

The Gottlieb-Tartaro Report

THE INSIDERS GUIDE FOR GUN OWNERS

Issue 132

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Dear Subscriber,

City of San Francisco voters have passed Proposition H, a prohibition on handgun possession authored by Board of Supervisors member CHRIS DALY.

The Second Amendment Foundation (SAF) wasted no time in challenging the new law, **filing suit the next day** in the state Court of Appeal in San Francisco, the same court that tossed out a local handgun ban 22 years ago.

The suit argues that Proposition H, which was approved by 58 percent of the city's voters, **oversteps local government authority** and intrudes into an area entirely regulated **by the state**.

The SAF suit, joined by three other gun rights groups and seven individual gun owners, said **California law forbids "local attempts to ban the possession of handguns by law-abiding, responsible adults."**

Proposition H is set to take effect January 1 and requires residents to turn in their handguns by April 1. It also **prohibits all gun and ammunition sales and transfers** in San Francisco.

**SAN FRAN
GUN BAN**

SAF argues that Proposition H is **virtually identical** to the 1982 ordinance that was struck down by the appeals court on the grounds that it conflicted with state law.

The plaintiffs also asserted is that Proposition H is **so loosely drafted** that it would force museums to give up their gun collections, require police to leave their guns at the station, and interfere with television productions and even the performance of operas like "Tosca" and "Carmen."

The measure was opposed by the San Francisco Police Officers Association, the news media, and all the gun groups.

The Second Amendment Foundation suggested that **San Francisco Supervisor CHRIS DALY**, the measure's author, **should pay for the city's defense** of Proposition H out of his own pocket.

In a statement, SAF said, "Supervisor DALY cooked up this gun ban measure and now that it is being challenged in court, he ought to pay to cover the legal defense bills. San Francisco taxpayers, many of them gun owners who will be adversely affected by this ban measure, should not have to pay for DALY's folly."

Supervisor DALY has claimed that *police are exempt* from the handgun ban and that *TV productions and operas can use props*. He also claimed Proposition H was drafted to stay within the limits of local authority, claims that **SAF rejects**.

The plaintiffs joining SAF in the legal challenge included the National Rifle Association, the Law Enforcement Alliance of America, the California Association of Firearm Retailers, and several individual gun owners from the affected area.

Even Senator DIANNE FEINSTEIN and Mayor GAVIN NEWSOM said **Proposition H was not going to stand muster under the state preemption law**.

One San Francisco gun owner told the GT Report, "I'm going to drive my guns all the way back home to Montana!"

She added, "The very idea of turning them in to the cops! One of those pistols was grandpa's favorite and he'd turn over in his grave."

Other gun owners are **concerned by the message this gun ban sends to criminals in the Bay Area**. They will have a **risk-free environment** with victims who are unable to protect themselves, their property and their families.

Also in this issue: ● *Fired professor gets gun license back* ● *D.C. gun ban still in place* ● *Illinois governor's gun bill veto stands* ● *Lawmaker boo-boo stops gun confiscation* ● *Check your Michigan gun permit status on the Internet* ● *Criminals get lead for Christmas in our Page Eight "Parting Shot"*

DISTRICT OF COLUMBIA GUN BAN CHALLENGE ADVANCED

The D.C. Circuit Court has rejected a motion by the Washington, D.C. city government to dismiss the case of Parker v. District of Columbia, opening the way for the case to be heard.

The case seeks to restore the right of District residents to have handguns and functional long guns in their homes. Under current regulation, handguns are banned, and rifles and shotguns must be disassembled.

Attorney Robert Levy, one of three attorneys on the case, announced Thursday that the D.C. Circuit Court had rejected a motion by the Washington, D.C. city government to dismiss the case, opening the way for the case to be heard. He is co-counsel with attorneys Alan Gura and Clark Neily.

**ON THE
LEGAL
FRONT**

The crime rate in Washington, D.C. is proof positive that the ill-advised handgun ban has not worked.

The Second Amendment Foundation issued a news release praising the court for "doing the right thing."

The release said, "Stripping honest citizens of the ability to keep a handgun, or even an operable shotgun or rifle in their homes has not prevented a single violent crime. If anything, it has made the city even more dangerous for its law-abiding residents."

ILLINOIS APPEALS COURT TOSSES DEFACED GUN LAW

A state law that said merely possessing a gun with its serial number scratched out was enough evidence to charge the possessor with being the person who scratched it out, a felony.

The Appellate Court of Illinois has ruled in the case of Juan Quinones, charged with the crime in 2002, that the law is unconstitutional, denying the presumption of innocence granted to anyone arrested for a crime.

FIRED PROFESSOR GETS GUN LICENSE AND COLLECTION BACK

Patrick Munroe was fired from his instructor's job at Westchester, New York, Community College for disagreeing with an assistant dean's policy, and charged with trespassing and harassment for trying to get his personnel folder.

The college had county officers seize Munroe's gun collection and moved to revoke his pistol license, but Westchester County Judge Barbara Zambelli denied the motion and ordered the county to return his guns.

Judge Zambelli said that Munroe had held a pistol license for more than 32 years without incident and that his supposedly harassing writings were satirical and any attempt to interpret them as a threat must be based on misinterpretation.

INDIANA JUDGE USES NEW LAW TO KEEP GUNS FROM MAN

Hamilton Superior Court Judge Steve Nation has blocked the attempt of a Carmel, Indiana, man to retrieve his legally-owned guns from police custody, the first use of a new state law enacted after the 2004 slaying of an Indianapolis policeman by a ram-paging mental patient, despite evidence the man is sane and harmless.

Carmel restaurant worker Brian Sloan, 39, appeared before Judge Nation to request the return of his .410 shotgun and .22-caliber rifle, which were seized by Carmel police on September 7 after Sloan's mother called them to report her son armed and drunk and in need of medical attention. In court, she said her son was not a danger to anyone and she only wanted him to get help with his drinking. A psychiatric exam found nothing wrong with Sloan, but the judge wouldn't give his guns back.

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NEW YORK CITY WINS RULING THAT NEW LAW DOESN'T PROTECT GUNMAKERS

Eastern District Judge Jack B. Weinstein has ruled that the Protection of Lawful Commerce in Arms Act, designed to shield gun manufacturers from civil lawsuits, does not apply to New York City's claim against the industry.

Judge Weinstein, writing in a 111-page opinion, found that an exception to the legislation spared the city's suit from outright dismissal.

However, he also concluded that the act was constitutional and noted that his ruling, the first in the country to interpret the act, would provoke disagreement. He stayed his decision so gun manufacturers could appeal to the 2nd U.S. Circuit Court of Appeals.

John F. Renzulli of the Renzulli Law Firm, which represents Glock, Inc., Browning Arms Co., and several wholesalers, said the defendants will appeal and expect to prevail at the 2nd Circuit.

"I don't think the city's suit remotely fits into the exception," Renzulli said. "I think the immunity clearly does apply."

APPEALS COURT RULING DIMS HOPES FOR GUN CLUB

The Michigan Court of Appeals has ruled that the Elk Rapids Sportsman's Club is improperly located on property willed to the Elk Rapids Township by Mina Wilcox upon her death in 1948 with the stipulation that the land be used as a public park.

The sportsman's club argued that it is public, in that it is open to everyone, but the three-judge appeals court panel ruled that "the lease in this case was definitely for a private purpose."

Antrim Circuit Judge Philip Rodgers Jr. had given the club 30 days to vacate the property, but the appeal stalled the order.

Now it looks like the Elk Rapids Sportsman's Club will have to find another place to use as its headquarters.

ON THE FEDERAL LEVEL

D.C. GUN BAN LEFT IN PLACE BY NEW BUDGET

When congress approved the District of Columbia's budget late last month, Mayor Anthony A. Williams was happiest over what didn't make it into the measure: a series of proposals that would have repealed the city's handgun ban.

Gun owners in the District and gun rights advocates across America were disappointed with the Senate's short-sightedness in failing to support restoration of the right of self defense to the residents of the nation's capitol, which is one of the most crime-ridden capitals of the world.

The liberal *Washington Post* editorial page went on record just before the congressional vote by blasting the proposed restoration of Second Amendment rights to D.C.

"Not satisfied to be a Republican congressman from Indiana, Rep Mark Edward Souder also enjoys assuming the role of D.C. Council member, a role in which he--with guidance from the National Rifle Association--can try to decide when laws should be on the District's books."

Disregarding the fact that visitors from all over the world constantly swarm through the violent city with no means to defend themselves against criminals, the Post's editorial consisted mostly of name-calling against the Souder amendment in the House version of the budget bill, which included a measure to end the requirement that guns be locked away so they're not available for emergencies: "a reckless provision in the bill"... "the nightmare that is sure to come from loaded and unlocked guns."

The Senate did not include gun rights provisions in its version of the D.C. appropriations bill. The Senate's conferees subornly refused to consider the measure, despite overwhelming evidence that D.C.'s 1976 gun ban did not work and that other cities experienced drops in crime levels after concealed carry laws allowed law-abiding citizens to protect themselves.

D.C. Mayor Anthony Williams may have been happy about what didn't make it into the budget bill, but residents left unable to defend themselves weren't.

ALABAMA LEGISLATURE TO CONSIDER SELF DEFENSE BILL

State Rep. Albert Hall (D-Gurley) has sent a new self defense bill, pre-filed for the 2006 regular session, to the district attorney offices in Madison and Montgomery counties for review.

Hall has also asked the state's Legislative Reference Service to talk with Florida officials to try to avoid obstacles to the Alabama law, which is similar to Florida's "no-retreat" law passed this spring.

The Alabama bill would allow the use of deadly force if a person is in danger of being killed or kidnapped in a house, a building or a car, without having to retreat from the intruder.

The proposed bill differs from the Florida law in specifying these locations, at which a victim has no duty to retreat, while the Florida law only requires that a person be at "a place where he or she has a right to be."

IN THE STATES

ILLINOIS GOVERNOR'S VETO OF GUN BILLS STANDS

Bad news for Illinois gun owners: Gov. Rod Blagojevich has won his latest gun battle, beating back three veto overrides that gun owners strongly supported.

The three vetoed bills were SB2104, a preemption bill that made gun transportation laws uniform throughout the state, invalidating Chicago ordinances that forbid any gun transport; HB340, which would have eliminated the waiting period for a gun if it is obtained in trade for another gun; and SB57, which would have required police to destroy gun purchase records 90 days after the transaction.

The gun transportation override effort passed the Senate, but was defeated in the House, which was heavily lobbied by Blagojevich.

The other two vetoes stood because the deadline for the Legislature to override had passed.

The Legislature passed all three laws earlier this year, and Blagojevich, a Democrat, vetoed them.

Roll-call records from the passage of the bill earlier this year showed that a dozen legislators who had previously voted in favor of the law switched positions and voted against the override, backing Blagojevich to prevent the law from going into effect. Most defectors were Chicago Democrats.

MASSACHUSETTS CLARIFIES MUZZLELOADER LAW

Gov. Mitt Romney has signed legislation that provides one clear definition of a loaded shotgun or rifle for the state's hunters.

For years, two competing definitions left gun owners wondering how and when they could enter or cross a public way with their firearms.

No person is permitted to carry a loaded rifle or shotgun on a public way, so hunters must unload their firearms if they encounter any public thoroughfare while hunting.

But one of the old definitions included the requirement that the powder and ball be removed before crossing a road, based on muzzleloader construction. The new definition simplifies things so hunters don't have to go through time-consuming barrel-cleaning and can be legal by just removing the priming device.

NEW MEXICO'S NEW HANDGUN RULE NOW IN EFFECT

The New Mexico Department of Public Safety has complete new rules mandated by changes in the state's concealed carry handgun law.

The rules took effect November 30.

The law's amendment, which went into effect this summer, lowered the age for a concealed carry permit from 25 to 21 and extended the license period from two years to four with the requirement for refresher firearms training after two years.

The measure also lets people carry smaller-caliber handguns than provided for by their initial license. Licenses previously were issued for just one caliber.

In addition, New Mexico now recognizes concealed carry licenses issued by 20 other states that have similar requirements.

NORTH CAROLINA'S GUN LAW SUCCESS PROMPTS PROPOSED EXPANSION

The concealed carry handgun law that North Carolina passed 10 years ago has worked so well that even gun control advocates concede the point.

Now Grass Roots North Carolina, a gun rights group, is trying to get the law expanded so that permit holders can carry their firearms into places now restricted.

For example, Paul Valone, the group's president, suggests that permit holders should be allowed to carry their firearms into public parks. For one thing, it would provide protection for joggers from potential attackers.

IN THE STATES

OHIO BILL TO GIVE GUN OWNERS PRIVACY

Ohio's concealed carry law is up for modification with House Bill 347, sponsored by state Rep. Jim Aslanides (R-Coshocton), that would allow Ohioans a chance to keep their permit information from public eyes if they fear for their lives.

The bill would also clarify language that specifies how a gun is carried in a motor vehicle.

OREGON LEGISLATIVE ERROR REMOVES POWER TO REVOKE GUN PERMITS

A housekeeping bill passed by the 2003 Oregon Legislature inadvertently removed a section of gun laws that allows sheriffs to use the "danger to self and others" reason to take away the gun permits of Oregonians.

The error was not discovered until this fall when the Oregon Court of Appeals ruled that the Washington County sheriff had no right to confiscate the gun permit of Tom Bates, of Raleigh Hills, for making threats to state officials and phone company employees.

The error consisted of changing the connecting word in the list of laws that covered revocation from "ORS 166.291 to 166.293" (which would include 166.292, the "dangerousness" clause) to "ORS 166.291 and 166.293" (which omits it.) The Legislature is set to repair the error in the 2007 session.

PENNSYLVANIA DEADLY FORCE LAW IN THE WORKS

State Rep. Steven Cappelli (R-Williamsport) has introduced House Bill 2231 in the state legislature in Harrisburg, which expands existing deadly force law, now requiring anyone under attack to retreat before they're allowed to protect themselves.

Cappelli said his bill "makes it clear that any law-abiding citizen, who has the right and who is legally licensed to own a weapon, to stand their ground and protect themselves or others who are with them from that threat. It also provides them with much needed civil immunity from litigation that may occur after their use of force in self-protection."

The usual gun control rhetoric surfaced after Rep. Cappelli introduced his bill. Elliott Weiss of Williamsport said, "I think it would do more bad than good. It would further increase violence, more shootings, more killings, more harm."

Cappelli felt he could get the bill through the legislature, but wasn't sure if Gov. Ed Rendell will sign it.

WISCONSIN ASSEMBLY PANEL PASSES CONCEALED CARRY BILL

Wisconsin's Joint Finance Committee has approved a Republican bill, AB 763, that would end the state's 133-year-old ban on carry concealed weapons.

Republicans weakened the bill by inserting numerous locations where concealed carry would still be illegal in order to make it more palatable to police and Democrat Gov. Jim Doyle, who vetoed a previous concealed carry bill.

The revisions included giving law enforcement officers access to a database that would allow them to check if the owner of a car they stop may be carrying a weapon.

The bill was passed intact by the Assembly's Criminal Justice and Homeland Security Committee before the revisions.

SOUTH AFRICAN CAMPAIGN TRIES TO DESTROY ILLEGAL FIREARMS

Police in the province of KwaZulu-Natal have destroyed more than 7,000 illegal firearms as part of the haul of illegal guns seized during a recent amnesty period.

The destruction is part of a broad police crackdown on illegal firearms that come from negligent loss and theft.

South Africa's strict laws against possession of illegal and unlicensed firearms is having little effect on crime.

Bheki Cele, KwaZulu-Natal's safety and security officer said the destruction campaign is making a dent on caches of illegal arms, "but there has been an increase in the number of murders with criminals using knives."

Can knife control groups be far behind?

**AROUND
THE
WORLD**

THE UNITED KINGDOM'S FIREARMS DATABASE STALLED AGAIN

The national firearms database that was supposed to be up and running by July this year has been delayed until next year for technical difficulties, ministers recently admitted.

The database was called for after the 1996 Dunblane shootings. Scottish MP Danny Alexander said the delays were "disgraceful."

FEMALE COP KILLED, BRIT POLICE WANT GUNS

Police officer Sharon Beshenivsky responded unarmed to a call and was shot down by six robbers. Her death was the first among female officers in the line of duty in four years.

Despite angry calls for guns for police by officer support groups in the wake of the death, a Home Office spokesperson told reporters that being unarmed gives a character to their policing that they shouldn't give up.

A member of Protecting the Protectors, a police advocacy group, asked, "Like being easy targets for hardened criminals?"

CANADA SPECIAL SECTION

U.S. INVADES CANADA! That's what the AFP press agency headline made it sound like: "Toronto gripped by US gun violence."

But, in fact, the criminals were all Canadian, and there were lots of them. Police around the big Ontario city reported hundreds of shootings this year, including 46 homicides, and the seizure of 1,782 guns from an online retailer. All of it police blamed on the United States, "for exporting their gun culture and weapons north."

Who did the shooting? Gangs, mostly, home-grown Canadian gangs, in turf wars and drug sales and using guns they imported from the United States.

That, in Canadian police-think, makes the U.S. guilty of exporting crime. Police Superintendent Roy Pilkington, of the city's most hardened neighborhood, said, "Canadians are pacifists. We're not gunslingers. This violence is a real departure for us."

Canadian Foreign Affairs Minister Pierre Pettigrew in October pressed US Secretary of State Condoleezza Rice to take steps to stop the illegal flow of guns north into Canada.

And we thought import control was the job of Canada's customs agents.

LIBERALS TABLE ANTI-GUN BILL: The Liberal government has tabled its bill to toughen laws on gun crimes and gun dealing, which was a response to a summer of violence in Toronto that has candidates on edge as an election campaign approaches.

The bill included increased minimum mandatory sentences, new offenses for dealing in guns, expansion of the federal witness-protection program and tightened parole rules for criminals who use guns.

CANADIANS OUT WEST HAVE CROOKS TOO: Gun-related crimes are now common all over Canada's westernmost province, British Columbia, and not just in big-city Vancouver.

So said Canadian Royal Mounted Police Constable Dave Babineau. "The number of gun incidents are going up everywhere," he said.

GUN NEWS TICKER - QUICK TAKES ON THE NEWS

● **Philadelphia:** The 43-year-old pro-choice lesbian talk show host, is a Ronald Reagan admirer and former chapter head of California NOW who owns a .38-caliber snub-nosed Smith & Wesson she calls Snuffy. She's prolific author Tammy Bruce and she says, "Owning a gun is at the heart of what it means to be an American." She's written a new book about it, *The New American Revolution*.

● **Mount Clemons, Michigan:** The Macomb County clerk's office has launched a service that allows concealed carry applicants to check the status of their permit on the Internet, freeing up staff that had been bogged in thousands of routine calls each year. County Clerk Carmella Sabaugh. The website is very easy to use, even for those not very computer literate. Permit information is password protected so the privacy of the applicant is safe.

● **Morgantown, West Virginia:** West Virginia University offers one of the few classes in the country on hunting. Topics include the evolution of hunting in society, its role in wildlife management, traditions, ethics, animal rights, gun control and economic impact. Instructor James Anderson brings in speakers from both sides of controversial issues in hunting, including those from groups that oppose hunting and those that support it.

● **Springfield, Massachusetts:** Smith & Wesson began production recently on a new pistol intended to crack the military and police markets. The M&P pistol is part plastic and was designed specifically to appeal to law enforcement markets. It will retail for suggested list price of \$695. Smith & Wesson hopes to regain some of the police and military market it has lost in recent years, particularly to Glock. S&W has even hired former Glock sales employees to help market the new pistol.

● **Miami, Florida:** Miami-Dade commissioners approved a new set of rules that will require a five-day mandatory waiting period for people who want to buy a stun gun. The delay is intended to give police time to perform a background check on prospective buyers and conduct training for every stun gun purchaser.

● **Chicago:** Chicago Bears defensive lineman Terry "Tank" Johnson was placed on probation for 18 months after pleading guilty to a misdemeanor gun charge. He originally faced a felony charge after police found a loaded 9mm handgun in the vehicle he was driving outside a nightclub in June. He was arrested after a valet outside the club told police he saw Johnson move a handgun from his lap to the center console of his vehicle. He entered a plea agreement, paying a fine and performing community service time to lower the charge to a misdemeanor.

● **Bucks County, Pennsylvania:** Sheriff Edward Donnelly has announced a program to give gun owners a choice of paper or plastic when it comes to their permits--because the paper cards fade over time in the billfolds where gun owners stuff them for five years until they must be renewed. Police have complained they can't read older cards when they ask gun owners to show their permits because the print wears off with wear and tear, mostly being sat on in men's billfolds.

● **Toledo, Ohio:** Thomas Szych, a concealed carry license holder, had his gun confiscated by police after a neighbor filed a complaint against him. Police did not charge him at the time, but refused to give his gun back even though Szych faced high levels of gang and criminal activity in his north Toledo neighborhood this summer. Szych went through the Citizens Dispute Settlement Program and finally got his gun back after three months. He was never charged with any crime.

● **Bellevue, Washington:** The Citizens Committee for the Right to Keep and Bear Arms (CCRKBA) has pointed out that the Brady Campaign to Prevent Gun Violence is showing hypocrisy again by protesting that a proposed Florida law that would allow citizens to keep firearms in their cars at their places of employment is a "one size fits all" law "making decisions in advance about every kind of worker in every kind of situation." CCRKBA noted that every law the Brady Campaign has ever supported is much more of a "one size fits all" law against millions of gun owners!

Parting Shot

CRIMINALS GET LEAD FOR CHRISTMAS!

This month there are so many self-defense stories, we decided to give readers a Christmas present with as many short headliners as we could cram in!

Vonda Rawls of Jackson, Mississippi said her son wasn't trying to break into a house where resident Cedric Marshall killed 23-year-old Marcus Rawls, a convicted felon just out of prison after serving four years for armed robbery, with a single shot to the head. Police found the body at the front door, wearing a ski mask and gloves. A gun was found on the body. Marshall has not been charged with any crime.

Eugene Madill, owner of Mr. B's Pizza in Warren, Ohio, was attacked during a pizza delivery by four teenage thugs wearing ski masks who pushed him into a lighted but vacant home, beat him and threatened him with a knife while demanding money. Madill, a concealed carry permit holder, fired three shots from his 9mm pistol. One 17-year old was treated at a local hospital for a gunshot wound in the left side. A 16-year-old's body was found about a block away from the attempted robbery about noon the next day. The body still had its ski mask on.

A Houston, Texas homeowner unidentified by police was accosted at his back door by an intruder with a baseball bat. The owner warned the intruder that he had a gun, but the intruder forced his way into the house anyway. The owner secured his wife and child as the intruder made his way through the house. As the intruder tried to go upstairs, the owner shot him. The intruder died at the scene. Police said the case is justifiable homicide.

Angel Benitez, 71, of New Britain, Connecticut, ran to his kitchen when he heard his girlfriend Carmen Ramos, 58, yelling for help. He found an intruder pointing a gun at her and rummaging through cabinets as if looking for drugs. Benitez, who last year had a burglar put a knife to his throat and steal \$100, took his new gun to the kitchen and shot the burglar once in the abdomen. The criminal yelled, ow! ow! ow! and ran away. A 19-year-old man with a non-fatal gunshot wound in the abdomen arrived at the New Britain General Hospital emergency room where police held him for questioning.

Roland Burns, 65, awoke after midnight to find Shannon Scott Conley, 32, in his home in rural Boyd County, Kentucky. Burns did not know the man, got his gun and then ordered the man to leave. The man refused and struggled with Burns. Burns shot him dead. No charges were filed. Burn was inducted into the Turkey Hunters Hall of Fame in 2003 by the Kentucky chapter of the National Wild Turkey Federation.

Wish we had space for the dozens of other recent stories like this!
Happy Holidays to all our readers and be safe.

Alan M. Gottlieb

Joseph D. Tartaro

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