

The Gottlieb-Tartaro Report

THE INSIDERS GUIDE FOR GUN OWNERS

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Dear Subscriber,

The Obama administration's anti-gun agenda, which has been finding new and devious routes into the federal bureaucracy, was recently blasted by Congress. Republicans used the \$1 trillion omnibus bill for 2012 to thwart Obama's sneaky use of federal funds for gun control.

One sentence in the 2,100-page spending bill stopped taxpayers' money from being used for junk science studies designed to make legal gun ownership seem like a public health hazard. **The House GOP included a provision in the Health and Human Services appropriations bill preventing the National Institutes of Health (NIH) from using any of its \$30.7 billion funds to "advocate or promote gun control."**

**THE
WHITE
HOUSE**

Rep. Denny Rehberg led the charge. He said that, in spite of recent Second Amendment victories in the legislative branch, "the gun control special interest groups haven't gone away, they've just turned to the executive and judicial branches to erode our constitutional rights."

While many assume that federally funded medical research projects focus on difficult health issues like cancer, Alzheimer's, and heart disease, **the NIH has wasted more than \$5 million in an effort to strengthen gun control laws.**

Another provision prevents federal funds from being used for lobbying efforts for legislation being considered by Congress or any state or local legislative body. Community action groups often use federal money to lobby for increased regulation of firearms. This funding subverts the Second Amendment and allows the Administration to fund grassroots gun control efforts using taxpayer dollars.

"Since gun control has been rejected by the majority of American people, it isn't surprising that the Obama administration and their gun-control allies are now forced to find devious ways to build support for their gun bans and other items on their wish list," said **Chris W. Cox, executive director of the National Rifle Association's Institute for Legislative Action.**

President Obama said he will not be bound by at least 20 policy riders in the 2012 omnibus bill funding the government, including these provisions pertaining to gun control. After he signed the omnibus into law Friday, the White House released a concurrent signing statement saying Obama will object to portions of the legislation on constitutional grounds.

"I have advised the Congress that I will not construe these provisions as preventing me from fulfilling my constitutional responsibility to recommend to the Congress's consideration such measures as I shall judge necessary and expedient," Obama said as he signed the omnibus bill into law.

Obviously, the feds still have their sights on gun ownership. Fortunately, Congress has stopped the Obama administration from subverting the will of the American people.

Also in this issue: ● Legislation would protect Second Amendment from U.N. intervention ● Palm Beach, California attempts to skirt state carry laws ● Anti-gun Mobile, Alabama mayor pulls gun on burglar ● Law-abiding residents arrested under Bloomberg's unfair gun laws in *Parting Shot*

WASHINGTON BATTLES OVER GUN CONTROL

Legislation that would strip U.S. funding from the United Nations if that world body adopts an international gun control treaty that threatens Second Amendment sovereignty is picking up co-sponsors. H.R. 3594 was submitted on Dec. 7 by Illinois Rep. Joe Walsh.

Co-sponsors to HR 3594 are Texas Congressmen Joe Barton, K. Michael Conaway and Kenny Marchant; Georgia Reps. Lynn A. Westmoreland, Paul C. Broun and Phil Gingrey; North Carolina Rep. Howard Coble, Florida's Bill Posey, Iowan Steve King, South Carolina's Jeff Duncan and Kansas Rep. Tim Huelskamp. None of the co-sponsors is a Democrat.

**AT THE
FEDERAL
LEVEL**

With an election year looming – and Democrats to convince their constituents that they really do “support the Second Amendment” – this may be one more signal that the party really doesn't support gun rights after all.

U.S. Sen. Kirsten Gillibrand is backing the Gun Trafficking Prevention Act, which aims to crack down on gun dealers as well as eliminate the flow of illegal guns into New York. The legislation also targets a loophole in the law that holds the individual gun seller legally accountable but not the gun show operator. The legislation would close the “gun show loophole” and keep operators responsible.

The new bill toughens penalties, making such sales a crime and suspending a dealer's license. Traffickers could face up to 20 years in prison. And penalties could increase depending on the number of guns trafficked. Dealers could be subject to a license suspension of up to six months and a fine of up to \$2,500 per violation.

The Brian A. Terry Memorial Act of 2011 (H.R. 2668) passed in the House of Representatives by a unanimous vote. The Act, sponsored by Representative Darrell Issa (R-CA) with nearly seventy cosponsors, will rename the U.S. Border Patrol Station in Bisbee, Arizona to honor the memory of Agent Brian Terry who was gunned down in the line of duty by heavily-armed drug smugglers on December 14, 2010. He died the following day, December 15. Weapons found at the scene were connected to the Department of Justice's reckless Fast & Furious Operation.

Issa said, “The overwhelming support with which the Brian A. Terry Memorial Act passed the House of Representatives is a tribute to Agent Terry's life of service and to the Border Patrol's distinguished history of protecting America's homeland. While many questions remain unanswered regarding the circumstances surrounding Agent Terry's death, one thing is certain; he gave his life in defense of our country.

This, the one year anniversary of Agent Terry's passing, is a reminder of his sacrifice and of the risk his fellow agents take daily on our behalf.” The Act is awaiting action by the Senate.

The ATF is loosening restrictions on the sale of guns to noncitizens. Justice Department lawyers have decided that a rule requiring noncitizens to document that they have lived in a state for at least 90 days has no legal basis, according to a letter sent to firearms dealers on Thursday, reports the Times.

Citizens also must generally be residents in the states they purchase firearms in, but the 90-day rule does not apply to them. Gun control advocates such as Senator Frank R. Lautenberg, Democrat of New Jersey, had immediate criticism of the move.

The change in law “defies common sense and puts Americans at risk” by making it easier for foreign terrorists to buy guns in the US, said Lautenberg.

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Publishers: Alan M. Gottlieb and Joseph P. Tartaro

Editor: Ron Arnold

Subscriptions: Eva Hart

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FOUR NEW PRO-GUN BILLS PENDING IN ALASKA

There are four pro-gun bills pending for Alaska's 2012 legislative session, left over from their 2011 legislative session. These include a no-duty-to-retreat bill that extends the right to use deadly force for self-defense; a bill to establish an apprentice hunting program; a bill to create NRA special-request license plates; and a bill to designate the Pre-1964 Winchester Model 70 .30-06 as the official state firearm. Citizens are also fighting Anchorage Title 21, a heavy-handed takeover of land use at the local level. This local effort at stopping recreational shooting is reminiscent of recent Washington efforts to stop shooting on "some" federal lands because the noise annoys other users.

PALM BEACH, CALIFORNIA INTRODUCES BILL TO SKIRT STATE LAW

Just months after lawmakers approved HB 45, which prevents counties and municipalities from enacting gun ordinances stricter than the state, Palm Beach County lawmaker, Rep. Lori Berman (D-Delray Beach), has introduced a bill (HB 1087) to begin restoring some limits on where residents can carry guns. Berman said she filed the bill after consulting with Palm Beach County officials, who were forced to rescind a number of local gun restrictions following the bill's passage earlier this year. Before HB 45, local governments have enacted differing laws, allowing local leaders who disagreed with the "law of the land" to skirt the law.

IN THE STATES

GEORGIA BILL WOULD INTRODUCE CONSTITUTIONAL CARRY

State Representative Jason Spencer has pre-filed the Georgia "Constitutional Carry" Act of 2012 (HB679). If passed, it will eliminate the requirement to have a Georgia Weapons Carry License to carry firearms openly or concealed. It will eliminate background checks, fees that can add up to over \$100, fingerprinting requirements, waiting periods, and mandatory trips to county probate courts in order to carry openly or concealed.

PIKE COUNTY, ILLINOIS SEEKS TO ALLOW CONCEALED CARRY

Citizens of Pike County in Illinois will decide during the coming election whether to allow people to carry concealed weapons, but the decision will be moot because of state laws prohibiting such activity. Illinois is among the only states that does not allow citizens to carry firearms in public. Pike County resident Dan Mefford and other supporters have filed a petition to place a question allowing concealed carry on the primary ballot. That question will take the form of an ordinance that makes it sound like residents in the county would be able to carry handguns if approved. But that won't be the case as it would still violate the state constitution. What it would do is operate as strong statement of public policy. While the state will not be forced to act, Mefford hopes it points out how the state seems to be violating the national Constitution.

WISCONSIN BILL WOULD FURTHER LIMIT CONCEALED CARRY

Wisconsin state lawmaker Rep. Josh Zepnick, has proposed a bill to ban guns in gas stations. Wisconsin recently became the latest state to allow for concealed carry of weapons. The bill would treat gas stations just like such sensitive places as courthouses, schools and stadiums where people cannot bring their weapons inside.

CASPER, WYOMING LIMITS FIREARMS IN GOVERNMENT MEETINGS

The Casper, Wyoming City Council approved a controversial measure that prohibits bringing a firearm or other deadly weapon into any public city government meeting. Casper resident Doug Bergeron spoke in opposition to the measure: "James Madison said there are more instances of the abridgment of the freedoms of the people by gradual and silent encroachments of those in power than by violent and threatening action. This would be one of those steps."

GUN GROUPS JOIN LAWSUIT AGAINST CALIFORNIA

The Second Amendment Foundation has joined the Calguns Foundation and three California citizens in a federal lawsuit against the California Department of Justice and Attorney General Kamala Harris, challenging the state's requirement that gun owners wait at least ten days before taking possession of an additional firearm. The case is known as Jeff Silvester, et al v Kamala Harris, et al.

"We've joined in this lawsuit because it makes no sense for California to require a gun owner who already possesses a firearm from buying another one within a few days," said SAF Executive Vice President Alan Gottlieb. "We recall what Dr. Martin Luther King said, that 'a right delayed is a right denied.'"

**IN THE
COURTS**

California currently requires the registration of handguns. And, beginning January 2014, it will also require the registration of all newly-purchased rifles and shotguns. Notably, California keeps a current database of all residents who are prohibited by state or federal law from owning or possessing firearms.

ILLINOIS JUDGE PROHIBITS RELEASE OF GUN OWNERS' PERSONAL INFORMATION

Sensitive personal information for lawful firearms owners is finally safeguarded from release under the Illinois Freedom of Information Act (FOIA). The Honorable Michael E. Brandt, Chief Judge of the 10th Judicial Circuit of Illinois, Peoria County, signed an order permanently barring the Illinois State Police from revealing the identities of the state's 1.5 million law-abiding firearm owners.

This order extends to prohibit the release of information contained in Firearm Owner ID (FOID) applications and Firearm Transfer Inquiry Program (FTIP) background checks.

The issuance of this permanent injunction is a major victory for Illinoisans concerned about their personal privacy.

Judge Brandt's order stems from a lawsuit filed earlier this year by the Illinois State Rifle Association (ISRA) against the Illinois State Police. The ISRA filed the lawsuit upon learning that Illinois Attorney General Lisa Madigan had ruled that FOID information was releasable under the FOIA and that the Illinois State Police must honor a FOIA request for such information filed by a newspaper reporter.

Judge Brandt's action extends a restraining order granted and adds one more layer of protection from any future overzealous anti-gun legislatures or Attorney Generals.

DISTRICT COURT JUDGE RULES AGAINST STUDENT'S SECOND AMENDMENT RIGHTS

Latah County 2nd District Judge John R. Stegner has ruled that the University of Idaho did not violate a law student's Second Amendment rights by not allowing him to keep firearms in his on-campus apartment.

Aaron Tribble, a second-year law student, filed a lawsuit against the University of Idaho, saying that his inability to keep firearms at the South Hill Vista apartments exceeded the powers of the university and violated his right to bear arms and 14th Amendment right to due process.

SEATTLE ASKS WASHINGTON SUPREME COURT TO REVERSE STANCE ON GUN BANS

The Seattle City Attorney's Office has asked the state Supreme Court to reverse a recent appeals-court ruling that says the city can't ban firearms in certain areas of parks, community centers and other city facilities.

The appeals-court ruling said that, except as expressly authorized by the Legislature, municipalities are prohibited from regulating the possession of firearms at city-owned park facilities open to the public, according to the City Attorney's Office.

The decision upheld a 2010 ruling by a King County Superior Court judge, who initially heard the case brought by six people with concealed weapons permits who were turned away from city parks and facilities for carrying firearms.

LOS ANGELES SUPERIOR COURT EXAMINES CITY'S CARRY LICENSE PROCESS

A Los Angeles Superior Court Judge has ordered the City of Los Angeles to produce documents relating to the LAPD's policies and procedures for processing applications for a carry license. In 1992 and 1994, the City's unlawful refusal to properly process carry license applications was challenged in two lawsuits. To settle the suits, LAPD agreed to a court ordered application processing procedure. The LAPD agreed to a definition of "good cause" that was articulated in the settlement, and agreed that all citizens who request a carry license permit application would be provided a carry license application at any LAPD station house, along with a copy of the LAPD's procedure for handling the application, and the procedures for appealing the denial of a carry license application.

IN THE COURTS

The settlements also resulted in the establishment of a Citizens Advisory Review Panel, made up of appointed citizens who would review carry license applications denied by the LAPD and make recommendations regarding whether the Chief should reverse the denial. The LAPD has repeatedly failed to honor its legal obligations under the settlements. It has not made carry license applications and a written copy of the carry license policy and appeal process available at all station houses. And it has ignored the recommendations of the Citizens Advisory Review Panel and has instead enacted a de facto policy of again issuing no carry licenses, despite good cause shown by applicants.

DISTRICT COURT JUDGE RULES AGAINST PRESUMPTION OF INNOCENCE

U.S. District Judge Jack Weinstein ruled that a law prohibiting an individual under felony indictment from receiving firearms does not violate that individual's constitutional right to bear arms or presumption of innocence. "The issues raised pose the question: is it necessary to impinge on a fundamental right to receive guns with a strict rule when the same interest in public safety might be adequately served while providing appropriate procedural protections to defendants?" Weinstein wrote. "The answer is that Congress could reasonably respond, 'Yes.'" However, Weinstein rejected the government attorneys' argument that, under U.S. v. Rivera, proving that Laurent was in possession of a firearm after his state-court indictment could serve as proof that he actually received it after the indictment. Weinstein directed prosecutors to turn over "sufficient evidence" that Laurent received the gun after his state-court indictment.

FEDERAL COURT ORDERS CITY OF MADISON TO PAY GUN OWNERS TO SETTLE SUIT

A federal court has ordered the city of Madison to pay members of Wisconsin Carry \$10,000 to settle a lawsuit. The judgment closes a case that developed when police cited five people for disorderly conduct after they openly carried handguns into a fast-food restaurant. The citations were eventually dropped, but Wisconsin Carry sued the city for violating the members' Fourth Amendment rights against unlawful search and seizure.

PALM BEACH COUNTY SUES OVER HOUSE BILL THAT PROTECTS GUN RIGHTS

The Palm Beach County Commission sued Gov. Rick Scott and the Legislature, fighting a new law that allows the governor to remove from office any local officials who enact gun control ordinances. The Gun Law, House Bill 45, passed through the Legislature this year, was signed by the governor on June 2 and took effect Oct. 1. It allows the governor to yank from office any officials who pass gun control laws, allows a court to fine the officials \$5,000 for it, and gives a private cause of action to any "persons or organization whose membership is adversely affected" by such a law, who may sue the officials for damages of up to \$100,000 and costs, with a "contingency multiplier." The plaintiffs say the law violates the separation of powers doctrine and will irreparably harm them "because plaintiffs' exercise of their legislative duties will be chilled by the threat of improper removal from office."

FAST AND FURIOUS: MORE JOIN HOLDER İNO CONFIDENCEİ RESOLUTION

More congressmen have joined in signing a resolution of "no confidence" in Attorney General Eric Holder, bringing the total to 81. In addition, 62 congressmen, most of whom signed the resolution, have made public announcements calling for his resignation.

Republican Reps. Marsha Blackburn of Tennessee, Kevin Brady of Texas, Tim Griffin of Arkansas and Tim Walberg of Michigan have all now signed on as co-sponsors of Arizona Republican Rep. Paul Gosar's "no confidence" resolution.

While it's not a direct call for his resignation, the resolution alleges that the nation's top law enforcement official's actions have proven he is not "competent, trustworthy and beyond reproach," and that he has sought to "cover up" mistakes rather than cooperate with Congress "in disclosing the events and circumstances and transparently addressing the issues."

**ATF FAST AND
FURIOUS
UPDATE**

"Attorney General Holder's testimony before the House Judiciary Committee earlier this month confirmed what I already believed: the Department's Operation Fast and Furious and his mismanagement of the aftermath, including his unwillingness to hold people accountable, raise serious concerns about his ability to fulfill his duties as our nation's top law enforcement officer," Griffin said in an email.

"Congressman Brady recently joined 80 of his colleagues in sponsoring a resolution expressing 'no confidence' in the U.S. Attorney General in the wake of the Justice Department's disastrous and deadly 'Fast and Furious' program," Brady's spokeswoman said in an email. "Like many of his constituents and colleagues, the Congressman is outraged at the Justice Department's handling of the program and failure to cooperate with Congressional investigators."

The resolution declares that Holder "presided over a law enforcement scheme called 'Operation Fast and Furious' that was ill conceived at the outset and mismanaged."

It describes Fast and Furious as an operation that "allowed thousands of weapons of various types to be illegally sold and or transferred from the United States to violent drug cartels and known criminals in Mexico and elsewhere," and that the operation "was not set up to catch criminals and no proper monitoring of the guns being sold or transferred was undertaken."

Fast and Furious was a program of the Bureau of Alcohol, Tobacco, Firearms and Explosives. It sent thousands of weapons to Mexican drug cartels via straw purchasers - people who legally purchased guns in the United States with the known intention of illegally trafficking them somewhere else.

At least 300 people in Mexico were killed with Fast and Furious weapons, as was U.S. Border Patrol agent Brian Terry. The identities of the Mexican victims are unknown.

The resolution also points out that Holder "further failed to inform or cooperate with Mexican authorities even though hundreds of weapons were being sent to Mexico," and that "Mexico is under severe stress due to drug cartel wars."

It adds that because of Holder's "failure to properly control, monitor, or establish Operation Fast and Furious, it is likely Mexican nationals were killed or wounded by weapons sold through this scheme," and that "evidence further suggests that such guns have been used in the United States, and may be involved in the death of Border Patrol Agent Brian Terry."

The resolution declares that "through Attorney General Holder's office" the Department of Justice "initially provided false information to Congress," "retaliated" against whistle-blowers who provided Congress with information and "redacted key information."

GUN NEWS TICKER - QUICK TAKES ON THE NEWS

● **Washington, D.C.:** U.S. District Court Judge Emmet G. Sullivan rejected a request for \$3.1 million in legal fees for lawyers who worked to overturn the District's handgun ban and instead awarded them \$1.1 million. The six attorneys for plaintiff Dick A. Heller in the historic gun-control litigation had asked the judge to order the city, which lost the case, to pay legal fees totaling \$3,126,397. The office of D.C. Attorney General Irvin B. Nathan argued the city should be required to pay \$840,166. Heller's lawsuit against the city over its decades-old ban on handgun ownership led to a landmark decision by the U.S. Supreme Court, which ruled in 2008 that the Second Amendment guarantees the right to own firearms. The decision forced the District to enact a registration system for residents who want to own handguns.

● **Redmond, Washington:** The anti-gun movement has penetrated the video game market. On January 1, Xbox Live avatars will lose the right to wield new gun-like items. Specifically, the Lancer and Hammerburst avatar items will no longer be available on Xbox LIVE Marketplace.

● **Mobile, Alabama:** Mobile, Alabama Mayor Sam Jones caused an uproar when he held a burglary suspect at gunpoint. Jones, a Democrat, is a member of Mayors Against Illegal Guns, an organization that has campaigned for stricter gun control laws that affect average private citizens. Apparently living by a double standard, Jones driving his car when he drew his gun to protect himself. Now there are questions about whether he has an Alabama carry permit.

● **Salem, Oregon:** State workers in Oregon now have to answer questions that affect their insurance rate, including questions on whether they own firearms. The questions were part of a new state program that uses financial incentives to encourage healthy behavior – and financial penalties if state workers refuse to participate in education programs designed to curb the behavior. The firearms questions are part of insurer Kaiser Permanente's standard health questionnaire used across the nation. State Senate Republican Leader Ted Ferrioli said the questions were a "violation of the right to privacy and the Second Amendment right to bear arms" that "ironically put worker's health and wellness at risk." He added that "if this information was ever lost or leaked, criminals could find in one convenient database a list of which individuals own guns, and how accessible those guns are." Directors of the state Public Employees Benefit Board voted unanimously to change the policy.

● **Norfolk, Virginia:** Seventeen-year-old Vanessa Gibbs was stopped by screeners at Norfolk International Airport, who flagged her clutch because of its "arresting" style, which includes a relief replica of a small pistol. Gibbs was headed home to Jacksonville following a holiday trip when the incident occurred. She explained to agents that the gun was not real, but they told her she would have to check the bag or lose it. A rule passed by the agency in 2002 strictly prohibits passengers from bringing "realistic replicas of firearms" on board an aircraft. It's not clear why TSA screeners at Jacksonville International Airport failed to flag the clutch on her outbound trip.

● **Quebec and Ontario, Canada:** A battle over the federal gun registry appears headed for the justice system, with experts wondering whether the issue will ultimately be decided by the Supreme Court of Canada. Quebec announced Tuesday that it is preparing for a legal fight with the federal government should the latter pass legislation to abolish the long-gun registry. The province said it would use the courts to save the registry data, which it wants to continue using. Ottawa has thus far refused to save any registry records, citing a variety of reasons. It has mentioned privacy-law concerns, fear that the data is out of date, and concern that a future federal government would use the old info to revive a national registry. Gun-control groups applauded the Quebec government's efforts and expressed hope other provinces would jump on board. "The Quebec government is stepping in to protect Canadians where the federal government is failing," said Wendy Cukier, head of the Coalition for Gun Control.

Parting Shot

MAYOR BLOOMBERG: STOP TREATING LAW-ABIDING CITIZENS LIKE FELONS

What do a Marine Corps veteran, a female medical student, and the co-founder of the Tea Party Patriots organization have in common? They were all arrested in New York City for traveling with firearms that are perfectly legal for them to own anywhere else in the United States.

That's right. These exemplary citizens were treated as felons under the questionable hospitality of Mayor Michael Bloomberg.

Let's see what horrible crimes these three "felons" committed.

First, let's take Marine Corps veteran Ryan Jerome, and Indiana resident with a permit to carry in that state. He had no criminal history until he tried to do the right thing by asking a security officer at the Empire State Building where he could check his firearm. He was arrested, jailed for 48 hours, and now faces a possible felony charge and up to 15 years in prison if convicted.

"I've been a law-abiding citizen my entire life, and for something like this to come down, it rips me apart," Jerome said. "It's like taking a good dog and scolding him for something he didn't do."

Next, medical student Meredith Graves of Tennessee traveled to New York for a job interview. Like Jerome, she was license to carry in her home state. She and her husband decided to stop at the 9/11 memorial to pay their respects.

When she saw a sign that indicated that firearms were not allowed, she asked a security guard where she might check her pistol, carried for her personal protection.

She was arrested, and now faces the same disgrace as Mr. Jerome, simply because, like him, she attempted to do the right thing as an honest citizen.

Finally, Tea Party Patriots Chairman Mark Meckler of California was arrested at the airport after declaring - as required by federal law - that he had a firearm in his luggage. He legally owned that firearm in his home state and kept it for his personal safety.

Wake up, Mayor Bloomberg. New York is not a city-state. The Constitution applies there as it does in the rest of the nation.

These events once again reveal an ugly truth about New York City: with its Draconian firearms regulations, the Big Apple is rotten to its core for treating a fundamental, constitutionally-protected civil right as a felony.

Alan M. Gottlieb

Joseph D. Tartaro

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