

The Gottlieb-Tartaro Report

THE INSIDERS GUIDE FOR GUN OWNERS

Issue 177

September, 2009

Dear Subscriber,

President BARACK OBAMA has nominated anti-gun Clinton administration re-tread DAVID MICHAELS to head OSHA, the Occupational Safety and Health Administration, raising the specter of a potential government campaign against gun rights as a "public health" hazard that should be regulated by OSHA.

MICHAELS, now employed as a research professor and occupational health expert at the George Washington University School of Public Health, was Clinton's assistant secretary of energy for environment, safety and health.

He's a particularly dangerous nominee not only for his rabid belief that everything is harmful and must be controlled by government, but also because **he is very familiar with how to make things happen in the bureaucracy.** *He could sneak back-door gun control through the Code of Federal Regulations.*

MICHAELS has called for **"a bold campaign to change the workplace culture of safety."** That includes **an anti-gun campaign.** Once people start viewing private gun ownership as a public health menace, it begins to seem logical to use the powers of government to urge or even require employers to forbid workers from possessing guns on company premises, including parking lots, to protect co-workers.

MICHAELS wrote a saber-rattling 2008 book titled "Doubt Is Their Product: How Industry's Assault on Science Threatens Your Health." **He wrote with unbridled hate against guns as a workplace safety issue** (and attacked gun rights advocates).

He emphasizes "sound science," but shows that **the only science he will accept as "sound" is whatever findings agree with his prejudices.**

DAVID MICHAELS is an ideological left-wing menace to the Second Amendment.

In Guadalajara, Mexico, Presidents FELIPE CALDERON and BARACK OBAMA and Canadian Prime Minister STEPHEN HARPER last month held **a mini-summit on Mexico's drug war.** OBAMA said the three leaders "resolved to continue confronting the urgent threat to our common security from the drug cartels that are causing so much violence and death in our countries." He promised to **"stem the illegal southbound flow of American guns and cash that helps fuel this extraordinary violence,"** even though the flow of U.S. guns has been shown to be a small fraction of what OBAMA claims.

U.S. Congressman JOE SESTAK (D-PA), running for the Senate seat of incumbent Republican-turned-Democrat ARLEN SPECTER in a Democratic primary, has said **shooting deaths in Pennsylvania suggest America should reinstate the ban on "assault weapons."** SESTAK said firearm assaults upon law enforcement officers increased between 2002 and 2006 and said he believed a reinstated assault-weapons ban would make officers safer. **Opponents of the legislation contend that the ban applies to many firearms that don't have any special rapid-fire capacity and therefore are not as dangerous as gun-control advocates say.**

Delegate **ELEANOR HOLMES NORTON** (D-District of Columbia) has found a clever way to defeat the Supreme Court's ruling against Washington, D.C.'s handgun ban: she has called on the Department of Homeland Security and the Secret Service to **create a perimeter around President Obama, wherever he is, in which all guns are banned.** The regulation would conflict with several states' open carry laws. **NORTON has no vote in Congress, but serves on the House Homeland Security Committee.**

Also in this issue: ● *Snags in California microstamping law* ● *New York store-keeper blasts four robbers* ● *SAF lawsuit against D.C. gun carry ban* ● *Bloomberg to help fund NRA downfall* ● *Candidate airbrushes gun necklace from daughter in family pic* ● *Gun Control Nuts Do The Weirdest Things in our Page 8 "Parting Shot"*

**AT THE
FEDERAL
LEVEL**

CALIFORNIA'S MICROSTAMPING LAW SNAGGED BY REALITY

In 2007, the California Legislature passed a law requiring new models of semiautomatic handguns to leave a microscopic identifying code on shell casings. It was scheduled to take effect January 1, 2010, making it easy to trace crooks.

That doesn't look very likely. State Attorney General Jerry Brown has not certified the law, which can't take effect until he does. His aides could not say when that might happen because patent snags haven't been resolved.

Microstamping was invented 15 years ago by Todd Lizotte, a New Hampshire engineer who patented the process. It's not available anywhere else. To avoid a monopoly, the Legislature required the attorney general to certify that it was available "to more than one (gun) manufacturer unencumbered by any patent restrictions."

IN THE STATES

That hasn't happened yet, even though Lizotte claims he abandoned the patent. The AG's office says it has no knowledge of any patent abandonment.

"We're continuing to review the legislation, but the certification requirements have not yet been met," said Christine Gasparac, the attorney general's press secretary.

Seven other states have considered similar legislation, but backed off after seeing California's problems. Only the District of Columbia has passed a microstamping law. A proposed national law has failed to gain political traction.

Larry Keane, senior vice president of the National Shooting Sports Foundation, said, "I have no reason to believe there is any major manufacturer that is going to incur the millions and millions of dollars in costs to implement microstamping for new models introduced in California. They will simply sell the models that are on the approved list now. New models going forward will be barred from the California market, which is already happening because of other impossible mandates."

Gun makers don't think the law can be certified. Kevin Reid, Sturm Ruger & Co., Inc general counsel, said, "The problem I have with this is it can't be done. The legislation says it has to work 100 percent of the time and there is nobody, nobody including Todd Lizotte himself, who would say it will always work."

The most definite sign that things are not on track is the fact that no gun manufacturers have been invited to any stakeholder sessions, as they normally are when California develops regulations for major new gun laws.

NEW JERSEY GOV. CORZINE SIGNS ONE-GUN-A-MONTH BILL

Gov. Jon Corzine has signed A-339 / S-1774, the One Hnadgun A Month bill, which is supposed to stop legal buyers from selling on the illegal street market to drug dealers and gang thugs. Purchase limits don't seem to have any effect on criminals in California, Maryland and Virginia, which already have such laws.

NEW YORK STATE SENATE WILL IGNORE ANTI-GUN BILLS FOR NOW

New York State Senator Thomas W. Libous (R-Binghamton) says two anti-gun bills - microstamping and handgun re-permitting - won't get out of committee. "While we stopped these anti-Second Amendment rights bills for now, the New York City bosses will try again to pass them," Libous warned.

OMAHA GUN SELLERS NOW REQUIRED TO PROVIDE FINGERPRINT

Nebraska's capital city has a new ordinance requiring second hand gun shops to fingerprint anyone selling a gun. Omaha police say it will help cut violence, by taking illegal weapons off the street. Opponents say the law will do just the opposite, and drive the sale of illegal guns to the black market.

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TEXAS STORE OWNER THWARTS ROBBERY

Javid Iqbal bought a cell phone store in Houston, Texas a year ago. He was robbed four times when his wife made him buy a handgun and learn how to use it - they, their 3-year-old daughter, and Iqbal's father live in the back of the store.

Late last month, two men with bandanas covering their faces, guns in hand, vaulted over Iqbal's counter demanding money. The surveillance video showed that 5 seconds later, Iqbal had run around a corner, got his gun, came back and fired three times, killing 34-year-old robber Bryan Thorn on the spot. The other thug fled and remains at large.

Iqbal said he is looking for a safer location for his store.



NEW YORK CITY SHOPKEEPER BLASTS FOUR ROBBERS

Charles "Gus" Augusto Jr., 72-year-old owner of Kaplan Brothers Blue Flame, a wholesaler of commercial restaurant equipment in Harlem, was surprised when four armed robbers entered his store at about 3 p.m. on a recent Tuesday.

They yelled, "Where's the money? Where's the money?" They pistol-whipped a worker and waved a handgun at a cashier's face.

Augusto told them, "There is no money. Go home." When one of the thugs aimed his gun at an employee, Augusto grabbed his 12-gauge shotgun and fired a warning shot. When the four criminals kept on menacing his employees, Augusto fired into the middle of the grouped intruders, hitting all four. They fled.

One made it out the door and died in front of the Baptist church next door. Another made it across the street and died on the sidewalk. Trails of blood led police to the other two, who arrested the failed thieves and took them to a local hospital, where they were in stable condition.

Augusto did not have a permit for the shotgun, and police confiscated it, but said he was a victim and did not file charges.

Ironically, a reporter later discovered that some literate person had scribbled above the store's door a famous line from Dante's *Inferno*: "Abandon hope all ye who enter here."

INDIANA MAN IS ALIVE TODAY BECAUSE A MAN HE THREATENED HAD A GUN

Patrick F. Ianni, 33, of Columbus, Indiana, had been out drinking at an Indianapolis comedy club with his girlfriend, and on the way home about 2 a.m. they got into a fight.

Ianni was so drunk he insisted on being let out of his girlfriend's car in rural Whiteland, and after she departed without him, he staggered to the nearest home and kicked in the door, awakening the homeowner. He claimed he was a police officer who wanted to ask a few questions.

The homeowner warned Ianni that he had a gun and would shoot him if he entered the house. Ianni responded that he had a knife and would stab the homeowner. After staggering into the door jamb and bloodying his own nose, Ianni decided to go elsewhere. A Sheriff's deputy arrested him when Ianni waved him down and asked for a ride, yelling and threatening to beat up the cop.

Johnson County Sheriff's Office Chief Deputy Doug Cox said, "The only smart decision he made was not to enter that home, He's alive today because he didn't enter that house."

MISSISSIPPI MAN SHOTS CAR THIEF, FACES GRAND JURY

An un-named homeowner in Jackson, Mississippi shot and wounded one of two men he found breaking into his Chrysler Sebring parked in front of his house.

The homeowner saw the pair breaking into his car. While Michael Evans, 26, was still inside the Sebring, the homeowner got a gun and shot Evans in a thigh.

The second suspect got away and has not been found.

The homeowner has not been charged. Jackson Assistant Police Chief Lee Vance said, "The homeowner has a right to protect his property," but the case will be given to a Grand Jury to see if he acted within the state's Castle Doctrine law.

SAF SUES DISTRICT OF COLUMBIA OVER CARRYING OF FIREARMS

The Second Amendment Foundation (SAF) has filed a lawsuit seeking to compel the city to issue carry permits to law-abiding citizens. The lawsuit was filed in U.S. District Court on behalf of Tom Palmer, George Lyon and Amy McVey, all District residents, and Edward Raymond, a New Hampshire resident.

SAF and the individual plaintiffs are being represented by attorney Alan Gura, who successfully argued the landmark *District of Columbia v. Heller* case in 2008 that overturned the District's handgun ban on the grounds that it was unconstitutional under the Second Amendment.

SAF previously sued the District over its restrictive handgun registration policies, leading the city to amend those policies. This time, SAF is alleging that the District previously had a city code under which the police chief could issue licenses to carry handguns to individuals, but the city did not issue such licenses as a matter of policy for several years.

**ON THE
LEGAL FRONT**

"In most major American cities," said attorney Gura, "where the right to bear arms is respected, licensed permit holders have proven themselves safe and effective. Washington, D.C. already requires handgun registrants to complete the background checks and training classes required of carry permit holders throughout the country. It is pointless to deny these individuals the right to bear arms."

NORTH CAROLINA SUPREME COURT RESTORES FELON'S GUN RIGHTS

The North Carolina Supreme Court has ruled that a 2004 law barring convicted felons from having a gun, even within their own home or business, is unconstitutional.

The state's high court ruled in the case of Barney Britt of Wake County that the General Assembly went too far five years ago when it toughened restrictions on felons owning guns as part of a broad anti-domestic-violence bill.

Britt was convicted of felony drug possession in 1979. He completed his sentence in 1982, and his right to own a gun was restored five years later.

U.S. SUPREME COURT WILL CONSIDER TWO GUN RIGHTS CASES

Late this month the Supreme Court will consider two new cases on the scope of individuals' Second Amendment rights at its first Conference for the new Term.

Both petitions challenge a Seventh Circuit Court ruling that the Amendment does not restrict gun control laws adopted by state, county or city government, but applies only to federal laws. The cases are *National Rifle Association v. Chicago* (08-1497) and *McDonald v. Chicago* (08-1521). If the Court agrees to hear the new cases after its first look, that could be announced as early as September 30.

MONTANA GUN RIGHTS GROUP AND SAF WILL CHALLENGE FEDS

The Montana Shooting Sports Association, a prominent Missoula-based gun rights group, has partnered with the Second Amendment Foundation to test federal authority over a new class of firearms: guns manufactured and used solely in the state of Montana.

At issue is the Montana Firearms Freedom Act, which passed the 2009 Legislature and was signed into law by Gov. Brian Schweitzer. That law states that guns, ammunition and certain gun parts manufactured and used in Montana are not subject to federal gun laws.

APPEALS COURT SAYS GOVERNMENT CAN REQUIRE GUN REGISTRATION

A three-judge panel of the U.S. Seventh Circuit Court of Appeals has ruled that, even after the Supreme Court's high-profile *Heller* decision last year, the Second Amendment is no obstacle to mandatory gun registration. The case arose out of the Chicago-area town of Cicero's mandatory registration requirement for firearms. A local man named John Justice was raided by the Cicero police, who found six unregistered handguns. He argued in a civil lawsuit that the local ordinance violated the Second Amendment.

APPEALS COURT RULES THAT GUN RIGHTS DON'T APPLY IN DOMESTIC VIOLENCE CASES

The U.S. Court of Appeals for the Tenth Circuit, has ruled that a criminal defendant may not be allowed to present a Second Amendment defense to a federal jury in Utah. It came after the appeals court granted an extraordinary emergency appeal, called a writ of mandamus, from the Justice Department after the district judge agreed to allow jury instructions to include a Second Amendment defense.

ON THE LEGAL FRONT

The defendant, Rick Engstrum, has an earlier misdemeanor domestic violence conviction and has been charged with possessing a firearm in violation of a federal law that applies to anyone "who has been convicted in any court of a misdemeanor crime of domestic violence." He has pleaded not guilty.

APPEALS COURT RULES AGAINST NEW YORK CITY COPS FOR GUN SHOP SEIZURE

The United States Second Circuit Court of Appeals has ruled in favor of a Bronx gun shop owner who claimed her constitutional rights were violated in a search and seizure of her store following a post-9/11 security crackdown by the New York City Police Department. Angela Spinelli, owner of Olinville Arms, Inc., appealed the case to the Second Circuit, which ruled that the city had denied her constitutional rights under the Fourth Amendment to due process of law, when they confiscated her entire firearms inventory and suspended her dealer's licenses.

COURT UPHOLDS LOCAL BAN ON MILITARY-STYLE SEMI-AUTOMATIC ASSAULT WEAPONS

A lawsuit brought by the Illinois State Rifle Association (ISRA) against the Cook County Board of Commissioners alleged that their ban on assault weapons "exceeded the Board's home rule authority" to enact local ordinances that are stricter than state law. But the Circuit Court ruled that Cook County had the legal and constitutional right to pass its assault weapon ban and thereby handed the ISRA a major defeat. The ISRA recently challenged the law, but the Circuit Court upheld the ordinance by dismissing the case.

ASSAULT AND BATTERY IN SELF-DEFENSE NOT AN INSURANCE "ACCIDENT"

Does a liability insurer have a duty to defend its insured if the insured deliberately commits assault and battery in self-defense? According to the Supreme Court of California, the answer is no, because the act of having to defend oneself does not fall within the policy's coverage of an "accident."

According to court documents in *Jonathan Delgado v. Interinsurance Exchange of the Automobile Club of Southern California* (ACSC), Delgado was injured in 2003 by Craig Reid, who had a homeowners insurance policy providing liability coverage for up to \$100,000. ACSC said defense was not covered, because the assault was not an "accident." The insurer said Reid's actions were intentional, a policy exclusion.

OREGON GUN GROUP FILES SUIT AGAINST UNIVERSITY'S NO-GUN RULE

The Oregon Firearms Educational Foundation (OFEF) has filed a Petition for Judicial Determination of Validity of Rule against the Oregon University System for a rule imposing sanctions against anyone possessing a firearm on institutional property, which rule is alleged by OFEF to be in violation of state law.

OFEF was prompted to bring the legal action by the case of Jeffrey Maxwell, a Marine Corps veteran who was arrested at Western Oregon University (WOU) for possession of a firearm in a public building. Although criminal charges were dropped, Maxwell was kicked out of the university for violating their anti-gun rule.

TENNESSEE'S GUNS-IN-RESTAURANTS-AND-BARS LAW IS CHALLENGED

Randy Rayburn, who owns Sunset Grill and the Midtown Cafe and Cabana in Nashville, has filed a motion in Davidson County Chancery Court seeking summary judgment challenging Tennessee's new state law allowing guns in restaurants and bars.

Rayburn said the law, which took effect in July, creates unsafe workplaces, and is pre-empted by OSHA, the federal Occupational Safety and Health Administration. See Page 1's top story on David Michaels, Obama's nominee for head of OSHA.

GUN NEWS TICKER - QUICK TAKES ON THE NEWS

● **Walton Hills, Ohio:** Marlene Anielski, who currently serves as mayor of the Village of Walton Hills, a Cuyahoga County community, is hoping to win the Republican nomination as candidate for the Ohio House of Representatives in 2010. Pro-gun advocates, Buckeye Firearms Association, discovered that Anielski had recently joined the gun control front group that New York City Mayor Michael Bloomberg founded, and misleadingly named "Mayors Against Illegal Guns" (MAIG). After Buckeye leaders contacted Anielski to explain that it was a gun control group, Anielski immediately resigned. Turns out she and her husband were both life members of NRA and thought MAIG was a crime control group, not a gun control group.

● **Tskhinvali, Georgia:** The breakaway Georgian province of South Ossetia was invaded and occupied by Russian troops in 2008, turning the population of factory workers, university students, farmers and smugglers into a loosely organized fighting force along the border with Georgia. Now, with Russia guaranteeing its security, South Ossetia is asking residents to turn in their weapons voluntarily. The police have opened 50 criminal prosecutions for illegal weapons and plan to offer \$300 to \$400 for each Kalashnikov rifle, a top official said. The program is a test of confidence, a year after the war between Russia and Georgia. David Sanakoyev, South Ossetia's ombudsman for human rights, said "Life has changed, but inside, you don't yet feel that life has changed."

● **Houston, Texas:** An increased number of agents has allowed the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) to inspect about 1,000 licensed gun dealers in the Houston area. Acting ATF Director Kenneth Melson said the four-month program is to ensure that dealers are keeping the paperwork needed to investigate gun-running rings. Sharing intelligence with Mexico and dealer inspections are part of a U.S. pledge to help Mexican authorities investigating violent drug cartels. However, some gun rights advocates wonder whether the recently passed Texas Firearms Freedom Act, which nullifies certain federal gun regulations and asserts state sovereignty over guns made and kept in Texas, may have something to do with the extraordinary inspections as a form of harassment.

● **Washington, D.C.:** A new poll conducted by Zogby International and The O'Leary Report looked at Americans' opinions on some key issues related to the Second Amendment. One of the questions asked: "Currently, 39 states have laws that allow residents to carry firearms to protect themselves, only if they pass a background check and pay a fee to cover administrative costs. Most of those states also require applicants to have firearms safety training. Do you support or oppose this law?" The results showed that 83% of Americans support Right-to-Carry laws. The poll also revealed that support for Right-to-Carry crosses party lines, with 86% of independent voters and 80% of Democratic voters supporting Right-to-Carry.

● **New York City:** Mayor Michael Bloomberg said he would raise money for a national campaign to counter the political influence of the National Rifle Association, building on the recent defeat of federal legislation that would have approved carrying concealed weapons. "You know, the NRA doesn't spend that much money," said Bloomberg during an appearance on NBC's "Meet the Press" program. "If you want to beat the NRA you have to go out and get your message out, and it costs money to do that." NRA President Wayne LaPierre didn't immediately respond to the *Boston Globe's* requests for comment.

● **Sioux Falls, South Dakota:** There were 2,008 conceal and carry permits issued in Minnehaha County in all of 2008. There have already been 1,548 in 2009. The state of South Dakota issued 14,628 permits in 2008, and it's already hit 11,057 in 2009. The clerk at the Minnehaha County Sheriff's office says she takes between 10 and 50 applications for a conceal and carry permit every day, and she says the number one reason people give is they're afraid their gun rights might be taken away.

● **Newton, Connecticut:** The recent national Firearms and Ammunition Excise Tax Collection Report says firearm and ammunition manufacturers paid more than \$109.8 million in the first quarter of 2009, up 43% over the same period in 2008.

GUN NEWS TICKER - QUICK TAKES ON THE NEWS

● **Nashville, Tennessee:** Anti-gun columnist Jeff Woods wrote in the *Nashville Scene*, "As he travels around the state in his campaign for governor, Bill Gibbons, current District Attorney for Shelby County, he tells the GOP's Second Amendment freaks they've gone too far with their guns-in-bars law. 'He's been outspoken about it, that it just didn't make any sense,' says campaign aide Joe Hall. Bill Gibbons is married to Julia S. Gibbons, a federal judge on the United States Court of Appeals for the 6th Circuit. Gibbons is trailing the three other Republican candidates in fundraising, but says 'Message trumps money.'

● **Bellevue, Washington:** More than a few eyebrows have been raised around the country since news broke the other day that a Bellevue motorcycle retailer had been offering a \$500 voucher toward the purchase of a firearm or gun-related accessories for anyone who purchase a Harley-Davidson Big Twin Harley. These vouchers are redeemable at Wade's Eastside Gun Shop and indoor shooting range, one of the busiest such facilities anywhere in the country. Surprisingly, in a city just across Lake Washington from ultra-liberal Seattle, business at Wade's belies the notion that Washington is entirely populated by airhead lefties who reflexively dislike guns and people who own them.

● **Cobb County, Georgia:** Guns, gambling, and alcohol were all present when the state right-to-bear-arms group GeorgiaCarry.Org held its first annual convention recently at the posh Renaissance Waverly hotel near Atlanta. Politicians and hundreds of armed Georgians showed up for the two day event, including gubernatorial candidates from the Democrat, Libertarian, and Republican parties and the state's Attorney General. The group hosted a social mixer on Friday night with dinner, followed by a poker tournament (for fun) that lasted several hours. This is probably the first time in more than a century that any location has hosted so many people paying cards while carrying pistols openly.

● **Atlanta, Georgia:** MediaMatters.org, the foundation-funded group run by David Brock, disgruntled conservative turned vengeful liberal, is using a \$500,000 grant from Bill Moyers' foundation to "monitor" (in liberalese that's "suppress") CNN's Lou Dobbs and his frequent coverage of gun control issues. The outfit recently published a report titled "Not just immigration: Dobbs out of step with his network on gun coverage," that notes Dobbs devoted 11 times as many words to gun control than CNN's "The Situation Room." The report recommends "adjusting the format" of Dobbs' show. It's revealing to see the Left's demand for everyone to march in lockstep, and to complain that Dobbs is independent and providing a little balance to CNN's generally liberal tilt.

● **Tallahassee, Florida:** Florida is drowning in a backlog of concealed carry permit applications. "We're still sitting on about 50,000 applications," said Agriculture Commissioner Charles Bronson. "We're getting in about 14,000 or 15,000 a month and whenever they get a good slug out, they're getting another 15,000 in." Bronson went to the Legislature last spring for authorization to hire 61 temporary employees - bringing the total to 202 - who have helped whittle down a backlog that then stood at 90,000. The backlog, alone, was equal to all the applications received in 2008 - 90,331 - and the department received 75,520 applications in the first six months of this year. That puts Florida on pace for 150,000 concealed-weapons permit applications this year.

● **New York City:** The 14-year-old daughter of New York City Councilman Bill de Blasio is featured in a nice family photo on the website for de Blasio's public advocate campaign. But teenage Chiara loves guns, and de Blasio doesn't want voters to know about it. It's been revealed that in the original photo, Chiara was wearing a gun-shaped pendant, which was subsequently airbrushed away when the photo was sent out for campaign literature. When confronted about the cover-up by the *Daily News*, de Blasio explained, "Our daughter made a mistake in putting on a necklace that was inappropriate. I made a decision to take it out of any literature and she will not be wearing it in the future."

Parting Shot

GUN CONTROL NUTS DO THE WEIRDEST THINGS

Robert C. Soles, Jr., better known simply as R.C. Soles, is a Democrat Senator in North Carolina's General Assembly. He's also a practicing attorney at Soles, Phipps, Ray, and Prince Law Firm in Tabor City, near the border with South Carolina.

Soles has been a legislator since 1968. He's the longest serving lawmaker in North Carolina history - 40 years, with 32 of them in the Senate. His seniority makes him very powerful, currently chairman of the Senate Democratic Caucus.

Soles has been a gun control advocate since he was first elected. The pro-gun group, Grass Roots North Carolina, gave Soles its next-to-lowest rating for his anti-gun voting record on its 2008 Evaluation Chart.

One recent Sunday afternoon about 5 p.m., Soles shot one of two men breaking down the door of his Tabor City gated home. Both of them were his law clients.

Now, there's something hypocritical about a gun control guy shooting people. Keeping guns from everybody but you "just ain't right," as they say in the movies.

One pro-gun blogger asked, "So Senator, is your life worth more than We, The Peasants?"

First, what about the client that Senator Soles shot? Columbus County Sheriff Chris Batten said Thomas Kyle Blackburn, a 22-year-old convicted felon, was taken to Loris Community Hospital with a gunshot wound to the leg. A spokeswoman at the hospital said that Blackburn was treated and released later that day.

The other man involved in the incident was Billie Jay Wright, 23, also a convict, Batten said. Wright was a legal client of Soles who said that Soles gave him money while Wright was in prison, as he had done for many years for young men in trouble. The two convicts may have been harassing Soles for more money.

The State Bureau of Investigation is probing the shooting, Batten said, because the agency is already looking into accusations against the senator.

Stacey Scott, 27, claimed in a televised interview that Soles tried to fondle his genitals more than a decade ago. Scott later recanted his story, saying he was high on drugs during the interview - a cocktail of Xanax, Percocet and cocaine.

Soles himself has a long string of tangles with the law. In August 1983, charges of conspiracy, vote-buying and perjury were dropped for lack of evidence, then he was acquitted in federal court of aiding and abetting bribery.

One last thing: the reason Soles didn't get Grass Roots North Carolina's lowest gun rights rating? He voted for the Castle Doctrine law that will protect him in the shooting of Blackburn.

Alan M. Gottlieb

Joseph D. Tartaro

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FEDERAL
LEVEL**

CALIFORNIA'S MICROSTAMPING LAW SNAGGED BY REALITY

In 2007, the California Legislature passed a law requiring new models of semiautomatic handguns to leave a microscopic identifying code on shell casings. It was scheduled to take effect January 1, 2010, making it easy to trace crooks.

That doesn't look very likely. State Attorney General Jerry Brown has not certified the law, which can't take effect until he does. His aides could not say when that might happen because patent snags haven't been resolved.

Microstamping was invented 15 years ago by Todd Lizotte, a New Hampshire engineer who patented the process. It's not available anywhere else. To avoid a monopoly, the Legislature required the attorney general to certify that it was available "to more than one (gun) manufacturer unencumbered by any patent restrictions."

IN THE STATES

That hasn't happened yet, even though Lizotte claims he abandoned the patent. The AG's office says it has no knowledge of any patent abandonment.

"We're continuing to review the legislation, but the certification requirements have not yet been met," said Christine Gasparac, the attorney general's press secretary.

Seven other states have considered similar legislation, but backed off after seeing California's problems. Only the District of Columbia has passed a microstamping law. A proposed national law has failed to gain political traction.

Larry Keane, senior vice president of the National Shooting Sports Foundation, said, "I have no reason to believe there is any major manufacturer that is going to incur the millions and millions of dollars in costs to implement microstamping for new models introduced in California. They will simply sell the models that are on the approved list now. New models going forward will be barred from the California market, which is already happening because of other impossible mandates."

Gun makers don't think the law can be certified. Kevin Reid, Sturm Ruger & Co., Inc general counsel, said, "The problem I have with this is it can't be done. The legislation says it has to work 100 percent of the time and there is nobody, nobody including Todd Lizotte himself, who would say it will always work."

The most definite sign that things are not on track is the fact that no gun manufacturers have been invited to any stakeholder sessions, as they normally are when California develops regulations for major new gun laws.

NEW JERSEY GOV. CORZINE SIGNS ONE-GUN-A-MONTH BILL

Gov. Jon Corzine has signed A-339 / S-1774, the One Hnadgun A Month bill, which is supposed to stop legal buyers from selling on the illegal street market to drug dealers and gang thugs. Purchase limits don't seem to have any effect on criminals in California, Maryland and Virginia, which already have such laws.

NEW YORK STATE SENATE WILL IGNORE ANTI-GUN BILLS FOR NOW

New York State Senator Thomas W. Libous (R-Binghamton) says two anti-gun bills - microstamping and handgun re-permitting - won't get out of committee. "While we stopped these anti-Second Amendment rights bills for now, the New York City bosses will try again to pass them," Libous warned.

OMAHA GUN SELLERS NOW REQUIRED TO PROVIDE FINGERPRINT

Nebraska's capital city has a new ordinance requiring second hand gun shops to fingerprint anyone selling a gun. Omaha police say it will help cut violence, by taking illegal weapons off the street. Opponents say the law will do just the opposite, and drive the sale of illegal guns to the black market.

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TEXAS STORE OWNER THWARTS ROBBERY

Javid Iqbal bought a cell phone store in Houston, Texas a year ago. He was robbed four times when his wife made him buy a handgun and learn how to use it - they, their 3-year-old daughter, and Iqbal's father live in the back of the store.

Late last month, two men with bandanas covering their faces, guns in hand, vaulted over Iqbal's counter demanding money. The surveillance video showed that 5 seconds later, Iqbal had run around a corner, got his gun, came back and fired three times, killing 34-year-old robber Bryan Thorn on the spot. The other thug fled and remains at large.

Iqbal said he is looking for a safer location for his store.

**GUNS
SAVE
LIVES**

NEW YORK CITY SHOPKEEPER BLASTS FOUR ROBBERS

Charles "Gus" Augusto Jr., 72-year-old owner of Kaplan Brothers Blue Flame, a wholesaler of commercial restaurant equipment in Harlem, was surprised when four armed robbers entered his store at about 3 p.m. on a recent Tuesday.

They yelled, "Where's the money? Where's the money?" They pistol-whipped a worker and waved a handgun at a cashier's face.

Augusto told them, "There is no money. Go home." When one of the thugs aimed his gun at an employee, Augusto grabbed his 12-gauge shotgun and fired a warning shot. When the four criminals kept on menacing his employees, Augusto fired into the middle of the grouped intruders, hitting all four. They fled.

One made it out the door and died in front of the Baptist church next door. Another made it across the street and died on the sidewalk. Trails of blood led police to the other two, who arrested the failed thieves and took them to a local hospital, where they were in stable condition.

Augusto did not have a permit for the shotgun, and police confiscated it, but said he was a victim and did not file charges.

Ironically, a reporter later discovered that some literate person had scribbled above the store's door a famous line from Dante's *Inferno*: "Abandon hope all ye who enter here."

INDIANA MAN IS ALIVE TODAY BECAUSE A MAN HE THREATENED HAD A GUN

Patrick F. Ianni, 33, of Columbus, Indiana, had been out drinking at an Indianapolis comedy club with his girlfriend, and on the way home about 2 a.m. they got into a fight.

Ianni was so drunk he insisted on being let out of his girlfriend's car in rural Whiteland, and after she departed without him, he staggered to the nearest home and kicked in the door, awakening the homeowner. He claimed he was a police officer who wanted to ask a few questions.

The homeowner warned Ianni that he had a gun and would shoot him if he entered the house. Ianni responded that he had a knife and would stab the homeowner. After staggering into the door jamb and bloodying his own nose, Ianni decided to go elsewhere. A Sheriff's deputy arrested him when Ianni waved him down and asked for a ride, yelling and threatening to beat up the cop.

Johnson County Sheriff's Office Chief Deputy Doug Cox said, "The only smart decision he made was not to enter that home, He's alive today because he didn't enter that house."

MISSISSIPPI MAN SHOTS CAR THIEF, FACES GRAND JURY

An un-named homeowner in Jackson, Mississippi shot and wounded one of two men he found breaking into his Chrysler Sebring parked in front of his house.

The homeowner saw the pair breaking into his car. While Michael Evans, 26, was still inside the Sebring, the homeowner got a gun and shot Evans in a thigh.

The second suspect got away and has not been found.

The homeowner has not been charged. Jackson Assistant Police Chief Lee Vance said, "The homeowner has a right to protect his property," but the case will be given to a Grand Jury to see if he acted within the state's Castle Doctrine law.

SAF SUES DISTRICT OF COLUMBIA OVER CARRYING OF FIREARMS

The Second Amendment Foundation (SAF) has filed a lawsuit seeking to compel the city to issue carry permits to law-abiding citizens. The lawsuit was filed in U.S. District Court on behalf of Tom Palmer, George Lyon and Amy McVey, all District residents, and Edward Raymond, a New Hampshire resident.

SAF and the individual plaintiffs are being represented by attorney Alan Gura, who successfully argued the landmark *District of Columbia v. Heller* case in 2008 that overturned the District's handgun ban on the grounds that it was unconstitutional under the Second Amendment.

SAF previously sued the District over its restrictive handgun registration policies, leading the city to amend those policies. This time, SAF is alleging that the District previously had a city code under which the police chief could issue licenses to carry handguns to individuals, but the city did not issue such licenses as a matter of policy for several years.

**ON THE
LEGAL FRONT**

"In most major American cities," said attorney Gura, "where the right to bear arms is respected, licensed permit holders have proven themselves safe and effective. Washington, D.C. already requires handgun registrants to complete the background checks and training classes required of carry permit holders throughout the country. It is pointless to deny these individuals the right to bear arms."

NORTH CAROLINA SUPREME COURT RESTORES FELON'S GUN RIGHTS

The North Carolina Supreme Court has ruled that a 2004 law barring convicted felons from having a gun, even within their own home or business, is unconstitutional.

The state's high court ruled in the case of Barney Britt of Wake County that the General Assembly went too far five years ago when it toughened restrictions on felons owning guns as part of a broad anti-domestic-violence bill.

Britt was convicted of felony drug possession in 1979. He completed his sentence in 1982, and his right to own a gun was restored five years later.

U.S. SUPREME COURT WILL CONSIDER TWO GUN RIGHTS CASES

Late this month the Supreme Court will consider two new cases on the scope of individuals' Second Amendment rights at its first Conference for the new Term.

Both petitions challenge a Seventh Circuit Court ruling that the Amendment does not restrict gun control laws adopted by state, county or city government, but applies only to federal laws. The cases are *National Rifle Association v. Chicago* (08-1497) and *McDonald v. Chicago* (08-1521). If the Court agrees to hear the new cases after its first look, that could be announced as early as September 30.

MONTANA GUN RIGHTS GROUP AND SAF WILL CHALLENGE FEDS

The Montana Shooting Sports Association, a prominent Missoula-based gun rights group, has partnered with the Second Amendment Foundation to test federal authority over a new class of firearms: guns manufactured and used solely in the state of Montana.

At issue is the Montana Firearms Freedom Act, which passed the 2009 Legislature and was signed into law by Gov. Brian Schweitzer. That law states that guns, ammunition and certain gun parts manufactured and used in Montana are not subject to federal gun laws.

APPEALS COURT SAYS GOVERNMENT CAN REQUIRE GUN REGISTRATION

A three-judge panel of the U.S. Seventh Circuit Court of Appeals has ruled that, even after the Supreme Court's high-profile *Heller* decision last year, the Second Amendment is no obstacle to mandatory gun registration. The case arose out of the Chicago-area town of Cicero's mandatory registration requirement for firearms. A local man named John Justice was raided by the Cicero police, who found six unregistered handguns. He argued in a civil lawsuit that the local ordinance violated the Second Amendment.

APPEALS COURT RULES THAT GUN RIGHTS DON'T APPLY IN DOMESTIC VIOLENCE CASES

The U.S. Court of Appeals for the Tenth Circuit, has ruled that a criminal defendant may not be allowed to present a Second Amendment defense to a federal jury in Utah. It came after the appeals court granted an extraordinary emergency appeal, called a writ of mandamus, from the Justice Department after the district judge agreed to allow jury instructions to include a Second Amendment defense.

ON THE LEGAL FRONT

The defendant, Rick Engstrum, has an earlier misdemeanor domestic violence conviction and has been charged with possessing a firearm in violation of a federal law that applies to anyone "who has been convicted in any court of a misdemeanor crime of domestic violence." He has pleaded not guilty.

APPEALS COURT RULES AGAINST NEW YORK CITY COPS FOR GUN SHOP SEIZURE

The United States Second Circuit Court of Appeals has ruled in favor of a Bronx gun shop owner who claimed her constitutional rights were violated in a search and seizure of her store following a post-9/11 security crackdown by the New York City Police Department. Angela Spinelli, owner of Olinville Arms, Inc., appealed the case to the Second Circuit, which ruled that the city had denied her constitutional rights under the Fourth Amendment to due process of law, when they confiscated her entire firearms inventory and suspended her dealer's licenses.

COURT UPHOLDS LOCAL BAN ON MILITARY-STYLE SEMI-AUTOMATIC ASSAULT WEAPONS

A lawsuit brought by the Illinois State Rifle Association (ISRA) against the Cook County Board of Commissioners alleged that their ban on assault weapons "exceeded the Board's home rule authority" to enact local ordinances that are stricter than state law. But the Circuit Court ruled that Cook County had the legal and constitutional right to pass its assault weapon ban and thereby handed the ISRA a major defeat. The ISRA recently challenged the law, but the Circuit Court upheld the ordinance by dismissing the case.

ASSAULT AND BATTERY IN SELF-DEFENSE NOT AN INSURANCE "ACCIDENT"

Does a liability insurer have a duty to defend its insured if the insured deliberately commits assault and battery in self-defense? According to the Supreme Court of California, the answer is no, because the act of having to defend oneself does not fall within the policy's coverage of an "accident."

According to court documents in *Jonathan Delgado v. Interinsurance Exchange of the Automobile Club of Southern California* (ACSC), Delgado was injured in 2003 by Craig Reid, who had a homeowners insurance policy providing liability coverage for up to \$100,000. ACSC said defense was not covered, because the assault was not an "accident." The insurer said Reid's actions were intentional, a policy exclusion.

OREGON GUN GROUP FILES SUIT AGAINST UNIVERSITY'S NO-GUN RULE

The Oregon Firearms Educational Foundation (OFEF) has filed a Petition for Judicial Determination of Validity of Rule against the Oregon University System for a rule imposing sanctions against anyone possessing a firearm on institutional property, which rule is alleged by OFEF to be in violation of state law.

OFEF was prompted to bring the legal action by the case of Jeffrey Maxwell, a Marine Corps veteran who was arrested at Western Oregon University (WOU) for possession of a firearm in a public building. Although criminal charges were dropped, Maxwell was kicked out of the university for violating their anti-gun rule.

TENNESSEE'S GUNS-IN-RESTAURANTS-AND-BARS LAW IS CHALLENGED

Randy Rayburn, who owns Sunset Grill and the Midtown Cafe and Cabana in Nashville, has filed a motion in Davidson County Chancery Court seeking summary judgment challenging Tennessee's new state law allowing guns in restaurants and bars.

Rayburn said the law, which took effect in July, creates unsafe workplaces, and is pre-empted by OSHA, the federal Occupational Safety and Health Administration. See Page 1's top story on David Michaels, Obama's nominee for head of OSHA.

GUN NEWS TICKER - QUICK TAKES ON THE NEWS

● **Walton Hills, Ohio:** Marlene Anielski, who currently serves as mayor of the Village of Walton Hills, a Cuyahoga County community, is hoping to win the Republican nomination as candidate for the Ohio House of Representatives in 2010. Pro-gun advocates, Buckeye Firearms Association, discovered that Anielski had recently joined the gun control front group that New York City Mayor Michael Bloomberg founded, and misleadingly named "Mayors Against Illegal Guns" (MAIG). After Buckeye leaders contacted Anielski to explain that it was a gun control group, Anielski immediately resigned. Turns out she and her husband were both life members of NRA and thought MAIG was a crime control group, not a gun control group.

● **Tskhinvali, Georgia:** The breakaway Georgian province of South Ossetia was invaded and occupied by Russian troops in 2008, turning the population of factory workers, university students, farmers and smugglers into a loosely organized fighting force along the border with Georgia. Now, with Russia guaranteeing its security, South Ossetia is asking residents to turn in their weapons voluntarily. The police have opened 50 criminal prosecutions for illegal weapons and plan to offer \$300 to \$400 for each Kalashnikov rifle, a top official said. The program is a test of confidence, a year after the war between Russia and Georgia. David Sanakoyev, South Ossetia's ombudsman for human rights, said "Life has changed, but inside, you don't yet feel that life has changed."

● **Houston, Texas:** An increased number of agents has allowed the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) to inspect about 1,000 licensed gun dealers in the Houston area. Acting ATF Director Kenneth Melson said the four-month program is to ensure that dealers are keeping the paperwork needed to investigate gun-running rings. Sharing intelligence with Mexico and dealer inspections are part of a U.S. pledge to help Mexican authorities investigating violent drug cartels. However, some gun rights advocates wonder whether the recently passed Texas Firearms Freedom Act, which nullifies certain federal gun regulations and asserts state sovereignty over guns made and kept in Texas, may have something to do with the extraordinary inspections as a form of harassment.

● **Washington, D.C.:** A new poll conducted by Zogby International and The O'Leary Report looked at Americans' opinions on some key issues related to the Second Amendment. One of the questions asked: "Currently, 39 states have laws that allow residents to carry firearms to protect themselves, only if they pass a background check and pay a fee to cover administrative costs. Most of those states also require applicants to have firearms safety training. Do you support or oppose this law?" The results showed that 83% of Americans support Right-to-Carry laws. The poll also revealed that support for Right-to-Carry crosses party lines, with 86% of independent voters and 80% of Democratic voters supporting Right-to-Carry.

● **New York City:** Mayor Michael Bloomberg said he would raise money for a national campaign to counter the political influence of the National Rifle Association, building on the recent defeat of federal legislation that would have approved carrying concealed weapons. "You know, the NRA doesn't spend that much money," said Bloomberg during an appearance on NBC's "Meet the Press" program. "If you want to beat the NRA you have to go out and get your message out, and it costs money to do that." NRA President Wayne LaPierre didn't immediately respond to the *Boston Globe's* requests for comment.

● **Sioux Falls, South Dakota:** There were 2,008 conceal and carry permits issued in Minnehaha County in all of 2008. There have already been 1,548 in 2009. The state of South Dakota issued 14,628 permits in 2008, and it's already hit 11,057 in 2009. The clerk at the Minnehaha County Sheriff's office says she takes between 10 and 50 applications for a conceal and carry permit every day, and she says the number one reason people give is they're afraid their gun rights might be taken away.

● **Newton, Connecticut:** The recent national Firearms and Ammunition Excise Tax Collection Report says firearm and ammunition manufacturers paid more than \$109.8 million in the first quarter of 2009, up 43% over the same period in 2008.

GUN NEWS TICKER - QUICK TAKES ON THE NEWS

● **Nashville, Tennessee:** Anti-gun columnist Jeff Woods wrote in the *Nashville Scene*, "As he travels around the state in his campaign for governor, Bill Gibbons, current District Attorney for Shelby County, he tells the GOP's Second Amendment freaks they've gone too far with their guns-in-bars law. 'He's been outspoken about it, that it just didn't make any sense,' says campaign aide Joe Hall. Bill Gibbons is married to Julia S. Gibbons, a federal judge on the United States Court of Appeals for the 6th Circuit. Gibbons is trailing the three other Republican candidates in fundraising, but says 'Message trumps money.'

● **Bellevue, Washington:** More than a few eyebrows have been raised around the country since news broke the other day that a Bellevue motorcycle retailer had been offering a \$500 voucher toward the purchase of a firearm or gun-related accessories for anyone who purchase a Harley-Davidson Big Twin Harley. These vouchers are redeemable at Wade's Eastside Gun Shop and indoor shooting range, one of the busiest such facilities anywhere in the country. Surprisingly, in a city just across Lake Washington from ultra-liberal Seattle, business at Wade's belies the notion that Washington is entirely populated by airhead lefties who reflexively dislike guns and people who own them.

● **Cobb County, Georgia:** Guns, gambling, and alcohol were all present when the state right-to-bear-arms group GeorgiaCarry.Org held its first annual convention recently at the posh Renaissance Waverly hotel near Atlanta. Politicians and hundreds of armed Georgians showed up for the two day event, including gubernatorial candidates from the Democrat, Libertarian, and Republican parties and the state's Attorney General. The group hosted a social mixer on Friday night with dinner, followed by a poker tournament (for fun) that lasted several hours. This is probably the first time in more than a century that any location has hosted so many people paying cards while carrying pistols openly.

● **Atlanta, Georgia:** MediaMatters.org, the foundation-funded group run by David Brock, disgruntled conservative turned vengeful liberal, is using a \$500,000 grant from Bill Moyers' foundation to "monitor" (in liberalese that's "suppress") CNN's Lou Dobbs and his frequent coverage of gun control issues. The outfit recently published a report titled "Not just immigration: Dobbs out of step with his network on gun coverage," that notes Dobbs devoted 11 times as many words to gun control than CNN's "The Situation Room." The report recommends "adjusting the format" of Dobbs' show. It's revealing to see the Left's demand for everyone to march in lockstep, and to complain that Dobbs is independent and providing a little balance to CNN's generally liberal tilt.

● **Tallahassee, Florida:** Florida is drowning in a backlog of concealed carry permit applications. "We're still sitting on about 50,000 applications," said Agriculture Commissioner Charles Bronson. "We're getting in about 14,000 or 15,000 a month and whenever they get a good slug out, they're getting another 15,000 in." Bronson went to the Legislature last spring for authorization to hire 61 temporary employees - bringing the total to 202 - who have helped whittle down a backlog that then stood at 90,000. The backlog, alone, was equal to all the applications received in 2008 - 90,331 - and the department received 75,520 applications in the first six months of this year. That puts Florida on pace for 150,000 concealed-weapons permit applications this year.

● **New York City:** The 14-year-old daughter of New York City Councilman Bill de Blasio is featured in a nice family photo on the website for de Blasio's public advocate campaign. But teenage Chiara loves guns, and de Blasio doesn't want voters to know about it. It's been revealed that in the original photo, Chiara was wearing a gun-shaped pendant, which was subsequently airbrushed away when the photo was sent out for campaign literature. When confronted about the cover-up by the *Daily News*, de Blasio explained, "Our daughter made a mistake in putting on a necklace that was inappropriate. I made a decision to take it out of any literature and she will not be wearing it in the future."

Parting Shot

GUN CONTROL NUTS DO THE WEIRDEST THINGS

Robert C. Soles, Jr., better known simply as R.C. Soles, is a Democrat Senator in North Carolina's General Assembly. He's also a practicing attorney at Soles, Phipps, Ray, and Prince Law Firm in Tabor City, near the border with South Carolina.

Soles has been a legislator since 1968. He's the longest serving lawmaker in North Carolina history - 40 years, with 32 of them in the Senate. His seniority makes him very powerful, currently chairman of the Senate Democratic Caucus.

Soles has been a gun control advocate since he was first elected. The pro-gun group, Grass Roots North Carolina, gave Soles its next-to-lowest rating for his anti-gun voting record on its 2008 Evaluation Chart.

One recent Sunday afternoon about 5 p.m., Soles shot one of two men breaking down the door of his Tabor City gated home. Both of them were his law clients.

Now, there's something hypocritical about a gun control guy shooting people. Keeping guns from everybody but you "just ain't right," as they say in the movies.

One pro-gun blogger asked, "So Senator, is your life worth more than We, The Peasants?"

First, what about the client that Senator Soles shot? Columbus County Sheriff Chris Batten said Thomas Kyle Blackburn, a 22-year-old convicted felon, was taken to Loris Community Hospital with a gunshot wound to the leg. A spokeswoman at the hospital said that Blackburn was treated and released later that day.

The other man involved in the incident was Billie Jay Wright, 23, also a convict, Batten said. Wright was a legal client of Soles who said that Soles gave him money while Wright was in prison, as he had done for many years for young men in trouble. The two convicts may have been harassing Soles for more money.

The State Bureau of Investigation is probing the shooting, Batten said, because the agency is already looking into accusations against the senator.

Stacey Scott, 27, claimed in a televised interview that Soles tried to fondle his genitals more than a decade ago. Scott later recanted his story, saying he was high on drugs during the interview - a cocktail of Xanax, Percocet and cocaine.

Soles himself has a long string of tangles with the law. In August 1983, charges of conspiracy, vote-buying and perjury were dropped for lack of evidence, then he was acquitted in federal court of aiding and abetting bribery.

One last thing: the reason Soles didn't get Grass Roots North Carolina's lowest gun rights rating? He voted for the Castle Doctrine law that will protect him in the shooting of Blackburn.

Alan M. Gottlieb

Joseph D. Tartaro

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