

POINT BLANK

**STRAIGHT TALK
ABOUT WHAT YOU
CAN DO TO
PRESERVE YOUR
RIGHT TO KEEP AND
BEAR ARMS**



**February
2005**

Volume XXX No. 2

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CITIZENS COMMITTEE FOR THE RIGHT TO KEEP AND BEAR ARMS

(a non-profit corporation)

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CCRKBA HAILS JUSTICE REPORT

The U.S. Department of Justice's Office of Legal Counsel has issued a report that concludes the Second Amendment to the United States Constitution "secures an individual right to keep and bear arms."

Though dated last August 24, the 103-page document with 437 footnotes was not released until just before Christmas, 2004. It details the exhaustive research by Assistant Attorneys General Steven G. Bradbury, Howard C. Nielson, Jr. and C. Kevin Marshall who studied the history of legislation and court cases to reach their conclusion. They note that, "our examination of the original meaning of the Amendment provides extensive reasons to conclude that the Second Amendment secures an individual right, and no persuasive basis for either the collective right or the quasi-collective right views."

"This report confirms what the gun rights community has known to be true for many years," said CCRKBA Chairman Alan M. Gottlieb. "The right to keep and bear arms is a right to be enjoyed and exercised by every citizen. Henceforth, all Americans will know that the claim by anti-gunners that the Amendment only protects some mythical right of the states to form militias and National Guard units is an outright fraud."

"There should be no doubt that those who have campaigned for restrictive gun laws or outright gun bans have been working to rob Americans of a constitutional right, a civil right. The time has come for America to reexamine every restrictive federal and state firearms statute, every local ordinance and every regulation, and start erasing those that were written solely to infringe on the rights of individual, law-abiding citizens to peaceably own firearms of their choice, without ever again having to explain why."

The report is titled Whether the Second Amendment Secures an Individual Right. According to the authors, its conclusion is based "on the Amendment's text, as commonly understood at the time of its adoption and interpreted in light of other provisions of the Constitution and the Amendment's historical antecedents."

The memorandum stated that it did not consider the "substance" of the individual right to own and carry firearms or the legitimacy of government attempts to limit the right. The document also declared that the authors were not calling into question the constitutionality of any particular limitations on owning, carrying or using firearms.

CCRKBA Executive Director Joe Waldron said that the memorandum was "a good start, a good first step."

(continued on page 2)

DOJ STUDY REFUTES GUN GRABBER'S CLAIMS

(continued from page 1)

What the memorandum does, Waldron explained, "is put the federal enemies of individual liberty have lied to the American public. They've tried to convince us that we have no right to self-defense, no right to own firearms as personal property, and no right to have the means to resist tyranny, which is what the Founding Fathers specifically had in mind when they wrote the Second Amendment. There is nothing in the Amendment about 'sporting purposes,' duck hunting or target shooting, and the anti-gunners know it. Now all Americans know it, too."

The memo calls current judicial opinions an "unsettled legal landscape," where no theory holds firm. Stephen Halbrook, respected Second Amendment litigator and historian, says the memo "is a highly credible message to the courts, for it exhibits a depth of understanding about the Second Amendment that few jurists have ever attained, and should be persuasive in future decisions."

When Jeff Johnson of the Cybercast News Service (CNSNews.com) called the Brady Center to Prevent Gun Violence for comment, the Center did not return the calls, wrote Johnson. The Brady bunch has spoken out frequently against the "individual rights" interpretation of the Second Amendment, including in an amicus brief filed in federal court in 1999.

"The fact that militia members are no longer required to supply their own arms when reporting for service has depleted the Second Amendment of most of its vitality," Brady Center stated, "and, in fact, the Second Amendment remains

relevant today because the rights it protects are held by the National Guard."

Dennis Henigan, director of the Brady Center's Legal Action Project, also spoke against the "individual rights" interpretation of the Second Amendment at James Madison University in 2002.

"Both the language and history of the Second Amendment shows that its subject matter was not individual rights," Henigan said, "but rather the distribution of military power in society between the states and the federal government."

The Justice Department, wrote CNSNews.com's Johnson, "rejected Brady Center's argument."

The report stated that "a 'right of the people' is ordinarily and most naturally a right of individuals, not of a state and not merely of those serving the state as militiamen. The phrase 'keep arms' at the time of the Founding usually indicated the private ownership and retention of arms by individuals as individuals, not the stockpiling of arms by a government or its soldiers, and the phrase generally had that meaning when used in connection with a 'right of the people.'"

Moreover, the document continued, "the Second Amendment appears in the Bill of Rights amid amendments securing numerous individual rights, a placement that makes it likely that the right of the people to keep and bear arms likewise belongs to individuals."

CCRKBA's Waldron expects the opinion to be introduced in support of the individual rights of gun owners in several cases working their way through the federal courts. His hope is that one of these

cases will reach the United States Supreme Court.

"Is this the end, is this the Omega? Absolutely not," Waldron said. "The Omega will come when the Supreme Court begins to overturn selected gun control laws based on the fact that they do infringe upon the individual right protected in the Constitution."

The report is available at: <http://www.usdoj.gov/olc/secondamendment2.htm>



POINT BLANK

"Straight talk about what you can do to preserve your right to keep and bear arms."

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CCRKBA SUPPORTS CITIZENS SELF-DEFENSE ACT

CCRKBA has thrown its support for the proposed Citizens Self-Defense Act of 2005, sponsored by Rep. Roscoe Bartlett (R-MD). The legislation, HR 47, has been referred to the House Committee on the Judiciary.

"H.R. 47 lays it right on the line," said CCRKBA Public Affairs Director John Michael Snyder. "Its stated purpose is to protect the right to obtain firearms for security, and to use firearms in defense of self, family or home, and to provide for the enforcement of the right. It would make the right to use guns in self-defense a matter of positive law and enable law-abiding citizens to sue the government and government officials if and when such officials dare to deny citizens that right. We most firmly commend Congressman Bartlett for introducing this measure, and we intend to assist him to promote its passage."

Snyder encouraged CCRKBA members and supporters to contact their congressional representatives and ask them to cosponsor this bill. He also suggested that activists contact House Judiciary Chairman F. James Sensenbrenner, Jr. (R-WI), and ask him to hold public hearings.

Rep. Sensenbrenner's personal Capitol Hill office is 2462 Rayburn House Office Building, Washington, D.C. 20515. His telephone number is (202) 225-3190 and his email is sensenbrenner@mail.house.gov

The address for the House Judiciary Committee office is 2138 Rayburn House Office Building, Washington, D.C. 20515. The phone number is (202) 225-3951 and email can be reached at <http://judiciary.house.gov/Contact.aspx>

Bartlett's bill would provide that an individual who is not prohibited

by law from receiving a firearm shall have the right specifically to obtain handguns, rifles and shotguns for security. It protects citizens who use firearms in defense of themselves or family against a reasonably perceived threat of injury or death, or other violent felony. It also would allow defense of the person's home in the course of the commission of a felony by another person.

The bill also says that if a person's self-defense right is violated in any manner, that person may bring an action in any United States court against the United States, any state, or any person for damages, injunctive relief, and such other relief as the court deems appropriate.

The court, in its discretion, could allow the prevailing plaintiff a rea-

sonable attorney's fee as part of the cost.

The bill would put Congress on record as finding that the police cannot protect, and are not liable legally for failing to protect individual citizens. Courts consistently have ruled that the police do not have an obligation to protect individuals, only the public in general. For example, in *Warren v. District of Columbia Metropolitan Police Department*, 444 A.2d 1 (D.C. App. 1981), the court stated that "courts have without exception concluded that when a municipality or other governmental entity undertakes to furnish police services, it assumes a duty only to the public at large and not to individual members of the community."



Anti-gun zealots, Senators Schumer, Feinstein, Kerry and Kennedy, just after voting against your gun rights.

GET ANGRY AND GET ON THE PHONE!

Legislation to restrict, limit and destroy your right to keep and bear arms is being considered by Congress right now.

To let your member of Congress know that you oppose any new anti-gun legislation, follow these simple instructions:

1. Call 202-225-3121 and ask to speak to your U.S. Representative.
2. State that you oppose additional new gun control legislation.
3. State the even more needs to be done to protect your gun rights.
4. Call 202-224-3121 and ask for both of your U.S. Senators. Repeat steps 2 and 3.

Thank you. Remember, only you can help protect our gun rights.

GOTTLIEB BLASTS SAN FRANCISCO GUN BAN PLAN

Calling it an "ill-considered return visit of anti-gun bigotry," CCRKBA Chairman Alan M. Gottlieb blasted plans to put a handgun ban on this November's ballot in San Francisco, CA. He reminded proponents of the measure that such a ban was declared illegal when first tried in 1982.

"The issue was decided by the California courts and the gun ban extremists lost," recalled Gottlieb. "Why some city supervisors want to waste the time and money of voters to revisit an issue that was unanimously trounced by the State Court of Appeals makes no sense."

In late June 1982, Dianne Feinstein, at the time the anti-gun Mayor of San Francisco and now an anti-gun U.S. Senator, pushed through a handgun ban that lasted only three months before it was overturned by the California State Court of Ap-

peals. Twenty days after the ban was enacted, the Second Amendment Foundation, founded by Gottlieb, took Feinstein and the city to court, ultimately beating the ban. The city appealed that decision to the California Supreme Court, which allowed the Appeals Court ruling to stand in January 1983.

"It is incredible," said Gottlieb, "that in a city where the government supposedly has taken a lead in defending individual rights and freedoms, it is still considered acceptable to practice social bigotry, so long as gun owners are the victims. This may come as a shock to the moral inquisitors in San Francisco, but gun owners have civil rights just like any other social group. We fought this battle once, and we're not afraid to fight it again."

If passed, residents would be

forced to surrender their handguns within 90 days. Only law enforcement officers, members of the military, and security guards would be allowed to possess them. The measure also would ban the sale, manufacture and distribution of all handguns in San Francisco, as well as the transfer of gun licenses.

Supervisor Chris Daly of District Six, a chief promoter of the ban, said that, "when you get guns out of people's homes and off the streets, it means that that gun is not going to be used in a shooting that kills someone, whether a murder or an accidental shooting."

One of Supervisor Daly's aides, Bill Barnes, said, "the hope is...that officers will have an opportunity to interact with folks and if they have a handgun, that will be reason enough to confiscate it."

CCRKBA CALLS MD SEMI-AUTO RIFLE BILL 'FRIVOLOUS PANDERING'

A bill submitted to the Maryland General Assembly that would add 20 years to a criminal's prison sentence if he uses a so-called "assault rifle" when committing a violent crime amounts to "frivolous pandering to anti-gun extremism," the Citizens Committee for the Right to Keep and Bear Arms (CCRKBA) said.

The measure, sponsored by Sen. Rob Garagiola (D-Montgomery County), got a quick endorsement from Montgomery County State's Attorney Douglas Gansler. The prosecutor told reporters that Garagiola's bill "is not about gun control. This bill is about putting people who

ought to be in jail behind bars."

"That's ridiculous," CCRKBA Executive Director Joe Waldron fired back. "This bill is about demonizing a specific type of firearm because of its appearance. It should make no difference what kind of firearm a criminal uses. If that individual is caught and convicted, he ought to be locked up for a long time, regardless of the kind of gun he used."

CCRKBA Chairman Alan Gottlieb commented, "Enhancing a prison sentence because somebody uses a semiautomatic rifle instead of a different type of firearm is based solely on the 'blame-the-gun' mentality.

Senator Garagiola evidently ignored last year's report from the Department of Justice that the ban on so-called 'assault weapons' would not make a significant difference in the level of violent gun crime. Garagiola, and Mr. Gansler both need to focus on punishing the criminal, no matter what he may have in his hand at the time he commits a violent crime."

"Baltimore State's Attorney Patricia Jessamy said the use of so-called assault rifles in crimes is a serious problem," Waldron noted. "The idea that society should punish a gun demeans other crime victims."

CCRKBA HITS NYC ANTI-GUN ACTION

"If anyone in the pro-gun movement had doubts about the necessity of pro-gun national legislative proposals, they have only to consider the raft of anti-gun proposals passed just last month by the New York City Council," observed CCRKBA Public Affairs Director John Michael Snyder.

He said CCRKBA hopes that, "This year the 109th Congress will enact legislation to prohibit harassing third party nuisance lawsuits against legitimate gun manufacturers, distributors and dealers. It is obvious that anti-gun local political bodies, such as the New York City Council, deliberately target

such legitimate entities, and it's about time that some action is taken to put an end to such action."

In its first full meeting of 2005, the New York City Council voted 43-2 in favor of the so-called "Gun Industry Responsibility Act," a measure that would allow the country's gun dealers and manufacturers to be held liable for deaths and injuries caused by the illegal use of their products in New York City.

The measure states that gun dealers and manufacturers can be sued if they fail to follow a "code of conduct" aimed at preventing guns from getting into the hands of criminals. The code would require firms

to abide by certain sales practices, such as selling no more than one gun to a customer in any 30-day period.

The Council also voted 41-4 in favor of a bill that strengthens the city "assault weapons" ban by increasing the maximum fine for violators from \$10,000 to \$25,000 and by prohibiting anyone who violates the ban from obtaining a rifle or shotgun license. It would require the Police Department to update its list of banned "assault weapons" three times a year and allow the department to seize all the guns belonging to anyone who violates the "assault weapons" ban.

CITIZEN ACTION PROJECT

The 109th Congress has convened its first session. The White House has announced that it likely will renominate judicial appointees (federal district and appellate court judges) that Tom Daschle and his fellow Democrats filibustered in the 108th Congress.

The new Senate has 55 Republicans, 44 Democrats and one Independent (Jim Jeffords, Vermont former Republican who usually votes with the Democrats). Despite a four-seat gain for the GOP, this still is not enough to break a Democrat filibuster, where 40 Senators may oppose action on any issue before the Senate.

Senate Majority Leader Bill Frist (R-TN) is said to be considering the "nuclear option," a rules change that would preclude a filibuster from applying to the Senate's constitutional "advise and consent" role. While this "nuclear option" is being described by the media as radical, in fact it has been used in the past by both parties.

Federal judicial appointments, from the District Court through the Supreme Court, are lifetime appointments. Thus the judges and justices a president appoints are routinely his most lasting legacy, having an impact decades after he leaves office.

Senate Democrats have attempted to impose a "litmus" test on judicial appointments, primarily in the area of abortion, but also involving a nominee's position on the gun issue.

It is the President's right – and obligation – to appoint those individuals he feels are best suited for a particular position. The Senate has an equal obligation to pass judgment on the fitness of those appointees, in its "advise and consent" capacity. But nowhere in the Constitution does it authorize a minority of Senators to block a presidential appointment. When a clear majority supports such a nomination, that nomination should move forward.

Write, e-mail or call your two U.S. Senators and urge them to support President George W. Bush's appointees to federal judicial positions as they are submitted. You can find contact information for your Senators in the blue "U.S. Government" pages in the front of your telephone directory, or on the Internet at http://www.senate.gov/general/contact_information/senators_cfm.cfm

NORTH CAROLINIAN GETS CCRKBA AWARD

Nathan Tabor of Kernersville, NC is the February recipient of the CCRKBA Gun Rights Defender of the Month Award.

CCRKBA Public Affairs Director John Michael Snyder noted that, "During this time of continuing political and legislative conflict regarding the preservation of our individual Second Amendment civil right to keep and bear arms, we have to keep in mind that the basis for the conflict has its cultural and scientific roots as well.

"The eventual success of our movement depends to a large extent on our ability to expose the myths and biases that underlie much of the anti-gun sentiment in the various cultural and scientific communities in the United States. This is long, hard and tedious work. Fortunately, there are talented and committed individuals ready, willing and able to take on this task. One of these people is Nathan Tabor who has been working through his writings to expose some of these myths and to present the truth to the public. He certainly is most deserving of this Award."

In an article that appeared recently on www.MichNews.com, Tabor stated that, "liberals are always complaining about getting to the root of the problem, unless it deals with gun rights. Then they abandon all logical analysis and resort to hysteria, distortion and downright lies."

Tabor analyzed statistics provided by the U.S. Department of Health and Human Services, and made some interesting points. He noted that there are 700,000 physicians in

the United States, that physicians cause 120,000 accidental deaths per year, therefore, the accidental death percentage per physician is 0.171.

He then estimated that there are 80 million gun owners in the United States, that there are 1,500 accidental gun deaths per year in all age groups and that, therefore, the percentage of accidental deaths per gun owner is 0.0000188.

Statistically, then, Tabor concludes that, "doctors are 9,000 times more dangerous to the public health than gun owners." He observed that "not everyone has a gun, but almost everyone has at least one doctor." Following the twisted logic of the anti-gun crowd, he suggested that the public should be put on notice that, "guns don't kill people, doctors do."

Writing in a more serious vein, he noted research of Claremont Institute's Dr. Glen Otero pointing out that approximately 80 percent of all adult American citizens own firearms, and a gun can be found in nearly half of American households; that between 1974 and 1995, the total number of privately owned firearms in America increased by 75 percent, to 236 million, and that during that same period, national homicide and robbery rates did not significantly increase; that less than one percent of all guns are involved in crime, which means that 99 percent of all guns are not used to commit any crime; that in 1987, the National Victimization Survey estimated that about 83 percent of Americans would become the victims of violent crime during the course of their lifetime; that the

National Self-Defense Survey found that between 1988 and 1993, American civilians used firearms in self-defense almost 2.5 million times per year, saving up to 400,000 lives per year in the process; and that guns in the hands of law-abiding citizens deter crime, since where U.S. counties have enacted concealed carry laws, murder rates fell by eight percent, rape by five percent and aggravated assault by seven percent.

"You get the picture," Tabor said. "Guns don't kill people. People kill people. But sometimes law-abiding citizens with guns can save the lives of other innocent people."

A conservative political activist, Nathan has a BA in Psychology (1996) and a Master's Degree in Public Policy (1998). He graduated from Woodland Baptist Christian in Winston-Salem, North Carolina and pursued his graduate studies at Regent University in Virginia Beach, Virginia.

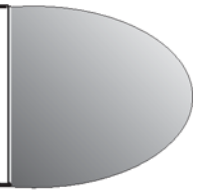
Tabor worked in Virginia for the American Diabetes Association and campaigned several years ago for Virginia Attorney General Mark Earley during Earley's unsuccessful gubernatorial race.

He returned to Winston-Salem to work with his family at Revival Soy. As VP of Sales and Marketing, Tabor has helped the company achieve an average growth of 200 percent a year. Since starting in the basement five years ago, Revival Soy has grown into a 56,000 square building with over 130 employees.

Nathan and his wife reside in Kernersville and are expecting their first baby this winter.



QUICK SHOTS



The average American owns 1.7 guns, according to a Gallup Poll released early last month, and the average gun owner possesses 4.4 firearms. One out of three American women say they own a gun, while 40 percent of American adults generally say they own a gun. Fifty-three percent of Republicans own guns. This compares with 36 percent of independents and 31 percent of Democrats. According to the poll, 44 percent of whites and 24 percent of nonwhites own guns. Residents of the southern states are more likely than those living in other states to report owning a gun. Fifty-six percent of those living in rural areas own a gun, compared with 40 percent of suburbanites and 29 percent of urbanites. From 1959 through 1993, an average of 47 percent of Americans reported having a gun in their homes. Since then, household gun ownership has dropped to an average of 40 percent. Sixty-two percent of gun owners have more than one gun on their properties, including 29 percent who say they have five or more guns.



In Bridgeport, CT, three home invaders were repelled in a shootout in early January with a homeowner that left one of the attackers dead and one seriously wounded, police said. Police said 47-year-old Edwin Vega was one of three people who broke into a private home. The homeowner opened fire on the assailants, killing Vega. The two others fled after one was wounded. The homeowner also was shot and

wounded in the attack. A short time later a man showed up at St. Vincent's Hospital with a gunshot wound to the mouth. Police said Frankie Rodriguez, 26, was one of the attackers who fled. Rodriguez was placed under arrest and taken to Bridgeport Hospital where he was under police guard. The homeowner was admitted to St. Vincent's Hospital to be treated for gunshot wounds.



In Seattle, WA, CCRKBA is offering a \$1,000 reward for information leading to the arrest and conviction of a thief who stole Seattle Police Chief Gil Kerilkowske's sidearm from his car in a downtown Seattle street the day after Christmas, and recovery of the gun. "As it stands right now," said CCRKBA Chairman Alan M. Gottlieb, "Chief Kerilkowske has put more guns on the street than the sunseting of the so-called 'assault weapon' ban. Law-abiding gun owners who frequently are criticized by the anti-gun media over alleged incidents of careless storage absolutely want the chief's pistol recovered, and the thief prosecuted." CCRKBA Executive Director Joe Waldron said, "statistics show that a significant number of guns that end up being used in crimes are stolen from law-abiding citizens. Whether it's a firearm stolen in a residential burglary, a rifle taken from a gun shop or a pistol taken from a police chief's car, the criminal is responsible for any harm caused with that gun, not the victim of the theft." CCRKBA hopes the offer of a

reward will encourage someone to step forward and identify the thief, or at least offer information resulting in the recovery of Chief Kerilkowske's pistol. The handgun is a 9mm Glock Model 26. Seattle police officers are issued .40-caliber Glock sidearms.



In Harvey, IL, state prosecutors say they will not bring homicide charges against a 61-year-old man who shot and killed his 21-year-old stepson. Police say the older man shot John Shedrich early last month as Shedrich attempted to force his way into the home he had formerly shared. They say Shedrich had thrown bricks through a window and kicked down the front door to get it. Police said the stepfather fired only in self-defense.

GUN RIGHTS LEADER NEAL KNOX DIES

Neal Knox, a champion of the firearm civil rights movement for more than 30 years, died Jan. 17, 2005 at his home in Virginia, ending a year-long battle with colon cancer. He was 69.

Mr. Knox was remembered as a man whose dedication to the Second Amendment was beyond question, and who was the "conscience of the gun rights movement." He was a key organizer of grassroots gun rights movements.

4 Publications from the Second Amendment Foundation:



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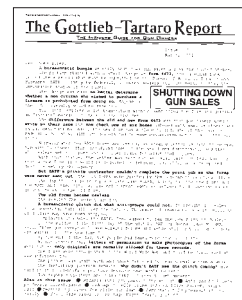
At last, an academic journal dedicated to scholarly discussion of firearms and public policy! The JOURNAL OF FIREARMS AND PUBLIC POLICY has published annually since 1989. Its mission: to encourage objective research on the right to keep and bear arms, and explore America's Constitutional heritage to privately own and possess firearms. Edited by David B. Kopel – Research Director at the Independence Institute and renowned gun-rights scholar – and contributors include Randy E. Barnett, Glenn Harlan Reynolds, John R. Lott, Joseph P. Tartaro, Gary Kleck, and others.

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Here's a monthly newsletter that gives you inside gun-rights information from the desks of active principals in the battle for the right to keep and bear arms. The GOTTLIEB-TARTARO REPORT is headed by Alan M. Gottlieb – chairman of the Citizens Committee for the Right to Keep and Bear Arms – and Joseph P. Tartaro – editor of Gun Week and president of the Second Amendment Foundation. This monthly newsletter is full of inside gun rights news straight from the desks of the experts. Not available on newsstands. Regular subscription \$60 per year.

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