

The Gottlieb-Tartaro Report

THE INSIDERS GUIDE FOR GUN OWNERS

Issue 103
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Dear Subscriber,

By all accounts, **ROBERT BYLAND**, a resident of New York's Canarsie neighborhood, **was a good man**. A youth basketball coach, father and husband, **BYLAND was caught in a hail of gunfire** just blocks from his house, looking to get his 8-year-old daughter and her 13-year-old cousin off the street after he heard shots.

He died on Father's Day, doing what a father is supposed to do: Watch out for his kids. **His widow** is nine months pregnant with twins **that will never know their dad**.

Mr. BYLAND was killed in the same city that recently tried to **jail two other men who used unlicensed guns to defend their homes**. Airman First Class MANUEL FALQUEZ, 22, killed a burglar in his mother's Queen's-area home. The man he shot was armed with a knife and a .38-caliber revolver. Navy veteran RONALD DIXON, 27, also a Canarsie resident, shot a career burglar he discovered in his baby's bedroom. (See our *Parting Shot* for details.)

In both cases, **the men defending their homes were persecuted** (that's not a spelling error) by zealous New York **prosecutors**. Public backlash, and support for the men, caused some hasty back-pedaling. **Charges against both men were dramatically reduced**. Neither man's record is permanently tarnished. **They should not have been charged at all**. New York has some of the toughest gun laws in the nation, but they do not prevent criminals from getting firearms. They only restrict honest citizens. Yet, gun control extremists want to enact such laws across the country.

ROBERT BYLAND was a victim of the same gun laws - and the same crackpot justice system - that victimized DIXON and FALQUEZ while doing nothing about real criminals; a system that recently allowed Federal Judge JACK WEINSTEIN **to throw out the 1994 murder conviction** of one RODNEY COX, who gunned down ERIC COPELAND in 1993. Weinstein, **in a tortured stretch of logic**, noted that COX had admitted shooting COPELAND in the head, **but he did not concede that in doing so he intended to kill him rather than injure him.** (See story on Page 3 for details.)

WEINSTEIN also presided over the case of *Hamilton v. Accu-Tek* in which he reportedly pushed the jury to hold gun makers responsible for negligence because of criminal misuse of their products. A federal appeals court rejected that decision.

Alas, **WEINSTEIN now presides over the NAACP lawsuit** against the gun industry. In an unbelievable exercise of judicial activism, WEINSTEIN **placed the jury in an advisory role**, vowing to issue his own verdict, even after the jury cleared 45 of the gun industry defendants and deadlocked on 23 others. WEINSTEIN once again appears to be setting himself up for reversal by a higher court, but it's presumably alright because at some point, a "statement" will be made about guns.

All of this has to do with firearms and the irrational effort to prevent honest citizens from owning, carrying and - if the need arises - using them, not only for self-defense but, in the broader sense, **the common good**. When a criminal loses, the rest of us win. It is an outrage that career criminals often get a free ride through turnstile courts while bungling prosecutors and judges hound decent citizens whose only crime is that they did not obtain the government's permission to exercise a Constitutional right.

Also in this issue: ● *Iraqis to keep AK-47s* ● *Armed U.S. air marshals fly in Canada* ● *Firearms industry wins another lawsuit* ● *Democrats introduce new gun control bill* ● *Does Sen. Ted Kennedy still have an armed bodyguard?* ● *Injustice and Real Justice in our Page Eight *Parting Shot**

**THE QUESTION OF
REAL JUSTICE**

UN HOSTING GLOBAL GUN CONTROL EVENT

The United Nations is sponsoring a **global gun control forum** this month in New York that could **threaten Americans' right to keep and bear arms.**

The **U.N. Small Arms Conference** is holding a follow-up to its 2001 meeting that produced a **Program of Action (PoA)** to "Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects."

AROUND THE WORLD

Among the provisions in the U.N. PoA is a requirement to **track officially held guns.** **This vague language may hide a gun registry for all citizens.**

Groups at the U.N. conference "will make their own independent report on governments' activities, as well as showcasing the important contributions that [non-governmental organizations] themselves are making to stop gun violence," according a news release.

IRAQIS GET TO KEEP THEIR AK-47S

In a **significant retreat** in American efforts to seize firearms held by Iraqi citizens, American and British officials have announced that **Iraqis would be allowed to keep AK-47 rifles in their homes and businesses.**

The policy shift came in the face of **heavy criticism from many Iraqis**, who asserted that families and business owners badly needed the weapons **to defend themselves from looters and organized criminal gangs** in the still-chaotic nation.

Weapons-control is still a priority for L. PAUL BREMER III, the top civilian administrator in Iraq. A spokesman said, **"It is not a program for the disarmament of the Iraqi people, it's for weapons control."**

Iraqis are also allowed to keep handguns, rifles and shotguns. Prohibited firearms include machine guns, rocket-propelled grenades, and artillery.

CANADA'S GUN REGISTRY IN MORE TROUBLE

A spate of computer crashes has **deleted countless gun owners' names** from Canada's **controversial firearms registry**, Solicitor General WAYNE EASTER recently admitted. "The system went down because it was overloaded," he said.

Then came the announcement that the **province of Ontario is refusing to prosecute** anyone who fails to register a rifle or shotgun because **it's a dumb law**, according to Attorney-General NORM STERLING.

Ontario was joined by British Columbia, Nova Scotia, Manitoba, Saskatchewan and Alberta in saying they won't prosecute people who fail to register their rifles and shotguns.

U.S. MARSHALS FLY WITH GUNS IN CANADA

Canada's **federal cabinet passed a top-secret order last month exempting armed U.S. air marshals from provisions of the nation's Firearms Act.**

DAVID AUSTIN of the Canadian Firearms Centre said, "It falls under the category of international affairs and defence information, which means it's not for discussion, **we're not going to talk about it.**"

NEW ZEALAND GUN CONTROL IS CLASS WARFARE

New Zealand Justice Spokesman STEPHEN FRANKS has accused Police Minister GEORGE HAWKINS of **waiting for a bloody firearms crime** to launch a new attempt to **force gun registration on law abiding citizens.**

This is intended "to allow the latte set to confiscate the firearms of those they despise as rural oafs. **This is primitive class antagonism,**" FRANKS said.

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FIREARMS INDUSTRY WINS ANOTHER COURT VICTORY

In a 3-1 ruling, a New York appellate court has upheld a trial court's August, 2001 order dismissing a lawsuit brought by New York State Attorney General ELIOT SPITZER against gun makers.

The appellate court said **manufacturers of lawful and non-defective products cannot be sued** for allegedly creating a "public nuisance" when criminals misuse firearms.

The court acknowledged **that courts are the least suited, least equipped, and thus the least appropriate branch of government to regulate and micro-manage the manufacturing, marketing, distribution and sale of handguns.**

LAWRENCE G. KEANE, the National Shooting Sports Foundation's vice president and general counsel, said "We are extremely pleased and gratified that the appeals court has found that Attorney General Spitzer's politically motivated lawsuit lacks any legal merit, precisely what other courts around the country have concluded in dismissing similar "junk" lawsuits filed against our industry."

**ON THE
LEGAL FRONT**

JUDGE OVERTURNS MURDER CONVICTION: SHOOTER'S ATTITUDE WASN'T BAD ENOUGH

Federal Judge JACK WEINSTEIN is in the news again (see Page 1 story).

He tossed out the 1994 murder conviction of RODNEY COX, serving 25 years to life for fatally shooting ERIC COPELAND in the face during a confrontation over a woman in Queens, New York.

Judge WEINSTEIN ruled, "Although [COX] conceded at trial that **he shot the victim**, he did not concede that in doing so he **intended to kill him** rather than injure him."

Most of us concede that shooting someone in the head usually kills them.

In fact, the conviction had been upheld by the state Appellate Division and the state Court of Appeals. What was Judge WEINSTEIN thinking?

ILLINOIS HIGH COURT STRIKES DOWN GUN-USE SENTENCES

Illinois cannot tack on 15 or 20 years of prison time for certain crimes **just because a gun was used**, since that makes the punishment for some crimes harsher than the punishment for worse crimes, the Illinois Supreme Court has ruled.

The decision struck down key parts of the state's "15-20-25-to-life" law enacted in 2000 and reversed the sentences of 11 convicts from Cook County.

The problem, ruled the court, is that **the law created violations of the constitutional principles of proportionality,** meaning a given crime should not have a harsher punishment than a more serious crime.

FLORIDA GUN DISTRIBUTOR ASKING FOR DEFENSE COSTS IN COURT VICTORY

The Valor Corp. wants to recover its defense costs from PAM GRUNOW, widow of schoolteacher BARRY GRUNOW, because **she lost her lawsuit** accusing the Broward County company of being responsible for her husband's death.

Valor sold the .25-caliber handgun that a student used to kill GRUNOW in 2000. A jury found Valor 5 percent responsible for the teacher's death and awarded PAM GRUNOW and her two children \$1.2 million, **but the verdict was reversed** by Circuit Judge JORGE LABARGA, who presided over the trial.

PAM GRUNOW is appealing the decision and claims Valor's move is designed to pressure her into dropping the appeal.

Valor says it's entitled to recovery of attorney's fees because PAM GRUNOW turned down an offer of \$200,000 in March 2002 to settle her lawsuit without going to trial.

The student, NATHANIEL BRAZILL, who was 13 when he shot GRUNOW outside a classroom, had stolen the gun. **He is serving a 28 year prison sentence.**

Valor attorney TOM WARNER said that Valor will not seek the recovery of its costs if GRUNOW withdraws her appeal.

NEW ASHCROFT POWER HAS GUN CONTROL MOB FUMING

The Homeland Security Act gave Attorney General JOHN ASHCROFT the authority to select the head of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).

ATF was moved from the Treasury Department to the Justice Department in the homeland security reorganization.

**AT THE
NATIONAL LEVEL**

Under Treasury, the ATF head was customarily a career civil servant. Now the position has been upgraded to a political level, but exempt from Senate confirmation, an exemption it has always had.

Gun control groups were unaware of the change until recently. The Homeland Security Act states, "The (ATF) director shall be appointed by the attorney general and shall perform such functions as the attorney general shall direct."

That worries Chris McGrath, executive director of **Handgun-Free America**. When told by a reporter for *The Hill* (a publication covering congressional issues) that Ashcroft is now in charge of selecting the next head of ATF, McGrath replied, "Oh, geez, that could be extremely dangerous. Ashcroft aligns himself with the NRA (National Rifle Association)...ATF's move to Justice theoretically makes sense, but the problem is that it's under Ashcroft."

Picking the next ATF director is a key decision for Ashcroft because it is sure to spark controversy in the coming 2004 election.

DEMOCRATS STILL NURSE GUN CONTROL AGENDA

Although anti-gun politics lost the Democrats the presidency in 2000 and the Senate in 2002, hard-core partisans haven't changed as much as the media may lead us to believe.

Democratic House leader NANCY PELOSI recently said Democrats will wait and revisit gun control when the issue is ripe (translation: when the Democrats next win the presidency or control of the House or Senate).

In fact, Democrats are pushing new gun control proposals at both the federal and state level.

House Dems are pushing for a vastly expanded assault weapons ban.

Senate Dems are threatening a filibuster against a bill to outlaw nuisance lawsuits against the firearms industry.

New federal regulations are lurking in two Democrat-sponsored bills, one to ban large caliber guns, the other to give the Department of Justice sweeping new powers to regulate the design, manufacture and distribution of guns (see item below).

Democrat state officials are pushing gun storage laws in New York, gun show transfer taxes in Illinois, banning large caliber guns in California, and fining parents whose children play with toy guns in Maryland.

DEMOCRATS INTRODUCE NEW GUN CONTROL BILL

The so-called "Firearms Safety and Consumer Protection Act" was recently introduced by Sen. JON S. CORZINE (D-NJ) and Rep. PATRICK KENNEDY (D-RI). It would give the Department of Justice authority to regulate the design, manufacture and distribution of guns.

The bill gives the Justice Department authority to collect data on gun-related deaths and injuries, and allow the government to issue product recalls and warnings and limit the sale of firearms "when no other remedy was available".

The bill does not have bi-artisan support, and KENNEDY conceded that it's not likely to reach President Bush's desk.

SENATE APPROVES CARGO PILOTS FOR ARMED PILOT PROGRAM

The Senate has approved legislation that would allow the arming of commercial cargo airline pilots. The amendment to allow the cargo pilots to participate in the Federal Flight Deck Officer (FFDO) program was included in the Federal Aviation Administration's reauthorization bill.

Sen JIM BUNNING (R-KY), the primary Senate sponsor of the proposal, said it is essential for pilots to remain in control of the cockpit at all times.

ALASKA GOVERNOR SIGNS RIGHT TO CARRY LAW

Gov. FRANK MURKOWSKI has signed Alaska's Vermont-style Right To Carry law, which allows anyone not disqualified from owning a gun to carry a concealed gun and go about their law-abiding business.

IN THE STATES

The law's chief sponsor, Rep. ERIC CROFT (D-Anchorage), said "I object to the government putting a precondition on the constitutional right to carry a weapon. I'm presumed to be a responsible citizen until proven otherwise."

DELAWARE

The legislature has passed HB 178, sponsored by Rep. NANCY WAGNER (R-31), which establishes a reciprocity system to recognize Right to Carry permits issued in other states.

The new law gives "full faith and credit" to the licenses of non-residents whose home states also recognize Delaware licenses/permits on a reciprocal basis.

NEW HAMPSHIRE

The New Hampshire General Court was approved HB 811 and HB 415, two important pro-gun bills. Both went to Governor Craig Benson (R) for his signature.

HB 811 limits the liability of manufacturers, distributors, dealers, or importers of firearms or ammunition for damages from misuse.

HB 415 gives the state, not towns and cities, the power to regulate firearms and ammunition, including sales, ownership, possession, and licensing issues.

NEW YORK

The legislative session closed without any anti-gun measures approved(!).

NORTH CAROLINA

The state Senate, by a 39-6 vote, has approved SB 33, reciprocity legislation that requires North Carolina to honor concealed handgun permits from other states.

North Carolina adopted its concealed handgun law in 1995 but did not reach reciprocal agreements with other states.

The bill was signed into law by Gov. MIKE EASLEY.

OHIO

The Ohio House failed to concur on HB 12, sponsored by Rep. JIM ASLANIDES (R-94), which would allow law-abiding citizens who have satisfied a criminal background check and taken a training course to obtain a permit to carry a handgun concealed for personal protection.

With the legislature now adjourned for summer recess, HB 12 will head to conference committee to be reviewed this fall.

OKLAHOMA

Governor BRAD HENRY (D) signed SB 834, making Oklahoma the seventh "universal recognition" state for concealed carry, after Alaska, Idaho, Indiana, Kentucky, Michigan and Utah. Oklahoma now recognizes concealed carry licenses / permits from any other state. However, any caliber over .45 is a "prohibited weapon" under Oklahoma's Self Defense Act.

TENNESSEE

Gov. PHIL BREDESEN (D) signed into law three pro-gun bills: SB 128, a full reciprocity measure; HB 1624, requiring transfer paperwork to be completed within 15 days; and HB 1606, authorizing expired permit renewal up to six months without penalty.

TEXAS

Gov. RICK PERRY (R) has signed into law four pro-gun laws. SB 501 strengthens concealed carry rights; HB 284 allows concealed carry in a recreational vehicle; HB 1704 eases concealed carry application requirements; and HB 3477 aids reciprocity.

GUN NEWS TICKER - QUICK TAKES ON THE NEWS

● **Washington, D.C.:** The Nation's Capital has reclaimed the title "murder capital" of the United States. Despite the most restrictive laws in the country (handguns have been banned since 1977), violent crime remains an ongoing and gravely serious problem in the city. Does gun control work in D.C.? Nope.

● **New York City:** The New York Police Department are issuing fewer and fewer of the so-called "premise" gun licenses, which allow business owners to have guns at their business. 91 percent of business owners with no prior arrests or a history of mental illness have normally been granted such licenses, but the number dipped to 85 percent in 2001 and 80 percent in 2002. This year, just 57 percent have been awarded such licenses. And it's even harder to get more restricted "carry" permits, usually given to businessmen who regularly carry large amounts of cash. The NYPD denied a carry permit to a Chinatown businesswoman who collected rent of more than \$500,000 in cash each year. She won after an appeal.

● **St. Paul, Minnesota:** Gun shops are reporting a surge of customer traffic as a result of Minnesota's new concealed carry law. People are signing up in droves for the required six-hour certification class. Sales of handguns are on the rise at a time when U.S. production of firearms, including handguns, has been dropping. Jeff Kempf, owner of Armored Fire Gun Shop & Range, said "We've got about 700 people signed up for the class."

● **Hollywood:** Reclusive rock 'n' roll producer Phil Spector has revealed details of the shooting death of B-movie actress Lana Clarkson. Spector said she drunkenly "kissed the gun" and killed herself. "I have no idea why," said Spector, 62, who was detained after cops responding to a 911 call found Clarkson, 41, lying in a pool of blood in the foyer of his Southern California home. Spector, who denies any connection with the shooting, was not arrested and has not been charged.

● **Sacramento, California:** The state Senate has approved legislation that would required new handguns to be equipped with accident-prevention magazines. Firearms would have either a chamber load indicator or a magazine disconnect mechanism, starting with models produce in 2005. After 2007, new handguns would have to have both. A critic of the bill, Sen. Rico Oller (R-San Andreas), said the devices would give gun owners a false sense of security. "To say that this is going to make those guns less dangerous is a very backward argument." The bill has little chance of becoming law, according to insiders.

● **Duluth, Minnesota:** Mayor Gary Doty is angry at the new state law that prevents local governments from banning weapons on their property. So he has approved the creation of signs for all city buildings and recreation sites that will read: "Guns not welcome here." The placards will be signed by the mayor. The signs don't say you can't bring guns, they say guns aren't welcome. "I wanted to make a statement," Doty said. The state attorney general wouldn't comment on the legality of the signs when asked by a Duluth News Tribune reporter.

● **Boston, Massachusetts:** The Federal Bureau of Alcohol, Tobacco, Firearms and Explosives is investigating rapper Snoop Dogg's armed bodyguards for violation federal weapons laws. It is a violation of federal law for a felon to possess guns or ammunition, or for anyone knowingly employed by a felon to carry a firearm or ammunition. Dogg, whose real name is Calvin Broadus, was convicted on a serious drug charge in 1990. So, why isn't ATF investigating Sen. Ted Kennedy's armed bodyguard? Kennedy pleaded guilty to leaving the scene of a crime in the 1969 fatal car crash at Chappaquiddick. That guilty plea under federal gun law not only disqualifies Kennedy from owning a firearm, it also prevents him from having an armed bodyguard. Joe Waldron, executive director of the Citizens Committee for the Right to Keep and Bear Arms, said it's a serious question. "ATF agents should verify whether Kennedy has armed security and take appropriate action."

GUN NEWS TICKER - QUICK TAKES ON THE NEWS

●**Hyattsville, Maryland:** The gun issue has divided St. Jerome's Catholic Church here because of a raffle to raise money for local kids who need sports activities to keep them off the street and out of gangs. The prize is a Mossberg Model 500 shotgun, and that has caused members to leave the church and others to complain to Cardinal Theodore McCarrick. Gun-loving members of the church even tried to end complaints by forming an independent Catholic Sportsmens Organization to raise the money, but anti-gunners don't want any money from guns helping local kids. This intolerance, says St. Jerome's parishioner John Aquilino, who came up with the gun raffle idea, "smacks of the same sort of prejudice that racism is built from."

●**West Palm Beach, Florida:** The Million Mom March staged a gun control rally on the front steps of West Palm Beach City Hall to commemorate national ASK Day, a day designed to remind parents to ask whether guns are in the houses where their children play. Four people showed up. Will they rename it The Four Mom March?

●**Albany, New York:** Anti-gun New York State Attorney General Eliot Spitzer has announced that Wal-Mart Stores Inc. agreed to pay a \$200,000 fine and stop selling realistic-looking toy guns in its New York locations. The battle over toy guns reached the courts in April when Assistant Attorney General Nick Garin filed suit against Wal-Mart in New York State Supreme Court in Manhattan. (In New York, the "Supreme Court" is not the highest appeals court, but the lowest state trial court.) The Bentonville, Arkansas-based retailer agreed to a court order barring the company from selling toy guns that fail to provide a non-removable orange stripe along the length of the barrel, according to the terms of the settlement signed by Judge Saralee Evans.

●**Washington, D.C.:** A Senate confirmation hearing on Alabama Attorney General Bill Pryor's (R) nomination for a federal judgeship on the 11th Circuit Court of Appeals was marred by Sen. Dick Durbin (D-IL) asking Pryor, "Are you a member of the National Rifle Association or its board of directors?" Pryor answered that he indeed is a member but not an NRA director. What kind of litmus test is NRA membership for a federal judge? Ask Sen. Ted Kennedy (D-MA), who berated Pryor for his filing of an amicus brief in U.S. v. Emerson, in which the Fifth Circuit Court of Appeals declared the right to bear arms has always been, and was always considered, an individually held right.

●**Mill Creek, Washington:** A 14-year-old boy carrying a prop for a middle school Civil War presentation - a broomstick and wood-block musket prop - was stormed by an army of Snohomish County sheriff's deputies and Washington State Patrol troopers. They locked down Jackson High and Heatherwood Middle schools, located north of Seattle, keeping 2,700 students inside while they confiscated the crude prop. A parent reported seeing the boy on his way to school and called police to report a massacre in the making. The lockdown ended after half an hour when police told school officials the weapon was fake. The student was sent home until school officials decide if he can return to class.

●**Annapolis, Maryland:** Alderwoman Cynthia A. Carter (D) wants to enact a law that would ban most toy guns in the city and fine parents whose children are caught playing with the toys outdoors. Carter said the law would ban all toy guns except for clear brightly colored plastic guns. The law also would give prosecutors more leverage against defendants who use toy guns to hold up banks and other establishments. "If someone commits a felony with one, they will not only be charged with the crime, but also with using a toy gun," said Carter. The Annapolis Police Department said if the law was passed, they wouldn't pull officers off their regular beats to catch children playing with water pistols and cap guns in schoolyards or on neighborhood streets.

●**Jordan, Utah:** The local school board has given preliminary approval to a policy allowing teachers to carry concealed weapons on school property with a valid permit. Teachers would use the weapon in their individual capacities.

Parting Shot

INJUSTICE AND REAL JUSTICE

Manuel Falquez, the Air Force serviceman who killed a burglar in his mother's Queens, New York home, won't go to prison after pleading guilty to a weapons charge.

Falquez, 22, agreed to the deal after prosecutors said he was justified in shooting the burglar in the head with an unlicensed 9-mm. gun.

The burglar, John Mejia, 36, had a knife and a .38-caliber revolver when he slipped in through a balcony door. Falquez told Mejia to drop the weapons, but he refused. Falquez shot him once, killing him instantly.

In another New York self defense case, Navy veteran Ronald Dixon, 27, shot Ivan Thompson, 40, a burglar Dixon caught going through the drawers in his baby's bedroom. Dixon is getting three days in jail for using an unregistered firearm.

Thompson is in jail on burglary and trespassing charges.

The semiautomatic pistol Dixon used was not registered in New York and he was given a misdemeanor charge for gun possession. But Dixon argued that he couldn't afford to spend time in jail so prosecutors offered to reduce his charge to attempted weapons possession.

Dixon's plight also drew huge public support.

Dixon proved he obtained the gun legally in Florida and tried to register it in New York, so prosecutors agreed to a charge of disorderly conduct, which carries only three days at Rikers Island.

Dixon pleaded guilty to the disorderly conduct charge, which allows him to do the time without carrying a criminal record. He said he didn't mind the three-day jail stint and that he has respect for the state's laws.

Chattanooga, Tennessee does better by its self defenders. After ten invasions of Hispanic homes in the Highland Park neighborhood, one of the victims shot and killed one of the intruders. Rafael Rivera, a neighbor, says maybe now the thieves will back off.

Rivera says he's tired of thieves targeting Hispanic people. The turning point came, Rivera said, when three black men kicked in the front door of the home and demanded money from the Hispanic men inside. The robbers shot one of the Hispanic men in the face.

One of the Hispanic men ran and got a gun and shot one of the robbers several time, killing him. The shot Hispanic man was in the hospital in critical condition.

Chattanooga Police say they won't charge the Hispanic shooter because it was self defense.

Alan M. Gottlieb

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