

Saturday, April 11. 2009

Second Amendment Under Fire?

[This sort of thing makes me ill:](#)

CASSELBERRY, Fla. - A central Florida woman who fatally shot her son then killed herself at a shooting range wrote in suicide notes to her boyfriend that she was trying to save her son.

"I'm so sorry," Marie Moore wrote several times. "I had to send my son to heaven and myself to Hell."

The mother in question who did this was ineligible to own a firearm:

Mitchell's father, Charles Moore, told police that Marie Moore had a history of mental illness and had previously attempted suicide and been involuntarily committed to a mental hospital in 2002 under the state's Baker Act.

One of the questions on form 4473 deals specifically with mental incompetence, specifically, whether you have ever been adjudicated mentally incompetent.

Florida's "Baker Act" is the statute under which someone can be involuntarily committed as a risk to themselves or others due to mental instability.

It appears that the firearms that were being used had been rented at the range, which is legal (as it should be); this allows one to go to a gun range, rent a few firearms and fire them to test their "fit" to you before you purchase one.

Needless to say random acts of mass-murder are rather tough to commit at a gun range, as everyone there is armed (duh!)

However, this also points out that random acts of single-murder followed by a suicide are impossible to prevent, even if you are in the company of a group of people who are all armed and able to defend themselves.

I would not be surprised to see the NICS (instant background check) system proposed to be extended to ranges as a result of this event if one wants to rent a firearm. Perhaps this is appropriate given that it is not hard to argue that a rental, even within the confines of the range property, is a temporary "transfer" of the firearm to the person involved, and that this "transfer" is occurring in commerce (that is, you typically pay a fee for rental of the firearm to the range, as one would expect given that it has to be purchased and, once you've used it, it must be cleaned and maintained.) That's the definition under which the NICS ("Brady Law") was conceived, even though I personally believe the Brady Law is fatally flawed as every criminal shooting that takes place proves that crooks don't care about and don't adhere to firearms laws just like they don't pay attention to laws against murder, rape, robbery, drug running and carjacking.

I believe the statistics on this point are clear - the more restrictive the firearms laws, **on balance**, the more crime. This is just plain common sense; the "bad guys" would much rather their victims not be armed, as it

increases their odds of getting away with their crime. In those states that have gone from restrictive firearms policies to permissive ones, violent crimes (with and without firearms) have **dropped**, in many cases precipitously so (normed to the rest of the nation), and yet those states that have imposed more restrictive firearms policies have either not seen materially better statistics (normed to the rest of the nation) or have seen their statistics worsen.

The poster child for this is of course Washington DC which (until *Heller*) had the most restrictive gun laws in the nation. This, of course, hasn't prevented the bad guys from both obtaining handguns and using them with disastrous results for the (unarmed, law-abiding) citizens.

20/20 did a "hit piece" on personal firearms ownership the other day, and it was a doozy. Their claim that "packing heat" is worse than worthless belies a few outright lies: first, their "assailant" in the exercises was a trained police officer while the "citizens" were not and second **he was told who was armed before he came into the room.**

If you tell an assailant **in advance** about the **one person** in the room who is armed, you now are devolving the use of defensive force into a debate about quality of training and practice, and little else.

In the real world it doesn't work that way. In the real world the assailant has no clue who is and who is not armed until he barrels into the room and starts firing. If he selects the wrong initial target, he eats a round or two himself **and if he winds up with multiple defensively-armed people that are at disparate angles from his location he must take his eyes off at least one of them to attempt to shoot the other; leaving the first defender with an "uncovered" shot to stop him.**

But even under these contrived, intentionally-designed-to-fail scenarios, one of the "armed citizens" **won**, although 20/20 didn't present it that way. That "armed citizen" scored a groin shot. This was considered a "loss" by 20/20 as it was a "miss" (the intent was to shoot at center-of-mass) **but since the essential purpose of a defensive shooting is to stop the assault - that is, disable the attacker - does anyone here believe that a shot to the groin would not have succeeded in that goal?** If you're a man and have been kicked in the balls, you tell me how much fight you had left in you.

20/20 also apparently couldn't manage to find even **one** successful defensive use of a firearm. This had to be due to willful blindness as I found one [with a glance at the local paper](#):

Rick Crider, 52, killed Reba Crider, 49, on Jan. 25 inside the home in the 10300 block of Aileron Avenue, off West U.S. 98.

"My wife just took a shot at me," Crider told a 911 dispatcher. "I killed her."

In a report released Thursday, **Assistant State Attorney David Rimmer concluded that Reba Crider, who was outside, fired a single shot through a kitchen window in her husband's direction.**

He returned five shots in self-defense, using a gun he kept atop his refrigerator, according to Rimmer. She was struck in her chest, right hand and right arm.

The rest of the article makes clear that this wasn't exactly a "friendly marriage", but when you shoot into someone's home **from the outside** it is rather clear what your intent is; the DA has investigated and found wanting any cause for prosecution. Of course without a firearm, the husband would have been defending against his wife's bullets with his bare hands.

Nor do we have to look far to find **non-firearms** killings. How about "beer and cars"?

Joseph Stewart said he drank three beers as he played a round of golf at Tiger Point Golf Club, an investigator testified Wednesday at a Santa Rosa County detention hearing.

Within 20 minutes after he left the course on April 1 to go home, Stewart had two crashes.

The second crash left 25-year-old Bartholomew Cole of Gulf Breeze dead and two passengers injured. Stewart is charged with DUI manslaughter, DUI with serious bodily injury, DUI with property damage and vehicular manslaughter.

If you look in your local rag you can likely find several similar incidents, none of which involve firearms.

Yet nobody is (seriously) calling for banning either beer or cars.

There have been a number of recent shootings, and one must wonder if the incidence is related to the current set of economic conditions, in that stress levels have, in general, been high and rising across the board.

But when I sadly count the rounds and the dead, I am left with the same inescapable conclusions that I have every other time I've looked at this issue over the years:

- The majority of the shootings are committed by people who are ineligible to own firearms due to some (legitimate) legal disability. **We simply refuse to enforce existing law**, although this **has** improved. NICS checks in many places now take place "online" via the encoding on a purchaser's driver license, and I've heard reports of NICS inquiries being routed to the mobile data terminals in squad cars if the intended purchaser has outstanding wants or warrants. That's what I call "**a good thing.**"

- There are some 14,000 homicides (and a similar number of suicides) committed with firearms a year in the United States. However, [there are somewhere between 800,000 and 2.5 million defensive uses of firearms annually](#). These aren't the numbers from either a "gun banning" or "gun advocacy" group (e.g. The Brady folks or the NRA) - they are an estimate from the Department of Justice.

- Even the **most critical** "study", one which focused only on actual victims of crimes (that is, resulting in a police report) and which would trap someone into admitting to possession of a firearm where it might not be lawful (e.g. in the City of Chicago) came up with an estimate of over 100,000 annual defensive uses. Yet most defensive uses of firearms result in no police report as no shots are fired, the intended felony is not completed, and in the majority of these cases either no or nearly no property damage takes place (e.g. a single broken window); ergo, these criminal attempts often go unreported.

There is also the Second Amendment issue. *Heller* was the first direct ruling on the Second Amendment by the United States Supreme Court in a very, very long time; the previous ruling is the famous *US .v. Miller* (1939) which is often **MIS-cited**.

See, Miller in fact held two things:

- It was lawful for the government to prohibit the ownership of a shotgun with a barrel of less than 18 inches.

- **That the term "militia", in historical context, meant all males physically capable of acting in concert for the common defense, and further that when called for service these men were expected to appear bearing arms supplied by themselves and of the kind in common use at the time.**

It is obviously impossible for *Miller* to thus be interpreted as somehow conferring only a "collective" right to bear arms (e.g. as part of The National Guard or similar), since the second point above could not be true in

such a circumstance.

What those who wish to write about firearms and their regulation conveniently forget is that The Second Amendment is not about defensive use of firearms to prevent crimes, or even about hunting.

Those two uses are both convenient side effects that benefit society tremendously. The prevention or cessation of over 1 million felonies a year is certainly a tremendous benefit to society, and the management of game populations by lawful hunting activity is **necessary** to promote and protect the health of various animals that otherwise lack sufficient natural predatory pressure (that lack, by the way, is also mostly of our doing!)

No, *The Second Amendment*, if one bothers to read *The Federalist* and *The Antifederalist*, is clear in intention.

The Second Amendment exists as the final check and balance on government against the usurpation of the other nine Amendments in The Bill of Rights, along with the text of the Constitution itself.

In fact, it is the precise existence of *The Second Amendment*, standing as originally written, that is our best guarantee that **it will never need to be used.**

Each time we permit The Second Amendment to be diluted, chipped away at or otherwise tampered with we come closer to the day in which we will need it and not have it.

History is replete with examples; Hitler's Third Reich began with the mandatory registration of all firearms, which was readily agreed to by the citizens "for the common protection." **That was shortly followed by confiscation, literally door-to-door, with a few resisters being publicly shot.** Having secured essentially all of the civilian firearms Hitler was then of course free to commit the rest of his evil deeds with little chance of the people rising up against him (they tried anyway, many times, all of which were failures and most of which led to death by summary execution of the protagonists.)

Nor is it always The State that takes advantage when firearms are confiscated; a more recent example is in Australia, where a lunatic in 1995 shot 35 people. The uproar resulted in a complete ban of all semi-automatic weapons, leading to their confiscation and destruction.

Unfortunately violent crime increased; within 12 months of enactment of that law armed robberies were up a whopping 44 percent, and there was a 300% increase in homicides in one Australian State (Victoria.) Two years later, in 1998, South Australia had recorded a 60% increase in robberies **with a firearm.**

So much for gun bans actually managing to decrease the number of bad guys with guns!

The logic here folks should be obvious:

*If I am willing to commit a violent felony, whether it be rape, robbery or murder, I have already decided to ignore the law prohibiting this conduct and inflict intentional harm on other people. As such we are now reduced to one simple question: **do the intended victims of these crimes have a right to fight back with the only device known to man that equalizes the strength of assailant and defending citizen, or are the intended victims of such a criminal expected to simply "lie down and take it"?***

*If it is **your** wife, daughter, grandmother or niece that is the intended victim of a 250lb drug-crazed rapist are **you** willing to tell her that she is **prohibited by the law** from defending herself with **the only device** known to man that will render her 120lb mind and body **the precise equal** of that assailant?*

Note that this decision - one that would be hers and hers alone - does not mean she will win in such a confrontation. Rather, it is a question of **basic human rights** - do you, or do you not, have a personal right of self-defense against a felonious thug who intends you great bodily harm (or worse.)

Yet this question - one that should be at the forefront of your cognitive process in this debate - is a **secondary beneficial side effect** to the very reason we have a Second Amendment.

The **primary** reason The Second Amendment exists is to prevent Auschwitz, and all that came with it, from happening **here**, and the unfortunate truth is that the annals of recorded history prove that it is **only** a right of personal arms possession that prevents it. If you doubt this see Switzerland - both in terms of it's violent crime rate and history through two World Wars.

I rest my case.

Posted by Karl Denninger at 12:52

john lott , more guns less crime, great job gen. Anonymous on Apr 11 2009, 20:18

"I believe the statistics on this point are clear - the more restrictive the firearms laws, on balance, the more crime. This is just plain common sense; the "bad guys" would much rather their victims not be armed, as it increases their odds of getting away with their crime." Tell this utterly idiotic shit to the Japanese and see how far you get. But before doing this, you might want to compare gn homicide rates in the U.S. with those in Japan. And because the gun nuts will scream, "well, the Japanese criminals just use knives instead!" then compare overall homicide rates between the two countries. Far easier to murder moving victims with a gun than with a knife, right? Heck, you needn't restrict yourselves to homicide, find out how often people get robbed or banks get held up at knifepoint in Japan. You see, what is truly "common sense" here is that if no one has a gun, no one commits a crime using a gun, and no one gets murdered by a gun. So simple, even a conservative could understand. You claim that guns prevent so many crimes, thereby justifying there existence. Well then, which country has lower murder rates -- the gun-saturated U.S., or say any advanced industrialized country that has sought ON A NATIONWIDE (not piecemeal) LEVEL to sharply restrict ownership of guns? You should have no problem showing that the U.S. has lower murder rates, robbery rates, etc. than say Australia, Japan, or the U.K., right? Go on, make the comparison, I DARE YOU. "If it is your wife, daughter, grandmother or niece that is the intended victim of a 250lb drug-crazed rapist are you willing to tell her that she is prohibited by the law from defending herself with the only device known to man that will render her 120lb mind and body the precise equal of that assailant?" Completely stupid crap. The "precise equal"???? Hell, the gun gives her a definite STRONG edge in your made-up scenario! That's why, to counter such a possibility, the would-be rapist need only get a gun before proceeding, and, HAVING (unlike his victim) FOREKNOWLEDGE THAT A CRIME IS TO BE COMMITTED, draw this gun first, and tell your wife to reach for the sky! How many women are raped each year in the U.S. at gunpoint??? How often has a woman claimed that a gun prevented her from getting raped? "I rest my case." What case? Your case is as riddled with holes as the bodies of the victims of Columbine. Too bad for them, huh? But your selfish property rights supersede their RIGHT TO LIVE. Anonymous on Apr 12 2009, 10:43

How many murders are committed (with or without firearms) in Switzerland Herman? I cited that, but you ignored it. Why? I'll tell you why - because it doesn't fit the preconceived fear-mongering nonsense you were spewing in your "reply". I approved your comment because it is illustrative of the mouth-breathing, spittle-dripping insanity on the other side of this debate. Oh, I cited Australia's insane INCREASE in firearms crimes **AFTER** they banned all semi-automatic (that is, self-LOADING) firearms too. You cite Australia as an example of where gun control works? Are you insane? Again - nationwide? No problem - the Swiss are arguably the most-heavily-armed population *on the planet*, and yet their murder rate is vanishingly small. The facts in the United States are that when "must issue" concealed carry becomes the law, that state experiences a massive **decrease** in violent crime. That's why 40 states now have it - it leads to LESS crime, not more. As for Columbine, you are aware, I assume, that the assailants brought two propane-tank based BOMBS into the school, right? Due to a defect in their design they did not go off. Fortunately too, because they would have killed far more people than the firearms had they exploded. I assume you're prepared to ban propane tanks (and the propane that goes in them) too, right? Anonymous on Apr 12 2009, 11:17

they banned guns in washington dc years ago and we all know that there is no gun crime in dc, right? Anonymous on Apr 12 2009,

12:22

Excellent response to ABC's heavily promoted BS. Anonymous on Apr 12 2009, 14:00

Thank goodness you finally moved past that stupid Sarah Palin posting. Anonymous on Apr 12 2009, 22:19

Guns save far more lives than are taken with them. You can't stop stupid people from doing stupid things. Anonymous on Apr 13 2009, 09:36

If those demanding stricter "Gun Control" laws, were truly interested in stopping Crime and the criminal from using firearms in the commission of their crime. Then they would be Screaming "Criminal Control" and a "Citizens Justice System" instead of "Gun Control" and supporting our "Criminal Justice System". Their actions only support their desire to disarm America and strip us of our rights guaranteed under the Constitution. By not controlling the criminals they will (and do) use each incident as a means to that end. Anonymous on Apr 13 2009, 12:22

This post is somewhat misleading. First of all, it's not clear that a heavily armed Jewish population would resist AND be successful in its resistance. Hitler was determined to wipe them out no matter what. 2nd of all, Regulations Against the Jews' Possession of Weapons was passed on 11 November 1938. Of course, Hitler became a supreme "Führer und Reichskanzler" in August '34 and he was in total control well before then. The 3rd Reich was well in its 4th year by the time the Nazi Weapons Act was passed. As you can see, Hitler didn't need to ban guns to exert total control -- he had it already, guns or not. Same goes for Stalin & Hussein. Both ruled a heavily armed population (in case of Stalin, it was post WW1 & the October revolution+civil war.) In Iraq, everybody had an AK47. Your comment about Switzerland is highly misleading. The Swiss are heavily armed, yes but mostly with rifles. Most have no ammunition and CC permits are very difficult to get. Regarding CC permits. When TX started allowing CC, crime did not go down. Basically, your whole argument boils down to -- arm the population and crime will go down. It's not that simple. Anonymous on Apr 13 2009, 23:21

No, my argument is that statistically you are no worse off with "must issue", and in many cases you've been a LOT better off, with Florida being just one example. It's darn hard to argue with the DC stats - most stringent gun laws in the nation (prior to Heller), and a murder rate that would make a third-world shithole proud. The simple reality is that the bad guys don't care about gun laws. Never have, never will. Therefore gun laws always serve to disarm only the good guys. Anonymous on Apr 13 2009, 23:31

Interesting musings, as it not only ties into the March - April period when some folks go a little crazy (Waco, Columbine, and the recent shootings), but my guess is by sheer coincidence. It ties into the 60 Minutes show aired 4/12/09 (available on demand at cbsnews.com). According to what I saw, any person (even convicted felons) can go to a gun show (at least in Virginia) and buy a gun from a so-called private citizen with no background check at all. If that is true, there are more than a few maniacs amongst us that can go berserk at any moment. This is not good. Anonymous on Apr 14 2009, 12:54

That "loophole" technically exists for ANY private firearm sale. Think about it - how do you GUARANTEE that a firearm sale between private citizens is tracked? NICS is not a tracking system (at least in the law, although if you believe that in fact...) it is a verification of eligibility system, with (in the law) mandated destruction of records (again, if you believe that.) Here's the problem in terms of PRACTICALITY - while I can sell you one of my guns, if you're ineligible and I'm **NEGLIGENT** in doing so I'm risking rather severe penalties. Oh, and all (modern) firearms have serial numbers and they're engraved/stamped - and not only very hard to remove, but rather unlawful to remove. Thus, if I sell you one of my firearms (privately) and you use it to commit a crime, it can be traced back to the person who originally bought it at retail, and from there, through its ownership, and **when** (not if) it is I'm on the hook for some serious trouble. There are few **sane** people who are willing to sell you a gun that they have reason to believe will be used to commit a crime for this very reason; why would **they** be willing to do felony jail time so **you** can commit a crime? If I'm engaged in the business of selling and buying firearms I need a FFL (gun show or not) and must follow the NICS law (gun show or not.) The "gun show loophole" is more myth than reality; the reality is that most illicit firearms are either stolen (usually via commission of a separate felony) or illegally imported (much as are drugs.) Owners of significant firearms collections have strong incentives to invest in defensive measures against theft (gun safes and similar) as the value of their collection is typically several times the cost of the safe and said safe also doubles for records and other valuables storage, never mind getting you a VERY significant insurance discount. A decent-sized gun safe (a REAL safe, not a lock box) is around \$1,000, weighs upwards of 500lbs (some weigh well over 1,000lbs!) and are a REAL BITCH to try to steal (especially if you own your house and can bolt it down to the floor!) Anonymous on Apr 14 2009,

13:24

Gun laws may disarm only the good guys, that's true. HOWEVER. Arming the good guys does NOT make the crime go down necessarily, NOR does it prevent a dictator from usurping power. The point is that guns have no relation to the type of government a country has. Some countries have dictatorships and heavily armed populace, some countries are democracies and guns are banned. Anonymous on Apr 14 2009, 18:08

Statistically you're wrong - "must issue" frequently has a solid positive impact on crime rates and has never been shown to have a statistically-significant **negative** impact. The simple reality is this: law-abiding citizens don't run around shooting people. Further, Australia listened to the gun banners, confiscated all semi-automatic weapons in lawful ownership and was treated to a massive **increase** in violent firearm crime as a consequence. As for the Second Amendment's original purpose, The Founders thought it was important and so do I. The History of The Second Amendment, in fact, is that it was **necessary** in order to get The Constitution ratified - The States refused without it (and the other nine original amendments in The Bill of Rights.) The unfortunate reality of that debate in the present tense is that if we disarm and find we do need it there will be ability to recover from that mistake. I'll pass; there are dozens of nations that you may emigrate to that are allegedly "representative republics" if you believe you're better off without it. Anonymous on Apr 14 2009, 18:25

Karl, this should be required reading for anyone who loves freedom and our country: JUDGE ANDREW NAPOLITANO: Six Things You Should Know About the Homeland Security Report on "Rightwing Extremism" By Judge Andrew Napolitano http://foxforum.blogs.foxnews.com/2009/04/15/napolitano_homeland_security/ Anonymous on Apr 16 2009, 10:06

"Your case is as riddled with holes as the bodies of the victims of Columbine." Harris and Klebold violated the National Firearms Act of 1934 at least 97 times. They constructed 2 short barreled shotguns, and 95 destructive devices including CO2 bombs, pipe bombs, gasoline bombs, and propane bombs. Each violation of the NFA can result in 10 years of imprisonment and \$250,000 fine. The pair faced nearly a millenium in prison and \$24 Million in fines before the first shot was even fired. And that's not including the OTHER laws they broke including straw purchase of firearms, possession of firearms and explosives on school property. You sir are a fool if you think more slap on the wrist laws would have prevented their murderous plans when they willingly violated the harshest firearms law on the books 97 times. Anonymous on Apr 19 2009, 13:16

""You should have no problem showing that the U.S. has lower murder rates, robbery rates, etc. than say Australia, Japan, or the U.K., right? Go on, make the comparison, I DARE YOU."" Wow, this idiocy isn't just an act with you is it? The USA has a much lower rate of most serious crime than nearly all of Europe, and the UK in particular. You can view the International Crime Victim Survey here: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1117972 And, the rate at which crimes of violence are committed in any society exactly track the percentage of the population made up of poor minorities, or recent immigrants, something that the US leads Japan in by a wide margin. The level of firearms ownership is not at all as closely linked. Rather than banning guns, we could achieve a rapid and dramatic reduction in the rate of these crimes by simply enforcing our immigration laws, something you pinheaded liberals consistently oppose. You jackasses are responsible for our immigration problems, and the destruction of the black family in America. You jackasses are responsible for our crime rate, not the gun owners. Anonymous on Apr 19 2009, 16:13