

The Gottlieb-Tartaro Report

THE INSIDERS GUIDE FOR GUN OWNERS

Issue 148

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Dear Subscriber,

In a victory that all gun owners will hail, **the U.S. Court of Appeals for the District of Columbia Circuit has overturned the 30-year-old ban on possession of handguns within the Nation's Capital.**

The Court rejected the city's handgun ban argument that **the Second Amendment right to bear arms applied only to militias.**

In a 2-1 decision, Senior Judge LAURENCE H. SILBERMAN was joined by Judge THOMAS B. GRIFFITH (a recent Bush appointee) to conclude that **activities protected by the Second Amendment "are not limited to militia service, nor is an individual's enjoyment of the right contingent" on enrollment in a militia.**

**IN THE
COURTS**

Judge KAREN LECRAFT HENDERSON filed a dissenting opinion, writing that **the Second Amendment does not apply to the District of Columbia because it is not a state.**

The case, *Parker v. District of Columbia*, was brought by six D.C. residents who sought to keep functional firearms in their home for self-defense.

The Court ruled that **the city cannot prevent people from keeping handguns in their homes.** The ruling also **struck down a requirement that owners of registered firearms must keep them unloaded and disassembled.** The court did not address provisions that prohibit people from carrying unregistered guns outside the home.

Senior Judge SILBERMAN wrote that the Second Amendment is still "subject to the same sort of **reasonable restrictions** that have been recognized as limiting, for instance, the First Amendment."

These "reasonable restrictions" limit freedom of speech, for example, in several ways, such as libel and inciting to violence.

For guns, such restrictions might include gun registration, firearms testing to promote public safety or restrictions on criminals or the mentally ill owning guns.

D.C. Mayor ADRIAN FENTY said he was "outraged" at the decision. **The city will appeal to the Supreme Court,** he said.

The Bush administration has endorsed individual gun-ownership rights, but **the Supreme Court has never settled the question.**

If the case makes it to the Supreme Court it would be the first in nearly 70 years to address the scope of the Second Amendment.

JONATHAN TURLEY, a constitutional law professor at George Washington University, said **"I think this is well positioned for review by the Supreme Court."**

Mayor FENTY was not only outraged, but defiant as well. He said the decision "flies in the face of laws that have **helped decrease gun violence**" in the city, although **the record shows exactly the opposite.**

FENTY also asserted that *the gun ban will be enforced while waiting for the appeal.*

PAUL HELMKE, president of the Brady Center to Prevent Gun Violence called the court's decision **"judicial activism at its worst.** By disregarding nearly seventy years of U.S. Supreme Court precedent, two Federal judges have negated

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Also in this issue: ● *New Orleans mayor in contempt of court* ● *Three mayors quit Bloomberg anti-gun mob* ● *Castle Doctrine bills advance in several states* ● *Iran sending .50-caliber guns to Iraq?* ● *FAA rules for taking guns aboard spaceships* ● *Crimefighter's Log, in our Page Eight "Parting Shot"*

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the democratically-expressed will of the people of the District of Columbia and deprived this community of a gun law it enacted thirty years ago and still strongly supports."

Aside from *misrepresenting the record*, HELMKE evidently forgets that **the Bill of Rights was intended to protect citizens from the government** -- and nowadays that includes the District of Columbia's government, whether it's a state or not.

IN THE COURTS

In fact, **this ruling strikes down decades of judicial activism** based on erroneous interpretation and deliberate misrepresentation of a 1939 Supreme Court decision, and returns the Second Amendment to its **historically accurate place in the Bill of Rights**.

Judge SILBERMAN wrote in the majority opinion, "The Amendment does not protect 'the right of militiamen to keep and bear arms,' but rather 'the right of the people'."

In a state-level case, **the New Jersey Superior Court also recognized the Second Amendment as an individual right**, and held that a citizen's constitutional right to keep and bear arms cannot be involuntarily waived under a New Jersey firearms forfeiture law.

Warren County, New Jersey had denied re-issuance of the appellant's Firearms Purchaser ID card **based on his consent to relinquish firearms seized in a domestic dispute** in 2000. In 2004, New Jersey enacted a law barring Firearms Purchaser ID cards to any person whose firearms have been seized and not returned.

A lower court upheld Warren County, but Judge JOHN H. PURSEL held that the statute did not apply because **the appellant did not know that his prior consent to relinquish his firearms in 2000 would subject him to permanent loss of his Second Amendment rights because of a law that would not be passed until four years later**.

The exact words the Judge used were, "the applicant did not intend to waive his right to bear arms as provided by the second amendment of the U.S. Constitution."

That clearly recognizes the Second Amendment right as an individual right, not some imaginary "collective right," as anti-gun advocates claim.

In other court news, Cleveland, Ohio has **challenged a state pre-emption law** that makes it illegal for the city to make its own gun laws, such as banning so-called "assault weapons."

The pre-emption provision was **part of the state concealed-carry gun law legislators adopted last December by overriding a veto of departing Gov. BOB TAFT**. It outlawed Cleveland's ban on minors possessing firearms and its ban on the sale and possession of numerous semi-automatic rifles the city identifies as "assault weapons," which is a media term with no exact meaning.

Cleveland's lawsuit says *the state law is unconstitutional because it interferes with the city's home rule rights*. Home rule has two provisions: a city's right to self-governance and its right to exercise police powers.

Ohio Attorney General MARC DANN replied, "The state laws are part of a comprehensive statewide scheme that seeks to protect both the public and the rights of gun owners."

In Utah, **a legal battle over the University's campus gun policy has come to an end** after the University agreed to **drop its federal lawsuit** against the state in exchange for a compromise with state legislators.

Students and staff members are now guaranteed the right to carry concealed firearms on campus **with a permit**, but non-permittees are still banned. The University compromised because **its lawsuit was hurting their lobbying for funding**.

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IT'S BAAAACK - AND THE NEW FEDERAL GUN BAN BILL IS EVEN WORSE

"The Assault Weapons Ban and Law Enforcement Protection Act of 2007" (H.R. 1022) is a true threat to the Second Amendment. It was introduced by "the queen of gun control," Rep. Carolyn McCarthy (D-NY) in mid-February with 33 co-sponsors and referred to the House Subcommittee on Crime, Terrorism and Homeland Security in mid-March.

There it sits, a ticking time bomb waiting for hearings rigged by the usual suspects in the gun control movement.

AT THE FEDERAL LEVEL

H.R. 1022 begins as a repeat of the old Clinton-era "Violent Crime Control and Law Enforcement Act of 1994" (the "Assault Weapons Ban"), which expired in 2004. Congress refused to extend it. But McCarthy's bill doesn't stop there.

It's following the old pattern of outlawing many types of guns based on their cosmetic features rather than on increased firepower. And a lot more than in 1994.

The new bill would reinstate all of the now-defunct 1994 provisions against semi-automatic firearms and large-capacity magazines, and then add more damaging measures.

For example, the legislation lists 14 more guns by name than the 1994 ban did. It also requires only one "dangerous" feature, such as a pistol grip or a folding stock, to make a gun illegal, instead of the two "dangerous" features in the 1994 ban.

The bill also prohibits the manufacture, importation and possession of many types of firearm. It would do irreparable damage to America's firearms industry and take away the guns of millions of law-abiding Americans.

The phony term "assault weapon" is intended to sound like it means **fully automatic machine guns**, but that's not it at all. It's a word trick.

The only "assault weapons" listed by name in this bill are **semi-automatic rifles** (one bullet fired for each squeeze of the trigger), many of them commonly used by hunters and marksmanship competitors.

The bill would do little or nothing to prevent violent crime if enacted. Semi-automatic rifles are not the weapons of choice among drug dealers, gang members or criminals in general. So-called "assault weapons" are used in about **one-fifth of one percent** of all violent crimes, which is about one percent of gun crimes.

Then what's eating McCarthy and her gun control cronies?

The same thing that was eating the Democrat Congress in 1994 when they passed the "assault weapons" ban. On September 15, 1994, two days after the ban became law, the *Washington Post* headlined its unsigned editorial (the official view of the newspaper) "Hyping the Crime Bill." It was prophetic:

"The bill also includes a ban on assault weapons. No one should have any illusions about what was accomplished. Assault weapons play a part in only a small percentage of crime. **The provision is mainly symbolic; its virtue will be if it turns out to be, as hoped, a stepping stone to broader gun control.**"

That's exactly what's happening now.

CONGRESS URGED TO MOVE CAREFULLY ON DC GUN BAN

Two things about the Washington, D.C. handgun ban are going on at once: The successful lawsuit that overturned the ban in a federal appeals court, and efforts in Congress to repeal the 1976 ban by legislation.

Alan Gura, lead counsel in *Parker v. District of Columbia*, the lawsuit that won recognition for the Second Amendment as an individual right (Page 1), has issued a friendly warning to supporters that "A congressional repeal of the D.C. gun ban right now could erase the recent court victory."

The D.C. government has said it would appeal, and probably to the U.S. Supreme Court. The *Parker* case is the best hope ever to take a good argument for the Second Amendment to the Supreme Court. If Congress repeals the ban too quickly, the high court will not have a chance to rule on it.

ARIZONA GOVERNOR VETOS BILL TO MAKE SELF-DEFENSE LAW RETROACTIVE

Gov. Janet Napolitano has vetoed a bill that would have made Arizona's 2006 self-defense law apply retroactively. Prosecutors would have to prove beyond a reasonable doubt that a self-defense claim was unfounded. The old law made defendants prove they acted to protect themselves. Even though gun rights supporters urged her to do otherwise, she sided with prosecutors and vetoed the bill.

**IN THE
STATES**

FORMER COLORADO LAWMAKER DEPLORES DEMOCRATS KILLING GUN BILL

Calling the Democrat defeat of the self-defense measure, House Bill 1011, in the Colorado State Senate "hysteria," former Republican Senate Majority leader Mark Hillman deplored the 3-2 party line vote that killed the bill. The wheat farmer from Burlington wrote in the *Pueblo Chieftain* that the bill was so sound and reasonable that the bill picked up 9 Democrats in addition to all 29 Republicans in the House. But anti-gun Senate President Joan Fitz-Gerald assigned the bill to the State Affairs Committee, where anti-gun ideologues "rule with an iron fist," keeping it from a likely win if it had been allowed a full Senate vote.

DISTRICT OF COLUMBIA COUNCILOR CALLS SECOND AMENDMENT "NUTTY EXPERIMENT"

The four-hour hearing with 20 witnesses was supposed to be about the proposed legislation to end the 30-year ban on handguns in the District, but most spoke on the recent federal appeals court decision to overturn the gun ban. The city has said it will appeal the ruling. Both sides of the gun debate showed up in force, with pro-gun advocates urging the Council to "give self-defense a chance," and it would lower crime, not raise it. However, Council member Mary Cheh, Ward 3 Democrat, called allowing guns for self-protection a "dangerous, nutty experiment" that would increase violence.

FLORIDA GUN RIGHTS BILL MAY ALIENATE PROPERTY RIGHTS ADVOCATES

Rep. Dennis Baxley (R-Ocala) has introduced a bill (HB 1417, SB 2356) that would protect, along with firearms, other pieces of property that people are allowed to carry by law, including where they work. A similar gun-only bill (to allow firearms in locked employee cars in company parking lots) was killed last year by the Florida business lobby. They believe property rights enable companies to place conditions on employees, such as banning guns in parked cars, if there's a safety risk. Many Republican lawmakers want no part of the bill because it splits two of their core supporters, gun rights and property rights.

ILLINOIS GUN BAN COULD BANKRUPT THE STATE

In a stunning analysis of a gun control bill now in the Illinois Senate (SB 16), the Illinois State Rifle Association has pointed out a problem that could be caused by requiring registration of certain semiautomatic firearms within 90 days of the bill's signing by the governor: Where is the state going to find the workforce and money to register 10 million affected firearms in 90 days? The idea that the state's current employees and ailing finances could handle the vast workload is ridiculous. It would take at least 7,000 new employees processing more than 111,000 registration forms per day to meet the deadline -- and cost more than \$300 million, money the state doesn't have.

PRE-EMPTION BILL INTRODUCED IN KANSAS

State Senator Phil Journey (R-Haysville) has defended House Bill 2528, a bill to pre-empt local gun ordinances in Kansas. He told a hearing of the Federal and State Affairs Committee that cities and counties had gone too far in regulating gun carrying by concealed-weapons permit holders. "The permit holder from Johnson County won't know what the rules are when they go to Dodge City or Wichita." Rep. Judy Morrison (R-Shawnee) agreed. She said she wanted her \$150 permit fee back if the bill doesn't pass. "I've worked really hard to get my right to carry," she said. "I don't want the cities to usurp the law we passed." Insiders say the bill has a good chance.

MARYLAND

Baltimore County Senators James Brochin and Norman Stone joined with other pro-gun legislators to block an "assault weapons" ban that had been pushed by the Brady Campaign. A 5-5 tie vote in the Senate Committee on Judicial Proceedings stopped Senate Bill 43 from advancing and saved the gun rights of thousands of Maryland gun owners. Another "symbolic stepping stone to broader gun control" is killed - for now.

MISSISSIPPI

Mississippi Governor Haley Barbour has signed two bills that make it easier to get violent felons off the street and keep them off for a good long while. Under one of them, a felon will face a 10-year sentence if found guilty of possessing "a gun, bowie knife, dirk knife, butcher knife, switchblade knife, metallic knuckles, blackjack" or silencers for firearms. The penalty had been three years. The other new law says a convicted felon found guilty of using a gun during a crime would be sentenced to 10 years, which would run consecutively to any other penalty a judge hands down. Barbour said anyone convicted of the crimes would not be eligible for a reduction in sentence. Violators could also be fined up to \$5,000. Barbour said the bills punish criminals for using guns without infringing on the rights of law-abiding citizens who own firearms.

NEW YORK SENATOR WANTS AMMUNITION TRACKING

New York state Senator Eric Adams (D-Brooklyn) has announced two new bills affecting ammunition. Senate Bill S2404, the Gun Dealers Responsibility Act, requires strict record keeping and reporting by gun dealers and training of their employees to prevent criminals from obtaining illegal guns. It would permit the sale of bullets only to individuals who hold legal gun licenses that specify the type of ammunition being purchased, and it would make the illegal sale of ammunition a Class C felony. A second bill would require that manufacturers brand bullets sold in New York with a traceable code for use in criminal investigations.

NEW JERSEY ANTI-GUN GROUPS PUSHING .50-CALIBER BAN

Ceasefire NJ executive director Bryan Miller wants to outlaw .50-caliber rifles in New Jersey. He has several Democrat politicians planning a bill to include .50-caliber rifles in the same law that bans explosive devices. Violators would face up to five years in prison and a fine of up to \$15,000. The proposal would exempt antique guns and traditional rifles that fire a single shot. It would also allow people who own a .50-caliber rifle before the law takes effect to keep their firearm. Scott L. Bach, president of the Association of New Jersey Rifle & Pistol Clubs said, "This gun ban legislation will not reduce crime because it mistakenly targets the tool rather than the criminal, and the criminal mind will always find another tool".

TENNESSEE SENATE APPROVES KATRINA-STYLE GUN RIGHTS BILL

The Tennessee Senate has unanimously approved a bill intended to prohibit the government from confiscating firearms during a natural disaster or emergency such as in the aftermath of Hurricane Katrina in New Orleans. The bill goes to the House of Representatives, which did not approve a similar measure last year. Gov. Phil Bredesen(D) and the bill's sponsor, Senate Republican Leader Mark Norris of Collierville, reached an agreement on the issue that both said accomplishes what they wanted with the bill.

TEXAS NOW HAS "CASTLE DOCTRINE" LAW

Texas Republican Party Chairman Tina Benkiser has applauded Gov. Rick Perry for signing Senate Bill 378, which states that a person has no duty to retreat from using force if the person is attacked in a place where he or she has a right to be present, if he or she has not provoked the attacker, and if the person using force is not engaged in criminal activity at the time the force is used.

SWISS LEFT WINGERS WANT AN END TO GUNS FOR CITIZEN ARMY

Leaders of the Social Democrat and Greens parties want to break a long tradition of storing personal army rifles and pistols at home. They're so intent that they're threatening to launch a people's initiative to force a vote to ban such firearms in households. The Swiss legislature had refused the ban the day before the leftists' announcement. Green parliamentarian Jo Lang demanded a central arms registry and Social Democrat Boris Banga insulted the traditional practice as outdated. Under Swiss law all able bodied men are issued with a rifle and 50 rounds of ammunition which they can keep after completing their military service. An estimated 1.6 million firearms are in home storage in Switzerland. Leftist newspapers have joined the campaign to influence public opinion against guns in general and home storage in particular. Zurich's *Tages Anzeiger* newspaper called pro-gun legislators "arms fetishists," as if it were some disease. *Der Bund* from Bern says understanding for the gun tradition is dwindling, especially among women, who do not have a military obligation.

**AROUND THE
WORLD**

OUTCRY OVER SHOOTINGS PROMPTS TRAINING BILL IN TURKEY

The Turkish Ministry of the Interior has prepared a new bill that would impose stricter barriers to gun ownership and require owners to go through a training course in general knowledge about guns, shooting, and conflict resolution. The Ministry has presented the bill to the Parliamentary Committee for examination. The bill, said a Ministry spokesman, came in response to public outcry over "yob shootings" which cause dozens of deaths in Turkey each year. A "yob" is British slang for "a rowdy, aggressive and violent young man" and is "boy" spelled backward. Turkish youths have become more of a criminal element in Turkey in recent years.

PHILIPPINE POLICE KILL 17 IN GUN BAN CRACKDOWN DURING ELECTION CAMPAIGNS

Police have killed 17 people and arrested more than a thousand in a crackdown on gun ban violators during the run-up to mid-term elections in May, Manila police have said. The gun ban took place on January 14, the start of the election period in the Philippines, which will hold congressional and local elections on May 14. The Commission on Elections (Comelec) has exempted the members of the municipal, city, district and provincial boards of canvassers from the national gun ban during the upcoming May elections. The Comelec allowed the board of canvassers automatic exemption to ensure their safety. The exemption covers only the period from the start of the canvassing until the proclamation of the winning candidates. "To ensure the safety of the chairman, vice chairman and members of the various boards of canvassers, whose primary duty is to canvass the election returns or certificates of canvass as the case may be, it is imperative to include their Boards of Canvassers among those exempted automatically from the gun ban," Comelec said.

AUSTRALIANS WASTED THEIR MONEY ON WORTHLESS GUN BUY-BACK PROGRAM

Half a billion dollars spent buying back hundreds of thousands of guns after the "Port Arthur massacre" in 1996 had no effect on the homicide rate, says a study published in the influential *British Journal of Criminology*. Statistics gathered since Port Arthur showed gun deaths had been declining well before 1996 and the buyback of more than 600,000 mainly semi-automatic rifles and pump-action shotguns had made no difference in the rate of decline. The only area where the package of Commonwealth and State laws, known as the National Firearms Agreement (NFA) may have had some impact was on the rate of suicide, but the study said the evidence was not clear and any reductions attributable to the new gun rules were slight. In his first year in office, the Prime Minister, John Howard, forced through some of the world's toughest gun laws, including the national buyback scheme, after Martin Bryant used semi-automatic rifles to shoot dead 35 people at Port Arthur. Researcher Jeanine Baker said the findings were clear: "The policy has made no difference."

GUN NEWS TICKER - QUICK TAKES ON THE NEWS

●**New Orleans:** The Katrina Hurricane city has lost about half its pre-storm population of about 450,000 and gained the grim title of crime capital of America. Citizens, the tourism industry, police and political officials have been alarmed by the wave of killings in New Orleans, with 162 in 2006 and 37 so far this year. A Tulane University study put the city's 2006 homicide rate at 96 slayings per 100,000 people, the highest in the nation. Law abiding citizens are arming themselves against the violence and anarchy that state police and national guardsmen can't seem to stop. Gun purchases that skyrocketed right after the storm have remained brisk, with unprecedented gun permit applications and busy gun trainers at shooting ranges. Armed citizens are feeling confident of their safety.

●**Washington, D.C.:** An aide of Senator Jim Webb (D-Virginia) has been arrested for entering a Senate office building with a loaded pistol, Capitol Police said. Spokeswoman Sgt. Kimberly Schneider said the aide was charged with carrying a pistol without a license and possessing an unregistered firearm and unregistered ammunition. Webb's office identified the aide as Phillip Thompson and said he was "a former Marine, a long-term friend and trusted employee of the senator." The incident was an oversight, the office said in a statement. The kicker? Senator Webb himself carries a gun on his waist all the time, says gun expert John Lott. And its permitted by federal law, but just in the offices of Members of Congress and staff. Ordinary citizens don't have that right.

●**Springfield, Massachusetts:** Smith & Wesson Holding Corporation, parent company of Smith & Wesson Corp., the legendary 155-year-old firearms maker, has revealed financial results for the third fiscal quarter ended January 31, 2007. It was a record high. Total sales of all products were 39.5% higher than the comparable quarter last year, \$53.9 million for 2007 compared to \$38.6 million in 2006. Firearms sales rose 41%, from \$36 million in 2006 to \$50.8 million in 2007. Pistol sales growth of 59.5% was driven mostly by strong sales of the Military & Police line to law enforcement agencies. So far 158 law enforcement agencies have purchased or approved the M&P polymer pistols, a product line introduced a year ago.

●**Nashville, Tennessee:** When Ghertner and Company, the property manager at trouble-plagued Nashboro Village apartment complex, sent a letter to occupants telling them "no more guns on the property," the response was furious. The Antioch area where the complex is located was decaying into a ghetto, said one former resident, and you needed a gun to cope with the burglaries and armed stickups. Angry residents defied the company, which backed down and said they would allow firearms on the property, but would make it illegal to fire those guns. Residents said that was still unconstitutional and that they intend to ignore the managers.

●**Cleveland, Ohio:** Jeff Garvas, president of Ohioans for Concealed Carry, has ignited a worldwide debate by asking for access to see concealed-carry permits so he can do an analysis. Permits are open only to journalists. Garvas publishes a newsletter and Web site, which he says makes him a journalist. But if the Clermont County sheriff gives him access, and it turns out Garvas is *not* a "journalist," he has committed a fifth-degree felony. State law says a journalist is somebody who works at a newspaper, wire service, radio or television station, "or a similar medium." That's the catch: what's a "similar medium?" So county prosecutors are suing the state, saying the definition is unconstitutionally vague. Universities around the world have picked up the debate, and journalism classes are talking about whether newsletter publishers, bloggers, web site operators and others in the information explosion should be considered journalists.

●**Jacksonville, Florida:** Judge John Merritt drew his handgun when an accused child molester was attacked by an alleged victim's father in court. The judge wasn't sure who the father was after when he leaped the rail and started swinging punches. When order was restored, Merritt handed his gun to the court clerk to be stored.

Parting Shot

ANOTHER "AREN'T YOU GLAD YOU HAVE A GUN" MOMENT

Two brothers, Paul and William Webber of East Memphis, Tennessee, were driving their Jeep on their way to Back Yard Burgers to pick up dinner one recent Tuesday evening when they noticed a red mustang stalled at the busy corner of Park and Perkins.

Thinking it was just car trouble, they ignored the car and the man standing beside it.

They drove by, but then, "I heard the pop, pop, pop of several shots fired," said Paul, 29. William, 23, said, "Hey, bro, you got to turn this car around. That dude is shooting at people!"

They saw the man, identified later by police as Dementrius Roberson, fire three more shots from his 9 mm handgun.

"He was shooting right across traffic," Paul said. "Those bullets could have ricocheted off cars and hurt a lot of people."

No one was injured, but one bullet hit a woman driver's car door.

Paul and William, both licensed to carry weapons, made a hasty U-turn, jumped out of the Jeep and held their guns high so Roberson could see them.

"Get on the ground!" yelled the Webbers.

"What are you going to do?" Roberson yelled back.

"Get down on the ground or I'll blow your head off!" screamed William. He feared for his life at that moment.

Roberson gave the brothers a "wild and deranged" look, William said, then dropped to the ground.

William inched toward Roberson and picked up the gun. The Webbers held him at gunpoint until police arrived five minutes later.

Roberson was arrested and charged with reckless endangerment. He told police he had been rear-ended by a black car and one of the occupants pulled a gun on him. Roberson also had a license to carry a firearm, and pulled his gun, too.

"I probably could've handled it a little better," added Roberson, who said he'd put his gun away before the brothers arrived, which they dispute.

Memphis police spokesman Sgt. Vince Higgins praised the brothers for their actions. "These men should be commended for stopping another man in the middle of a crime," he said.

The stories may conflict, and we don't like to hear about such irresponsible shooting by a permit holder, but nobody got hurt, thanks to two armed citizens.

Alan M. Gottlieb

Joseph D. Tartaro

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