

March 14, 2005

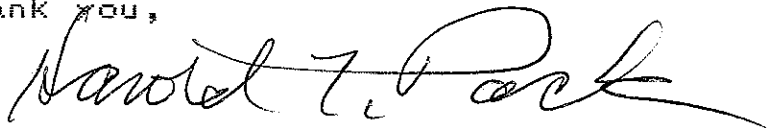
Dear Council Person,

As per my letter to you dated January 25, 2005, I reported that the Portsmouth police department was requiring all retailers in the city to submit to the police department a "pink form" on all firearms sales. This "pink form" contained all pertinent information of the sales. The police department then keep this form basically maintaining a registration of firearms. I also stated that I did not have all of the information and research for you that I had provided to the mayor, chief of police, and the city solicitor. I have reresearched and found those additional documents. They are included in this envelope. I have highlighted the pertinent information for you.

The first reference is a synopsis by David Coyne of a similar situation in Florida. The second page is an excerpt from the Brady Bill that is applicable to what the police department is doing. The third is an interpretation of that aspect of the Brady Bill.

I ask you to please read these short articles and decide for yourself if what the police department is doing is illegal. I believe that there can be no doubt.

Thank you,



Harold T. Pack



# Legislatively Speaking

by David Coy

## The Million Mom March, Version 2.0

Four years ago, in an event orchestrated by the anti-gun Clinton administration, the first so called "Million Mom March" was held. In actuality, as evidenced by aerial photographs of the event, it was anything but. Still, approximately 30,000 to perhaps 45,000 people attended this gathering, and they promoted a myriad of anti-gun schemes such as gun and gun owner registration and licensing, and outright confiscation of privately owned guns.

Predictably, given that this is a presidential election year, another such event was again held on Mother's Day 2004. It came up well short of expectations for the anti's. Generous estimates put this year's attendance at a mere 2,000. At this point, this group (which is now a part of the Brady Campaign against guns) has narrowed its focus and is concentrating all current efforts in a push to save the Clinton ban on semi-automatic firearms, which is scheduled to expire on Sept. 13, 2004. The law sunsets on this date unless Congress acts to renew it.

There are several legislative vehicles in place to renew and expand this onerous and misguided ban on a class of firearms that

can be aptly described, for the most part, as "sport utility rifles." These are military-pattern autoloading rifles designed to withstand abusive treatment and operate in adverse conditions. These firearms are also shot competitively at Camp Perry and other places in "Leg" and other matches.

Despite claims by the anti's that it is unsafe for mere civilians to own and shoot such scary-looking firearms, and that they are the guns of choice for criminals, there is simply no evidence to this effect. The anti's cannot prove that this gun ban has done anything at all to make society safer. Over the past 10 years, the data collected has borne out the pro-gunners' assertions that the ban would never accomplish this. Gunnies said this wasn't true when the ban was enacted, and we were proven correct.

However, we do not use "sport utility rifles" to shoot trap. So why should trapshooters be concerned about this issue? Why is it important for trapshooters, hunters, skeet shooters and sporting clay aficionados that this gun ban not be renewed? There are three very important and vital reasons.

First, when this gun ban was enacted, included in the legislation was a list of guns that were exempt from the ban. This listing legitimizes the notion that there are "good guns" (the ones on the list) and there are "bad guns" (the ones not on the list). As all shooters know, guns are neither good nor bad. They do not have personalities or souls or any intelligence. Any gun, or any other inanimate object of any type, can be used for good purposes or for nefarious reasons. This is a choice the human being using the object makes. To allow the gun ban to remain means that this listing continues to exist, and it perpetuates this fraudulent mythology. This is not acceptable.

Secondly, any sort of listing is subject to change. What happens when a gun is taken off the list? Is it possible to get new guns added to the "acceptable" list? The creation of the list sets the stage for the limitation and freezing of the scope and type of guns able to be lawfully produced. At some point, regulations could be promulgated or additional legislation enacted imposing such a freeze. If this takes place, no new products would be able to be developed. Absent new products, the firearms manufacturing industry would wither and die. Without anyone to produce guns, there are none that can be individually owned. The individual right to keep and bear arms cannot be exercised, and it is therefore lost. Again, this is not acceptable.

Thirdly, at some point gunnies could (and probably would) be required to prove that the only guns they have are ones on the "acceptable" list of "good" guns. There is only one way to do this, and that is to register all guns with the government. As has been seen time and time again elsewhere in the world, once a government is able to obtain such a listing, confiscation of privately owned firearms inevitably follows.

We simply cannot go down this path.

Fortunately, thanks to a lot of hard work on the part of numerous pro-gun groups and individual activists, the anti-gun tide that appeared to be ready to sweep all of our gun rights away 10 years ago seems to have been turned. Still, this situation can change for us in an instant.

Make no mistake. The legislative vehicles to renew and greatly expand the gun ban—H.R. 2038, H.R. 3831, S. 1431 and S. 1034—are queued up and ready to go at a moment's notice. Until Congress adjourns, probably sometime in July (so they may go home and engage in the election process), this matter could be voted on.

On the part of the gunnies, the truth is our best defense. Facts about the Clinton gun ban and its failure to reduce crime and improve public safety can be found at [www.ClintonGunBan.com](http://www.ClintonGunBan.com). Shooters should make use of this resource when talking to other shooters and your legislators and in writing letters to the editors of your local newspapers. Please help spread the word!

### Range environmental protection legislation becomes law in Florida

Early in May, Florida Gov. Jeb Bush signed SB 1156 into law. This legislation is the first of its kind, designed to protect gun ranges from predatory lawsuits brought against them by municipalities for so-called environmental reasons (the real driving force behind these lawsuits is to shut down shooting ranges). SB 1156 prevents this from occurring.

The premise behind this legislation is simple and grounded in common sense. So long as the shooting range or gun club is making a good faith effort to exercise sound management principles in their disposal of lead ammunition, they cannot be sued. The Florida Department of Environmental Protection is required by this law to provide copies of "Best Practices for Environmental Stewardship for Florida Shooting Ranges." This document is based on a decade of research conducted by NRA, the National Shooting Sports Foundation and the Wildlife Management Institute. Stated simply, if gun clubs follow these guidelines, they now enjoy a measure of protection against litigation designed to achieve gun control by eliminating places to shoot.

Also signed by Bush was HB 155. This pro-gun legislation makes it illegal for any sort of registry of gun owners or guns to be compiled. There were a few urban Florida sheriffs who were compiling such lists in their respective counties, in defiance of the federal Firearms Owners Protection Act. This legislation enjoyed the support of law enforcement groups.

### Brady Bunch's complaint dismissed

As a part of their frantic opposition to Protection of Lawful Commerce in Arms Act (S. 659/S. 1805), the Brady Campaign lodged a complaint against Sen. Larry Craig, who sponsored this legislation. They alleged to the Senate Ethics Committee that it was improper for Craig to sponsor such a bill while serving on NRA's Board of Directors.

In its dismissal of this complaint (which was viewed as feeble by most observers), the Senate Ethics Committee said the

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(3) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

(d) NOTIFICATION OF LICENSEES- On establishment of the system under this section, the Attorney General shall notify each licensee and the chief law enforcement officer of each State of the existence and purpose of the system and the means to be used to contact the system.

(e) ADMINISTRATIVE PROVISIONS-

(1) AUTHORITY TO OBTAIN OFFICIAL INFORMATION- Notwithstanding any other law, the Attorney General may secure directly from any department or agency of the United States such information on persons for whom receipt of a firearm would violate subsection (g) or (n) of section 922 of title 18, United States Code or State law, as is necessary to enable the system to operate in accordance with this section. On request of the Attorney General, the head of such department or agency shall furnish such information to the system.

(2) OTHER AUTHORITY- The Attorney General shall develop such computer software, design and obtain such telecommunications and computer hardware, and employ such personnel, as are necessary to establish and operate the system in accordance with this section.

(f) WRITTEN REASONS PROVIDED ON REQUEST- If the national instant criminal background check system determines that an individual is ineligible to receive a firearm and the individual requests the system to provide the reasons for the determination, the system shall provide such reasons to the individual, in writing, within 5 business days after the date of the request.

(g) CORRECTION OF ERRONEOUS SYSTEM INFORMATION- If the system established under this section informs an individual contacting the system that receipt of a firearm by a prospective transferee would violate subsection (d) or (n) of section 922 of title 18, United States Code or State law, the prospective transferee may request the Attorney General to provide the prospective transferee with the reasons therefor. Upon receipt of such a request, the Attorney General shall immediately comply with the request. The prospective transferee may submit to the Attorney General information to correct, clarify, or supplement records of the system with respect to the prospective transferee. After receipt of such information, the Attorney General shall immediately consider the information, investigate the matter further, and correct all erroneous Federal records relating to the prospective transferee and give notice of the error to any Federal department or agency or any State that was the source of such erroneous records.

(h) REGULATIONS- After 90 days' notice to the public and an opportunity for hearing by interested parties, the Attorney General shall prescribe regulations to ensure the privacy and security of the information of the system established under this section.

(i) PROHIBITION RELATING TO ESTABLISHMENT OF REGISTRATION SYSTEMS WITH RESPECT TO FIREARMS- No department, agency, officer, or employee of the United States may--

(1) require that any record or portion thereof generated by the system established under this section be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or political subdivision thereof; or

(2) use the system established under this section to establish any system for the registration of firearms, firearm owners, or firearm transactions or dispositions, except with respect to persons prohibited by section 922 (g) or (n) of title 18, United States Code or State law, from receiving a firearm.

(j) DEFINITIONS- As used in this section:

## COMMENTS OF GUN OWNERS OF AMERICA WITH RESPECT TO THE DEPARTMENT OF JUSTICE PROPOSED REVISED RECORD RETENTION POLICY UNDER THE BRADY LAW

Gun Owners of America, a not-for-profit grassroots membership organization representing over 300,000 American gun owners, submits the following comments to Attorney General John Ashcroft with respect to the proposed revised policy concerning retention of NICS records.

In short, we believe that ANY retention of records of firearms owners or purchasers is a violation of the McClure-Volkmer Firearms Owners Protection Act and of other provisions of law.

We do, however, believe that the proposed one-day retention period is less unlawful than -- and therefore a significant improvement over -- the Clinton-era efforts to retain records for 90 and/or 180 days. Therefore, we commend you for taking a step in the right direction.

18 U.S.C. 926 (a)(3) provides, in part:

No such rule or regulation prescribed after the date of the enactment of the Firearms Owners' Protection Act may require that records required to be maintained under this chapter or any portion of the contents of such records, be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or any political subdivision thereof, nor that any system of registration of firearms, firearms owners, or firearms transactions or dispositions be established.

The Brady Law itself, at 18 U.S.C. 922 (t)(2), requires that "[i]f receipt of a firearm would not violate subsection 922(g) or (n) or State law, the system shall ... destroy all records of the system with respect to the call (other than the identifying number and the date the number was assigned) and all records of the system relating to the person or the transfer."

It is important to note that the Brady Law explicitly prohibits the retention of records for the "fraud-related purposes" proposed by the Clinton administration -- or even the one-day period envisioned by the proposed revised policy. In fact, had proponents of the Brady Bill publicized the fact that the system might be abused in the manner supposedly addressed by the retention period, it is unlikely that the bill could have achieved passage.

Since that time, the Senate has repeatedly gone on record as favoring the "immediate" destruction of the Brady records -- first, in connection with the Smith Amendment, adopted with 69 votes, and subsequently in connection with committee language inserted in successive appropriations bills.