-emerge-about-murder-suicide-pataskala-ar-800595/>, last accessed May 26, 2012; *Busted! Brian Scott Kolesar Mugshots*, BUSTED! MUGSHOTS.COM, <http://www.bustedmugshots.com/ohio/columbus/brian-scott-kolesar/6941762>, last accessed May 26, 2012.

¹¹¹ Carley Gordon, *Sister of Accused Murderer Speaks Out*, WSMV channel 4, October 17, 2011, <http://www.wsmv.com/story/15499057/sister-of-accused-murderer-speaks-out>, last accessed June 2, 2012.

was no basis for suspending his license if he had been hospitalized for schizophrenia. If Tennessee law actually has a loophole in this respect, it needs correction.

In the aftermath of Michael Joe Hood's murder of his sister, her ex-husband, and their son, the sister of one of Hood's victims asked, "I don't understand why someone who has a history of mental illness can have a legal permit to carry a gun."¹¹² Tennessee law has a detailed list of mental illness disqualifiers. It might be worth examining whether Hood was already within one of these categories, or if there might be an argument for broadening the disqualifier list.

Clinton Gallagher murdered his son and committed suicide in Lone Jack, Missouri. He had pled guilty to misdemeanor domestic violence in 2009, and the Jackson County sheriff revoked his license because of it. Amazingly enough, he successfully sued and won, demanding restoration of his license—in spite of a federal law that prohibits domestic violence misdemeanants even possessing a firearm in one's home, much less having a concealed carry license.¹¹³ It appears from news coverage that the Jackson County sheriff does not know this: "Police say that someone convicted of domestic violence isn't normally supposed to be able to get a conceal and carry permit, but they admit that a misdemeanor conviction would not have prevented Gallagher from possessing a gun in his own home."¹¹⁴ Gallagher's license was irrelevant to this crime, which took place in his own home, but the failure of Jackson County police to even be aware that Gallagher could not even *own* a gun, much less carry it concealed, may well have contributed to it.

¹¹² Josh DeVine, *Triple Murder Suspect Undergoes Mental Evaluation*, WSMB channel 4, March 27, 2010, <http://www.wsmv.com/story/14790541/triple-murder-suspect-undergoes-mental-evaluation-3-27-2010?clienttype=printable>, last accessed June 2, 2012.

¹¹³ 18 USC 922(d)(9) (2011).

¹¹⁴ Web Staff, *Father, Son Deaths Ruled Murder-Suicide in Lone Jack*, FORT LAUDERDALE SUN-SENTINEL, December 15, 2010, <http://www.sun-sentinel.com/news/wdaf-story-lone-jack-double-shooting-121410.0.6818252.story>, last accessed June 2, 2012.

Jeremy J. Hobbs murdered Ahmed Cepalo outside a pool hall in Boise, Idaho March 14, 2009. Hobbs had an Idaho concealed weapon license. Yet, criminal charges were pending against him from December 23, 2008 for misdemeanor battery.¹¹⁵ A person awaiting trial for a misdemeanor crime of violence is ineligible for a concealed weapon license in Idaho.¹¹⁶ It seems likely that Hobbs would have carried without a license (whether Idaho was may-issue, shall-issue, or no-issue). He was, after all, arrested for doing so on April 8, 2002 (along with drug paraphernalia possession), and was allowed a “withheld judgment,” conditional on completing probation.¹¹⁷ Idaho should determine why Hobbs’ license was not suspended when he was charged with misdemeanor battery, and take corrective actions.

Jason Kenneth Hamilton is perhaps the most disturbing case of all. Hamilton had a domestic violence misdemeanor conviction for attempting to kill his girlfriend by strangulation. A domestic violence misdemeanor completely prohibits possession of any firearm. Yet he not only had an Idaho concealed handgun license, but more amazingly, a National Firearms Act tax stamp (what the federal government requires to purchase or possess a *machine gun*).¹¹⁸

Hamilton had been subject to a mental illness evaluation a few months before his rampage because of a suicide attempt using prescription drugs. During that evaluation, he told the doctor evaluating him that he would not do it this way again: “if he wanted to commit suicide he wouldn’t do it this way, but he would take a whole bunch of people with him, either by a shooting or by a bomb.”

¹¹⁵ Idaho State Judiciary, IDAHO SUPREME COURT DATA REPOSITORY, case CR-MD-2008-0023383, <https://www.idcourts.us/repository/caseHistory.do?roaDetail=yes&schema=ADA&county=Ada&partySeq=1379228&displayName=Hobbs%2C+Jeremy+Jason>, last accessed June 15, 2012.

¹¹⁶ Idaho Code § 18-3302(1)(h) defines misdemeanor crimes of violence as a disqualifier for three years, and § 18-3302(1)(m) defines “free on bond or personal recognizance pending trial, appeal or sentencing” of a disqualifying crime as a disqualifier.

¹¹⁷ Idaho State Judiciary, IDAHO SUPREME COURT DATA REPOSITORY, case CR-MD-2002-0004134, <https://www.idcourts.us/repository/caseHistory.do?roaDetail=yes&schema=ADA&county=Ada&partySeq=1379228&displayName=Hobbs%2C+Jeremy+Jason>, last accessed June 15, 2012.

¹¹⁸ Taryn Brodwater, Bill Morlin, and Amy Cannata, *Shooter Had Aryan Nations Ties*, Spokane (Wash.) SPOKESMAN-REVIEW, MAY 23, 2007, <http://www.spokesmanreview.com/breaking/story.asp?ID=9985>, last accessed June 13, 2012;

He was released from the hospital.¹¹⁹ Idaho law would certainly have allowed Hamilton's involuntary commitment based on those statements.¹²⁰ Commitment would have been sufficient reason to revoke Hamilton's concealed carry license and his federal tax stamp.¹²¹ Of course, Hamilton not having a license would have made no difference. This was a premeditated mass murder, committed with a rifle. Hamilton had no intention of surviving.

William Garrido, in spite of pleading no contest to aggravated assault in 1997, had a concealed handgun license in Florida.¹²² Equally disturbing was the murder by Adam Hill, who had a long history of mental illness, including hospitalization, had separated from "the military under some questionable circumstances that involved a firearm," and had a criminal history that suggests the criminal justice system in Florida was not working. People "who knew Hill and were aware of his mental problems called the St. Augustine Police Department and St. John's County Sheriff's Office with concerns that Hill had a gun. Their fear, they say, was Hill didn't understand the concept of what a firearm could do."¹²³ Like Idaho, Florida should figure out how this happened.

Marc Kidby committed suicide on April 1, 2008. He had made two previous suicide attempts, both in public. His wife received a protection order from the courts that should have led to immediate suspension of his license *and* seizure of his weapons by the police. But neither took place; the Athens County, Ohio sheriff's department "apparently was unaware that the law requires

¹¹⁹ Bill Loftus and William Yardley, *Idaho Gunman Also Killed Wife, Police Say*, NEW YORK TIMES, May 22, 2007, <http://www.nytimes.com/2007/05/22/us/22sniper.html>, last accessed June 13, 2012.

¹²⁰ Idaho Code, § 66-329(3) (2012) (commitment may be based on "the proposed patient is: (i) mentally ill; (ii) likely to injure himself or others or is gravely disabled due to mental illness; and (iii) lacks capacity to make informed decisions about treatment").

¹²¹ Idaho Code, § 18-3302(1)(f)(ii) (2012) (ineligible because of "Mentally ill as defined in section 66-317").

¹²² Committee on the Judiciary, *National Right-to-Carry Reciprocity Act of 2011*, 31 (112th Cong., 1st sess.)

¹²³ *Family Says Gun Laws are Flawed*, FIRSTCOASTNEWS.COM, May 21, 2009, <http://www.firstcoastnews.com/print.aspx?storyid=138378>, last accessed June 14, 2012.

sheriffs to immediately suspend gun permits when a protection order is issued against permit holders.”¹²⁴

Moises Gonzalez was charged with burglary two weeks before his multi-county crime spree in Texas on December 30, 2008. Under Texas law, his license should have been suspended pending resolution of this criminal charge.¹²⁵ It does seem most unlikely that, in the absence of a license, Gonzalez would not have engaged in the crimes of murder, kidnapping, vehicle theft, brandishing firearms, and “eluding police in high-speed chases.”¹²⁶ Nonetheless, his license should have been suspended when charged.

Roger Troy’s murder/suicide of Alissa Blanton might have been prevented. A week before, she had requested a protective order against Troy because he was stalking her—and a judge decided that he did not have enough information to decide whether Troy’s actions qualified as stalking: “bombarding her with profane-emails, sitting outside her home and following her to her job in Orlando.” He had blocked her car in the parking lot at her job as well.¹²⁷ It is not clear that Florida suspending Troy’s license would have prevented this crime by a man clearly obsessed with a woman with whom he had *no* previous relationship; but if this does not qualify as stalking, what does?

There are some situations where we do not know if police failed to enforce existing law, or if the victims failed to inform police of the threat. Anthony Rodecker had a troublesome relationship with a former girlfriend. There was certainly reason to be concerned what he might do, and perhaps sufficient reason for police to have revoked his license and pursued criminal charges. “He’d been barred from the City Limits Cafe, where she bartended, and her relatives told her to stop giving in when he threatened to kill himself if she wouldn’t see him.” Rodecker murdered her and then killed

¹²⁴ Randy Ludlow, *Man Accused Of Violence Still Had Gun Permit*, COLUMBUS DISPATCH, April 4, 2008, http://www.dispatch.com/content/stories/local/2008/04/03/concealed.ART_ART_04-03-08_B1_5Q9QNT.html, last accessed May 30, 2012.

¹²⁵ Texas Gov. Code §411.172(4) (2011).

¹²⁶ *Private Citizens, op cit.*, Moises Gonzalez.

¹²⁷ Bianca Prieto, Henry Pierson Curtis and Willloughby Mariano, *Woman killed near UCF had told judge man was stalking her*, <http://m2m.tmcnet.com/news/2010/02/10/4616409.htm>, last accessed on June 14, 2012.

himself in October of 2008.¹²⁸ A court would have had no problem issuing a civil protection order against Anthony Rodecker—which would have caused suspension of his license.¹²⁹ There is no mention of a civil protection order—and in light of Rodecker’s behavior, it would have been a very good idea. But Rodecker’s actions, murdering Brenda Keeler on her birthday (which implies premeditation),¹³⁰ suggest that no law alone was going to make much of a difference.

We have identified 8 incidents, in which a total of 13 deaths took place, where existing laws concerning issuance or revocation of permits do not appear to have been enforced.

Domestic Violence

A very large fraction of these crimes are domestic violence: 53 incidents, totaling 91 deaths. This is unsurprising; domestic violence remains a major problem in our society, and most of these incidents were murder-suicides. These are among the hardest crimes to prevent, for a variety of reasons: the killer often has no intention of facing trial; the relationships create opportunities for the killer to approach the victim in a way that a stranger could not; and in the incidents in this sample, the killer is almost always a man, who seldom needs the mechanical advantage of a firearm. By comparison, female victims and children are especially vulnerable because of the physical strength differential. As tragic as these incidents are, shall-issue laws are probably an advantage in such situations, because a woman is in a better position to defend herself from a murderous intimate partner with a gun than without.

¹²⁸ Kathy Lynn Gray, *2 Shot Dead On Far West Side: Authorities Suspect Murder-Suicide In Deaths Of Woman, Former Boyfriend*, COLUMBUS DISPATCH, October 6, 2008, http://www.dispatch.com/content/stories/local/2008/10/04/2dead.ART_ART_10-04-08_B7_AABGRQD.html, last accessed May 30, 2012.

¹²⁹ Ohio Rev. Codes § 2923.125(D)(1)(j) (2011).

¹³⁰ Kathy Lynn Gray, *2 Shot Dead On Far West Side: Authorities Suspect Murder-Suicide In Deaths Of Woman, Former Boyfriend*, COLUMBUS DISPATCH, October 6, 2008, http://www.dispatch.com/content/stories/local/2008/10/04/2dead.ART_ART_10-04-08_B7_AABGRQD.html, last accessed May 30, 2012.

Mental Illness

At least 11 of these incidents, totaling 32 deaths, involve killers with what appear to have been significant mental illness problems.¹³¹ However: two of those incidents, totaling seven deaths, involve person who by VPC's own admission either did *not* have a license,¹³² or the evidence strongly suggests that they did not.¹³³ In another case, a licensee was actually disarmed by police six months before the incident, but a judge ordered the guns returned after a psychological evaluation. The incident in which Paul Kallenbach killed a convicted felon after a verbal confrontation in a convenience store can be interpreted several different ways, but it does suggest that the concerns that caused police to disarm him originally had merit.¹³⁴

While it might be tempting to assume that states are failing to do their job in performing mental health background checks, privacy issues may be the larger problem. Nonetheless, it would be worthwhile for states to examine whether their existing statutes sufficiently deal with the problem of mentally ill persons who apply for permits. The Jason Hamilton incident is an indicator not only of defects in enforcement of Idaho's existing concealed weapon permit law, but a reminder that the policy of deinstitutionalization—the conscious decision to make it very difficult to hospitalize mentally ill persons against their will—has substantial consequences.¹³⁵

¹³¹ *Private Citizens, op cit.*, Jared Lee Loughner (6), Paul Michael Merhige (4); Tony Villegas (1); Paul Kallenbach (1); Adam Hill (1); Ernesto Bustamante (2); Johnny Swack (1), Michael Joe Hood (3), Christopher Speight (8); *Law Enforcement*, Humberto Delgado, Jr. (1); Jason Kenneth Hamilton (4).

¹³² *Private Citizens, op cit.*, Jared Lee Loughner (6), discussed previously.

¹³³ *Private Citizens, op cit.*, Humberto Delgado, Jr. (1), discussed previously.

¹³⁴ *Death at a Convenience Store*, Sarasota (Fla.) HERALD-TRIBUNE, December 13, 2008, <http://www.heraldtribune.com/article/20081213/OPINION/812130329>, last accessed June 14, 2012.

¹³⁵ Clayton E. Cramer, *Madness, Deinstitutionalization & Murder*, 13 ENGAGE 1 (March 2012), <http://www.fed-soc.org/publications/detail/madness-deinstitutionalization-murder>, last accessed June 14, 2012. Generally, see Clayton E. Cramer, *MY BROTHER RON: A PERSONAL AND SOCIAL HISTORY OF THE DEINSTITUTIONALIZATION OF THE MENTALLY ILL* (2012).

The Bottom Line

Because of the enormous number of errors contained in VPC's list, the appropriate count of incidents and deaths which can be attributed to shall-issue concealed carry laws is what is left after removing: those incidents in which the killer *clearly* did not have a license (8 incidents, 25 deaths); where the *licensee* did not kill anyone (3 and 3); sole suicides (3 and 3); where the murder took place in the licensee's home or business (38 and 72); where an accidental death (even if it eventually led to a criminal conviction) took place in the licensee's home or business (8 and 8); incidents that show clear evidence of premeditation (36 and 96); where no gun was used (2 and 2); which took place in may-issue states, or to retired police officers who would certainly have received a license regardless (10 and 19); where long guns were primarily used for the crime (8 and 26); incidents where the licensee was clearly in violation of existing law in advance of the incident (10 and 15); as well as the incidents derived from tabulations that make it impossible to verify if it is accurately described or to determine whether VPC is double-counting (120 deaths).¹³⁶

We are giving the benefit of the doubt to VPC concerning those cases where we could not verify a concealed weapon license (even though their track record on this is less than perfect), which constitute 25 incidents and 219 deaths. We are also giving the benefit of the doubt to

¹³⁶ *Private Citizens, op cit.*, Name Not Provided, Between July 1, 2010 and June 30, 2011, Michigan, Suicide (29); *Private Citizens, op cit.*, Name Not Provided, Between July 1, 2008 and June 30, 2009, Michigan, Suicide (28); *Private Citizens, op cit.*, Name Not Provided, Between July 1, 2010 and June 30, 2011, Michigan, Pending Criminal Homicide Charges (4); *Private Citizens, op cit.*, Name Not Provided, Between July 1, 2010 and June 30, 2011, Michigan, Convicted Criminal Homicide (4); *Private Citizens, op cit.*, Name Not Provided, Between July 1, 2009 and June 30, 2010, Michigan, Suicide (43); *Private Citizens, op cit.*, Name Not Provided, Between July 1, 2009 and June 30, 2010, Michigan, Pending Criminal Homicide Charges (3); *Private Citizens, op cit.*, Name Not Provided, Between July 1, 2009 and June 30, 2010, Michigan, Convicted Criminal Homicide (3); three separate entries under *Private Citizens, op cit.*, Name Not Provided, Between January 1, 2009 and December 31, 2009, Texas, Convicted Criminal Homicide (1); *Law Enforcement*, Name Not Provided, Between July 1, 2010 and June 30, 2011, Michigan, Pending Criminal Homicide Charges (1); and *Private Citizens, op cit.*, Dam Lopez, who has two separate pages, one listed as convicted, one as pending.

VPC concerning the 21 incidents (23 deaths) that appear to be pending, some of them many years after the deaths.

Because there is substantial overlap in these categories, we cannot simply subtract all of these numbers from VPC's total. Instead, we must remove them row by row from the spreadsheet. What we are left with are 79 incidents, totaling 92 deaths—still a sobering number, even over a period of more than five years.

A September 2011 compilation of published data on concealed weapon permits shows for 26 states for which such data was readily available, there were 5,538,323 current licensees.¹³⁷ While some states issue to non-residents, and thus this count of current licensees includes some people who have licenses from more than one state, it seems likely that the number of unique individuals for these 26 states, which includes 62.5 per cent of the U.S. population,¹³⁸ is more than five million.

In addition, the 23 states for which data was not available include a number of shall-issue states where these laws are decades old (such as Washington State, since 1961) or where the gun culture is strong (such as New Mexico and Alabama). Extrapolating from data for these 26 states for the other 23 (Illinois does not issue permits) suggests that about 7.6 million Americans have a concealed handgun license. Using VPC's data, corrected for situations where shall-issue laws have no direct effect on these deaths, this indicates that shall-issue laws at worst are responsible for 0.24 murders per 100,000 concealed weapon licensees per year since May of 2007, or 4.6% per cent of the average U.S. murder rate of 5.23/100,000 people for the years 2007 through 2010.¹³⁹ And

¹³⁷ **Shall issue states:** Arizona (162,101); Colorado (less than 114,049); Florida (845,828); Georgia (more than 400,000); Indiana (more than 318,000); Iowa (64,431); Kansas (32,268); Louisiana (less than 40,000); Michigan (283,764 new and renewal licenses); Minnesota (86,854); Missouri (124,577); Nebraska (15,279); North Carolina (228,072); Ohio (about 240,000); South Carolina (118,236); South Dakota (58,287); Tennessee (307,816); Texas (461,724); Utah (293,651); Virginia (238,395); Wyoming (21,792). **May issue states:** California (40,296); Maryland (about 47,000); Rhode Island (4,148).

¹³⁸ Table 14, State Population, U.S. CENSUS BUREAU, THE 2012 STATISTICAL ABSTRACT, <http://www.census.gov/compendia/statab/cats/population.html>, last accessed May 17, 2012.

¹³⁹ FBI, Table 1, CRIME IN THE UNITED STATES 2010, <http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2010/crime-in-the-u.s.-2010/tables/10tbl01.xls>, last accessed May 17, 2012.

this is still assuming that all 79 of the incidents in the filtered list are licensees and all of the pending cases lead to conviction. We were unable to verify a license for 7 of these remaining incidents, totaling 13 deaths. In addition, 14 of the filtered incidents, totaling 15 deaths, remain pending, some almost four years later. In some cases, the lawyers have been busy; in others, we suspect that prosecutors dropped criminal charges, and it did not make the news.

There are some legitimate questions as to whether some states could do a better job of suspending, revoking, or not issuing permits to persons who are clearly not qualified under *existing* law. There are some serious problems with our system for dealing with mentally ill persons, and unfortunately, concealed handgun licensing is only part of the problem. There is some room for improvement. What is quite clear is that VPC's data, carefully analyzed, does not make a case that shall-issue laws make Americans less safe.