

**SELF DEFENSE HANDGUN OWNERSHIP
AND
THE INDEPENDENCE OF WOMEN
IN A VIOLENT SEXIST SOCIETY**

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Restricting Handguns
by Don B. Kates Jr. (ed.)
North River Press
Hawthorne, New York: 1979

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I thought it was a real distinct possibility that I might be killed. I believed he would kill me if I resisted. But the other part was that I would try to kill him first because I guess that for me, at that time in my life, it would have been better to have died resisting rape than to have been raped. I decided I wasn't going to die. It seemed a waste to die on the floor in my apartment so I decided to fight.

Recollections of a woman who successfully resisted rape.

Do you care about freedom? Dreams may have inspired it, and wishes promoted it, but only war and weapons have made it yours.

Robert Ardrey

Surprisingly, despite the enormous literature on rape and other violence against women (and on firearms for self-defense), there appears to be no detailed treatment of the viability of women's armed self-defense. The widely publicized tracts in which handgun prohibitionists have argued that firearms are useless defense dismiss women and women's issues summarily with the comment that women can not use guns anyway. The other side devotes scant attention specifically to women because it urges armed self-defense equally for both sexes; and gun experts see little difference between male and female capacity for self-defense with firearms.

I do not favor small calibre pistols [for women]. I have taught too many women, girls, and boys to handle [.45s] with ease and accuracy. - Elmer Keith

If the housewife finds that a 12-gauge [shotgun] is just too strenuous, a 20-gauge is still pretty conclusive... - Jeff Cooper

During the frequent periods that I am away from home, I do not worry about my family,

for my wife has a gun that she could use as well, if not better, than I could; and more important than knowing how to use it, she knows when and under what circumstances to use it.¹ -Neal Knox

Similarly, the Women's Gun Pamphlet, published by a radical feminist group in Berkeley, simply assumes the viability of women's self-defense and proceeds with an excellent treatment of how to master handgun skills.

But we believe a specific discussion of women's armed self-defense is appropriate, because the crimes women fear are particularly deterrable and defensible with handguns. To the extent that the arguments in the anti-self-defense tracts are valid at all, what they demonstrate is that handguns are of little use against burglary and household (but not commercial) robbery. Handguns aren't much use against burglars because burglars take care to strike only when no one is at home to shoot them. As to household robbery, this occurs so infrequently that guns are not kept ready and accessible for resistance; in the rare event of a household robbery, the handgun is generally locked up in the basement, closet, or trunk. But proportionately far more crimes that are directed specifically against women (e.g., rape, murder or beatings by ex-husbands or boyfriends, etc.) involve breaking into their homes or offices. Thus a woman who keeps a handgun for defense against these crimes is much more likely than the normal householder to have it ready to confront the attacker - not to mention the fact that an ex-husband or boyfriend is a lot less likely to try to break in if he knows she is armed. But the tracts deriding self-defense deal with crimes against women by just not mentioning them. The most scrupulous and reliable of them, the Eisenhower Commission staff report, devotes to women only one sentence: "[They are] less knowledgeable than men about guns and generally are less capable of self-defense."²

We come to a very different conclusion based on a review of all the competent evidence as to successful and unsuccessful firearms defense incidents (by shopkeepers, householders, and, specifically, women repelling male attackers) correlated with the normal fact patterns surrounding crimes against women. As to all forms of male attack, we find that firearms, particularly handguns, offer women a high likelihood of successful resistance with a low likelihood of suffering serious injury, and that no other form of resistance does so. As to rape in particular, a firearm (particularly a handgun) is far superior to any other form of resistance because it is: (a) most likely to stop the attacker; (b) least likely to be taken away; and (c) least likely to be used to injure the woman if it is taken away.

In light of the bitterly controversial nature of this subject, we have attempted (not altogether successfully) to eschew emotionalistic terminology and argumentation and to separately discuss first the moral, and then the practical, issues. Furthermore - though at some cost to readability - we have found it necessary to constantly intersperse the discussion with disclaimers about what we are not saying, and clarifications about what we are. The first set of these can be presented here.

We fully endorse the common-law doctrine that a woman threatened with rape - or anyone else threatened illegal[ly] with death or serious injury - may rightfully resist with "deadly force." (The phrase "deadly force" is somewhat misleading, at least as to the relatively puny handgun. Even if an attacker persists to the point of being shot his chance of recovery is 90-95

per cent, as opposed to perhaps 35 percent if a rifle is used and 75 per cent in the case of a shotgun wound.³ Let it be very clear, however, that we are not urging women to have handguns for self-defense. Whether a woman should do that is a purely personal decision which must be made in relation to the particular circumstances in her life. The principal factors that must be evaluated are: First, is she willing and emotionally able to use deadly force in defense of herself or others who are threatened with death or serious bodily harm? If not, her only use for a handgun will be target shooting. Second, do the potential dangers of her life situation justify the "costs" involved on having a handgun for self-defense? These costs are not only the monetary expenditures, but the time and effort necessary to familiarize herself with the gun and learn how to use it safely and efficiently. Third, is her environment one in which a gun can safely be kept? As to this, the consideration normally raised is the presence of small children in the household. In fact, it is generally possible to keep a handgun secreted and securely locked, but reasonably ready for use - or, in an emergency situation, on the owner's person where it is at all times under her direct control. Realistically, the presence in the household of a careless or irresponsible husband or boyfriend may create a greater risk of gun accidents than do children.

We do not suggest that a gun will be much protection to a woman who continues living with the person she has reason to think she may need to defend herself against. A gun is not an absolute guarantee of safety even to the most cautious and discreet of owners, much less one who courts danger. A woman who will continue to live with a man she knows to be capable of killing or seriously injuring her needs a miracle, not a gun. By the same token, possession of a gun is no justification for disregarding the litany of sound advice given by rape prevention groups. Rapists are extremely dangerous, and any prospective encounter with them is perilous, whether the woman is armed or not. She is well' advised to avoid confrontation if humanly possible, for in this case, an ounce of prevention is worth many pounds of cure. Also, a woman may be confronted with a robber, rapist, or the attacker in circumstances where submission seems "the better part of valor." Having a gun does not compel her to use it any more than she is compelled to scratch, bite, kick, or scream if this would increase her danger. The point is that a gun provides a real opportunity to resist, whereas biting, scratching, etc., have

very little likelihood of success and only provoke savage retaliation.

Just as we refrain from advising women to own handguns because the decision must be based upon each individual's evaluation of her own situation, so are we unalterably opposed to the so called gun control laws that seek to substitute government fiat for this individual decision-making. We are opposed to this because we know how that system actually works in New York City, the model of administration that the handgun prohibitionists propose for the entire country. An ordinary woman who seeks a gun permit because she has been threatened or beaten by an ex-husband or boyfriend, or mugged or raped, faces an administrative obstacle course including every technique of discouragement, persuasion, and delay the New York City police can thrust in her path. If an unusually resolute applicant nevertheless perseveres, the permit is automatically denied unless the police are convinced that she will be able and willing to bring a lawsuit. Even when an applicant is successful, the process involves a minimum of six months of red tape by which time she may have been killed or had to move somewhere else for her own safety. Police bureaucrats - all of whom carry a gun twenty-four hours a day for their own protection, incidentally work on the principle that if they give a threatened woman a gun permit and she misuses it there will be an immense clamor in the newspapers. Whereas, if they deny the permit and something happens to her, no one will pay attention to her complaints (even if she is still alive to make them).⁴ By the same token, such ordinary women - and especially minority and underprivileged women - are considered far too unimportant to receive the limited special protection resources that the police allocate to an elite few city officials and prominent individuals.

Unquestionably there are dangers in leaving to the individual citizen the decision whether to own the means of self-defense - although the far less than one in three thousand handgun owners who uses his weapon to murder is almost always going to be the kind of person whom the law cannot disarm anyway. But we find the dangers of individual choice considerably more acceptable than the arrogation of decision-making to a callous bureaucracy which sees to its own protection (and that of an elite, influential few others), while it cannot and will not provide protection to the ordinary individual to whom it denies a gun permit.

Rape and Other Physical Abuse of Women: The Magnitude of the Problem

For as long as the FBI has been publishing yearly reports of the nation's crime, the incidence of rape has been growing more rapidly than any other violent crime category. The rate (number of offenses reported per 100,000 population) tripled in the period 1933-65, whereas the homicide rate rose less than 25 percent in the same period. In 1970-75 the rate of reported rapes rose by 48 per cent, while the number of reported murders, aggravated assaults, and robberies rose by 28, 45, and 33 per cent respectively. As violent crime rates (particularly murder) have steadily dropped since 1975, rape rates have continued to rise.⁵ (It remains unclear, however, whether this represents an increase in actual incidence of rape - caused perhaps by the greater vulnerability of women as more live independent of men today - or simply the greater willingness of women to report rapes which in earlier years would have gone unreported.)

At the same time, non-sexual violence by men against women continues to account for a

large proportion of homicides and an even larger (though often unreported) proportion of aggravated assaults. In New York City "40 percent of all requests for police assistance and protection come from women who have been battered or threatened by their husbands."⁶ (by definition, this figure does not include women murdered by their husbands, or women murdered, assaulted, or threatened by ex-husbands, boy- friends, ex-boyfriends, or other male acquaintances.) A study of St. Louis police reports of aggravated assaults (defined as attempted murder or assault resulting in serious injury) found women being attacked by present or ex-husbands or boyfriends in over 12 percent of all cases (over 39 percent of the cases where the victim was female). This is a conservative figure, according to Sandy Baker, who did the study for St. Louis Legal Aid, in that it includes only those cases in which the report explicitly so described the man, excluding many others in which the connection was evident but not stated.⁷

Inability of the Criminal Justice System to Protect Women

How effectual is the Law in protecting women? In one city it has been shown that in 85 percent of the cases, when a homicide occurs in the course of domestic violence, the police had been summoned at least once before the killing occurred; and in 50 percent of the cases, the police were called five or more times before the actual murder."⁸ Or consider the case of Linda Ross, as described in a dissenting opinion in New York's highest court:

Linda Riss, an attractive young woman, was for more than six months terrorized by a rejected suitor well known to the courts of this state. . . . This miscreant, masquerading as a respectable attorney, repeatedly threatened to have Linda killed or maimed if she did not yield to him: "If I can't have you, no one else will have you, and when I get through with you no one else will want you." In fear for her life, she went to those charged by law with the duty of preserving and safeguarding the lives of the citizens and residents of this State. Linda's repeated and almost pathetic pleas for aid were received with little more than indifference. . . . On June 14, 1959 Linda became engaged to another man. At a party held to celebrate the event, she received a phone call warning her that it was her "last chance." Completely distraught, she called the police, begging for help, but was refused. The next day [the suitor] carried out his dire threats in the very manner he had foretold by having a hired thug throw lye in Linda's face. Linda was blinded in one eye, lost a good portion of her vision in the other, and her face was permanently scarred. . . . [Nevertheless the City has denied all liability, forcing Linda to sue.] What makes the City's position particularly difficult to understand is that, in conformity to the dictates of the law [of New York which forbids any civilian to have a pistol] Linda did not carry any weapon for self-defense. Thus, by a rather bitter irony she was required to rely for protection on the City of New York which now denies all responsibility to her.⁹

Common experience provides innumerable similar examples. A couple of years ago, a friend of ours in San Francisco awakened to find a prowler attempting to break in through her beveled glass front door. Fortunately for her, her screams drove him off - because the police never came. Apparently her call just got lost in the shuffle someplace.

Around the same time a male faculty colleague of Professor Kates, was robbed and severely beaten by three teenage hoods in Washington, D.C. After leaving the hospital, he investigated to find out why the police never appeared at the scene, for he knew they had been called by onlookers. He learned eventually that this is standard response by the rank-and-file of Washington officers to any situation involving teenage (as opposed to adult) muggers. The experience of Washington officers is that if they catch an adult mugger in the act he surrenders tamely enough, no matter how well armed he may be. The adult mugger knows that arrest means an hour's detention for booking, followed by release on bond or recognizance, and then, perhaps eight months later, conviction and a suspended sentence. But the poor ignorant teenage mugger, lacking knowledge of court practice, still thinks he is actually going to be punished. When an officer attempts to arrest such teenagers, they resist to the utmost, employing whatever weapons they have. Officers are understandably reluctant to risk life or limb (their own, and those of possible hostages or bystanders) just to send a few more teenage hoods through a forty-five-minute revolving door and out onto the streets again. So when police dispatchers receive a report of a mugging in progress, they are careful to note whether the culprits are teenagers - and, if so, the officers in the area suddenly find themselves terribly busy doing something else.

Police Negligence or Systemic Failure?

Tempting as it is to cast all the blame on the police or the courts, or some other callous or negligent bureaucracy, the truth is that most of the problems are simply inherent in our system of justice. Often times police are reluctant to arrest a wife-beater, because they sincerely (and reasonably) believe that this will only endanger the wife by making him more vengefully brutal on future occasions when the police will not be there to intervene. Yes, the police can arrest him this time. But they can't stop him from seeing a magistrate after he is booked, and being released on bail or his own recognizance. That is the husband's legal right. The police cannot prevent him from returning to his own house or seeing his own children. Short of a court order, which is time consuming, difficult, and expensive to obtain, these also are his legal rights. Once on the premises, he can brutalize, maim, or kill his unarmed wife, whether he is armed or not, long before the police can be summoned.

Few, if any, Americans, however great their abhorrence of spousal abuse, would suggest that the police be empowered to drag wife-beaters from their houses directly before judges who would summarily convict them and sentence them to life imprisonment. But it would require this kind of drastic change in our system of criminal procedure to ensure that when the police arrest a wife-beater he won't be out in a few hours, furious and able to wreak vengeance upon her.

Nor is it viable to talk about police protection for the threatened wife, girlfriend, etc. The simple fact is that the police are not staffed and organized (and they cannot be) to provide round-the-clock protection to the tens of thousands of women in communities across the country who are threatened, beaten, or murdered by their husbands each year - much less to the hundreds of thousands of other women who are threatened, beaten, or murdered by ex-husbands, boyfriends, or ex-boyfriends, or even to the women who are attacked by rapists. On this point, note that the facts we quoted from the Riss case were stated in dissent. The other

judges of New York's highest court voted to deny any compensation, following hoary and universal doctrines of American law. In California these are summarized in the statutes:

A public employee is not liable for an injury caused by his failure to enforce any enactment [i.e., law] Neither a public entity nor a public employee is liable for failure to . . . provide police protection . . . or to provide sufficient police protection . . . [or] for injury caused by the failure to make an arrest or the failure to retain an arrested person in custody.¹⁰

Neither the courts nor the legislatures of our country are about to impose upon the police liability for not providing protection which they are not equipped or staffed to provide.

The law presumes that a citizen is ordinarily capable of protecting herself. As a practical matter that means a woman has to have a handgun.

The "Morality" of Women Defending Themselves with Handguns

We recognize the force of the conventional response that there must be "some better solution" than a woman threatening or shooting her husband, lover, etc. But in the real world, there all too often isn't any better solution. And musings about better solutions are of very little aid to a woman who is being strangled or beaten to death. Consider a practical example: Less than a year ago the head of the St. Louis Legal Aid Women's Unit brought a client to Professor Kates for advice on buying and using a handgun. The woman's husband was a huge, powerful man with a long history of extremely violent attacks upon her and others. Her opportunity to divorce him arose only because he was currently hospitalized with two abdominal bullet wounds incurred during a nearly successful attempt to beat his sister and brother-in-law to death.

Let us examine what "better solutions" were available to this woman. Moving to another house in St. Louis and getting an unlisted phone number were of no use, since her husband could always find her at work. An impecunious black woman, she could not afford to quit her job. Even if she had, he could always have tracked her down through her friends. Moving to live with relatives in another part of the country seemed futile for he knew where they lived, and she was convinced he would follow her. Beyond the immediate practical questions is an ethical one by what right does anyone say that a woman - black or white, poor or rich - should give up her home, her job, her friends, and move to some place where she does not wish to live, rather than defend herself from a brutal, lawless attacker?

In the actual event, this woman did purchase a handgun and kept it on her person while her husband was visiting with the children. He did attack her, and she sent him back to the hospital with two more bullet wounds. Had she not had the gun, it seems quite probable that she would have been beaten to death. Although her skin is quite dark, the bruises on her face and neck were clearly visible the next day.

The Situation of Minorities and the Poor

This last example raises a question which the earlier ones also suggest: Given what police responsiveness is to violence against Linda Riss or law professors, or to our friend in her beautiful San Francisco Victorian, and to white middle or upper class people in general, what must life be like for minorities and underprivileged people living in the high-crime areas of our cities? The St. Louis police hierarchy provided a most reassuring answer when that question was put to them a few months ago by a local reporter doing a series on "gun control." They said that police protection is fully sufficient; blacks and the poor have no need for handguns in St. Louis. But repeating this to rank-and-file officers got the reporter only laughter and ridicule. The officers who actually work the ghetto unanimously and unequivocally told her that they cannot keep order there; self-protection is all that ghetto residents can rely on. More telling than their comments was their reaction to her proposal that some of them escort her into the

housing projects while she was doing interviews there. Although she does not ordinarily have difficulty finding male company, she could not get any officer, black or white, to volunteer to enter the area with her while off duty. These men go there at all only because required to do so to keep their jobs - and then only armed, with an armed partner for back-up, in shotgun-equipped squad cars which they rarely leave.

We cannot resist adding a further example of what gun laws mean for poor women. A couple of years ago in Chicago a man literally smashed his way through the thin walls of a tenement apartment, raped the woman he found therein, and threw her out the fifteen-story window. Police arrived too late to catch him, so they arrested her roommate for carrying the handgun she used to scare him out of raping and killing her as well. The prosecutor dropped the charges after the case attracted nationwide publicity. This was probably influenced by his knowledge of what would have happened in the special "gun court" that handles all such cases in Chicago. One of its judges has commented that he rarely gives more than a small fine because, in virtually every case, gun law violators are decent, respectable citizens - shopkeepers, secretaries, the elderly - who carry handguns out of a legitimate desire and need for self-defense. (The real criminals never come before this court, for gun charges against them are only incidental to their trials for murder, armed robbery, aggravated assault, etc.) The judge usually doesn't even add probation to the fines because that would prevent the defendants from buying a new gun to replace the one the police confiscated, and the judge believes they need guns to live and work where they do.

But the leaders of the handgun confiscation movement have the answer. They are going to make it a federal crime to own a handgun, with sentencing to be mandatory, so that a prosecutor will not have to drop charges against a woman like this. He will know that the judge has no choice other than to give her a year in prison.

Women's Self-Defense versus the Anti-Self-Defense Tracts

We have already mentioned the several well-publicized tracts in which prohibitionists have argued that handguns are worthless for defense of self and others. It should be noted that none of these involve any attempt to compare how often gun-armed citizens have been successful in defending themselves to how often they have been hurt or killed in doing so. The only study collecting data on that has been done by Professor Kates and justifies a conclusion far from what the prohibitionists want. Their tracts rest principally upon the allegedly small number of burglars and robbers actually killed by householders. How appropriate this is as a measure of self-defense (and how they selected their justifiable homicide statistics) is discussed infra., along with Professor Kates' study. For the present, we repeat that, taking their figures at face value, all the anti-self-defense tracts show is that handguns have limited utility against: (a) burglars, because these strike when no one is home; and (b) household robbers, because this is so unexpected a crime that comparatively few householders keep handguns readily available to resist them.

This has no bearing at all on the likely success of a woman who keeps a handgun at the ready because she fears rape (which is proportionately far more likely in the home than robbery) or had been threatened by an ex-husband or boyfriend. These tracts have quite

literally nothing to say about women's armed self-defense, for, in general, they avoid mentioning the kinds of crimes directed against women; the most thorough and scrupulous of them, as noted, dismisses women and their concerns with one contemptuous sentence. One measure of the likely success where a woman keeps a handgun ready is the success of shopkeepers (including many documented instances of women shopkeepers) in foiling robbers - yet another area the anti-self-defense tracts avoid discussing. A recent Duke University study concludes that in one city where many shopkeepers keep handguns ready for defense the average robber doubles his chance of dying by pulling seven robberies in a year - not to mention raising his chance of being wounded tenfold and taking an incalculably greater chance of being captured.¹¹

Deterrent Effect of Handgun Possession

Another significant issue is the deterrent effect that victim possession of a handgun is likely to have on one considering attacking her. The year after Orlando, Florida, instituted a highly publicized training program in which six thousand civilian women mastered handgun combat skills, rape dropped 90 percent there - though it rose precipitously across the country. We will discuss that and several comparable examples later. Such examples do not prove that handgun possession by individual women will deter crimes like rape or robbery for, in the absence of wide publicity, a criminal contemplating such crimes will not expect his victim to be armed. As to murder and other assaultive crimes, however, the situation is very different, for these are normally perpetrated among acquaintances. One who contemplates assaulting or

killing is much more likely to know his victim is armed and therefore to be deterred than a rapist or robber may be.

It is impossible to tell how many murders or assaults have not occurred because the victim was known to be armed. Nor can we be certain that such knowledge will necessarily deter the kind of man who contemplates attacking his ex-wife or girlfriend. It is clearly a deterrent to other kinds of violence, however. Surveys among prison populations uniformly find felons stating that, whenever possible, they avoid victims who are thought to be armed, and that they know of planned crimes that were abandoned when it was discovered that the prospective victim was armed.¹² Indeed, in these surveys prison denizens expressed support for handgun prohibition on precisely the same grounds which lead many honest citizens to oppose it, that it would make life safer and easier for the criminal by disarming his victims without affecting his own ability to attack them. Typical of prisoner comments, according to criminologist Ernest van den Haig of New York University, was: "Ban guns; I'd love it. I'm an armed robber."

Another illustration of the deterrent effect of civilian handgun ownership is the contrast between the Albuquerque police strike of 1974 and the Liverpool, England police strike of sixty years ago. The unprecedented increase in criminal activity in Liverpool while the strike lasted has been used as a classic example of the need for police services.¹³ But when Albuquerque police went out on strike, storekeepers openly armed themselves and citizens patrolled their neighborhoods with pistols and shotguns. Not only did major crime not rise - it dropped to lows that Albuquerque had not seen in years.

Quality of the Anti-Self-Defense Tracts

The Eisenhower Commission staff report admits that known handgun possession by a prospective victim can be an important deterrent, but passes quickly over the issue since the crimes it elects to focus on (burglary, robbery) are generally committed by strangers who can't be deterred because they have no idea whether their victim has a gun. Despite the evident bias in its selection of focus, the Eisenhower Report remains the most scrupulous and reliable of the anti-self-defense tracts. The least scrupulous is one that has been widely quoted for the statistic that the number of people killed accidentally by firearms in the home is six times greater than the number of robbers or burglars killed by such firearms. At first blush, this is a very impressive indictment of the keeping of handguns for self-defense. But, upon examination, it turns out that the rabidly anti-gun authors of this study manufactured their statistic by an unannounced transfer of gun suicides into the tiny category of gun accident deaths. Since the number of yearly handgun suicides is about 44 times the number of accidental handgun fatalities, the effect of this sleight-of-hand is to exaggerate the number of accidents by upwards of 4400 per cent, rendering the accident-to-self-defense comparison worthless.¹⁴

Nearly as misleading is the statement in another such study that a loaded handgun in the home is statistically far more likely to be used against family and friends than as a means to repel strangers. As this study itself notes, about "72 percent of all murders nation-wide occurred among family members friends and acquaintances. . . ."¹⁵ Of course a woman who keeps a handgun for self-defense is most likely to end up using it "against family or friends"

because those are the people who are most likely to be trying to kill her!

In striking contrast to the anti-self-defense studies are measures that their sponsors and publicists take when their own safety is at stake. While the New York Times unceasingly advises ordinary citizens that no one needs a handgun for self-defense its publisher, Arthur Ochs Sulzberger has a permit to carry a concealed handgun at all times. So, reportedly, have Congressman and former New York Mayor John Lindsay (author of innumerable bills to disarm everyone else) and the husband of Dr. Joyce Brothers, the renowned pop-psychologist, whose public position is that no one needs a handgun for self-defense and that men who have them may be suspected of sexual dysfunction.¹⁶ One of the anti-self-defense tracts was issued by the U.S. Conference of Mayors, an organization that lobbies ceaselessly for handgun prohibition. Yet virtually every one of the big-city mayors responsible for this position carries a handgun himself and or has armed body guards.

Now it will undoubtedly be suggested that public office holders and publishers (but faded ex-mayors and Dr. Joyce Brothers?) have reason to keep handguns for self-defense. But this would seem irrelevant if handguns are useless for self-defense as the tracts say. In any case, it is quite untrue that big-city mayors and newspaper publishers are exposed to greater dangers than many classes of ordinary citizens. For instance, hundreds of thousands of women are threatened by male acquaintances each year; thousands of these women are killed, and tens of thousands severely injured. In contrast, the last big-city mayor murdered in the United States was Anton Cermak of Chicago, who got in the way of a bullet intended for F.D.R. in 1934. Our information as to the murder of newspaper publishers is not so precise, but the last one that comes to mind is Elijah Lovejoy in 1857. If anybody in our society does not need handguns for self-defense it is the mayors, the Sulzbergers, the Lindsey and Brotherses, the Nelson, David, Winthrop, and John Rockefeller, and all the other millionaires, socialites, and celebrities who have New York City to carry concealed guns while ordinary citizens can't even get permits to own them. If these people - whose lives are spent in mansions, high-security office buildings, and chauffeured limousines - believe that handguns are useless, let them give theirs up first. But, somehow, not only does a handgun prohibition not affect them first, it never gets around to them at all.

Defense of Self and Others With Firearms: Restoring the Balance to the Calculus of "Gun Control"

One artificial reason for the apparent strength of the case against civilian handgun ownership is an inherent lack of balance in the information available. The FBI publishes each year a national crime report from which anti-handgun propagandists draw endless statistics of the misuse of handguns in crime. But no state or federal agency, and very few localities, collect evidence the lives saved and/or crimes foiled by civilian handgun possession. As we shall see, however, the evidence that is available on this suggests that such incidents numerically far exceed the incidents of handgun misuse. In short, we hear only about the bad that handguns do and not about the good. (Of course, much of that good is not quantifiable anyway. There is no way to determine how many assaults or murders do not take place because the prospective victim is known to be armed. Likewise, there is no way to quantify the innocent pleasure collectors or target shooters get from their weapons, or the feeling of security people get from

having a gun handy, though in fact they never need to use it.)

The largest available sample of incidents in which civilian handguns were used against crime comes from the magazine of the National Rifle Association. But this sample is both biased and incomplete. It is biased because the NRA confessedly prints only those instances in which civilians were successful in using handguns against criminals, not those in which they were unsuccessful. It is very incomplete because the NRA prints only a page each month of the far more numerous incidents sent in by its readers from newspaper clippings. Newspapers report only a fraction of the armed self-defense incidents that occur. Moreover, NRA members do not read every newspaper in the country, they do not spot every incident reported in the newspapers they do read, and they do not clip and send in every report that they spot.

To obtain a less biased and more comprehensive sample, Professor Kates has for a year and a half had students clipping out, from thirty daily newspapers available in university and public libraries in St. Louis, reports of both successful and unsuccessful use of firearms in repelling criminal attacks. Some 296 incidents were analyzed, which allowed an interesting comparison between the success rate of armed civilians against criminals and that of the police and uniformed security guards. With success defined as the criminal being driven off, captured, or killed, armed civilians were successful in 84 percent of the cases, while police and security officers were successful in 73.3 percent. As to the danger of such resistance, 11.3 percent of the civilian defenders, and 15.1 per cent of the officers, were wounded, while 6.5 percent of the civilians and 6 percent of the officers were killed. (The differential between the success of civilian defenders and the somewhat lesser success of police may be due to the fact that victims are likely to encounter criminals at closer range than are police. Alternatively or cumulatively, it is also true that the average police officer has little interest in developing firearm skills, and the encouragement, training, and opportunity to do so afforded by most police departments are meager at best¹⁷ whereas shop-keepers and residents in high-crime areas often have great incentive to perfect their firearm skills.)

The difficulties inherent in a study based upon newspaper reports are numerous. Newspaper reports are not always accurate and complete. Some unsuccessful self-defense attempts may not have been recognized as such, e.g., because the robber snatched up the defender's gun after killing him, so that one does not thereafter recognize that the defender even had a gun. On the other hand, for reasons that will be described later, most successful self-defense examples are either not reported by the police or at least not thereafter carried in newspapers. Finally, the newspapers available in St. Louis do not cover anything like the entire country. With those deficiencies acknowledged, it remains true that this study represents the only attempt ever made to compare successful to unsuccessful self-defense incidents and to determine the percentage of times in which a defender was injured or killed.

In contrast, the anti-self-defense tracts contain concealed biases far more inappropriate than those that are apparent even in the NRA's totally unscientific monthly column. These tracts make no attempt to compare the numbers of successful and unsuccessful self-defense instances or to measure the percentage of danger that a defender may be injured or killed. They just belittle the value of self-defense by stressing the small number of burglars or robbers killed by householders in Cleveland, Detroit, Los Angeles, etc. Assuming that killings were the

appropriate standard, no explanation is given for omitting the numerically far more frequent killings of criminals by shopkeepers who, after all, will also be denied handguns by a national Sullivan Law. Similarly, no explanation is given for these studies' reliance upon unofficial police "guess-timates" of justifiable homicides from cities like Detroit and Los Angeles that do not keep actual records. At least some of the authors must be aware that the Chicago police department has been keeping records of justifiable homicides by civilians and by police for over forty years. These records show the number of criminals justifiably killed by civilians in each year to have squalled or exceeded the number killed by police - and in the last several years the civilian total has been almost three times that of the police.¹⁸ This comparison of civilians to police gains particular significance in light of the fact that "of the five largest cities in the United States, Chicago has the highest incidence of killings by the police." Professor Harding's study "Killings by Chicago Police,"¹⁹ from which this figure is taken, prompts some other comparisons between police killings and justifiable homicides by civilian gun owners. Every one of these civilian homicides was declared "justifiable" only after the most rigorous scrutiny by the Homicide Section of the Chicago police. But when the killings are by the police, rather less rigorous investigative techniques are employed. Professor Harding concludes, "the collaboration between or the inertia of [Chicago police officialdom and the Prosecutor's office] has erected an almost impenetrable barrier to effective testing of questionable police conduct." Working only from materials made public by the authorities (i.e., without any attempt to find or question witnesses independently), Professor Harding categorized 14 percent of the police killings he investigated as "apparent prima facie cases of manslaughter or murder. Several other [cases] presented factual anomalies sufficient to suggest that a thorough investigation [by the police at the time] might have revealed such prima facie cases." Needless to say, in not one of these cases was an officer charged with any crime; in only one of them was an officer even disciplined by the department, although in almost 20 percent of them Professor Harding found there to have been prima facie violations of such rules as not to shoot from a moving automobile or through apartment doors at unidentifiable targets.

At the risk of melodrama, it seems that possession of a Chicago badge is the equivalent of James Bond's "license to kill." Nor is Chicago atypical in the way in which it investigates killings by the police. A study by the Police Foundation finds the same pattern prevailing in seven other major American cities.²⁰ One may well wonder which represents the greater danger to public safety, handgun possession by citizens who know that if they are caught misusing their weapons they will be punished - or by police who know that they will not be?

Returning now to the anti-self-defense tracts, the most unfair of all the improprieties in their methodology is seizing on the number of criminals killed as a way of minimizing the "success" of civilian self-defense. Citizens keep pistols not to kill with, but to defend themselves. Success is measured as much by the number of criminals wounded, captured, or driven off without a shot being fired, as by the number killed. After all, we measure the success of the police not by how many criminals they kill, but by how many arrests they make and/or how many crimes they stop. The unfair minimization when kills alone are used as an index is not a minor one. From ten to twenty times as many criminals will survive handgun wounds as die of them,²¹ and the number who flee or surrender without a shot being fired may well exceed the number of wounded survivors.

Admittedly, it is very difficult to quantify the amount of non-kill success against criminals. While many such examples appear in Professor Kates' newspaper sample, there is good reason to believe that the majority of such incidents are nowhere recorded. The unfortunate fact is that crime has become so commonplace that many major newspapers do not consider newsworthy an item about a citizen driving off or even capturing or wounding a criminal.²² Moreover, it appears that many incidents in which prowlers, burglars, or muggers are driven off by civilians are never reported to the police, in part because most incidents occur at night, and the civilian has no very good description to give, and in part because the civilian may have owned or carried the gun illegally.

Only one sample with which we are familiar (and that a highly flawed one) provides comprehensive evidence as to the use of civilian handguns in defense of self or family. This is a survey taken for the California Department of Justice, in which 58 percent of those admitting to handgun ownership claimed that they or a member of their family at some time used that handgun in civilian self-defense.²³ Such self-reporting statistics must be used with great caution. The respondent may simply have invented an incident for the delectation of the poll-taker. Or the incident may have occurred, but it may have been the handgun user who was in the wrong and who illegally threatened or harmed another person. Because the question asked contained no time limitation, the respondent could be referring to an incident which happened in his household thirty or forty years ago. A drastic but effective way of excluding bias through invented or misreported or ancient incidents is to arbitrarily exclude from consideration 90 percent of the self-defense uses claimed by the respondents, and to assume that the incidents in question occurred not in the two years immediately preceding the survey, but in the entire preceding fifteen years. Assuming, therefore, that only 5.8 percent (rather than 58 percent) of America's handgun owners used their weapons in defense of self or others during years 1960-75, it still appears that the number of instances in which handguns were used in defense exceeds the number in which they were misused to kill in those years by a factor of 15-1.

The Effort to Dissuade Women From Keeping Firearms for Self-Defense

We are well aware of the deluge of advice to women that resisting a rapist with a firearm is both futile and dangerous. If this be accepted, it must be concluded that women should make no physical resistance to rape, for unarmed resistance would be even more futile and at least as dangerous. If an armed woman cannot resist a rapist, surely it would be futile for an unarmed woman to try. As to likelihood of injury or death from resisting, if rapists would be inspired to homicidal fury by the mere experience of wresting a gun away from a woman (as they are supposed to be able to do so easily), what will their reaction be to a woman who screams, scratches, bites, kicks, etc.? It seems that a woman who doesn't have a male around to protect her had better just "lie back and enjoy it" - and hope that her attacker does not have it in mind to mutilate or murder her afterwards.

Before accepting such a posture, women should be informed that there is no evidence that the projected scenario of a rapist taking a woman's gun away from her and shooting her with it has ever occurred outside of cinematic fiction. To eliminate any question of biased research on our part, we took this conclusion to Lorraine Copeland, an acknowledged authority in the area

of rape. While director of the Queen's Bench Foundation Rape Victimization Project, she did three major empirical studies,²⁴ including one on resistance techniques, and familiarized herself with the vast corpus of studies and other literature available on rape. Though there were women who successfully used firearms in self-defense in Ms. Copeland's sample, their number was too small to justify any conclusion. But in none of those cases did the woman have her gun taken away and used against her; and Ms. Copeland confirms our conclusion that a review of the entire corpus of rape literature reveals no such case.

In contrast to this unsubstantiated scenario, there are hundreds of documented examples of women successfully using firearms against male attackers. The following from the St. Louis Post - Dispatch from March 25, 1976, provides a particularly ironic counterpoint to the propaganda with which anti-gun police officials have deluged women:

George Kensey can't be sure whether he has poor judgment or bad luck - but he can be sure that he has bullet wounds in the shoulder and back. The woman whom Kensey attempted to pull from an outdoor phone booth near Gardena, California, early yesterday turned out to be Barbara Sherwood. And Ms. Sherwood turned out to be a sheriff's deputy, armed with a .38 revolver. She shot Kensey twice, took him to the hospital for treatment and then moved him to Angeles County jail where he is being held on suspicion of attempted rape.

Or consider this item from the St. Louis Globe Democrat:

'Get off or I'll shoot you' said the 60-year-old woman as she yanked a gun from under her pillow and ordered the rapist to stop. He obeyed. While continuing to point the assailant, the woman, whose identity was not disclosed, telephone police yesterday. They arrested Robert Thomas, 27, and charged him with [attempted rape and various other crimes]. Police said Thomas came to the woman's apartment seeking a friend who was not there. He allegedly flashed a straight razor, ordering the woman into her bedroom, and told her to undress.

This incident recalls an earlier one in which a Chicago woman confronted by a rapist in her apartment pretended to faint. When he carried her to her bed she reached under a pillow, pulled out a revolver, and shot him dead. Many of the thousands of examples printed in the NRA magazine over the years have involved gun-armed women routing male attackers. Typical are the following [that appeared in just one randomly selected issue (January, 1978)].

Oklahoma City, Oklahoma - a knife-armed burglar who backed a 77-year-old woman into her bedroom fled when she grabbed a handgun from under her pillow and fired a shot over his head.

Richmond, California - a woman called the police about a shotgun-armed prowler. When he broke into the house before they arrived, she killed him with a pistol.

Shreveport, Louisiana - a burglar who tried to force his way into the home of an 84-year-old woman at 2:30 A.M. fled after she shot him with a handgun.

Lennox, California - two men raped a woman who was five months pregnant; they fled when she secured a gun after they had gone into the kitchen to get some beer.

As isolated instances, such anecdotes prove little. We recount them to exemplify the hundreds of such cases we have reviewed. These are to be considered in the context of the general facts on armed self-defense and on the psychology of rapists and the circumstances of rape that are described in the immediately preceding and succeeding sections. Our conclusion from all this evidence can be stated in two sentences: First, women who prepare themselves to repel rape with a firearm stand a very good chance of success, and very little chance of being injured as a result. Second, if someone nevertheless considers self-defense with a gun too risky, the only rational course is complete submission. Since any other form of resistance is at once far less likely to succeed, and at least equally likely to provoke a rapist into violent retaliation. A further point is that about 80 percent of the documented successful armed resistance examples involved women using handguns. These are safer, easier to handle and much less lethal, than long guns. As to karate, judo, or other martial arts, achieving and maintaining the necessary defensive preparedness with a handgun is far less arduous. At the same time, a handgun is a far more effective defensive weapon against even one attacker, much less several. Although Ms. Silver has a brown belt in one school of karate, and a purple belt in another, she believes it far safer to have a firearm to resist an attacker, regardless of whether, or how, he is armed.

Although we will be devoting considerable space to the likelihood that a rapist can disarm his victim, it may be useful to enter another set of disclaimers and clarifications here: We are not claiming that never out of thousands of instances of resistance by armed women will a rapist get a handgun away. We are saying that such an occurrence will be very rare, and that when it occurs it is highly unlikely that the rapist will shoot her.

First, a rapist who is confronted by a woman who is armed and ready to defend herself will generally flee; what rapists seek is a helpless victim upon whom they can take out their hostilities - not someone who stands a substantial chance of seriously injuring or killing them. Second, if the rapist chooses to attack, the most likely result is that he will be shot until he desists; police combat instructors advise their pupils never to attempt to manually disarm a person with a handgun unless they are convinced he is about to shoot them anyway. Third, assuming that a rapist does wrest a gun from a woman after considerable struggle, he will be no more (and perhaps less) inclined to kill her or injure her than if she had bitten, scratched, kicked, or otherwise resisted without a weapon; if the gun has been fired during the struggle, the rapist will probably depart rapidly to avoid the police. Assuming that rapists could wrest guns away as easily as movie and TV scripts suggest, they are likely to be considerably less annoyed by such resistance than biting, scratching, etc. In the one case we know of where a rapist did get a woman's gun, he did not brutalize her thereafter. She stated, incidentally, that she lost her gun only because she could not bring herself to shoot him, though she had the opportunity. However humanitarian her reluctance, the result is that this so-called East Area Rapist has continued to rape scores of women in Sacramento, California, over several years' time.

Characteristics of Rapists and Rape Situations

Despite centuries of romanticization, it is by now well recognized that rape is not primarily a sexual act. This is emphasized by a survey Lorraine Copeland took among convicted rapists in California's Atascadero State Hospital.²⁵ More than three-quarters of the inmates stated that, on the day of their crime, they were feeling frustrated, upset, or depressed about something (other than the woman whom they victimized). Their primary concern was not sexual release, but venting these hostilities and antagonisms on a helpless victim. Indeed, almost 40 percent of these men were frustrated or depressed in general, and not because of conflict with a particular woman or women or all women. It seems that these men would have been equally happy to take out their frustrations by brutalizing a man they knew to be helpless; and some rapists have records of non-sexual, but extreme and unprovoked, violence against children.

The theme of power and helplessness - as opposed to sexual arousal - runs like a leitmotif through every study of rape. Despite the romantic myths, it is quite untrue that rapists concentrate upon conventionally attractive women. Victims are chosen primarily because their situation is perceived by the rapist as foreclosing effectual resistance; it is more important that the victim be helpless than desirable. Though over 60 percent of the Atascadero rapists were frustrated, angry, or depressed because of problems with some particular woman, they chose instead to brutalize some other female acquaintance or a complete stranger. They were getting back at a woman who had them "by the short hair" but they could do so only by striking at one

whom they perceived as helpless. Incidentally, when the rapist is confident that it will be futile. He often actually enjoys the woman's resistance. Many of the Atascadero rapists expressed disappointment that their victims had not struggled more. Very violent rapists often gratuitously brutalize unresisting victims in order to provoke them to futile resistance which can be even more savagely suppressed.

As to time and geography, a recent Denver study finds that "the greatest proportion of" rapes over a two-year period "occurred [between] midnight and 4 A.M. . . . while the victim was asleep in her bedroom."²⁶ A study of almost 650 Philadelphia rapes in the late 1950s found over 38 percent of them occurring in the victim's own home, with another 11.6 percent occurring in automobiles, and the rest in "open spaces." Of the Philadelphia rapes, 71 percent are characterized as "planned" and 11 percent as "partially planned," though the evidence for this is somewhat snaky, since it relies primarily on victim perception.²⁷ In a New York study, some 60 percent of the rape offenders questioned indicated that they acted upon immediate impulse with no prior planning.²⁸ As to means of intimidation, various empirical studies of rape disclose from 10 to 15 percent of the offenders using guns, from 20 to 55 percent using knives and other weapons, with the remainder relying on brute force.²⁹ The fact that only a small minority of rapists carry guns, and that a very large proportion carry no weapons at all, should not be misinterpreted as suggesting that rapists are not dangerous. If anything, it suggests the reverse. A gun-armed criminal (whether rapist, robber, or burglar) brings to bear against his victim the weapon which is most likely to secure obedience by mere threat. A criminal who relies on some lesser weapon is more likely to actually have to use it, either gratuitously, because he fears that threatening with it will not be enough, or because the victim actually does resist. For that reason, numerous studies of robberies both in this country and in Great Britain find injury to occur most frequently and be most serious when no weapon is used, or when the weapon is not a firearm.³⁰

In contrast to rapists, robbers are significantly more likely to be carrying some kind of weapon, which is most likely to be a firearm. Doubtless one reason for this is that robbery occurs far less often than rape on the spur of the moment, when the perpetrator is likely to be armed with nothing more than a pocketknife, if that. In contrast to the robber, the rapist feels more free to act on momentary impulse, because he is confident of his physical domination over women. By the same token, even when a rape is preplanned, the rapist may not think it necessary to use a firearm (or, perhaps, not any artificial weapon at all) to overawe his victim.

Also, many rapists eschew firearms for exactly the same reasons that robbers adopt them, i.e., the likelihood that their mere display will cow the victim into submission. While a robber wants to obtain money, and as easily as possible, a rapist is seeking psychological satisfaction. Because this is enhanced by victim resistance (if obviously futile), rapists generally opt against the gun, which will ensure compliance, thereby depriving them of the opportunity to savagely suppress resistance. Moreover, as a means of suppressing resistance, a gun is too distant and impersonal. Extremely brutal rapists almost always prefer a knife, or even better, a bludgeon or their unaided hands and feet.³¹ Rape-murderers very rarely shoot their victims, preferring to stab them as did Richard Speck (though he also had a gun). But often even the knife-armed rape-murderer eschews the weapon, preferring to get down and beat, kick, and/or strangle his victim.

The Mechanics of Women's Armed Self-Defense

The notion that women cannot defend themselves with firearms is the last apparently respectable (to "liberals") remnant of the apparently respectable (to "liberals") remnant of the sexist mythology about women and machines. In fact, women are at least equal to men in mastering combat firearms skills. In addition to its police training, the Chattanooga, Tennessee, Police Academy has initiated a short combat pistol training course for civilian women. The Academy's head reports that "most of the women had never [before] held a revolver, much less fired one." Nevertheless, he was astounded to find that, after two hours of classroom instruction and one hour on the range, they were consistently outshooting experienced police cadets who had the benefit of eight times as much instruction and practice.³² Of course the average rapist whom an armed woman will face has nowhere near the training or experience even of a police cadet. The phenomenal incompetence of criminals with weapons is something often and thankfully commented upon by police.³³ In addition, about 85 percent of rapists facing an armed woman will have the distinct disadvantage of not having a gun themselves.

Many rapists confronted with a gun will not even attempt to attack the woman, but will retreat or surrender if the opportunity is open. Empirical studies of sexual assault find a substantial proportion of would-be rapists backing off from even unarmed victims who show confidence and belligerence, rather than the timorous submission that the rapist expected. A fortiori, the number of rapists backing off will be greater yet where the woman's confident belligerence is supported and emphasized with a pistol. Of those rapists who would attack despite the woman's possession of a gun (or because they don't realize she has one until too late), many would be stopped cold by absorbing one or more bullets. Even if the rapist manages to close upon, and grapple with, a gun-armed woman without being shot, her screams and/or the weapon's discharge is likely to summon help, or at least to cause the rapist to depart for fear that police may come.

Confronting the Gun-Armed Rapist

A commonly heard objection to these arguments is that they apply only as long as rapists are less well armed than their victims. But (it is said) when women start defending themselves with guns this will prompt rapists to begin carrying guns, and the victim with the gun will find herself in more trouble than she would have been without

It is hard to know where to start. Probably it is best there are so many holes, both factual and theoretical, in this objection that it is hard to know where to start. Probably it is best to begin by reiterating a point made earlier which applies to resistance by a gun-armed woman in any situation, no matter what kind of weapon her attacker has. The idea that having a gun puts the victim in a worse position than if she had no weapon depends on the perverse assumption that somehow a woman with a gun must attempt to use it even if she thinks it will endanger her life. But nothing requires a woman to pull a gun against a rapist who has "the drop on her" or has grabbed her and placed a knife against her throat. The whole purpose of having a weapon for self-defense is to increase, not to diminish, the victim's options. A gun-armed woman may still submit if this seems advisable. The gun simply gives her the capacity to resist if that option

seems open, or if the rapist appears to be one of those who kill or mutilate their victims regardless of submission.

This raises a point of significance for the question of any kind of resistance to rapists. We have said that there is no evidence that rapists have ever injured women because of armed resistance, while there is every reason to believe that other forms of resistance are at least equally likely to enrage them. But, while women who resist without weapons are sometimes injured because of it, it must also be noted that far more terrible injury has often been suffered by women who submitted abjectly. Many rape-murderers make up their mind to kill their victim before they ever focus on a specific woman, and regardless of whether she resists. Many victims are maimed or murdered for no apparent reason at all, or even because they had submitted, thereby cheating the rapist out of the satisfaction of savagely suppressing their resistance.³⁴ Faced with such an attacker, a woman can only be better off for having a gun, whereas with a less brutal rapist she is no worse off.

Nor can the full range of the opportunities to resist be comprehended by a scenario in which the rapist "gets the drop" in a completely unexpected initial encounter. Most rapists apparently observe their victims for some time before making any move, and often the victim observes them as well. Many rape victims indicate that they anticipated the attack before it came but were unarmed and therefore unable to do anything about it.³⁵ An armed woman could forestall attack in such a situation by simply making it apparent that she had a gun. Even if he has a gun himself, a rapist has nothing to gain and everything to lose from attacking rather than fleeing at this point. The woman can pull her gun at least as quickly as he can pull his, and she will be far more willing to actually shoot because of the police attention which the resulting noise is likely to attract. The best he can hope for from an exchange of gunfire is to escape from the situation unscathed - which is precisely what he could have accomplished by leaving without pulling his gun. If she shoots him, he is plainly the loser. Even if he manages to shoot her in return, she goes to a hospital where 90-95 percent of handgun shooting victims recover, while he can go there only at the risk of being apprehended.

Assuming now a different scenario, in which a rapist takes an armed victim completely by surprise, her firearm may still give her the opportunity for effectual resistance at a later time. Often rapists encounter their victims at locations where it is impossible to search or disrobe them, and therefore have to transport them to more secluded areas. During the movement phase there will always be moments in which the attacker's attention is distracted, so that the victim may draw and (if necessary) use her own weapon. This will be particularly true if, as often occurs, the rapist attempts to transport her in his automobile.

Above, and apart from, the foregoing answers to the objection is a simple factual problem with it: The growth of an expectation among prospective rapists that women are going to resist them with guns will not result in more rapists arming themselves with guns but in fewer rape attacks. A rapist who thinks armed resistance is likely will not rape, for what he wants is "a sure thing," a helpless victim who has no real chance at all. When a victim arms herself she raises her chances of injuring her attacker by an infinite quantum, i.e., from virtually nil to substantial. Even if the rapist believes that by getting a gun himself he shifts the odds back into his own favor, the chance of loss is still unacceptably high. It is no longer "a sure thing"; he can

get hurt or killed.

The accuracy of this analysis is demonstrated by the actual results in communities which have adopted defensive firearms training for victims as a strategy for reducing violent crime. Faced with a dramatic increase in forcible rape, Orlando, Florida, police instituted in 1986 a well publicized program in which 6,000 civilian women received firearms defense training. In 1986, Orlando was the only city of 100,000 population in the United States to report a decrease in violent crime. Rape dropped by 90 percent, while aggravated assault and burglary dropped by 25 and 24 percent respectively.

In Highland Park, Michigan, armed robberies dropped from a total of eighty in a four-month period to zero in the succeeding four months, after police there instituted a highly publicized firearms training program for retail merchants. In Detroit such a program was carried on by a grocers' association over the opposition of the police chief. The program received extensive publicity, first through the chief's denunciations of it, and subsequently when seven robbers were shot by grocers. Grocery robberies in Detroit dropped 90 percent. In 1971, publicity for a firearms training program for New Orleans pharmacists was credited by police and federal narcotics agents with causing pharmacy robberies to drop from three per week to three in six months there.³⁶ By no means are these statistics offered for the proposition that armed civilian self-defense represents a panacea for violent crime. It is certainly conceivable that the dramatic crime reductions noted were purely coincidental, being caused by factors that had nothing to do with the highly publicized civilian firearms training programs. More likely is the possibility that at least part of the criminal activity that would have been committed in Orlando, Highland Park, Detroit, and New Orleans was transferred to neighboring communities, where victims were perceived to be less well armed.

Moreover, a strong argument can be made that the Orlando, etc., examples are of limited relevance to the subject under discussion here. These examples involve widely publicized community firearms training programs which might have come to the notice of persons considering committing violent crimes in those communities. In the short run, at least, even a very substantial increase in the percentage of women who keep firearms for self-defense is unlikely to generate enough publicity to become a factor in the calculations of prospective rapists. Obviously, they are not going to be deterred from rape by the increased likelihood of victim armed resistance if they do not perceive that increased likelihood. By the same token, however, rapists who do not perceive an increased likelihood of armed resistance will not react to that likelihood by increasingly carrying firearms themselves. But increased carrying of firearms by rapists was the harm which it was postulated would follow from an increase in the incidence of women's armed self-defense.

In sum, women are not constitutionally incapable of armed self-defense as has been postulated. The possession of a firearm gives a woman decisive superiority over the 85 percent of rapists who are either unarmed or armed with a weapon which is markedly inferior. A dramatic increase in incidents of gun-armed women repelling rapists will not dramatically increase the proportion of rapists who attack with firearms. If it has any effect, it will be to dramatically decrease the overall number of rape attacks, at least against women who are perceived as likely to be armed.

Conclusion

In closing it seems pertinent to ask why so many men have expended so much effort toward convincing women that they cannot defend themselves with guns. At least part of the answer, we submit, lies in the fact that the handgun, both symbolically and in reality, is the ultimate expression of the difference that the Age of Machines has made in the relationship between men and women. In prior ages, that relationship has been largely fixed by the differential in strength between the sexes. But the fact that most men can easily bench-press a hundred pounds, while most women would have difficulty with seventy-five, fades into insignificance when women have access to machines that lift tons. Even for men who accept this (and the continuing mythology about women and machines shows the extent of male resistance to it), the sticking point is the idea of women having access to guns to protect themselves with.

For men know that throughout all the prior ages of history the bottom line in male-female relations has always been woman's need for male protection. Women could not live alone for fear of predation by males. So they lived with a male protector and accepted his dictation of their role, either as a condition of receiving his protection, or because he would impose it upon them by physical force, or both. Access to firearms gives women, for the first time in history, the capacity to live independently and apart from men in safety and freedom.

We are not suggesting that it is right (or wrong) for women to live separately and apart from men. What we are suggesting is that women must have the freedom to choose with whom, and under what conditions, they shall live. That freedom is made possible by the opportunity to possess a handgun. To paraphrase a saying from the Old West: God didn't make men and women equal, Colonel Colt did.

Notes and References

1. From "The Best Home Defense Gun," a written symposium in G. James (editor). **Guns and Ammo Guide to Guns for Home Defense** (Petersen, 1975), p. 40.
2. "Firearms and Self-Defense," G. Newton and F. Zimring, **Firearms and Violence in American Life** (staff report to the National Commission on the Causes and Prevention of Violence).
3. Detailed comparisons of handgun, rifle, and shotgun lethality are contained in the articles "Handgun Prohibition and Homicide." and "Handgun Availability and the Social Harms of Robbery," supra.
4. These administrative policies date (from at least as early as 1937, when a distinguished civil libertarian commented that it was impossible to get a permit in New York City "unless you know a local judge or politician." (Morris Ernest, **The Ultimate Power** [Doubleday, 1937] p. 198.) Forty years later a review by New York magazine found the same situation in existence, despite the entry against the police of a series of individual and class action injunctions. (Susan Hall, "Nice People Who Carry Guns," New York, Dec. 12, 1977; The police "actively attempt to keep the number of pistol-packing New Yorkers at a minimum by refusing to give permits to keep a gun in the home; the number of permits issued is "so low that even the police are embarrassed at having to pretend that they believe the rationality of their own statistics. . . . The paper work and delaying tactics employed by the New York City Police Department are usually enough to discourage even the most avid. . . .") See generally Kates, "Some Remarks on the Prohibition of Handguns," 23 St. L.U.L.J. 12 (1978).
5. N. Morris and G. Hawkins, **The Honest Politicians Guide to Crime Control** (1970), pp. 60-61; FBI (Kelley), Uniform Crime Reports (1975), pp. 22.23; **FBI Uniform Crime Report** news release of Dec. 15, 1977, describing figures for Jan.-Sept., 1977.
6. Center for Constitutional Rights, Docket Report 1977-78, p. 8.
7. S. Baker, "Aggravated Assaults - Police Records for the City of St. Louis, Compilation of Six Months data" (unpublished ms., 1978).
8. L. Schneider, et. al.. "Representation of Women Who Defend Themselves in Response to Physical or Sexual Assault" (Center for Constitutional Rights, 1978), p. 10.
9. **Riss v. City of New York**, 240 N.E. 2nd 860 . 22 N.Y. 2nd 579.
10. California Gov. C., Sections 821, 845, 846.
11. P. Cook, **The Effect of Gun Availability on Robbery and Robbery-Murder: A Cross-Section-Study of 50 Cities** (Center for Study of Justice Policy, 1978), pp. 18-19.
12. Van den Haag, "Banning Handguns: Helping the Criminal Hurt You." **New Woman**. Nov.

Dec., 1975, p. 80; Firman, "In Prison Gun Survey the Pros are the Cons," **American Rifleman**, Nov., 1975, p. 13.

13. F. Zimring and G. Hawkins, **Deterrence** (1975), pp. 158 ff.

14. Hirsh, et. al.. "Accidental Firearm Fatalities in a Metropolitan County," **American Journal of Epidemiology**, 100 (1975), p. 504. The study itself does not mention that its authors are employing this unusual method of classifying suicide. Upon learning of the matter through another source, Professor Kates wrote the authors for an explanation. Although over a year has gone by since the letter was sent, there has been no response.

15. M. Yeager, **How Well Does the Handgun Protect You and Your Family?** (U.S. Conference of Mayors. 1976), p. 5.

16. See sources cited supra, note 4.

17. Massad Ayoob, a distinguished authority on firearms who is himself a police officer, has commented with some asperity that the average officer would be more interested in acquiring a good fountain pen than in having a good side arm. The latest available figures indicate that 27 percent of all police departments do not test their officers in firearms use, and that almost 20 percent don't even have a range where an officer who wishes to test or improve his skills can do so. A. Bristow, **The Search for an Effective Police Handgun** (Thomas. 1973) p. 47. See also Milton, **Police Use of Deadly Force** (Police Foundation, 1977), pp. 105-15.

18. Justifiable homicide figures for the period 1965-75 were supplied to me by the Chicago police, through the courtesy of Professor Fred Inbau of Northwestern University School of Law.

19. "Killings by Chicago Police, 1969-70: An Empirical Study," 46 U. S..C. L. Rev. 284 (1973).

20. Milton, supra, note 17, pp. 65 ff.

21. Supra, note 3.

22. An observation confirmed by Professor Kates' colleague. Michael Wolff, who was a reporter for the Minneapolis Star for three years.

23. The Field Institute, **Tabulations of the Findings of a Survey of Handgun Ownership and Access Among a Cross-Section of the California Public** (1976).

24. Copeland, **Rape Victimization Study: Preliminary Research Recommendations** (Queen's Bench Foundation. 1975); **Rape Victimization Study: Final Report** (Queen's Bench Foundation, 1975); **Rape: Prevention and Resistance** (Queen's Bench Foundation, 1976). (Herein. after Copeland I, II, and III respectively.)

25. Copeland III. *supra*. note 24, pp. 65 ff.
26. An unpublished study described by Yeager. *supra*. note I5
27. M. Amir, **Patterns in Forcible Rape** (University of Chicago, 1971), pp. 141-42, 145.
28. 8. Glueck, **New York Final Report on Deviated Sex Offenders** (New York Department of Mental Hygiene, 1956), p. 46. See generally. Yeager, *supra*, note I5, pp. 32-33: Copeland, *supra*. note 24: and Amir *supra*. note 27.
29. Compare Yeager, *supra*, note 15. p. 32, to Copeland I, 13 and 68. See also Amir, *supra*, note 27, p. 153.
30. See discussion in Hardy-Kates article on robbery, *supra*.
31. Yeager, *supra*, note 15, p. 33: ". . . according to a 1967 survey of police reported rapes in 17 American cities, only 1.4 percent of rape cases cleared by arrests and only 0.5 percent of uncleared cases resulted in the victim being seriously injured with a firearm. On the other hand, 17.7 percent of cleared cases and 18.9 percent of uncleared cases resulted in serious injury being inflicted through bodily means."
32. Hicks, "Point Gun, Pull Trigger." *Police Chief*, May, 1975.
33. See discussion in Hardy-Kates article on robbery, *supra*.
34. See generally S. Brownmiller, **Against Our will: Men, Women and Rape** (Simon and Schuster, 1975), pp. 197-206.
35. Copeland III, *supra*. note 24, p.- I5.
36. James, *supra*, note 1, pp. 108-9