History of Permits to Carry

- **Pre-2003:**
  - May issue state
  - Permits issued by police chiefs

- **2003:**
  - *Shall* issue state
  - Permits issued by sheriffs
  - April, 2005: Statute found unconstitutional in *Unity Church of St. Paul v. State*, 694 N.W.2d 585 (Minn. Ct. App. 2005), however the Legislature re-passed the law in 2005
+/- 160,000 (December 31, 2013)
Population: 5,379,139
2.97%
The Mechanics of Obtaining a Permit to Carry a Pistol

Applying for a Permit to Carry

- You are eligible to obtain a permit (at least preliminarily) if you:
  - Are at least 21 years old;
  - Complete training in the safe use of a pistol;
  - Complete a standardized application form and pay the fee not to exceed $100;
  - Are not prohibited from possessing firearms; and
  - Are not listed in the state's Criminal Gang Investigative System.

Training Requirements

- Basic training must include:
  - Instruction in the fundamentals of pistol use;
  - An actual shooting qualification exercise (though there are absolutely no standards for what constitutes "qualifying"); and
  - Instruction in the fundamental legal aspects of pistol possession, carry, and use, including self-defense and the restrictions on the use of deadly force.
- Most reputable instructors provide information far beyond this, and most classes last the better part of a day.
Application Form

• Must use the form created by the BCA
• Must provide copy of ID and proof of training
• Sheriff CANNOT ask for any information above and beyond this
• Must submit application in person

Granting or Denying the Application

• Within 30 days of receipt of the application materials the Sheriff MUST...
  • Issue the permit;
  • Deny if not eligible; or
  • Deny if “there exists a substantial likelihood that the applicant is a danger to self or the public if authorized to carry a pistol under a permit”

• Permit is valid for 5 years

Persons Ineligible to Possess Firearms

• Under 18 years of age (except with parents)
• Convicted or adjudicated delinquent of “crime of violence,” unless judicially restored
• Adult or juvenile currently charged with “crime of violence” in diversion program
• Ever committed as mentally ill, developmentally disabled, chemically dependent, or ever found incompetent to stand trial, unless judicially restored
Persons Ineligible to Possess Firearms

- Fugitives
- Illegal users of any controlled substance
- Non-citizens in country illegally
- Dishonorable discharge from armed forces
- Gross misdemeanor conviction in past 3 years for crimes committed for the benefit of a gang, assaults motivated by bias, false imprisonment, neglect or endangerment of a child, burglary in the fourth degree, setting a spring gun, riot, or stalking

Persons Ineligible to Possess Firearms

- "Misdemeanor Crime of Domestic Violence"

  - "has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim"

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Persons Ineligible to Possess Firearms

- Subject to an OFP or HRO...
  - That “was issued after a hearing of which such person received actual notice, and at which such person had the opportunity to participate” and
  - Either:
    - “includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child”
    - “by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury”

Permit Card

- Must carry along with government-issued ID whenever carrying
- Must display upon demand by peace officer

Reciprocity
Places a Pistol Can Be Carried Without a Permit

A permit to carry is not required of a person:
1. To keep or carry about the person’s place of business, dwelling house, premises or on land possessed by the person a pistol;
2. To carry a pistol from a place of purchase to the person's dwelling house or place of business, or from the person's dwelling house or place of business to or from a place where repairing is done, to have the pistol repaired;

* * *

Places a Pistol Can Be Carried Without a Permit

3. To carry a pistol between the person's dwelling house and place of business;
4. To carry a pistol in the woods or fields or upon the waters of this state for the purpose of hunting or of target shooting in a safe area; or
5. To transport a pistol in a motor vehicle, snowmobile or boat if the pistol is unloaded, contained in a closed and fastened case, gunbox, or securely tied package.

Places One Cannot Carry a Pistol, Even With a Permit

- On school property without written permission of the principal or other person having general control and supervision of the school or the director of a child care center
  - Applies to public or private schools
  - Applies to elementary, middle or secondary schools
  - Applies to licensed child care centers
  - Also applies in a school bus (provided it is then being used as a school bus)
- But can place firearm in or take out of vehicle on school property
Places One Cannot Carry a Pistol, Even With a Permit

- National Guard Armories
- Courthouse complexes
- State Capitol Area

These restrictions do not apply if the permit holder has notified the Sheriff or Commissioner of Public Safety

Court orders may restrict carry in courthouse complexes notwithstanding the statutes

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Places One Cannot Carry a Pistol, Even With a Permit

- Areas properly posted, when the person has also been asked to leave.

- But...
  - CANNOT post government buildings
  - CANNOT prohibit carry in parking area
  - Landlords CANNOT post

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Places One Cannot Carry a Pistol, Even With a Permit

- Public colleges and universities can prohibit carry by staff and students, though no crime is committed by those who still do so

- Employers can also restrict employees, but must allow lawful carry in parking areas

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Carry Permit Myths

Carry Permit Myth No. 1
• It is a “concealed carry” permit and you cannot open carry.

Carry Permit Myth No. 2
• A permit holder can be charged with Disorderly Conduct if their carrying of a firearm causes fear on the part of members of the public.
Carry Permit Myth No. 3
• You can only carry a single pistol with a Permit to Carry a Pistol.

Carry Permit Myth No. 4
• It is a Permit to Carry a Pistol and you cannot carry long guns under permit.

Carry Permit Myth No. 5
• Local government can regulate the carry of firearms within its boundaries.
Carry Permit Myth No. 6

- There is a sign prohibiting people from carrying guns on these premises, and anyone who ignores the sign can be arrested.

Carry Permit Myth No. 7

- Landlords can ban tenants and/or their guests/customers from carrying on their premises.

Revoking the Permit Once Issued

- A permit becomes void if the permit holder becomes ineligible to possess a firearm

- A permit can be suspended as a condition of pretrial release or sentence

- A permit can be revoked if the Sheriff petitions the Court and can prove “danger to self or others” if allowed to keep permit
Revoking the Permit Once Issued

- So, if a permit holder misbehaves…
  
  DOCUMENT, DOCUMENT, DOCUMENT!

Some Other Considerations

- Legal limit for operating a motor vehicle is 0.08
- Legal limit for carrying a firearm is 0.04
- There is an implied consent process for these violations
Some Other Considerations

- Many instructors suggest that their students notify peace officers that they are carrying during even routine traffic stops
  
  "I do have a Permit to Carry, which is in my wallet in my back left pocket, and I am carrying a pistol today in a holster on my right hip. What should I do?"

- Well, what should they do?

Some Other Considerations

- There have been numerous instances of "man with a gun" calls involving permit holders
  
  - Despite fact that person may be a permit holder, you may legally presume them to be committing a crime by carrying in public.
    - *State v. Timberlake*, 744 N.W.2d 390 (Minn. 2008).
    - *State v. Williams*, 794 N.W.2d 867 (Minn. 2011).

Some Other Considerations

- Several “open carry activists” have provoked confrontations with law enforcement and have surreptitiously audio or video recorded these encounters.
  
  - The internet is filled with these recordings.
Examples

- California
- Florida
- Oregon
- Georgia
- Wyoming
- Closer to home….

Out of State Peace Officer Carry of a Firearm


  “Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified law enforcement officer and who is carrying the identification required . . . may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce....”