

November 29, 2004

Dear Mr. Kuhns,

As a follow up of my correspondence to you, the Mayor, and the Chief of Police, of September 8 and September 20, enclosed you will find a synopsis of existing gun laws including a statement about the Firearms Owners Protection Act of 1986. Which I quote, "forbids...any system of registration of firearms, firearm owners, or firearms transactions or distributions..." (18 U.S.C. § 926(a)(3)). Thus, you can see not only from this document but also from the preponderance of other evidence that I have provided to you that the information and data collecting required by the city police department on all retail sales of firearms within the city is illegal and should be stopped. (please see note at bottom)

I was told by the city police department that the reason that the data is collected was to check and see that no felons purchased a gun. This argument is superceded by the now existing background checks one must go through in order to purchase a firearm. Plus, as ludicrous as it may seem, the Haynes Decision (see the attached document of Haynes v. U.S. 85,88,88 S. Ct 722, 725 (1968). by the Supreme Court, also disallows the police's reasoning for mandating that the retailers collect and submit the data that the police department requests.

The documents I am submitting were furnished by Representative Rob Portman and The Library of Congress.

I know that this is a hectic time for you, the Mayor, and the Chief of Police. Although this issue may seem trivial, I respectfully submit that a decision needs to be made soon to stop this practice.

Thank you,

Harold T. Pack

note: Because the synopsis is extensive, I only made one copy. It was given to Mr. Kuhns c/o his office. Please see him for the document.

p.s. Please inform me of any decisions, discussions, or questions you may have. 354-4078



The Fifth Amendment, Self-Incrimination, and Gun Registration

by Clayton Cramer

A recurring question that we are asked, not only by gun control advocates, but even by a number of gun owners is, "What's wrong with mandatory gun registration?" Usually by the time we finish telling them about the Supreme Court decision *U.S. v. Haynes* (1968), they are laughing -- and they understand our objection to registration.

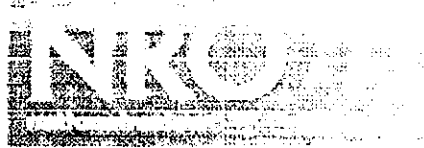
In *Haynes v. U.S.* (1968), a Miles Edward Haynes appealed his conviction for unlawful possession of an unregistered short-barreled shotgun. [1] His argument was ingenious: since he was a convicted felon at the time he was arrested on the shotgun charge, he could not legally possess a firearm. Haynes further argued that for a convicted felon to register a gun, especially a short-barreled shotgun, was effectively an announcement to the government that he was breaking the law. If he did register it, as 26 U.S.C. sec.5841 required, he was incriminating himself; but if he did not register it, the government would punish him for possessing an unregistered firearm -- a violation of 26 U.S.C. sec.5851. Consequently, his Fifth Amendment protection against self-incrimination ("No person... shall be compelled in any criminal case to be a witness against himself") was being violated -- he would be punished if he registered it, and punished if he did not register it. While the Court acknowledged that there were circumstances where a person might register such a weapon without having violated the prohibition on illegal possession or transfer, both the prosecution and the Court acknowledged such circumstances were "uncommon." [2] The Court concluded:

We hold that a proper claim of the constitutional privilege against self-incrimination provides a full defense to prosecutions either for failure to register a firearm under sec.5841 or for possession of an unregistered firearm under sec.5851. [3]

This 8-1 decision (with only Chief Justice Earl Warren dissenting) is, depending on your view of Fifth Amendment, either a courageous application of the intent of the self-incrimination clause, or evidence that the Supreme Court had engaged in *reductio ad absurdum* of the Fifth Amendment. Under this ruling, a person illegally possessing a firearm, under either federal or state law, could not be punished for failing to register it. [4]

Consider a law that requires registration of firearms: a convicted felon can not be convicted for failing to register a gun, because it is illegal under Federal law for a felon to possess a firearm; but a person who can legally own a gun, and fails to register it, can be punished. In short, the person at whom, one presumes, such a registration law is aimed, is the one who cannot be punished, and yet, the person at whom such a registration law is not principally aimed (i.e., the law-abiding person), can be punished.

This is especially absurd for the statute under which Haynes was tried -- the National Firearms Act of 1934. This law was originally passed during the Depression, when heavily armed desperadoes roamed the nation, robbing banks and engaging in kidnap for ransom. The original intent of the National Firearms Act was to provide a method for locking up ex-cons that the government was unable to convict for breaking any other law. As Attorney General Homer Cummings described the purpose of the law, when testifying before Congress:



Dave Kopel



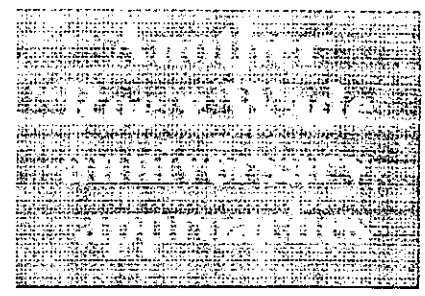
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January 27, 2004, 9:28 a.m.

Erasing a Clinton Legacy

Rolling back antigun regs.

7



The omnibus appropriations bill passed by the Senate on Thursday contains several important reforms in federal gun laws, to protect the privacy of people who lawfully exercise their constitutional rights. Most of the reforms undo abuses of federal power introduced in the Clinton era.



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THIS WEEK'S SIGNATURE OF THE DAY

First, the bill — which passed the House in 2003 — requires that federal records on *lawful* gun purchasers who are approved by the National Instant Check System be destroyed within 24 hours. As I detailed in an NRO article, when Congress created the NICS in 1993, it added an

amendment to require destruction of records on law-abiding gun owners: "No department, agency, officer, or employee of the United States may...use the system established under this section to establish any system for the registration of firearms (or) firearm owners..."

The 1993 law reinforced the Firearms Owners' Protection Act of 1986 (FOPA), which prohibited the creation of a registry of gun owners. FOPA mandated that no "system of registration of firearms, firearms owners, or firearms transactions or dispositions be established." Thus, the new 2004 law brings the federal government into compliance with long-standing federal statutes.

The latest:

- [Arms Alive 11/03](#)
- [Voting On Target 11/02](#)

[The Torch of Freedom 10/07](#)

[Bait-n'-Switch 09/13](#)

Previous Articles

Waco Wakeup
Dave Kopel & Paul Blackman reveal what's wrong with law enforcement in No More Wacos.

[Buy it through NR](#)



[Norman: Down to Two 01/24 1:35 p.m.](#)

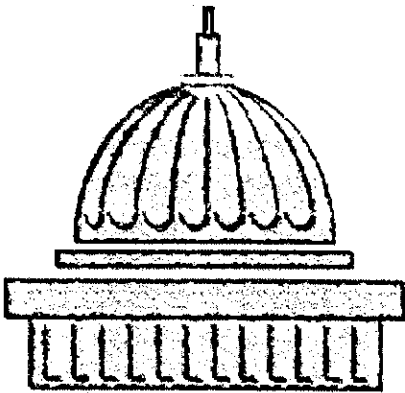
[Lowry: Miller's Mission 01/24 8:53 a.m.](#)

[Daniels: The Meaning Of a Riot](#)

Second, the appropriations bill reinforces existing provisions in federal and local gun laws prohibiting the release of those records that are allowed to be kept on gun owners. Federal law requires that dealers inform federal law enforcement any time a person purchases

01/24/05 a.m.

[Vincent: The Civil Rights of Iraqis](#)



NRA-ILA
Firearms
Laws For



Ohio

As of June, 2004

A synopsis of state laws on purchase, possession and carrying of firearms.

CAUTION: Firearm laws are subject to frequent change and court interpretation. This summary is not intended as legal advice or restatement of law. This summary does not include federal or local laws, ordinances or regulations. For any particular situation, a licensed local attorney must be consulted for an accurate interpretation. **YOU MUST ABIDE WITH ALL LAWS: STATE, FEDERAL AND LOCAL.**

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QUICK REFERENCE CHART	<i>Rifles and Shotguns</i>	<i>Handguns</i>
Permit to Purchase	No	No
Registration of Firearms	No	No
Licensing of Owners	No	No
Permit to Carry	No	Yes

Some municipalities control the possession, sale or transfer of firearms. Controls include: handgun registration and identification cards; waiting periods and permits to purchase; restrictions on handguns with barrel lengths less than 3 inches; prohibition on handguns weighing less than 19 ounces, costing less than \$50 or \$90, and able to melt at less than 800F; prohibitions on firearms with obliterated markings; and prohibitions on the use of any firearm by persons less than 16 or 17 years of age.

While there is no state law preempting the whole field of firearm controls, a recent law preempts any local governing body the ability to restrict or impede the lawful carry of a concealed handgun when carried with a valid permit. Additionally, the law provides that no locality "may continue in existence any ordinance" that is in conflict with the newly