

The Gottlieb-Tartaro Report

THE INSIDERS GUIDE FOR GUN OWNERS

Issue 167

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Dear Subscriber,

For more than two years, **U.S. Attorney MICHAEL SULLIVAN has been acting chief of the federal Bureau of Alcohol, Tobacco, Firearms and Explosives.**

In August 2006, Sullivan was appointed acting director of the ATF. He was **nominated by President Bush** for the permanent job in March 2007 - **but not confirmed.**

The Massachusetts Republican has been **balancing both U.S. Attorney and ATF jobs** while dealing with opposition to his ATF confirmation **from members of his own party in the Senate:** Sens. LARRY CRAIG and MIKE CRAPO, both of Idaho, and DAVID VITTER of Louisiana. The opposition is to **SULLIVAN's abuse of gun dealers and gun owners.**

**AT THE
FEDERAL
LEVEL**

With a new president and a new Congress waiting in the wings, SULLIVAN, 54, could soon end up unemployed.

For now, he's overseeing an ATF staff of 5,100 with no pay except for a **\$3,150 per month housing stipend** for his apartment in Washington.

He draws his **\$149,000 annual salary** for serving as U.S. attorney, a job he **does mainly by phone, e-mail and weekly visits to Massachusetts.**

As U.S. attorney, SULLIVAN has been criticized publicly by one judge for **clogging the federal system with gun cases that should have been handled by state prosecutors.**

Even if he loses both his present jobs, he probably won't be out of politics. In state Republican circles there's talk about him as **a possible candidate for governor, state attorney general or the U.S. Senate.**

With his record of abusing gun rights, **he'd be right at home as a Democrat.**

In another federal issue, **national justifiable homicide rates** have hit the headlines. The number of justifiable homicides by police and private citizens has been rising for the past two years, and are **now at their highest levels in more than a decade.** Critics say it reflects a "shoot-first philosophy" in dealing with crime, but **actual cases show genuine justification.**

The 391 killings by police **that were ruled justifiable** in 2007 were the most since 1994, FBI statistics show. The 254 killings by private individuals **found to be self-defense** were the most since 1997.

The FBI says a homicide by a private citizen is justified when a person is slain during the commission of a felony, such as a burglary or robbery. Police are justified, the FBI says, when felons are killed while the officer is acting in the line of duty. **Rulings on these deaths are usually made by local police agencies.**

ALFRED BLUMSTEIN, a Carnegie Mellon University criminologist, says **the gun "legalization movement"** also may have helped create a **"greater willingness" to act in self-defense.**

Forty-eight states provide various rights to carry concealed firearms. **Illinois and Wisconsin do not.** Most laws allowing gun possession have existed for years and **would not likely account for a recent spike in self-defense killings.**

Florida State University criminologist GARY KLECK says the FBI **underestimates self-defense killings** because non-felony incidents may not get counted.

The Second Amendment Foundation has another view:

Americans are simply refusing to be victims.

Also in this issue: ● Obama scares up lots of gun sales ● ACORN is stealing gun rights, too ● Guns Save Lives in two-page spread on self-defense in America ● Ohio gun group says Cleveland still enforcing illegal laws ● Study says gun shows don't cause crime ● Clemency for Women in our Page Eight "Parting Shot"

GUN SALES SURGE ON FEAR OF OBAMA AND BIDEN

Americans have cut back on buying cars, furniture and clothes in a tough economy, but there's one consumer item that's still enjoying healthy sales: guns. Purchases of firearms and ammunition have risen 8 to 10 percent this year, the *Washington Post* reported.

In the weeks before Election Day, national polls showed Barack Obama leading John McCain – and those numbers affected gun sales.

Several forces drive gun sales, but many dealers, buyers and experts see the increase coming from concerns about the economy and fears that if Sen. Barack Obama of Illinois wins the presidency, he will join with fellow Democrats in Congress to enact new gun controls.

Obama has said that he believes in an individual right to bear arms but that he also supports "common-sense safety measures" (whatever *that* means).

"Even though Obama has a lot going for him, he's not very pro-gun," said Paul Pluff, a spokesman for Massachusetts-based Smith & Wesson, which has reported higher sales. Gun enthusiasts are "going to go out and get them while they still can."

Obama's running mate, Joe Biden, was put on the defense over firearms at a CNN/Google/YouTube debate back in July.

"Tell me your position on gun control. Myself and other Americans really want to know if our babies are safe. This is my baby," asked one voter as he pulled out his rifle.

"I don't know if he's mentally qualified to own that gun. I'm being serious. This idea we go around talking about people who own. *I'm the guy that originally wrote the assault weapons ban,*" said Biden.

Oregon: A Eugene gun shop manager said business is booming for guns and ammunition. "Gun control? I think it's pretty well going to happen if Obama is elected president. There's no question," said Baron's Den and Shooting Range Manager Raye Gunter. "People are buying stuff they feel are going to be banned after he takes office – if he takes office."

Texas: For Kimberly Stafford and the crew at Tejas Shooting Sports in Odessa, it's been a gradual increase in sales over the last few years and not a big, sudden jump. "Right now we're selling quite a bit. We have people, that in the past have not been involved in the gun culture, coming in and buying firearms because they are afraid that at some point those purchases will be banned in the future."

Florida: Shoot Straight in Apopka has seen a 40 percent increase in sales from this time last year. Manager Larry Anderson attributes that to crime. "It's home invasions, it's carjackings, it's a little bit of everything," he said. He also credits Barack Obama leading the polls. "We don't really know what he's going to ban, high capacity, certain calibers, restrict the purchase of guns," Anderson said.

Alabama: At The Gun Cellar in Hoover, sales are going up across the board. "Gun sales have been up double or triple for any given month compared to the year previously," The Gun Cellar's Tom Pinion said. Tom Pinion says "I think the most imminently clearly visible reason is the political climate we're in."

Specifically, gun enthusiasts fear an Obama presidency.

At press time, gun owners across the nation shared that fear.

**ELECTION
REPORT:
GUN SALES
WIN!**

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ACORN IS STEALING GUN RIGHTS WITH PUBLIC FUNDS

ACORN, the publicly-funded national organization linked to voter fraud is now interfering with the exercise of firearm civil rights in New Jersey. The Second Amendment Foundation is calling for an immediate federal investigation.

"ACORN has, since 1998, received an estimated \$31 million in government funding," said SAF founder Alan Gottlieb. "Now they have intervened in a case to defend Jersey City's one-gun-a-month ordinance, barred by a state preemption law.

"ACORN'S PAC endorsed Sen. Barack Obama for president, the man who once served as their legal counsel and taught them community organizing. ACORN and Obama are lockstep in seeking to destroy our Second Amendment rights."

**ON THE
LEGAL
FRONT**

JERSEY CITY GUN LAW OVERTURNED - FOR NOW

FRANK CASO's Gun-A-Rama store was barred by a city ordinance from selling each customer more than one handgun a month. Despite ACORN's intervention, he won a legal victory when a State Appellate Court panel affirmed a lower court ruling that tossed out the Jersey City ordinance for violating the state's preemption law.

But Caso's victory may be short lived. A bill to limit gun buyers to one handgun a month passed the State Assembly in June and is now in the State Senate.

GUN-TOTING MOM IN LEBANON, PENNSYLVANIA GETS PERMIT BACK

A mother who angered fellow parents when she openly carried a pistol to her 5-year-old daughter's soccer game got her concealed weapons permit back after a Pennsylvania judge overruled a sheriff's decision to revoke it.

Melanie Hain lost the permit after scared parents complained about the gun at a soccer game. Lebanon County Judge Robert Eby said the law required him to return Hain's permit, but questioned her common sense in scaring people. Hain said he has a right to his opinion, but she'll continue open carry anyway.

SAF SETTLES NEW ORLEANS LAWSUIT

The Second Amendment Foundation has reached an agreement with the City of New Orleans in a 2005 federal lawsuit that stopped the city from seizing firearms in the wake of Hurricane Katrina.

The landmark lawsuit, a joint effort by SAF and the National Rifle Association, was filed in September 2005 after police and National Guardsmen began confiscating firearms without warrant or probable cause from citizens who were not suspected of committing any crimes. Under terms of the settlement, the city must try to return all firearms that were seized.

JUDGE APPROVES ACLU LAWSUIT AGAINST ATF

The American Civil Liberties Union of Florida has won a victory in a vital civil rights case: Senior Federal Judge Lacey A. Collier denied an ATF motion for summary judgment after the ACLU, representing Karen J. Kilpatrick, sued the Bureau of Alcohol, Tobacco and Firearms (ATF) for violating her Free Speech rights.

Kilpatrick was driving her blue van in Pensacola in 2004, with the slogans "Remember the Children of Waco" and "Boo ATF" on the windows when she was pulled over by police for questioning by the ATF. Officers detained her for an hour, searched her car without consent, and ordered her to remove the writing on the side of her van. Her suit will now go to trial.

COULD THIS BE THE 14TH AMENDMENT INCORPORATION CASE?

The Second Amendment Foundation has filed an amicus brief in the long-running case of Nordyke v. King, a challenge to the gun show ban in California's Alameda County. Russell Allen Nordyke had been fighting the Alameda County gun show ban on First Amendment grounds, but the Ninth Circuit Appeals Court has re-opened the possibility to argue on Second Amendment grounds after the Heller decision as well, greatly increasing his chances of winning against the county.

KENTUCKY WOMAN KILLS EX-BOYFRIEND IN SELF-DEFENSE

A Hardin County woman shot and killed her ex-boyfriend who showed up unwanted at the home of her husband and children and assaulted her. No charges have been filed against the shooter, Angie Ricketts, of Cecilia, because she is claiming self-defense in the killing of Eric West, 37, of Magnolia, said Kentucky State Trooper Steve Pavey. There is still the possibility of an arrest, said Pavey, as police are still investigating exactly what happened.



HOMEOWNER SHOTS AND KILLS VIOLENT BURGLAR

A Memphis, Tennessee homeowner came home early one recent morning and found a burglar in his home, according to police and homicide investigators. The owner told the suspect to leave his home in the 3200 block of Scenic Highway near Dundee around 12:30 a.m., but the man instead pistol whipped the owner. After a struggle, the homeowner got his handgun and shot the accused burglar, killing him. The homeowner is being treated at the hospital. It's unknown if he will face charges.

WAUKEGAN ILLINOIS CONVENIENCE STORE CLERK KILLS ARMED ROBBER

Brandon Starks, 20, held up the People's Market about 7 p.m. on a recent Monday, brandishing a firearm as he demanded money. The clerk handed over the money and Starks fled. The clerk followed, and shot him three times, killing him. Starks was on parole from a residential burglary a month earlier, Commander Wayne Walles said. Some asked if this was self-defense or vigilantism. Waukegan Mayor Richard Hyde said, "Any time you point a gun at me and if I've got a gun and I've got the opportunity, I'm going to use it on you. With society the way it is now and with the number of armed robberies you have, you've got to fight back."

GEORGIA HOME INVASION VICTIM FENDS OFF THREE ARMED MEN

Ivan Hightower of the Pineland Apartments in Albany was getting into the shower when he heard a noise. He had been robbed before and got his gun. He saw three armed men trying to break in. He shot Darnell Slaughter, 21, and Calvin Suggs, who were hospitalized and charged. The third thug, Apondrea Marshall, 18, was apprehended and charged. Lt. Alfonzo Cook, Moultrie Police, said, "In the state of Georgia you have the right to protect yourself if you feel you are in danger."

ALABAMA PIZZA DELIVERY MAN SHOTS TWO ROBBERS

Victor Greenwood, 32, was delivering for Hungry Howie's Pizza to an East Crawford Street address in Dothan when Khiry Terrel Beachum, 18 and Michael Pope demanded his money and hit him in the head with a brick, then charged him. Greenwood shot both men, wounding them. Both were charged with first-degree armed robbery.

OHIO PARKING LOT ROBBER SHOT DEAD

Late last month, Thomas E. Goldsmith Jr., 27, approached a couple in their car, holding a gun and demanded money from the man at the steering wheel, witnesses said. Goldsmith's gun misfired and the man in the car, identified as Deandre R. Henry, shot back, killing Goldsmith.

Henry, 24, called 911 from his cell phone and told them he had shot someone. He told police, "I shot this dude because he tried to rob me. What was I supposed to do? My girlfriend's pregnant." He stayed in the car until police arrived.

LOUISIANA HOMEOWNER SHOTS HUSBAND OF ABUSED WIFE WHO SOUGHT REFUGE

James Stanley of Shreveport got into an argument with his wife while at a local business just after midnight. She left in one car and he pursued her in another and rammed her several times. She stopped at a friend's home seeking refuge. Stanley demanded to be let in, became violent at the door, and the homeowner shot him through the door with a 12-gauge shotgun. Stanley survived surgery and was charged with aggravated assault, disturbing the peace, and property damage.

NORTH CAROLINA RESIDENT SHOOTS SUSPECT DURING BURGLARY

Two people forced their way into a Fayetteville residence in Acacia Circle around 2:30 p.m. on a recent Thursday, officers said. The victim was at home and heard the burglars as they tried to take several items. Investigators said that the resident confronted the burglars with a firearm. The resident shot one person in the lower leg and detained him until police arrived. The second burglar fled the scene by unknown means, police said.

**GUNS
SAVE
LIVES**

The suspect was transported to Cape Fear Valley Hospital to be treated for non-life-threatening injuries. Police said they plan to charge him with felony breaking-and-entering and felony larceny. Investigators have not been able to determine the man's identity.

OHIO THUG BREAKING INTO CAR KILLED BY OWNER

Scioto County Sheriff Marty Donini has announced that Timothy Reese, 21, of South Webster, Ohio, had stolen property on him at the time of his shooting death. Reese was shot several days earlier after a Sunday morning confrontation with a man who the sheriff said caught him breaking into his car. Donini said residents down the road from the shooting came forward to stake claim to the property found on Reese, appearing to be victims of home invasions by the criminal.

KENTUCKY HOME INVASION ENDS WITH INTRUDER SHOT DEAD

Charles Lanham Sr. came into the Louisville home of Joseph McCoy early one Sunday morning and woke him with gunfire that sprayed bullets through the home, hitting the walls and the ceiling. Then, McCoy said, the intruder left to reload his gun. "I ran and got my finacee's daughter's gun and loaded it and the guy came through the door shooting, so I shot him. It was obvious he was trying to kill us. So I did what I had to do to protect my family."

Lanham's family said it was a setup. Neice Joanna Williams said, "The only reason he went up there - it's his ex-girlfriend's home - was to get his stuff. The gun was in the stuff there." Police aren't buying it. McCoy was not charged.

DEADLY TEXAS HOME INVASION LEAVES ONE SUSPECT DEAD

A Houston TV station reported that one suspect was dead and two others were on the run after a deadly home invasion on a recent Friday night. Houston police said that an armed group pushed their way through the front door of a home on Wycliffe. According to witnesses, the group got into a scuffle with the homeowner's boyfriend, who had a gun. The boyfriend fired shots, killing one of the suspects. Police said robbery was the motive. The authorities do not plan to charge the boyfriend.

TENNESSEE HOMEOWNER KILLS 19-YEAR-OLD THUG IN SELF-DEFENSE

It was shortly before 10:30 p.m. when 67-year-old Douglas Dabbs pulled into his driveway in Nashville and was getting out of his pickup truck when two armed men came up to him and tried to rob him. The two men were identified as Nibeyu Demissew Yosef and Jermichael Jerome Burgy. The two men demanded money and Dabbs reached into the console of his truck, retrieved a handgun that fires .410 shotgun rounds and opened fire on the two robbers. Yosef, 19, died at a hospital. Burgy, 23, took off, but police found him with a non-critical gunshot wound and arrested him. No charges will be filed against the homeowner.

DALLAS-AREA RESIDENT KILLS MASKED ARMED INTRUDER

Two robbers in ski masks dragged two adults into a home in Arlington, Texas at about 10:30 p.m. on a recent Monday. One intruder hit one of the adults in the head with a gun, causing it to discharge. The robbers then fired twice into the floor. The homeowner, who was upstairs, heard the gunshots, grabbed a weapon and shot an intruder on the staircase, killing him, said Arlington police Lt. Blake Miller. Officers arrived to find a dead man wearing a ski mask. A second thug also wearing a ski mask fled, and remains at large with possible gunshot wounds.

CALIFORNIA: COUNTY SUPERVISORS ASK SHERIFF ABOUT GUN POLICY

Sheriff Sandra Hutchens has come under fire from Orange County supervisors over her tightening of concealed weapons permits. Supervisor Pat Bates - a key supporter of Hutchens - said she has problems with Hutchens' overkill in response to charges previous sheriff, Mike Carona, gave permits as political favors.

Hutchens rejected 58 new concealed carry permits while approving only 42. Supervisors Bill Campbell, Janet Nguyen and Chris Norby all voiced concerns about new revisions which could require applicants to take a psychological exam or polygraph as part of their background check.



14 ILLINOIS COUNTIES GET GUN CARRY REFERENDUM

Voters in 14 Illinois counties will have a chance this month to let lawmakers know what they think about citizens' right to carry concealed firearms.

The advisory referendum will ask whether the state should enact concealed carry legislation. Voters will not be deciding whether counties should adopt those rights, but whether state legislators should bring concealed carry to a vote.

Advocates say it's long overdue: Illinois is one of only two states without it.

MISSOURI CITY GUNS-IN-PARKS BAN PROPOSAL ANGERS GROUPS

Gun-rights groups are criticizing a Springfield proposal to support legislation that would ban concealed weapons from city parks and sporting fields. The state's concealed carry law prohibits guns in schools, government meetings or major sports stadiums that hold 5,000 fans. But it doesn't ban them in parks.

Zachary Bauer, founder of MissouriCarry.com said, "We're going to show up and tell people if you're going to vote against Second Amendment rights, we're going to vote you out of office."

OHIO GROUP ACCUSES CLEVELAND OF LYING TO MEDIA

Buckeye Firearms Association, a noted gun-rights advocacy group, has charged police spokesman Lt. Thomas Stacho of lying to the *Cleveland Plain Dealer* by saying the city no longer enforces its illegal gun control laws, which were overturned by the state Supreme Court. The Association asserts that the city is still unlawfully pursuing charges against gun-owner Damon Wells for having an unregistered handgun, which registration has not been required for over 18 months.

PENNSYLVANIA INCREASES PENALTY FOR CRIMINALS USING GUNS

Gov. Ed Rendell has signed a bill imposing a mandatory 20-year sentence on anyone convicted of shooting - or shooting at - a law enforcement official. It also increases penalties for anyone convicted of a crime committed with an illegally purchased gun, or anyone convicted of buying a gun for an ineligible buyer.

VIRGINIA HAS NO AUTHORITY TO BAN FIREARMS IN STATE PARKS

Attorney General Bob McDonnell has advised the Virginia Department of Conservation and Recreation that it does not have the authority to restrict firearms in state parks, ending outdated rules made over 30 years.

Sen. Ken Cuccinelli of Fairfax requested the opinion and McDonnell complied. McDonnell has a political stake in the gun issue. He plans to run for governor next year, and is trying to live down his opposition to the state's constitutional amendment that guarantees the right to hunt and fish.

SEATTLE MAYOR INVITES LAWSUIT AFTER ATTORNEY GENERAL OPINION

Seattle Mayor Greg Nickels does not have the authority to prohibit guns on public property, says State Attorney General Rob McKenna. The opinion, requested by state legislators, is nonbinding, so the city can proceed with its gun prohibition on public property. But historically, such opinions have been given great weight in court. Nickels will impose the ban anyway. Lawsuits are expected.

GUN NEWS TICKER - QUICK TAKES ON THE NEWS

● **Newtown, Connecticut:** The Sporting Arms and Ammunition Manufacturers' Institute (SAAMI) – an association of manufacturers of firearms, ammunition and components – has responded to an AP article about the failure of New York and Maryland's ballistic imaging databases. SAAMI said that New York has even stopped entering images into its database – with a backlog of over 25,000 cartridge cases – because the computer server housing the database is offline and isn't even in the state. In 2004, a report by the Maryland State Police Forensic Sciences Division concluded that the ballistic imaging system "had not proven to be a time saving tool for the firearms examiner or an investigative enhancement to the criminal investigator," and that "it has simply failed in its mission and vision concepts." SAAMI recommended more police officers and prosecutors instead.

● **Detroit, Michigan:** Gun shows don't contribute to increased homicide or suicide rates, according to results of a study by the University of Michigan's Gerald R. Ford School of Public Policy. The joint University of Michigan and University of Maryland examination of gun death data in the weeks surrounding more than 3,400 California and Texas gun shows concluded tighter regulation of the flea market-like operations did nothing to reduce firearms-related deaths in the following month. Researchers compared gunshot death data surrounding every known gun show in California and Texas between 1994 and 2004. California has some of the most stringent gun sale rules in the country. Texas is among the least restrictive.

● **New York City:** Met ballplayers [David Wright](#) and Carlos Delgado are two of NYC's newest young guns – both were granted pistol permits over the last year. Wright's permit allows him to keep a handgun at his \$6 million Flatiron District penthouse. Wright, the Met third baseman, a 25-year-old Virginia native, is no stranger to pistols; his father is a police chief. First baseman Delgado, 36, applied for a permit to carry a gun – which was denied – but was granted permission to keep one in his Upper East Side apartment. Former Met Shawn Green, 35, also applied for a carry permit last year, but was denied. Wright and Delgado are among some 36,000 people with gun permits in the Big Apple – a list that includes celebrities, billionaires and politicians.

● **Newport, New Hampshire:** Firearm manufacturer Sturm, Ruger & Co. spent \$7.4 million in the third quarter of 2008 to buy back 1.1 million shares. The amount represents 5.5 percent of shares outstanding in April, when the current \$10 million buyback program was authorized. Sturm, Ruger said it repurchased the shares for an average price of \$6.50 with cash on hand. At the end of the July-September period, the company said 19.5 million shares were outstanding, and that it had about \$22 million in cash and no debt on its balance sheet. Sturm, Ruger sank 45 cents, or 6.6 percent, to close at \$6.37 amid a massive market sell-off when the Dow Jones industrials closed under 10,000 for the first time in four years.

● **Charleston, South Carolina:** A 12-year-old Charleston student was arrested and faces expulsion for bringing an unloaded air gun to school. Police found the gun in the boy's bookbag after a student alerted a teacher at C.E. Williams Middle, a magnet school for creative and scientific arts. A police report said the juvenile was charged with possession of a concealed toy pistol, then released to his mother. District spokesman Elliot Smalley said the boy was suspended and recommended for expulsion.

● **Muncie, Indiana:** If a campus shooting ever happens at Ball State University, Blake Graham wants the right to protect himself by firing back. The junior criminal justice major, who recently applied for a gun permit, is the president of a new student group, Ball State Students for Concealed Carry on Campus, which drew about 10 people – mostly permit holders – to its first meeting. The group is a local branch of a national organization, Students for Concealed Carry on Campus. "We feel that it's our right that we need to be able to protect ourselves," Graham said. The local activity comes in the wake of mass killings in February at Northern Illinois University, where six students were slain in a lecture hall.

Parting Shot

CLEMENCY FOR WOMEN

Across the nation there are thousands of women in prison for crimes they committed against an abusing partner. For example, Anita Posey was convicted of murder after she fatally shot her boyfriend who threw their baby against a wall. She was sentenced to 17 to 50 years of prison in 1993.

Is that justice?

Stacy Barker killed a man who was trying to rape her. She was convicted of murder and sentenced to life in prison.

Is that justice?

There may be hope for women like Posey and Barker if the Michigan Women's Justice and Clemency Project has its way.

The nonprofit project, founded by former prisoner Susan Faire, has worked for 11 years to inform the public about domestic violence and press for clemency for female felons wrongly convicted.

Prisoners receive clemency when the governor decides that they deserve a lesser sentence for a crime, but the crime is not erased. Carol Jacobsen, director of the project, said clemency is a slow and frustrating process.

"The governor is not paying enough attention to this," she said. "She is allowing the parole board to rule, and the parole board is not doing their job. The criminal justice system doesn't let go of people, even when they're wrongly convicted."

There are currently 14 clemency petitions awaiting Gov. Jennifer Granholm's signature and 25 waiting for parole. Before a clemency request gets to the governor, it goes through a process of review in the Department of Corrections.

John Cordell, spokesman for the department, said "All of these women were convicted. Their crime was decided by a jury in a court and it's not the parole board's interest to change the decision. There are times when the clemency should be granted, and we make that recommendation to the governor."

Jacobson retorts, "The governor is not understanding about domestic violence," Jacobsen said. "We live in a gendered society. There is not enough public education or understanding about domestic violence."

The problem of domestic violence and women who defend themselves against it with deadly force is nationwide. It's a complex, controversial topic, but it's something Second Amendment advocates need to think about - then act upon.

Dedicated to Rhonda Glover in prison in Texas for defending herself.

Alan M. Gottlieb

Joseph D. Tartaro

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